

117TH CONGRESS  
1ST SESSION

# H. R. 3607

To support and fund the Federal procurement of clean energy products,  
and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

MAY 28, 2021

Mr. LEVIN of Michigan (for himself, Mr. HUFFMAN, and Mr. BRENDAN F. BOYLE of Pennsylvania) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Oversight and Reform, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To support and fund the Federal procurement of clean  
energy products, 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 “Buy Green Act of  
5 2021”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1           (1) APPROPRIATE COMMITTEES OF CON-  
2           GRESS.—The term “appropriate committees of Con-  
3           gress” means—

4                   (A) the Committee on Commerce, Science,  
5                   and Transportation of the Senate;

6                   (B) the Committee on Environment and  
7                   Public Works of the Senate;

8                   (C) the Committee on Transportation and  
9                   Infrastructure of the House of Representatives;  
10                  and

11                  (D) the Committee on Energy and Com-  
12                  merce of the House of Representatives.

13           (2) CLEAN POWER.—The term “clean power”  
14           means power derived from a renewable energy  
15           source.

16           (3) COVERED PRODUCT.—

17                   (A) IN GENERAL.—The term “covered  
18                   product” means—

19                           (i) energy—

20                                   (I) used to power a facility; and

21                                   (II) the production of which  
22                                   comes from a renewable energy  
23                                   source; and

24                           (ii) a product that—

1 (I) is produced or manufac-  
2 tured—

3 (aa) in the United States  
4 (including the territories of the  
5 United States);

6 (bb) in accordance with all  
7 relevant energy efficiency, envi-  
8 ronmental preference, and safety  
9 designations; and

10 (cc) by an entity that com-  
11 plies with the labor requirements  
12 under section 6; and

13 (II) reduces energy usage during  
14 the lifecycle of the product by—

15 (aa) minimizing energy,  
16 water, or material resources asso-  
17 ciated with the product;

18 (bb) increasing opportunities  
19 for reuse and recycling due to the  
20 durability or repairability of the  
21 product; and

22 (cc) improving environ-  
23 mental and human health im-  
24 pacts.

1 (B) INCLUSIONS.—The term “covered  
2 product” includes a product described in sub-  
3 paragraph (A)(ii) that—

4 (i) is a zero-emission vehicle or a non-  
5 motorized alternative mode of transpor-  
6 tation;

7 (ii) is a zero-emission form of public  
8 transportation, including high-speed rail;

9 (iii) is a product or low-carbon mate-  
10 rial used to design, construct, or retrofit  
11 buildings, including a product bearing the  
12 Green Seal certification;

13 (iv) improves the energy efficiency  
14 measures of facilities to make facilities en-  
15 vironmentally responsible;

16 (v) is a product used to maintain or  
17 clean buildings;

18 (vi) is an appliance certified under the  
19 Energy Star program established under  
20 section 324A of the Energy Policy and  
21 Conservation Act (42 U.S.C. 6294a);

22 (vii) is an electronics product bearing  
23 the EPEAT certification; or

24 (viii) is an energy-storage technology.

1           (4) COVERED SMALL BUSINESS.—The term  
2 “covered small business” means—

3           (A) a small business concern owned and  
4 controlled by socially and economically dis-  
5 advantaged individuals (as defined in section  
6 8(d)(3)(C) of the Small Business Act (15  
7 U.S.C. 637(d)(3)(C)));

8           (B) a small business concern owned and  
9 controlled by women (as defined in section 3 of  
10 that Act (15 U.S.C. 632)); and

11           (C) a small business concern owned and  
12 controlled by veterans (as defined in section 3  
13 of that Act (15 U.S.C. 632)).

14           (5) ELIGIBLE MATERIAL.—The term “eligible  
15 material” means a material for which the Secretary  
16 establishes a maximum global warming potential  
17 under section 4(b).

18           (6) ENVIRONMENTALLY RESPONSIBLE.—The  
19 term “environmentally responsible”, with respect to  
20 a facility or manufacturing capability, means that—

21           (A) the facility or manufacturing capability  
22 is in compliance with, or carried out in accord-  
23 ance with, as applicable, all relevant energy effi-  
24 ciency, environmental preference, and safety  
25 designations; and

1 (B) in the case of a facility, the facility is  
2 built or retrofitted with materials that minimize  
3 the use of—

4 (i) energy;

5 (ii) water; and

6 (iii) material resources that produce  
7 pollutants or toxins, as determined by the  
8 Secretary.

9 (7) FEDERAL BUILDING.—The term “Federal  
10 building” has the meaning given the term in section  
11 551 of the National Energy Conservation Policy Act  
12 (42 U.S.C. 8259).

13 (8) FRONTLINE, VULNERABLE, AND DISADVAN-  
14 TAGED COMMUNITY.—The term “frontline, vulner-  
15 able, and disadvantaged community” means a com-  
16 munity—

17 (A) in an area described in section 301(a)  
18 of the Public Works and Economic Develop-  
19 ment Act of 1965 (42 U.S.C. 3161(a)); and

20 (B) in which climate change, pollution, or  
21 environmental destruction have exacerbated sys-  
22 temic racial, regional, social, environmental,  
23 gender, and economic injustices by dispropor-  
24 tionately affecting Black, Brown, and Indige-  
25 nous peoples, other communities of color, mi-

1 grant communities, deindustrialized commu-  
2 nities, depopulated rural communities, the poor,  
3 low-income workers, women, the elderly, the  
4 unhoused, people with disabilities, or youth.

