To amend title 10, United States Code, to codify certain clean energy targets of the Department of Defense, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 27, 2022

Mr. CASTEN (for himself, Mr. CROW, Mr. MOULTON, Mr. GALLEGO, and Ms. ESCOBAR) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to codify certain clean energy targets of the Department of Defense, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Depend on Domestic Clean Energy Act” or the “DOD Clean Energy Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Department of Defense, the agency charged with protecting the national security of the
United States, observed as early as 1990 that climate change threatens our military readiness.

(2) As of 2019, the Department of Defense is the single largest consumer of energy in the United States, and the single largest institutional consumer of petroleum in the world.

(3) Since 2001, the Department of Defense has consistently consumed between 77 and 80 percent of all energy consumption of the United States Government.

(4) As climate change brings more extreme weather, water and soil stress, sea-level rise, ocean acidification, glacial melt, and pollution, greater global tensions over food and water insecurity, resource scarcity, living patterns, and climate-related migration will emerge.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that any unobligated amounts for the Energy Resilience and Conservation Investment Program of the Department of Defense at the end of fiscal year 2022 should remain available for obligation by the Department after such fiscal year for deserving projects so that the Department is able to appropriately vet those projects while increasing staffing.
SEC. 4. CODIFICATION OF CERTAIN DEPARTMENT OF DEFENSE CLEAN ENERGY TARGETS.

(a) CODIFICATION.—Section 2911(g) of title 10, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by striking paragraphs (1) and (2) and inserting the following new paragraphs (1) through (3):

"(1) It shall be the target of the Department of Defense, with respect to the activities, personnel, resources, and facilities of the Department located within the United States—

"(A) to achieve at least 40 percent carbon pollution-free electricity on a net annual basis by 2024 within all such facilities of the Department;

"(B) to achieve 100 percent carbon pollution-free electricity on a net annual basis by 2030 within all such facilities of the Department;

"(C) to reduce emissions from installation procurement by at least 20 percent by 2024 and to achieve net-zero emissions from installation procurement by 2050;

"(D) to reduce emissions from buildings on Department installations by 50 percent by 2032 and to
achieve net-zero emissions from buildings on installations by 2045;

“(E) to reduce emissions from Department operations by 65 percent by 2030 and support the achievement of net-zero emissions from Department operations by 2050; and

“(F) to achieve 100 percent zero-emission vehicle acquisitions for nontactical vehicles by 2035, including 100 percent zero-emission light-duty vehicle acquisitions by 2027, and to work towards 100 percent zero-emission tactical vehicle acquisitions by 2045.

“(2) The Secretary of Defense may issue an exemption to the targets under paragraph (1) with respect to an activity of an agency, and any related personnel, resources, and facilities if the Secretary—

“(A) determines that the exemption is in the national security interests of the United States; and

“(B) submits to the congressional defense committees notice in writing of the exemption within 30 days of issuing the exemption.

“(3)(A) The Secretary of Defense shall submit to the congressional defense committees an annual report on the progress the Department of Defense has made towards achieving the targets under paragraph (1). Each such re-
port shall cover activities to achieve such targets con-
ducted during the year preceding the date of the submittal
of the report and shall include—

“(i) an identification of outstanding funding
and staffing resources need to implement such ac-
tivities;

“(ii) a description of any planned activities the
Secretary intends to carry out in order to meet such
targets, including how the Office of the Secretary of
Defense, the military departments, and Defense
agencies plan to collaborate to implement such ac-
tivities; and

“(iii) a plan to increase production of renewable
energy on Department of Defense installations and
pursue any energy reduction or conservation efforts.

“(B) Each report under subparagraph (A) shall be
made publicly available on an appropriate website of the
Department of Defense.”; and

(3) by adding at the end the following new
paragraph:

“(5) The Secretary of Defense shall delegate the re-
sponsibility for carrying out this subsection to the Assist-
ant Secretary of Defense for Energy, Installations, and
Environment.”.
(b) NON-DOMESTIC APPLICATION OF TARGETS.—

The Secretary of Defense may apply, in whole or in part, the targets set forth in section 2911(g)(1) of title 10, United States Code, as amended by subsection (a), with respect to the activities, personnel, resources, and facilities of the Department of Defense located outside of the United States if the Secretary determines such application to be in the interest of the United States.

SEC. 5. DIRECT HIRE AUTHORITY FOR POSITIONS SUPPORTING DEPARTMENT OF DEFENSE ENERGY INDEPENDENCE AND CLIMATE RESILIENCE EFFORTS.

Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section (and conforming the table of sections at the beginning of such chapter accordingly):

“§ 1599j. Direct hire authority for positions supporting Department of Defense energy independence and climate resilience efforts

“(a) AUTHORITY.—The Secretary of Defense may appoint in the Department of Defense, without regard to the provisions of subchapter I of chapter 33 of title 5, other than sections 3303 and 3328 of such title, qualified candidates to positions described in subsection (b) who
possess skills and experience the Secretary determines are necessary to support the sustainability efforts of the Department of Defense.

“(b) Positions.—The positions described in this subsection are all positions involved in supporting the energy independence and climate resilience efforts of the Department, including the following:

“(1) Any position under the Assistant Secretary of Defense for Energy, Installations, and Environment.

“(2) Any position that supports the remediation or response efforts of the Department with respect to perfluoralkyl substances and polyfluoroalkyl substances.

“(3) Any position that supports the environmental stewardship programs of the Department.

“(4) Any position that supports the efforts of the Department to meet the energy resilience and security goals outlined in—

“(A) section 203 of the Energy Policy Act of 2005 (42 U.S.C. 15852);

“(B) the Energy Independence and Security Act of 2007 (42 U.S.C. 17001 et seq.); or

“(C) section 2911(g) of this title.
“(5) Any position that supports the Chief Sustainability Officer of the Department.

“(6) Any other position the Secretary determines is essential to advancing the energy independence and climate resilience efforts of the Department.”.

SEC. 6. INVESTMENT IN AND DEVELOPMENT OF ENERGY EFFICIENT TECHNOLOGY BY DEPARTMENT OF DEFENSE.

(a) Authorities of Department Relating to Climate and Energy Resilience.—

(1) Charging and refueling stations for alternative fuel vehicles.—

(A) In general.—The Secretary of Defense may carry out the development of charging or refueling stations for alternative fuel vehicles on installations of the Department of Defense under the authorities, and using the funding methods, specified in subparagraph (B).

(B) Authorities specified.—The authorities and funding methods specified in this paragraph are the following:

(i) Sections 2805 and 2912 of title 10, United States Code.
(ii) The authority under section 2913(d) of such title, to enter into agreements with utilities for the purpose of providing or operating such charging or refueling stations.

(iii) The authority under section 2914 of such title (known as the Energy Resilience and Conservation Investment Program).

(iv) Energy savings performance contracts.

(v) Utility energy services contracts.

(vi) Other funding mechanisms financed by non-Department entities for the deployment of alternative fuel vehicles and related charging or refueling infrastructure.

(2) RENEWABLE ENERGY UTILITIES FOR POWER MANAGEMENT AT INSTALLATIONS.—The Secretary of Defense, in carrying out the Energy Resilience and Conservation Investment Program, may enter into public-private partnerships with non-governmental entities determined appropriate by the Secretary under such Program for the purpose of
developing renewable energy utilities for power man-
agement at installations of the Department.

(b) Review of Investment by Department in

Alternatively Fueled Vehicles.—

(1) In general.—The Secretary of Defense,
acting through the Director of Cost Assessment and
Program Evaluation, shall conduct a strategic review
of the investment by the Department of Defense in
alternative fuel vehicles.

(2) Elements.—The review under paragraph
(1) shall include the following:

(A) An assessment of funding levels for in-
vestment by the Department in alternative fuel
vehicles and associated trends for such invest-
ment across programs and Armed Forces.

(B) An assessment of any duplication of
efforts relating to such investment across pro-
grams and Armed Forces.

(C) An assessment of the long-term avail-
ability to the Department of internal combus-
tion engines and spare parts for such engines.

(D) An assessment of the relative tactical
benefits and limitations of each type of vehicle
propulsion (such as speed, acceleration, noise
production, time to refuel or recharge, range,
and operational duration), across the various types of military missions.

(E) An assessment of the relative tactical benefits and limitations of each type of vehicle propulsion with respect to the provision of support to other tactical systems requiring electricity.

(F) An assessment of how the propulsion systems of electrical and other alternative fuel vehicles may be fueled on the battlefield and of what investments may be necessary to maintain such a fueling system.

(G) A comparison of the relative risk to Department personnel and to the supply chain between different fuel types, to determine the tradeoffs associated with the adoption of any given fuel type.

(H) A projected timeline of when a potential conversion to the use of alternative fuel vehicles as tactical vehicles could reasonably occur without causing a significant effect on the readiness of the Armed Forces, as determined by the Secretary.

(I) The projected costs of converting (or replacing) and sustaining alternative fuel vehi-
vehicles as tactical vehicles, to include training, in
total and for the two-year period following the
date of the review.

