

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—118th Cong., 2d Sess.**

**S. 1863**

To require the Secretary of Energy to conduct a study and submit a report on the greenhouse gas emissions intensity of certain products produced in the United States and in certain foreign countries, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by Mrs. CAPITO

Viz:

1 Strike all after the enacting clause and insert the fol-  
2 lowing:

3 **SECTION 1. UPDATE OF INVENTORY OF U.S. GREENHOUSE**  
4 **GAS EMISSIONS AND SINKS.**

5 (a) IN GENERAL.—Not later than 2 years after the  
6 date of enactment of this Act, the Administrator of the  
7 Environmental Protection Agency shall include in the an-  
8 nual Inventory of U.S. Greenhouse Gas Emissions and  
9 Sinks the following source categories:

10 (1) Lithium-ion batteries.

11 (2) Hydrogen.

1 (3) Uranium.

2 (4) Critical minerals (as defined in section  
3 7002(a) the Energy Act of 2020 (30 U.S.C.  
4 1606(a))).

5 (5) Solar panels.

6 (6) Wind Turbines.

7 (b) PROHIBITION.—The Administrator of the Envi-  
8 ronmental Protection Agency may not carry out any regu-  
9 latory program using the data from any annual Inventory  
10 of U.S. Greenhouse Gas Emissions and Sinks or any re-  
11 lated report.

12 **SEC. 2. POINT OF ORDER AGAINST USING ANY INVENTORY**  
13 **REPORT TO SUPPORT A REVENUE MEASURE**  
14 **OR TARIFF IN A RECONCILIATION BILL.**

15 (a) POINT OF ORDER.—

16 (1) IN GENERAL.—In the Senate, it shall not be  
17 in order to consider a provision in a reconciliation  
18 bill reported under section 310 of the Congressional  
19 Budget Act of 1974 (2 U.S.C. 641) or an amend-  
20 ment thereto, an amendment between the Houses in  
21 relation thereto, or a conference report thereon that  
22 cites by reference, relies on, or otherwise uses any  
23 of the contents of any annual Inventory of U.S.  
24 Greenhouse Gas Emissions and Sinks or any related  
25 report to support or authorize—

1 (A) a revenue measure relating to a do-  
2 mestic tax or fee on the greenhouse gas emis-  
3 sions intensity of—

4 (i) any source category included in  
5 any annual Inventory of U.S. Greenhouse  
6 Gas Emissions and Sinks or a related re-  
7 port; or

8 (ii) any product within a source cat-  
9 egory described in clause (i); or

10 (B) a tariff on the greenhouse gas emis-  
11 sions intensity of any source category or prod-  
12 uct described in clause (i) or (ii) of subpara-  
13 graph (A).

14 (2) POINT OF ORDER SUSTAINED.—If a point  
15 of order is made by a Senator against a provision  
16 described in paragraph (1), and the point of order  
17 is sustained by the Chair, that provision shall be  
18 stricken from the measure and may not be offered  
19 as an amendment from the floor.

20 (b) FORM OF THE POINT OF ORDER.—A point of  
21 order under subsection (a)(1) may be raised by a Senator  
22 as provided in section 313(e) of the Congressional Budget  
23 Act of 1974 (2 U.S.C. 644(e)).

24 (c) CONFERENCE REPORTS.—When the Senate is  
25 considering a conference report on, or an amendment be-

1 tween the Houses in relation to, a reconciliation bill de-  
2 scribed in subsection (a)(1), upon a point of order being  
3 made by any Senator pursuant to that subsection, and  
4 such point of order being sustained, such material con-  
5 tained in such conference report or House amendment  
6 shall be stricken, and the Senate shall proceed to consider  
7 the question of whether the Senate shall recede from its  
8 amendment and concur with a further amendment, or con-  
9 cur in the House amendment with a further amendment,  
10 as the case may be, which further amendment shall consist  
11 of only that portion of the conference report or House  
12 amendment, as the case may be, not so stricken. Any such  
13 motion in the Senate shall be debatable. In any case in  
14 which such point of order is sustained against a conference  
15 report (or Senate amendment derived from such con-  
16 ference report by operation of this subsection), no further  
17 amendment shall be in order.

18 (d) SUPERMAJORITY WAIVER.—In the Senate, this  
19 section may be waived or suspended only by an affirmative  
20 vote of 60 Members, duly chose and sworn.

21 (e) PROHIBITION ON APPEALS.—It shall not be in  
22 order to appeal the ruling of the Chair on a point of order  
23 raised under this section.