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POLICY BRIEF

Overview of The PROVE IT Act

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Summary

Earlier this year, Senators Kevin Cramer (R-ND) and Chris Coons (D-DE) jointly proposed the Providing Reliable, Objective, Verifiable Emissions Intensity and Transparency (PROVE IT) Act. This bill aims to instruct the Department of Energy (DOE) to undertake a thorough examination, comparing the emissions intensity of specific goods manufactured in the United States to the emissions generated by the same goods manufactured in other countries. However, the PROVE IT Act is not just some innocuous data collection effort as it opens the door to the government imposing protectionist tariffs as well as a domestic carbon tax.

Flawed Data Gathering to Impose New Taxes

This proposed law tasks the Department of Energy (DOE) with the responsibility of compiling a comprehensive report that assesses the greenhouse gas (GHG) emissions associated with various product categories.[1] The aim is to determine the average emissions intensity of these products both domestically and internationally. Although its sponsors may present it as a straightforward information-gathering endeavor, the legislation signifies the inaugural effort to accumulate essential data for potential carbon taxes and tariffs in the United States.

Significant challenges are associated with the precise measurement and quantification of greenhouse gas (GHG) emissions. Some of these challenges are alluded to in the language of the PROVE IT Act. First and foremost, measuring GHG emissions is far from an exact science. Virtually every human activity, even something as fundamental as breathing, contributes to GHG emissions. While it's possible to pinpoint the source of a methane leak to a specific location, most GHG emissions resulting from human activities or industrial processes cannot be traced to a single, identifiable point. Consider a vast industrial facility spanning many acres, bustling with people, vehicles, and machinery constantly moving in and out, featuring numerous openings like doors, windows, and air ducts. GHGs disperse rapidly into the atmosphere, making it challenging to differentiate them from natural processes that continuously emit and absorb GHGs, such as carbon dioxide.

The inherent challenge of pinpointing these emissions is readily apparent. This is why many climate change studies often depend

[1] United States, Congress, PROVE IT Act. 2023. Provided by the office of Senator Kevin Kramer https://senatorkevincramer.app.box.com/s/8thbco4illqkylng4jej2kkxg9tunb8j

on imprecise approximations or rounded figures when inputting data into their climate models. These estimates might suffice for academics seeking a broad understanding of trends, but when the resulting numbers are to be applied in the imposition of carbon taxes and tariffs on particular companies, they carry real financial implications. In cases where the fortunes of companies or entire industries hinge on these estimates, vague approximations simply fall short.

The PROVE IT Act, furthermore, aims solely to approximate an overarching "average" emissions intensity for products within a given nation. Yet, in a vast country like the United States, emissions can significantly differ based on the production location of a product. While such an average might suffice for some modeling purposes, when taxes and tariffs come into play, individual companies either benefit from or bear the consequences of these regional discrepancies. Some of the sponsors may assert that this legislation primarily pertains to data collection for tariffs on products from other nations. However, the inherent unfairness within this nationwide average calculation necessitates the inevitability of a domestic US carbon tax to address this regional variation.

The prospect of calculating emissions profiles for other countries, as envisioned by the legislation, appears overly optimistic. Some nations, such as China, are unlikely to engage in the calculation process with genuine cooperation. Even in countries that might be more cooperative, data limitations and inconsistencies are widespread. Furthermore, there exist strong incentives to provide false or underestimated emissions data, as it offers economic advantages in terms of tariffs. The legislative text acknowledges these challenges, yet it still mandates the Department of Energy (DOE) to compile a report filled with flawed and incomplete data. Given the inertia of bureaucracy, it's highly probable that this report, once produced, will be employed for regulatory and taxation purposes, regardless of its inherent flaws.

The report also presents an opportunity for rent-seeking and lobbying. The Department of Energy (DOE) is granted broad discretion in determining the overall methodology for the report, and while certain product categories are specified for examination, the DOE can choose additional categories at its discretion. Given that this report will serve as the foundation for carbon tariffs and potential future carbon taxes, the lobbying efforts are expected to be intense. In fact, any company under scrutiny in this report would be at risk of severe economic repercussions if they didn't strive to shape the methodology in their favor, making it akin to a "Lobbyist Full-Employment Act."

Another concern is the idealism of some of the legislation's cosponsors. Is it reasonable to anticipate that the DOE will conduct a wholly impartial and equitable analysis of emissions across all sectors? The Biden administration openly adopts a "whole-of-government" approach, which includes policies that are detrimental to certain industries it disapproves of, like domestic oil production, while seeking imports from countries such as Venezuela. This inherent hostility toward domestic industries is unlikely to suddenly vanish during the formulation of this legislation's emissions report.

Finally, it is clear that the PROVE IT Act is already being leveraged to expand the scope of government as the legislation represents the initial phase of establishing carbon tariffs as well as a domestic carbon tax within the United States. In October, Senator Bill Cassidy (R-LA) announced he wants to impose a tariff on carbon-intensive goods by using the PROVE IT Act as the basis for setting policy. It is well-documented that tariffs are a bad deal for consumers as they lead to a decrease in the volume of imported goods and an increase in consumer prices.[2]

Conclusion

Earlier this year, Senators Kevin Cramer (R-ND) and Chris Coons (D-DE) jointly introduced the Providing Reliable, Objective, Verifiable Emissions Intensity and Transparency (PROVE IT) Act. This legislation's primary objective is to task the Department of Energy (DOE) with conducting a comprehensive analysis comparing the emissions intensity of specific goods produced in the United States to those same goods manufactured in other countries. Nonetheless, the PROVE IT Act is not a benign data collection initiative; it also paves the way for potential government imposition of protectionist tariffs and the introduction of a domestic carbon tax.

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[2] Fisher, Travis. "A Carbon Tariff Is a Carbon Tax for Protectionists." *A Carbon Tariff Is a Carbon Tax for Protectionists*, The Fishtank: Musings on Energy Policy, 30 Oct. 2023, https://travisfisher.substack.com/p/a-carbon-tariff-is-a-carbon-tax-for