5 (9) FUND.—The term “Fund” means the Clean  
6 Energy Fund established under section 3(a).

7 (10) GLOBAL WARMING POTENTIAL.—The term  
8 “global warming potential”, with respect to an eligi-  
9 ble material, means a measure that indicates how  
10 much energy the emissions of 1 ton of gases associ-  
11 ated with the lifecycle of that eligible material, in-  
12 cluding the manufacture, use, and disposal of that  
13 eligible material, will absorb, on average, over a  
14 given period of time, relative to the emissions of 1  
15 ton of carbon dioxide.

16 (11) OVERSIGHT ADVISORY BOARD.—The term  
17 “Oversight Advisory Board” means the Green Pro-  
18 curement Oversight Advisory Board established  
19 under section 7.

20 (12) RENEWABLE ENERGY SOURCE.—The term  
21 “renewable energy source” means energy generated  
22 from a renewable source, including the following re-  
23 newable energy sources:

24 (A) Solar, including electricity.

25 (B) Wind.

1 (C) Ocean, including tidal, wave, current,  
2 and thermal.

3 (D) Geothermal, including electricity and  
4 heat pumps.

5 (E) Hydroelectric generation capacity  
6 achieved from increased efficiency or additions  
7 of new capacity at an existing hydroelectric  
8 project that was placed in service on or after  
9 January 1, 1999.

10 (F) Hydrogen derived from a renewable  
11 source of energy.

12 (G) Thermal energy generated by any of  
13 the sources described in subparagraphs (A)  
14 through (F).

15 (13) SECRETARY.—The term “Secretary”  
16 means the Secretary of Energy.

17 (14) SMALL BUSINESS.—The term “small busi-  
18 ness” has the meaning given the term “small busi-  
19 ness concern” in section 3 of the Small Business Act  
20 (15 U.S.C. 632).

21 **SEC. 3. CLEAN ENERGY FUND.**

22 (a) IN GENERAL.—Not later than January 1, 2023,  
23 the Secretary shall establish a fund in the Department of  
24 Energy, to be known as the “Clean Energy Fund”.

25 (b) USE OF FUND.—



- 1 (1) IN GENERAL.—The Secretary shall—
- 2 (A) use amounts in the Fund—
- 3 (i) to purchase covered products for
- 4 use by the Secretary, including covered
- 5 products relating to information technology
- 6 and general supplies and services, in ac-
- 7 cordance with subsection (g) and section 5;
- 8 (ii) to establish and carry out the
- 9 grant programs under subsections (c) and
- 10 (d); and
- 11 (iii) to carry out the Federal building
- 12 activities described in subsection (e); and
- 13 (B) transfer amounts from the Fund—
- 14 (i) to 1 or more Federal agencies (ex-
- 15 cluding the Department of Defense)—
- 16 (I) to purchase covered products
- 17 for use by the Federal agency, in ac-
- 18 cordance with subsection (g) and sec-
- 19 tion 5; and
- 20 (II) to carry out the Federal
- 21 building activities described in sub-
- 22 section (e); and
- 23 (ii) to the Administrator of General
- 24 Services to carry out subsection (f).

1           (2) PURCHASES FROM SMALL BUSINESSES.—Of  
2 the amounts from the Fund made available to a  
3 Federal agency in a fiscal year, the head of the Fed-  
4 eral agency shall ensure that not less than 20 per-  
5 cent is used to purchase covered products from small  
6 businesses and covered small businesses.

7           (c) STATE, TRIBAL, AND LOCAL GOVERNMENT  
8 GRANT PROGRAM.—

9           (1) IN GENERAL.—Not later than January 1,  
10 2023, the Secretary, in coordination with the Sec-  
11 retary of the Treasury, shall establish a green pro-  
12 curement grant program under which the Secretary  
13 shall provide grants on a competitive basis to States,  
14 Indian Tribes, and units of local government to pur-  
15 chase covered products for use by the State, Indian  
16 Tribe, or unit of local government, as applicable, in  
17 accordance with subsection (g), section 5, and the  
18 labor requirements under section 6.

19           (2) SELECTION OF GRANT RECIPIENTS.—The  
20 Secretary shall—

21           (A) share with the Oversight Advisory  
22 Board applications received under the grant  
23 program established under paragraph (1); and

24           (B) in coordination with the Secretary of  
25 the Treasury, select grant recipients under that

1 program after receiving the recommendations of  
2 the Oversight Advisory Board relating to grant  
3 recipients.

