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(Original Signature of Member)

111TH CONGRESS  
2D SESSION

**H. R.**

To limit the total value of Chinese goods that may be procured by the United States Government during a calendar year to not more than the total value of United States goods procured by the Chinese Government if any during the preceding calendar year, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. SCHAUER introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To limit the total value of Chinese goods that may be procured by the United States Government during a calendar year to not more than the total value of United States goods procured by the Chinese Government if any during the preceding calendar year, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Reciprocal Government  
5 Procurement with China Creates American Jobs Act”.

1 **SEC. 2. FINDINGS AND STATEMENT OF POLICY.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) The purchase of government goods and  
4 services is an important means through which the  
5 government fulfills its constitutional duties to pro-  
6 vide for the common defense and promote the gen-  
7 eral welfare of the United States.

8 (2) American taxpayers expect that government  
9 procurement serves the interests of all Americans.

10 (3) The United States and several of its trading  
11 partners are signatories to the WTO Agreement on  
12 Government Procurement, which holds that signato-  
13 ries agree to certain restraints with regard to gov-  
14 ernment procurement.

15 (4) However, the People's Republic of China is  
16 not a signatory to the Agreement on Government  
17 Procurement, and that, accordingly, it is not a viola-  
18 tion of that agreement for the Congress to establish  
19 procurement policies as best suit the American pub-  
20 lic interest with regard to Chinese goods.

21 (5) China has structured its government pro-  
22 curement law to favor its domestic goods, as noted  
23 in Article 10 of such law.

24 (6) China has also recently announced a plan to  
25 favor so-called “indigenous innovation” under which

1 the Chinese Government would expressly favor lo-  
2 cally-developed products and technologies.

3 (7) American companies have had little or no  
4 success in accessing Chinese Government procure-  
5 ment contracts, while Chinese companies have had  
6 great success in selling goods for United States Gov-  
7 ernment projects.

8 (b) STATEMENT OF POLICY.—Accordingly, it shall be  
9 the policy of the United States to limit the total value of  
10 Chinese goods that may be procured by the United States  
11 Government during a calendar year to not more than the  
12 total value of United States goods procured by the Chinese  
13 Government if any during the preceding calendar year.

14 **SEC. 3. CERTIFICATION; PROHIBITION AND LIMITATION ON**  
15 **UNITED STATES PROCUREMENT OF CHINESE**  
16 **GOODS.**

17 (a) CERTIFICATION.—Not later than March 1 of each  
18 year beginning in 2011, the Secretary of Commerce shall  
19 submit to Congress a certification in writing that contains  
20 the following:

21 (1) A determination of whether or not the Chi-  
22 nese Government has prohibited the procurement of  
23 United States goods by the Chinese Government  
24 during the preceding calendar year.

1           (2) If the Chinese Government has not prohib-  
2           ited the procurement of United States goods by the  
3           Chinese Government during the preceding calendar  
4           year, an identification of the total value of United  
5           States goods procured by the Chinese Government  
6           during the preceding calendar year, as determined  
7           by the International Trade Administration under  
8           section 4.

9           (b) PROHIBITION.—If the Secretary determines and  
10          certifies to Congress under subsection (a)(1) that the Chi-  
11          nese Government has prohibited the procurement of  
12          United States goods by the Chinese Government during  
13          the preceding calendar year, then—

14                 (1) the head of each executive agency may not  
15                 award a contract for the procurement of Chinese  
16                 goods during the succeeding calendar year; and

17                 (2) the Secretary of Transportation shall pro-  
18                 hibit a State or other entity from using funds made  
19                 available from the Highway Trust Fund or the Air-  
20                 port and Airway Trust Fund for the award of a con-  
21                 tract for the procurement of Chinese goods during  
22                 the succeeding calendar year.

23          (c) LIMITATION.—

24                 (1) IN GENERAL.—If the Secretary determines  
25                 and certifies to Congress under subsection (a)(1)

1 that the Chinese Government has not prohibited the  
2 procurement of United States goods by the Chinese  
3 Government during the preceding calendar year,  
4 then the total value of Chinese goods that may be  
5 procured by the United States Government during  
6 the succeeding calendar year may not exceed the  
7 total value of United States goods procured by the  
8 Chinese Government during the preceding calendar  
9 year, as identified under subsection (a)(2).

10 (2) **RULE OF CONSTRUCTION.**—For purposes of  
11 determining the total value of Chinese goods that  
12 may be procured by the United States Government  
13 during a calendar year under paragraph (1), the  
14 total value of Chinese goods procured by a State or  
15 other entity using funds made available from the  
16 Highway Trust Fund or the Airport and Airway  
17 Trust Fund during the preceding calendar year shall  
18 be deemed to be Chinese goods procured by the  
19 United States Government.

20 **SEC. 4. ITA PROGRAM AND NOTIFICATION.**

21 (a) **PROGRAM.**—The International Trade Administra-  
22 tion shall establish a program—

23 (1) to identify the total value of United States  
24 goods procured by the Chinese Government on an  
25 annual basis, as required under section 3(a)(2), in-

1 including an accounting of the value of such procure-  
2 ment; and

3 (2) to provide notification in accordance with  
4 subsection (b).

5 (b) NOTIFICATION.—The International Trade Ad-  
6 ministration shall publish notice in the Federal Register  
7 on or as soon as practicable after the date on which the  
8 total value of Chinese goods procured by the United States  
9 Government equals 50 percent, 75 percent, and 100 per-  
10 cent of the total value of United States goods procured  
11 by the Chinese Government during the preceding calendar  
12 year for purposes of complying with the limitation under  
13 section 3(c).

14 **SEC. 5. DEFINITIONS.**

15 In this Act:

16 (1) CHINESE GOOD.—The term “Chinese good”  
17 means a good that is the growth, product, or manu-  
18 facture of the People’s Republic of China. A good  
19 shall be determined to be the manufacture of the  
20 People’s Republic of China for purposes of this para-  
21 graph if the sum of—

22 (A) the cost or value of the materials pro-  
23 duced in China, plus

24 (B) the direct costs of processing oper-  
25 ations performed in China,

1 is not less than 50 percent of the appraised value of  
2 such good at the time it is entered.

3 (2) CHINESE GOVERNMENT.—The term “Chi-  
4 nese Government” means the central government of  
5 the People’s Republic of China and any other gov-  
6 ernmental entity, including—

7 (A) any agency or instrumentality of the  
8 Chinese Government;

9 (B) any entity that is owned or controlled,  
10 directly or indirectly, by the Chinese Govern-  
11 ment; and

12 (C) any Chinese provincial or local govern-  
13 mental entity.

14 (3) EXECUTIVE AGENCY.—The term “executive  
15 agency” has the meaning given the term in section  
16 4 of the Office of Federal Procurement Policy Act  
17 (41 U.S.C. 403).

18 (4) SECRETARY.—The term “Secretary” means  
19 the Secretary of Commerce.

20 (5) UNITED STATES GOOD.—The term “United  
21 States good” means a good that is the growth, prod-  
22 uct, or manufacture of the United States. A good  
23 shall be determined to be the manufacture of the  
24 United States for purposes of this paragraph if the  
25 sum of—

1                   (A) the cost or value of the materials pro-  
2                   duced in the United States, plus  
3                   (B) the direct costs of processing oper-  
4                   ations performed in the United States,  
5                   is not less than 50 percent of the appraised value of  
6                   such good at the time it is entered.