

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: SM 800

INTRODUCER: Senator Rodriguez

SUBJECT: Foreign Polluters

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barriero</u>	<u>Rogers</u>	<u>EN</u>	Favorable
2.	<u>Barriero</u>	<u>Twogood</u>	<u>RC</u>	Pre-meeting

I. Summary:

SM 800 is a memorial to Congress urging its members to support solutions that examine the pollution differential between United States production and that of other countries and that hold foreign polluters accountable for their pollution.

The memorial requires the Florida Secretary of State to dispatch copies to the President of the United States, President of the United States Senate, Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

II. Present Situation:

Florida's Environmental Investments

Florida has recently made significant investments to protect the state's environment and natural resources, including:

- \$3.3 billion for Everglades restoration and protection of the state's water resources;
- \$1.6 billion in water quality improvements and creation of the Water Quality Improvement Grant Program and dedicated historic funding to increase alternative water supply and restore and protect Florida's springs;
- \$1.1 billion in resilience projects;
- Dedicated funding to enhance the state's water quality monitoring and identify new and innovative ways to treat, predict, and respond to blue-green algal blooms, including more than \$45 million to the Innovative Technology Grant Program;
- Establishing the Florida Wildlife Corridor, committing more than \$600 million to the Florida Forever Program, and acquiring more than 170,000 acres for conservation; and
- \$100 million annually for projects to improve water quality in the Indian River Lagoon.¹

¹ Office of the Governor, *Executive Order 23-06*, 1-2 (2023), available at <https://www.flgov.com/wp-content/uploads/2023/01/EO-23-06.pdf>.

Greenhouse Gases (GHGs)

GHGs trap heat in the atmosphere and warm the surface of the earth. A warmer climate could worsen a variety of natural disasters and lead to reduced access to clean drinking water, more acidic oceans, droughts, floods, heat waves, storms, and dust storms, among other things.² More intense rain events could lead to the contamination of drinking water and increase in mold infestation, which in turn may lead to a variety of related diseases. Moreover, GHGs may directly contribute to respiratory diseases due to air pollution.³

The primary GHGs include:

- Carbon dioxide: Fossil fuel use is the primary source of carbon dioxide but is also emitted through land use practices, such as deforestation, land clearing for agriculture, and degradation of soils. Carbon dioxide is removed from the atmosphere when it is absorbed by plants as part of the biological carbon cycle.
- Methane: Methane is emitted during the production and transport of coal, natural gas, and oil. Methane emissions also result from livestock and other agricultural practices, land use, and by the decay of organic waste in municipal solid waste landfills.
- Nitrous oxide: Nitrous oxide is emitted during agricultural, land use, and industrial activities; combustion of fossil fuels and solid waste; as well as during treatment of wastewater.
- Fluorinated gases: Industrial processes, refrigeration, and the use of a variety of consumer products contribute to emissions of fluorinated gases, which include hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.⁴

GHGs remain in the atmosphere for different periods of time, ranging from a few years to thousands of years.⁵

GHG Emissions

GHG from human activities are the most significant driver of observed climate change since the mid-20th century.⁶ Worldwide, net emissions of GHGs from human activities increased by 43 percent from 1990 to 2015.⁷ Carbon dioxide emissions, which account for about three-fourths of total GHG emissions, increased by 51 percent over this period.⁸ The majority of the world's emissions result from transportation, electricity generation, and other forms of energy production and use.⁹

² Levent Kutlu, *Greenhouse Gas Emission Efficiencies of World Countries*, 1 (2020), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7728308/pdf/ijerph-17-08771.pdf>.

³ *Id.*

⁴ U.S. Environmental Protection Agency (EPA), *Global Greenhouse Gas Emissions Data*, <https://www.epa.gov/ghgemissions/global-greenhouse-gas-emissions-data> (last visited Jan. 13, 2024).

⁵ EPA, *Overview of Greenhouse Gases*, <https://www.epa.gov/ghgemissions/overview-greenhouse-gases> (last visited Jan. 13, 2024).