4 (3) DISTRIBUTION OF GRANTS.—Of the  
5 amounts available in the Fund in a fiscal year to  
6 carry out the program under paragraph (1), the Sec-  
7 retary shall ensure that—

8 (A) not less than 60 percent but not more  
9 than 65 percent of the amount of a grant  
10 awarded to a State, Indian Tribe, or unit of  
11 local government shall be used to purchase cov-  
12 ered products for use in urban areas located in  
13 or under the jurisdiction of the State, Indian  
14 Tribe, or unit of local government, as applica-  
15 ble;

16 (B) not less than 40 percent of the amount  
17 of a grant awarded to a State, Indian Tribe, or  
18 unit of local government shall be used to pur-  
19 chase covered products for use in frontline, vul-  
20 nerable, and disadvantaged communities located  
21 in or under the jurisdiction of the State, Indian  
22 Tribe, or unit of local government, as applica-  
23 ble; and

24 (C) not less than 20 percent of the amount  
25 of a grant awarded to a State, Indian Tribe, or

1 unit of local government shall be used to pur-  
2 chase covered products from small businesses  
3 and covered small businesses.

4 (4) PRIORITY FOR SCHOOL BUS ELECTRIFICA-  
5 TION.—In providing grants under paragraph (1), the  
6 Secretary shall give priority to States, Indian Tribes,  
7 and units of local government that will use the grant  
8 for the electrification of school buses in frontline,  
9 vulnerable, and disadvantaged communities and sub-  
10 sequently in all other communities located in or  
11 under the jurisdiction of the State, Indian Tribe, or  
12 unit of local government, as applicable.

13 (5) DURATION OF GRANT.—Funds provided  
14 under a grant under paragraph (1) shall be available  
15 to the State, Indian Tribe, or unit of local govern-  
16 ment receiving the grant for not less than 3 years  
17 after the date on which the funds are provided.

18 (d) INDUSTRY GRANTS.—

19 (1) DEFINITIONS.—In this subsection:

20 (A) ELIGIBLE ENTITY.—

21 (i) IN GENERAL.—The term “eligible  
22 entity” means a company that—

23 (I) is organized under the laws of  
24 the United States or any jurisdiction  
25 within the United States; or

1 (II) is otherwise subject to the  
2 jurisdiction of the United States.

3 (ii) EXCLUSION.—The term “eligible  
4 entity” does not include a foreign branch  
5 of a company described in clause (i).

6 (B) GREENHOUSE GAS EMISSIONS.—The  
7 term “greenhouse gas emissions” means emis-  
8 sions of any of the following gases:

9 (i) Carbon dioxide.

10 (ii) Methane.

11 (iii) Nitrous oxide.

12 (iv) Hydrofluorocarbons.

13 (v) Perfluorocarbons.

14 (vi) Sulfur hexafluoride.

15 (vii) Nitrogen trifluoride.

16 (2) ESTABLISHMENT.—Not later than January  
17 1, 2022, the Secretary shall establish a program  
18 under which the Secretary shall provide grants, on  
19 a competitive basis, to eligible entities—

20 (A) to retrofit or otherwise upgrade facili-  
21 ties that produce covered products, including to  
22 make those facilities environmentally respon-  
23 sible; and

24 (B) for the development of environmentally  
25 responsible manufacturing capabilities to bol-

1           ster the production of covered products, includ-  
2           ing by—

3                   (i) constructing new environmentally  
4                   responsible facilities in the United States  
5                   for the production of covered products; and

6                   (ii) retrofitting or otherwise upgrading  
7                   existing facilities in the United States—

8                           (I) to produce covered products;

9                           and

10                           (II) to make those facilities envi-  
11                           ronmentally responsible.

12           (3) SELECTION OF GRANT RECIPIENTS.—In  
13           providing grants under paragraph (2), the Secretary  
14           shall—

15                   (A) share grant applications with the Over-  
16                   sight Advisory Board;

17                   (B) select grant recipients after receiving  
18                   the recommendations of the Oversight Advisory  
19                   Board relating to grant recipients;

20                   (C) consider—

21                           (i) any labor, health or safety, or dis-  
22                           crimination charges filed against the eligi-  
23                           ble entity in the preceding 2 years;

24                           (ii) any violations of the National  
25                           Labor Relations Act (29 U.S.C. 151 et

1 seq.) reported to the National Labor Rela-  
2 tions Board in the preceding 2 years;

3 (iii) as applicable, whether wages and  
4 benefits for auto workers are not less than  
5 the industry standards for wages and bene-  
6 fits for auto workers who are represented  
7 by a labor organization;

8 (iv) whether jobs created for purposes  
9 of activities supported through the grant  
10 will be permanent positions, rather than  
11 temporary or contingent positions;

12 (v) whether training required under  
13 the Occupational Safety and Health Act of  
14 1970 (29 U.S.C. 651 et seq.) will be pro-  
15 vided for employees, including any safety  
16 supervisors;

17 (vi) the policy of the eligible entity  
18 with respect to coverage of workers' com-  
19 pensation; and

20 (vii) whether the work sites that will  
21 be used for activities supported through  
22 the grant have independent health and  
23 safety monitoring policies; and

24 (D) prioritize applications that specify that  
25 the eligible entity—

1 (i) participates or will participate in a  
2 registered apprenticeship program; or

3 (ii) prioritizes the employment of indi-  
4 viduals trained and certified by labor orga-  
5 nizations, or joint labor-management orga-  
6 nizations, that promote a skilled workforce  
7 with high standards for quality and safety.

