IN THE SENATE OF THE UNITED STATES

MAY 26, 2022

Ms. DUCKWORTH introduced the following bill; which was read twice and 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 Representatives 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”.

SECTION 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 cli-
mate change threatens the readiness of the Armed
Forces of the United States.

(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 Govern-
ment.

(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, re-
source 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 In-
vestment Program of the Department of Defense at the
end of fiscal year 2022 should remain available for obliga-
tion 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 striking the subsection heading and inserting the following “CLEAN ENERGY TARGETS AND POLICY”;

(2) by redesignating paragraph (3) as paragraph (4);

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

“(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 not less than 40 percent carbon pollution-free electricity on a net annual basis by 2024 within all such facilities;

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

“(C) to reduce emissions from installation procurement by not less than 20 percent by 2024 and to achieve net-zero emissions from installation procurement by 2050;
“(D) to reduce emissions from buildings on installations of the Department by not less than 50 percent by 2032 and to achieve net-zero emissions from such buildings by 2045;

“(E) to reduce emissions from operations of the Department by not less than 65 percent by 2030 and to support the achievement of net-zero emissions from such operations by 2050; and

“(F) to achieve 100 percent zero-emission vehicle acquisitions for non-tactical 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 of the Department of Defense, 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).

“(B) Each report under subparagraph (A) shall cover activities conducted during the year preceding the date of the submittal of the report to achieve the targets under paragraph (1) and shall include—

“(i) an identification of outstanding funding and staffing resources needed to implement such activities;

“(ii) a description of any planned activities the Secretary intends to carry out 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 activities; and

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

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

(4) by adding at the end the following new paragraph:
“(5) The Secretary of Defense shall delegate the responsibility for carrying out this subsection to the Assistant 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.**

(a) **In General.**—Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 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 supervision of 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 perfluoroalkyl 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 requirements or 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.”.

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1599i the following new item:

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

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 De-
fense under the authorities, and using the funding methods, specified in subparagraph (B).

(B) AUTHORITIES SPECIFIED.—The authorities and funding methods specified in this subparagraph are the following:

(i) The authorities under 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 charging or refueling stations described in subparagraph (A).

(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 under section 2914 of title 10, United States Code, 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 management at installations of the Department of Defense.

(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 of the Department of Defense, 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 investment by the Department in alternative fuel vehicles and associated trends for such invest-
ment across programs of the Department and military departments.

(B) An assessment of any duplication of efforts relating to such investment across programs of the Department and military departments.

(C) An assessment of the long-term availability to the Department of internal combustion 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 what investments may be necessary to maintain such a fueling system.
(G) A comparison of the relative risk to personnel of the Department 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 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—

(i) the use of alternative fuel vehicles;

and

(ii) the effects of the use of such vehicles on the supply chain for such vehicles and the source materials of such vehicles.

(K) Recommendations for further coordination of efforts of the Department and any
legislative or organizational changes that may improve the coordination or alignment of investment 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 Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the review under paragraph (1).

(c) AUTHORIZATIONS OF APPROPRIATIONS.—

(1) DEFENSE INNOVATION UNIT.—There is authorized 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 of the Department 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, more sustainable products for use by the Department.

(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) **Alternative Fuel Vehicle.**—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) Energy savings performance contract.—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 conducted under subsection (a) shall include a comprehensive review and assessment of the following:

(1) Any contracts or other agreements entered into by the Secretary relating to manufacturing.

(2) The extent to which, in performing work under such contracts or other agreements, contrac-
tors 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 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 recommendations for legislative action 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.—

(A) In general.—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 those results.

(B) Form.—The report submitted under subparagraph (A) shall be submitted in unclassified form, but may include a classified annex.

(d) Definitions.—In this section:

(1) Congressional defense committee.—
The term “congressional defense committees” has the meaning given that term in section 101(a)(16) of title 10, United States Code.
(2) National defense strategy.—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.

(3) Scope 3 emissions.—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.