⁶ Intergovernmental Panel on Climate Change, *Climate Change 2021: The Physical Science Basis*, 5 (2021), available at <https://www.ipcc.ch/report/ar6/wg1/>.

⁷ EPA, *Climate Change Indicators: Greenhouse Gases*, <https://www.epa.gov/climate-indicators/greenhouse-gases> (last visited Jan. 13, 2024).

⁸ *Id.*

⁹ *Id.*

GHG emission levels are closely related to the production of countries, which may be measured by their gross domestic products.¹⁰ In 2022, the largest contributions to global carbon dioxide emissions were from China (31 percent), the U.S. (14 percent), India (8 percent), and Europe (7 percent).¹¹ However, in areas such as the U.S. and Europe, forestry and land management practices have the net effect of absorbing carbon dioxide, partially offsetting the emissions from deforestation in other regions.¹² Carbon dioxide emissions in the U.S. decreased by 2 percent between 1990 and 2021.¹³ Projections for 2023 show a decrease of 3 percent in the U.S. from 2022 levels.¹⁴ Emissions are also expected to decrease in Europe by 7.4 percent but increase by 4 percent in China and 8.2 percent in India.¹⁵

The U.S. is also above the world average for GHG emission efficiency.¹⁶ GHG emission efficiency is a measure of how successful countries are in terms of keeping their GHG emission levels low relative to their production levels.¹⁷

U.S. Policy on GHGs

The U.S. has made the reduction of GHG emissions a priority. In 2021, the U.S. government announced its plan to transition to a clean energy economy with net-zero emissions by 2050, including a goal to produce at least 80 percent of the U.S.'s electricity from emissions-free sources by 2030.¹⁸ However, achieving the goals under the climate agenda will require cooperation from U.S. states and cities, Congress, the judicial branch, other countries—particularly the European Union and China—as well as the private sector.¹⁹

Historically, the U.S. has favored incentivizing emission reductions rather than imposing compulsory measures.²⁰ One of the major concerns regarding the implementation of mandatory limits on GHG emissions in the U.S. is the impact such limits would have on the international

¹⁰ Levent Kutlu, *Greenhouse Gas Emission Efficiencies of World Countries*, 2 (2020), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7728308/pdf/ijerph-17-08771.pdf>.

¹¹ Pierre Friedlingstein et al., *Global Carbon Budget 2023*, 20 (2023), available at <https://essd.copernicus.org/articles/15/5301/2023/essd-15-5301-2023.pdf>.

¹² EPA, *Global Greenhouse Gas Emissions Data*, <https://www.epa.gov/ghgemissions/global-greenhouse-gas-emissions-data> (last visited Jan. 13, 2024).

¹³ EPA, *Overview of Greenhouse Gases*, <https://www.epa.gov/ghgemissions/overview-greenhouse-gases> (last visited Jan. 13, 2024).

¹⁴ Pierre Friedlingstein et al., *Global Carbon Budget 2023*, 4 (2023), available at <https://essd.copernicus.org/articles/15/5301/2023/essd-15-5301-2023.pdf>.

¹⁵ *Id.*

¹⁶ Levent Kutlu, *Greenhouse Gas Emission Efficiencies of World Countries*, 2, 7 (2020), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7728308/pdf/ijerph-17-08771.pdf>.

¹⁷ *Id.* at 2.

¹⁸ Office of the White House, *Executive Order on Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability* (2021), available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/12/08/executive-order-on-catalyzing-clean-energy-industries-and-jobs-through-federal-sustainability/>.

¹⁹ William Reinsch and Emily Benson, *U.S. Views on the Trade and Climate Policy Nexus*, 17 (2021), available at https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/210729_Reinsch_Trade_Climate.pdf?VersionId=ed3gBvB18Jvmtf51lkoDsYiWHCFHPJ1y.