8 (4) REQUIREMENT.—An eligible entity receiving  
9 a grant under paragraph (2) shall comply with the  
10 labor requirements under section 6 with respect to  
11 the activities carried out using, or otherwise sup-  
12 ported by, the grant.

13 (5) SUBMISSION OF ENVIRONMENTAL PRODUCT  
14 DECLARATION.—The Secretary shall require each el-  
15 igible entity to which the Secretary awards a grant  
16 under paragraph (2) to submit to the Secretary, for  
17 each eligible material proposed to be used in the ap-  
18 plicable project—

19 (A) a current facility-specific Environ-  
20 mental Product Declaration, Type III (as de-  
21 fined by the International Organization for  
22 Standardization standard 14025); or

23 (B) a declaration made under a similarly  
24 robust lifecycle assessment method that has—



- 1 (i) uniform standards in data collec-  
2 tion consistent with that standard;  
3 (ii) industry acceptance; and  
4 (iii) integrity.

5 (6) CERTIFICATIONS.—The Secretary shall re-  
6 quire that any application for a grant under para-  
7 graph (2) shall include a certification that the facil-  
8 ity-specific global warming potential for any eligible  
9 material proposed to be used in that project does not  
10 exceed the maximum acceptable global warming po-  
11 tential established under paragraph (1) of section  
12 4(b) (as adjusted under paragraph (2)(A)(ii) of that  
13 section, if applicable) for that eligible material.

14 (7) GOAL.—In carrying out this subsection, the  
15 Secretary shall strive to achieve a continuous reduc-  
16 tion of greenhouse gas emissions over time.

17 (8) PURCHASES FROM SMALL BUSINESSES.—Of  
18 the amounts made available under subsection (j) in  
19 a fiscal year to carry out the grant program estab-  
20 lished under paragraph (2), the Secretary shall en-  
21 sure that not less than 20 percent is used to provide  
22 grants under that program to eligible entities that  
23 are small businesses or covered small businesses.

24 (9) REPORT ON IMPLEMENTATION AND EFFEC-  
25 TIVENESS.—Not later than January 1, 2023, the

1 Secretary shall submit to the appropriate committees  
2 of Congress and the Oversight Advisory Board a re-  
3 port describing—

4 (A) any obstacles to the implementation of  
5 the grant program established under this sub-  
6 section;

7 (B) the effectiveness of the grant program  
8 in reducing—

9 (i) greenhouse gas emissions; and

10 (ii) the global warming potential for  
11 eligible materials; and

12 (C) the effectiveness of the grant program  
13 in—

14 (i) creating and maintaining jobs in  
15 the United States that comply with the  
16 labor requirements under section 6; and

17 (ii) protecting the rights of workers in  
18 the United States, including the right of  
19 certain workers to organize and bargain  
20 collectively.

21 (e) FEDERAL BUILDING ACTIVITIES.—The Federal  
22 building activities referred to in subsection (b) are, with  
23 respect to a Federal agency, activities—

24 (1) to construct new, modern Federal buildings  
25 of that Federal agency, including new hospitals,

1 medical centers, and clinics in the case of the De-  
2 partment of Veterans Affairs, that are sustainable  
3 and resilient, including through the purchase of low-  
4 carbon materials for that construction; and

5 (2) to modernize, and improve the sustainability  
6 and resilience of, Federal buildings of that Federal  
7 agency, including hospitals, medical centers, and  
8 clinics in the case of the Department of Veterans Af-  
9 fairs, including through—

10 (A) the purchase of low-carbon materials  
11 for retrofitting, remodeling, or otherwise im-  
12 proving Federal buildings; and

13 (B) the purchase of clean power for Fed-  
14 eral buildings.

15 (f) REPLACEMENT OF FEDERAL FLEET.—Using  
16 amounts from the Fund, the Administrator of General  
17 Services shall purchase zero-emission vehicles to replace  
18 the existing Federal fleet (as defined by the term “fleet”  
19 in section 301 of the Energy Policy Act of 1992 (42  
20 U.S.C. 13211)) so that by the end of fiscal year 2030 the  
21 entire Federal fleet consists of zero-emission vehicles.

22 (g) PRIORITY FOR PURCHASING COVERED PROD-  
23 UCTS.—A Federal agency, State, Indian Tribe, or unit of  
24 local government purchasing covered products pursuant to

1 this section shall give priority to purchasing covered prod-  
2 ucts that—

3 (1) are made from renewable and recycled re-  
4 sources (including biobased products);

5 (2) have lower lifecycle emissions than com-  
6 parable products; and

7 (3) are designed for—

8 (A) reducing environmental impacts; and

9 (B) recycling.