(J) An assessment of any national security
implications relating to the use and effects on
the supply chain of alternative fuel vehicles and
the source materials of such vehicles.

(K) Recommendations for further coordi-
nation of efforts of the Department and any
legislative or organizational changes that may
improve the coordination or alignment of invest-
ment by the Department in the
operationalization of alternative energy sources.

(L) Such other elements as the Secretary
considers appropriate.

(3) REPORT.—Not later than two years after
the date of the enactment of this Act, the Secretary
shall submit to the Committees on Armed Services
of the House of Representatives and the Senate a
report on the review under paragraph (1).

(c) AUTHORIZATIONS OF APPROPRIATIONS.—

(1) DEFENSE INNOVATION UNIT.—There is au-
thorized to be appropriated to the Department of
Defense $8,000,000 for fiscal year 2023, for the
purpose of carrying out activities under the energy
division of the Defense Innovation Unit to leverage advancements in energy and materials technology, enhance capabilities, and strengthen energy resilience across military installation and distributed operations, including with respect to alternative fuel vehicles and the fuel efficiency of vehicles.

(2) **Sustainable Technology Evaluation and Demonstration Program.**—There is authorized to be appropriated to the Department of Defense $5,000,000 for fiscal year 2023, for the purpose of carrying out activities under the Sustainable Technology Evaluation and Demonstration program of the Department for the evaluation and demonstration of, and the transition to, sustainable technologies that reduce military installation and operational energy consumption.

(3) **Strategic Environmental Research and Development Program.**—There is authorized to be appropriated to the Department of Defense $18,000,000 for fiscal year 2023, for the purpose of carrying out activities under the Installation Energy and Water program, or any successor program, of the Strategic Environmental Research and Development program of the Department.

(d) **Definitions.**—In this section:
(1) The term “alternative fuel vehicle” includes a vehicle that uses—
   (A) a fuel or power source described in the first sentence of section 241(2) of the Clean Air Act (42 U.S.C. 7581(2)); or
   (B) propane.

(2) The term “energy savings performance contract” has the meaning given that term in section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)).

SEC. 7. INDEPENDENT STUDY ON SCOPE 3 EMISSIONS RESULTING FROM CERTAIN DEPARTMENT OF DEFENSE ACTIVITIES.

(a) INDEPENDENT STUDY.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall seek to enter into a contract with a federally funded research and development center to conduct a study on the scope 3 emissions resulting from certain activities of the Department of Defense, including such activities carried out under contracts or other agreements, in accordance with the guidance of the Environmental Protection Agency titled “Scope 3 Inventory Guidance” (relating to scope 3 emissions), or any successor guidance.
(b) ELEMENTS.—The study referred to in subsection (a) shall include a comprehensive review and assessment of the following:

(1) Any contracts or other agreements relating to manufacturing that the Secretary of Defense has entered into.

(2) The extent to which, in performing work under such contracts or other agreements, contractors and other partners track greenhouse gas emissions.

(3) The known greenhouse gas emissions that occur within the supply chain of the Department.

(c) REPORT.—

(1) SUBMISSION TO SECRETARY.—The terms of the contract under subsection (a) shall include a requirement that the federally funded research and development center that conducts the study under the contract to submit to the Secretary of Defense a report on the results of the study, which shall include an identification of the following:

(A) Considerations and recommendations for the reduction of greenhouse gas emissions of contractors and other partners performing work under contracts or other agreements with the Department.
(B) Any existing alternatives that produce lower greenhouse gas emissions while still aligning with the national security interests of the United States and the priorities set forth in the national defense strategy.

(C) Any legislative recommendations to—

(i) support and facilitate implementation of the national defense strategy with respect to climate- and environmental-related goals; or

(ii) reduce greenhouse gas emissions through modernization of the supply chain of the Department.

(2) Submission to Congress.—Upon receiving the report on the results of the study under paragraph (1), the Secretary of Defense shall submit to the congressional defense committees an unedited copy of such report, together with the written perspectives of the Secretary of Defense and the Chairman of the Joint Chiefs of Staff with respect to the results.

(3) Form.—The report submitted under paragraph (2) shall be submitted in unclassified form, but may include a classified annex.

(d) Definitions.—In this section:
(1) The term "national defense strategy" means the review of the defense programs and policies of the United States that is carried out every four years under section 113(g) of title 10, United States Code.

(2) The term "scope 3 emissions" means emissions that result from activities of a Federal department or agency but are generated from sources that are neither owned nor controlled by the Federal department or agency.