²⁰ *See id.* at 1.

competitiveness of U.S. firms.²¹ Limits on GHG emissions may lead to extra costs on U.S. industries. Where foreign firms do not bear similar costs, U.S. firms may lose their competitive edge because goods from countries without mandatory carbon restrictions may gain a price advantage over domestic goods.²²

However, incentive-based policies also pose challenges, as they often encounter budget and spending challenges, which can hinder their progress and acceptance in Congress.²³ Moreover, trade incentives largely entail subsidies, both removing harmful ones and implementing good ones, both of which could raise legal issues within the World Trade Organization.²⁴

Differences in countries' short-term climate commitments could significantly harm U.S. producers of carbon-intensive goods over the next decade and facilitate a race to the bottom in international trade.²⁵ Two of the U.S.'s top five import sources—Mexico and China—have not announced strict short-term emissions reductions targets.²⁶ The potential asymmetry between these major trading partners' regulatory regimes for carbon emissions could not only disadvantage U.S. producers, but also lead to carbon leakage, in which businesses facing strict emissions regulations move their carbon-intensive production processes to countries with less strict rules, causing emissions to “leak” across borders.²⁷ Carbon leakage could have significant economic and political consequences, particularly the loss of U.S. manufacturing jobs, if U.S. firms move their carbon-intensive manufacturing processes abroad.²⁸ Additionally, less carbon-intensive U.S. products would be relatively more expensive than imports from countries with less strict regulatory regimes.²⁹

Senate Memorial

Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject. A memorial is an official legislative document addressed to Congress, the President of the United States, or some other governmental entity that

²¹ Joost Pauwelyn, Duke University, *U.S. Federal Climate Policy and Competitiveness Concerns: The Limits and Options of International Trade Law*, 2 (2007), available at <https://nicholasinstitute.duke.edu/sites/default/files/publications/u.s.-federal-climate-policy-and-competitiveness-concerns-the-limits-and-options-of-international-trade-law-paper.pdf>.

²² *Id.*

²³ William Reinsch and Emily Benson, *U.S. Views on the Trade and Climate Policy Nexus*, 2 (2021), available at https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/210729_Reinsch_Trade_Climate.pdf?VersionId=ed3gBvB18Jvmtf51lkoDsYiWHCFHPJ1y.

²⁴ *Id.* As a member of the World Trade Organization (WTO), the U.S. may be prohibited from implementing certain subsidies. There are two categories of prohibited subsidies: The first category consists of subsidies contingent, in law or in fact, whether wholly or as one of several conditions, on export performance (export subsidies). The second category consists of subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods (local content subsidies). These types of subsidies are prohibited because they are designed to directly affect trade and thus are most likely to have adverse effects on the interests of other WTO members. WTO, *Agreement on Subsidies and Countervailing Measures (“SCM Agreement”)*, https://www.wto.org/english/tratop_e/scm_e/subs_e.htm (last visited Jan. 15, 2024).

²⁵ William Reinsch and Emily Benson, *U.S. Views on the Trade and Climate Policy Nexus*, 9 (2021), available at https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/210729_Reinsch_Trade_Climate.pdf?VersionId=ed3gBvB18Jvmtf51lkoDsYiWHCFHPJ1y.

²⁶ *Id.* at 8.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

expresses the will of the Legislature on a matter within the jurisdiction of the recipient. A memorial requires passage by both legislative houses, but does not require the governor's approval, nor is it subject to a veto.

III. Effect of Proposed Changes:

The memorial contains 10 whereas clauses discussing Florida's recent investments to protect the state's natural resources and environment. The memorial also discusses China's role as a major polluter and emitter of greenhouse gas emissions and the U.S.'s efforts to reduce emissions and increase carbon efficiency. The memorial advocates for trade policies that reward U.S. firms for their strong environmental performance to bolster domestic manufacturing and reduce dependence on imports from high-emitting producers like China and Russia.

The memorial urges Congress to support solutions that examine the pollution differential between U.S. production and that of other countries and that hold foreign polluters accountable for their pollution.

The memorial requires Florida's Secretary of State to dispatch copies of the memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.