10 (h) BUY AMERICAN.—

11 (1) IN GENERAL.—Chapter 83 of title 41,  
12 United States Code, shall apply with respect to pur-  
13 chases of covered products made pursuant to this  
14 section—

15 (A) by a Federal agency; and

16 (B) in the case of purchases by a non-Fed-  
17 eral entity, in the same manner in which that  
18 chapter applies to the Federal Government.

19 (2) EXCEPTIONS AND WAIVERS.—The Secretary  
20 shall, to the maximum extent practicable, minimize  
21 the number of exceptions and waivers granted under  
22 chapter 83 of title 41, United States Code, with re-  
23 spect to purchases of covered products made pursu-  
24 ant to this section.

1 (i) REPORT.—Not less frequently than once each fis-  
2 cal year, the Secretary shall submit to the appropriate  
3 committees of Congress and the Oversight Advisory Board  
4 a report that—

5 (1) describes the activities carried out using  
6 amounts in the Fund, including data on the clean  
7 power purchased under subsection (e)(2)(B);

8 (2) includes data on the covered products pur-  
9 chased pursuant to those activities; and

10 (3) includes data on compliance with subsection  
11 (h).

12 (j) AUTHORIZATION OF APPROPRIATIONS.—There is  
13 authorized to be appropriated to the Fund  
14 \$1,500,000,000,000 for the period of fiscal years 2022  
15 through 2031, to remain available until January 1, 2042,  
16 of which not less than—

17 (1) \$750,000,000,000 shall be used to carry out  
18 the grant program established under subsection (e);  
19 and

20 (2) \$250,000,000,000 shall be used to carry out  
21 the grant program established under subsection (d).

22 **SEC. 4. DEPARTMENT OF ENERGY.**

23 (a) SENIOR PROCUREMENT OFFICER.—The Sec-  
24 retary shall—

1           (1) be designated as the senior procurement of-  
2           ficer for the Department of Energy; and

3           (2) coordinate with the Director of the Office of  
4           Management and Budget in carrying out procure-  
5           ment for the Department of Energy.

6           (b) MAXIMUM ACCEPTABLE GLOBAL WARMING PO-  
7           TENTIAL OF ELIGIBLE MATERIALS.—

8           (1) ESTABLISHMENT.—

9           (A) IN GENERAL.—Not later than January  
10          1, 2022, the Secretary shall establish, and pub-  
11          lish in the Federal Register—

12                   (i) an initial list of materials for  
13                   which the Secretary shall establish a max-  
14                   imum acceptable global warming potential  
15                   under this subsection; and

16                   (ii) the maximum acceptable global  
17                   warming potential for each material identi-  
18                   fied on that list, as determined in accord-  
19                   ance with subparagraph (B).

20          (B) REQUIREMENTS.—

21                   (i) INDUSTRY AVERAGE.—

22                           (I) IN GENERAL.—The maximum  
23                           acceptable global warming potential  
24                           for an eligible material under sub-  
25                           paragraph (A) shall be expressed as a

1 number that is equal to the industry  
2 average of facility-specific global  
3 warming potential emissions for that  
4 eligible material, as determined under  
5 subclause (II).

6 (II) DETERMINATION.—The Sec-  
7 retary shall determine the industry  
8 average described in subclause (I) for  
9 an eligible material by consulting na-  
10 tionally or internationally recognized  
11 databases of environmental product  
12 declarations.

13 (ii) CONSISTENCY WITH ENVIRON-  
14 MENTAL PRODUCT DECLARATION.—Each  
15 maximum acceptable global warming po-  
16 tential established under subparagraph (A)  
17 shall be established in a manner that is  
18 consistent with the requirements of an en-  
19 vironmental product declaration.

20 (C) REPORT.—Not later than January 1,  
21 2023, the Secretary shall submit to the appro-  
22 priate committees of Congress and the Over-  
23 sight Advisory Board a report that describes  
24 the method that the Secretary used to develop

1 the maximum global warming potential for each  
2 eligible material under subparagraph (A).

3 (2) REVIEW AND ADJUSTMENT.—

4 (A) IN GENERAL.—Not later than January  
5 1, 2026, and every 3 years thereafter through  
6 2042, the Secretary—

7 (i) shall review the maximum accept-  
8 able global warming potential established  
9 under paragraph (1) for each eligible mate-  
10 rial; and

11 (ii) may adjust that maximum accept-  
12 able global warming potential for an eligi-  
13 ble material downward to reflect industry  
14 improvements if the Secretary, based on  
15 the process described in paragraph  
16 (1)(B)(i)(II), determines that the industry  
17 average has changed.

18 (B) PUBLICATION.—If the Secretary ad-  
19 justs the maximum acceptable global warming  
20 potential of an eligible material downward  
21 under subparagraph (A)(ii), the Secretary shall  
22 publish the updated maximum global warming  
23 potential in the Federal Register.

24 (C) PROHIBITION.—After establishing the  
25 maximum acceptable global warming potential



1           for an eligible material under paragraph (1),  
2           the Secretary may not adjust that maximum ac-  
3           ceptable global warming potential upward.

