

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.

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