4 **SEC. 5. REQUIREMENTS FOR PROCUREMENT OF COVERED**  
5           **PRODUCTS.**

6           An entity procuring a covered product pursuant to  
7 this Act shall ensure that the procurement—

8           (1) is conducted in compliance with all applica-  
9           ble laws regarding fair and open competition in con-  
10          tracting;

11          (2) is subject to appropriate cost controls;

12          (3) provides for whistleblower protections for  
13          employees of contractors and subcontractors;

14          (4) requires contractors and subcontractors to  
15          retain records pertinent to contract performance;

16          (5) requires contractors to submit to the entity  
17          audited financial statements covering the contract  
18          performance period; and

19          (6) is conducted in compliance with section 552  
20          of title 5, United States Code (commonly known as  
21          the “Freedom of Information Act”) and other appli-  
22          cable open records laws.

23 **SEC. 6. LABOR REQUIREMENTS.**

24          (a) DEFINITIONS.—In this section:

1 (1) COVERED ACTIVITIES.—The term “covered  
2 activities” means—

3 (A) with respect to a covered entity de-  
4 scribed in subparagraph (A) of paragraph (2),  
5 activities involving producing or manufacturing  
6 a covered product; or

7 (B) with respect to a covered entity de-  
8 scribed in subparagraph (B) of such paragraph,  
9 activities supported by the grant.

10 (2) COVERED ENTITY.—The term “covered en-  
11 tity” means—

12 (A) an entity producing or manufacturing  
13 a product as described in section  
14 2(3)(A)(ii)(I)(cc); or

15 (B) an entity receiving a grant under this  
16 Act.

17 (b) REQUIREMENTS.—The labor requirements under  
18 this section with respect to a covered entity are each of  
19 the following:

20 (1) MINIMUM WAGE.—

21 (A) IN GENERAL.—The covered entity  
22 shall ensure that all employees of the covered  
23 entity, and of any contractor or subcontractor  
24 of the covered entity with respect to the covered

1 activities, who are engaged in the covered ac-  
2 tivities shall be paid at a rate of not less than—

3 (i) \$15.00 an hour, beginning on the  
4 date of enactment of this Act; and

5 (ii) beginning on the date that is 1  
6 year after such date of enactment, and an-  
7 nually thereafter, the greater of—

8 (I) the amount in effect under  
9 this subparagraph for the preceding  
10 year, increased by the annual percent-  
11 age increase, if any, in the median  
12 hourly wage of all employees as deter-  
13 mined by the Bureau of Labor Statis-  
14 tics and rounded up to the nearest  
15 multiple of \$0.05; or

16 (II) 10 percent more than the  
17 minimum wage applicable under sec-  
18 tion 6 of the Fair Labor Standards  
19 Act of 1938 (29 U.S.C. 206).

20 (B) CALCULATION.—In calculating the an-  
21 nual percentage increase in the median hourly  
22 wage of all employees for purposes of subpara-  
23 graph (A)(ii)(I), the Secretary of Labor,  
24 through the Bureau of Labor Statistics, shall—

1 (i) compile data on the hourly wages  
2 of all employees to determine such a me-  
3 dian hourly wage; and

4 (ii) compare such median hourly wage  
5 for the most recent year for which data are  
6 available with the median hourly wage de-  
7 termined for the preceding year.

8 (C) REQUIREMENTS APPLICABLE TO CON-  
9 STRUCTION.—Notwithstanding any other re-  
10 quirement in this section, all laborers and me-  
11 chanics employed by contractors or subcontrac-  
12 tors in the performance of construction, alter-  
13 ation, or repair work assisted, in whole or in  
14 part, with a grant under this Act shall be paid  
15 wages at rates not less than those prevailing on  
16 similar construction, alteration, or repair work  
17 in the locality as determined by the Secretary  
18 of Labor in accordance with subchapter IV of  
19 chapter 31 of title 40, United States Code. The  
20 Secretary of Labor shall have, with respect to  
21 such labor standards, the authority and func-  
22 tions set forth in Reorganization Plan Num-  
23 bered 14 of 1950 (64 Stat. 1267; 5 U.S.C.  
24 App.) and section 3145 of title 40, United  
25 States Code.

1 (D) REQUIREMENTS APPLICABLE TO VEHI-  
2 CLE PRODUCTION.—

3 (i) DEFINITIONS.—In this subpara-  
4 graph:

5 (I) COVERED PRODUCTION  
6 WORKER.—The term “covered produc-  
7 tion worker” means a worker who—

8 (aa) is employed by an es-  
9 tablishment in the Motor Vehicle  
10 Manufacturing industry (Code  
11 3361 of the North American In-  
12 dustry Classification System);

13 (bb) is directly involved in  
14 the production of a vehicle; and

15 (cc) is not a manager, engi-  
16 neer, or involved in research and  
17 development, or does not have a  
18 skilled trade.

19 (II) INDUSTRY STANDARD WAGE  
20 RATE.—The term “industry standard  
21 wage rate”, with respect to covered  
22 production workers, means the median  
23 wage rate for all covered production  
24 workers, as determined by the Sec-

1           retary of Labor in accordance with  
2           clause (iv).

3                   (III)   TOP   EARNING   WAGE  
4           RATE.—The term “top earning wage  
5           rate” means the value of the wage  
6           rate for which 75 percent of covered  
7           production workers earn less, as de-  
8           termined by the Secretary of Labor in  
9           accordance with clause (iv).

10                   (ii) MINIMUM WAGE RATE.—Notwith-  
11           standing any other requirement in this sec-  
12           tion, the covered entity shall ensure that—

13                   (I) the average rate of pay for all  
14           covered production workers employed,  
15           directly by a manufacturer or through  
16           a subcontractor or employment serv-  
17           ices agency, in the performance of  
18           covered activities is not less than the  
19           industry standard wage rate for cov-  
20           ered production workers; and

21                   (II) all covered production work-  
22           ers described in subclause (I) are paid  
23           not less than the rate in effect under  
24           subparagraph (A).

1                   (iii) PATHWAY TO TOP EARNING WAGE  
2                   RATE.—The covered entity shall ensure  
3                   that all covered production workers em-  
4                   ployed, directly by a manufacturer or  
5                   through a subcontractor or employment  
6                   services agency, in the performance of cov-  
7                   ered activities, are covered by a policy de-  
8                   termined in a labor organization contract  
9                   or a written company policy that provides,  
10                  to the extent practicable, a pathway for  
11                  such workers to earn the top earning wage  
12                  rate not later than 7 years after beginning  
13                  such employment.

14                  (iv) DETERMINING WAGES OF WORK-  
15                  ERS IN THE INDUSTRY.—For purposes of  
16                  this subparagraph, in determining for a  
17                  year the industry standard wage rate and  
18                  the top earning wage rate, the Secretary of  
19                  Labor shall use the National Industry-Spe-  
20                  cific Occupational Employment and Wage  
21                  Estimates, for the preceding year, for the  
22                  Motor Vehicle Manufacturing industry  
23                  (Code 3361 of the North American Indus-  
24                  try Classification System) for the occupa-  
25                  tion of Assemblers and Fabricators (Occu-

1                   pational Code 51–2000 of the Occupational  
2                   Employment Statistics of the Bureau of  
3                   Labor Statistics).

4                   (2)     NEUTRALITY     TOWARD     ORGANIZED  
5     LABOR.—The covered entity shall have, and ensure  
6     that all contractors and subcontractors of the cov-  
7     ered entity with respect to the covered activities,  
8     have—

9                   (A) an explicit policy of neutrality with re-  
10                  gard to—

11                   (i) labor organizing for the employees  
12                   engaged in the covered activities; and

13                   (ii) such employees’ choice to form  
14                   and join labor organizations; and

15                   (B) policies that require—

16                   (i) the posting and maintenance of no-  
17                   tices in the workplace to such employees of  
18                   their rights under the National Labor Re-  
19                   lations Act (29 U.S.C. 151 et seq.); and

20                   (ii) that such employees are, at the  
21                   beginning of their employment, provided  
22                   notice and information regarding the em-  
23                   ployees’ rights under such Act.

24                   (3) PAID FAMILY AND MEDICAL LEAVE.—The  
25     covered entity shall have, and ensure that all con-



1 tractors and subcontractors of the covered entity  
2 with respect to the covered activities have, an ex-  
3 plicit policy providing all employees engaged in the  
4 covered activities not less than 12 workweeks of paid  
5 leave in a 12-month period for any purpose de-  
6 scribed in section 102(a)(1) of the Family and Med-  
7 ical Leave Act of 1993 (29 U.S.C. 2612(a)(1)), in  
8 accordance with regulations promulgated by the Sec-  
9 retary of Labor.

10 (4) FAIR SCHEDULING.—

11 (A) IN GENERAL.—The covered entity  
12 shall have, and ensure that all contractors and  
13 subcontractors of the covered entity with re-  
14 spect to the covered activities have, an explicit  
15 policy for fair scheduling for employees engaged  
16 in the covered activities, which shall include—

17 (i) an opportunity for the employee to  
18 request—

19 (I) an adjustment in the number  
20 of hours, work location, or times of  
21 the employee’s work schedule;

22 (II) a change in the amount of  
23 notification provided to the employee  
24 regarding the work schedule; or

1 (III) the minimizing of fluctua-  
2 tions in the number of hours the em-  
3 ployee is scheduled to work on a daily,  
4 weekly, or monthly basis; and

5 (ii) a timely, good faith interactive  
6 process through which the covered entity,  
7 or contractor or subcontractor, and em-  
8 ployee discuss the employee's request  
9 under clause (i) and the covered entity, or  
10 contractor or subcontractor, grants the re-  
11 quest or suggests any alternatives that  
12 might meet the employee's needs.

13 (B) EXCEPTION.—Subparagraph (A) shall  
14 not apply to any employee covered by a valid  
15 collective bargaining agreement if—

16 (i) the terms of the collective bar-  
17 gaining agreement include terms that gov-  
18 ern work scheduling practices; and

19 (ii) the provisions of this paragraph  
20 are expressly waived in such collective bar-  
21 gaining agreement.

22 (5) PREFERENCE FOR LOCAL HIRING.—The  
23 covered entity shall have, and ensure that all con-  
24 tractors and subcontractors with respect to the cov-  
25 ered activities have, explicit policies that provide a

1 preference for local hiring for individuals engaged in  
2 the covered activities, consistent with applicable Fed-  
3 eral law and subject to rules issued by the Secretary  
4 of Labor.

5 (6) EMPLOYEE CLASSIFICATION.—The covered  
6 entity shall consider, and ensure that all contractors  
7 and subcontractors of the covered entity with respect  
8 to the covered activities consider, an individual per-  
9 forming any service for remuneration for the covered  
10 entity, or contractor or subcontractor, in the per-  
11 formance of the covered activities as an employee  
12 (and not an independent contractor) of the covered  
13 entity, or contractor or subcontractor, unless—

14 (A) the individual is free from control and  
15 direction in connection with the performance of  
16 the service, both under the contract for the per-  
17 formance of the service and in fact;

18 (B) the service is performed outside the  
19 usual course of the business of the covered enti-  
20 ty or the contractor or subcontractor; and

21 (C) the individual is customarily engaged  
22 in an independently established trade, occupa-  
23 tion, profession, or business of the same nature  
24 as that involved in such service.

1 **SEC. 7. GREEN PROCUREMENT OVERSIGHT ADVISORY**  
2 **BOARD.**

3 (a) IN GENERAL.—There is established a Green Pro-  
4 curement Oversight Advisory Board within the Depart-  
5 ment of Energy.

6 (b) COORDINATION.—The Oversight Advisory Board  
7 shall carry out its activities in coordination with the Office  
8 of Federal Sustainability and the Office of Management  
9 and Budget.

10 (c) MEMBERSHIP.—The members of the Oversight  
11 Advisory Board shall—

12 (1) be appointed by the Secretary of Energy;

13 and

14 (2) consist of—

15 (A) experts on procurement and clean en-  
16 ergy, including scientists, from Federal and  
17 State agencies;

18 (B) 1 or more representatives from—

19 (i) each of—

20 (I) the Office of Science and  
21 Technology Policy;

22 (II) the General Services Admin-  
23 istration; and

24 (III) the Council on Environ-  
25 mental Quality;

1 (ii) environmental justice organiza-  
2 tions; and

3 (iii) unionized labor groups; and

4 (C) chief financial officers of private com-  
5 panies.

6 (d) FUNCTIONS.—The Oversight Advisory Board  
7 shall—

8 (1) oversee the procurement of covered products  
9 by Federal agencies pursuant to this Act, including  
10 to ensure that procurement of those products is car-  
11 ried out—

12 (A) efficiently and in accordance with rel-  
13 evant contracting and labor laws, including  
14 open competition requirements;

15 (B) in compliance with relevant conflict of  
16 interest requirements;

17 (C) in a manner that—

18 (i) promotes open competition; and

19 (ii) prevents frauds; and

20 (D) by Federal agency personnel suffi-  
21 ciently trained to ensure responsible procure-  
22 ment practices pursuant to this Act and the  
23 goals of this Act;

24 (2) offer recommendations relating to the selec-  
25 tion of recipients of grants under the grant pro-

1       grams established under this Act, with the goal of  
2       ensuring that grant recipients will use the grant  
3       funds—

4               (A) efficiently and in accordance with rel-  
5               evant contracting and labor laws, including  
6               open competition requirements;

7               (B) in compliance with relevant conflict of  
8               interest requirements;

9               (C) in a manner that—

10                   (i) promotes open competition; and

11                   (ii) prevents frauds; and

12               (D) by personnel sufficiently trained to en-  
13               sure responsible procurement practices pursu-  
14               ant to this Act and the goals of this Act; and

15       (3) submit an annual report to the Comptroller  
16       General of the United States, Congress, and the  
17       President describing—

18               (A) the procurement of covered products  
19               by Federal agencies pursuant to this Act; and

20               (B) the recommendations made by the  
21               Oversight Advisory Board under paragraph (2).

22       (e) AUTHORITIES.—The Oversight Advisory Board—

23               (1) shall have the authority to issue subpoenas;

24       and

1           (2) may refer parties that engage in fraud in  
2           connection with a procurement contract entered into  
3           by a Federal agency pursuant to this Act to the ap-  
4           propriate Federal law enforcement authority.

5           (f) TREATMENT AS ADVISORY COMMITTEE.—The  
6           Oversight Advisory Board is an advisory committee (as de-  
7           fined in section 3 of the Federal Advisory Committee Act  
8           (5 U.S.C. App.)).

9           **SEC. 8. OVERSIGHT BY COMPTROLLER GENERAL.**

10          The Comptroller General of the United States shall—

11           (1) conduct oversight of the funds appropriated  
12           under this Act to ensure transparency and compli-  
13           ance with all applicable requirements; and

14           (2) shall make publicly available an annual re-  
15           port that—

16           (A) evaluates the efficacy of the programs  
17           established under this Act; and

18           (B) makes recommendations for any im-  
19           provements to those programs.

○