

117TH CONGRESS  
2D SESSION

# S. 4317

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

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## 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

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## A BILL

To amend title 10, United States Code, to codify certain clean energy targets of the Department of Defense, 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 “Depend On Domestic  
5       Clean Energy Act” or the “DOD Clean Energy Act”.

6       **SEC. 2. FINDINGS.**

7       Congress finds the following:

8               (1) The Department of Defense, the agency  
9       charged with protecting the national security of the  
10       United States, observed as early as 1990 that cli-

1       mate change threatens the readiness of the Armed  
2       Forces of the United States.

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

7           (3) Since 2001, the Department of Defense has  
8       consistently consumed between 77 and 80 percent of  
9       all energy consumption of the United States Govern-  
10      ment.

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

17   **SEC. 3. SENSE OF CONGRESS.**

18       It is the sense of Congress that any unobligated  
19      amounts for the Energy Resilience and Conservation In-  
20      vestment Program of the Department of Defense at the  
21      end of fiscal year 2022 should remain available for obliga-  
22      tion by the Department after such fiscal year for deserving  
23      projects so that the Department is able to appropriately  
24      vet those projects while increasing staffing.

1 **SEC. 4. CODIFICATION OF CERTAIN DEPARTMENT OF DE-**  
2 **FENSE CLEAN ENERGY TARGETS.**

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

5 (1) by striking the subsection heading and in-  
6 serting the following “CLEAN ENERGY TARGETS  
7 AND POLICY”;

8 (2) by redesignating paragraph (3) as para-  
9 graph (4);

10 (3) by striking paragraphs (1) and (2) and in-  
11 serting the following new paragraphs:

12 “(1) It shall be the target of the Department of De-  
13 fense, with respect to the activities, personnel, resources,  
14 and facilities of the Department located within the United  
15 States—

16 “(A) to achieve not less than 40 percent carbon  
17 pollution-free electricity on a net annual basis by  
18 2024 within all such facilities;

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

22 “(C) to reduce emissions from installation pro-  
23 curement by not less than 20 percent by 2024 and  
24 to achieve net-zero emissions from installation pro-  
25 curement by 2050;

1           “(D) to reduce emissions from buildings on in-  
2           stallations of the Department by not less than 50  
3           percent by 2032 and to achieve net-zero emissions  
4           from such buildings by 2045;

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

9           “(F) to achieve 100 percent zero-emission vehi-  
10          cle acquisitions for non-tactical vehicles by 2035, in-  
11          cluding 100 percent zero-emission light-duty vehicle  
12          acquisitions by 2027, and to work towards 100 per-  
13          cent zero-emission tactical vehicle acquisitions by  
14          2045.

15          “(2) The Secretary of Defense may issue an exemp-  
16          tion to the targets under paragraph (1) with respect to  
17          an activity of an agency of the Department of Defense,  
18          and any related personnel, resources, and facilities, if the  
19          Secretary—

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

22               “(B) submits to the congressional defense com-  
23               mittees notice in writing of the exemption within 30  
24               days of issuing the exemption.

1 “(3)(A) The Secretary of Defense shall submit to the  
2 congressional defense committees an annual report on the  
3 progress the Department of Defense has made towards  
4 achieving the targets under paragraph (1).

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

9 “(i) an identification of outstanding funding  
10 and staffing resources needed to implement such ac-  
11 tivities;

12 “(ii) a description of any planned activities the  
13 Secretary intends to carry out to meet such targets,  
14 including how the Office of the Secretary of Defense,  
15 the military departments, and Defense agencies plan  
16 to collaborate to implement such activities; and

17 “(iii) a plan to increase production of renewable  
18 energy on installations of the Department of De-  
19 fense and pursue any energy reduction or conserva-  
20 tion efforts.

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

24 (4) by adding at the end the following new  
25 paragraph:

1       “(5) The Secretary of Defense shall delegate the re-  
 2       sponsibility for carrying out this subsection to the Assist-  
 3       ant Secretary of Defense for Energy, Installations, and  
 4       Environment.”.

5       (b) NON-DOMESTIC APPLICATION OF TARGETS.—  
 6       The Secretary of Defense may apply, in whole or in part,  
 7       the targets set forth in section 2911(g)(1) of title 10,  
 8       United States Code, as amended by subsection (a), with  
 9       respect to the activities, personnel, resources, and facilities  
 10      of the Department of Defense located outside of the  
 11      United States if the Secretary determines such application  
 12      to be in the interest of the United States.

13   **SEC. 5. DIRECT HIRE AUTHORITY FOR POSITIONS SUP-**  
 14                   **PORTING DEPARTMENT OF DEFENSE EN-**  
 15                   **ERGY INDEPENDENCE AND CLIMATE RESIL-**  
 16                   **IENCE EFFORTS.**

17      (a) IN GENERAL.—Chapter 81 of title 10, United  
 18      States Code, is amended by adding at the end the fol-  
 19      lowing new section:

20   **“§ 1599j. Direct hire authority for positions sup-**  
 21                   **porting Department of Defense energy**  
 22                   **independence and climate resilience ef-**  
 23                   **forts**

24      “(a) AUTHORITY.—The Secretary of Defense may  
 25      appoint in the Department of Defense, without regard to

1 the provisions of subchapter I of chapter 33 of title 5,  
2 other than sections 3303 and 3328 of such title, qualified  
3 candidates to positions described in subsection (b) who  
4 possess skills and experience the Secretary determines are  
5 necessary to support the sustainability efforts of the De-  
6 partment of Defense.

7 “(b) POSITIONS.—The positions described in this  
8 subsection are all positions involved in supporting the en-  
9 ergy independence and climate resilience efforts of the De-  
10 partment, including the following:

11 “(1) Any position under the supervision of the  
12 Assistant Secretary of Defense for Energy, Installa-  
13 tions, and Environment.

14 “(2) Any position that supports the remediation  
15 or response efforts of the Department with respect  
16 to perfluoroalkyl substances and polyfluoroalkyl sub-  
17 stances.

18 “(3) Any position that supports the environ-  
19 mental stewardship programs of the Department.

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

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

1 “(B) the Energy Independence and Secu-  
 2 rity Act of 2007 (42 U.S.C. 17001 et seq.); or

3 “(C) section 2911(g) of this title.

4 “(5) Any position that supports the Chief Sus-  
 5 tainability Officer of the Department.

6 “(6) Any other position the Secretary deter-  
 7 mines is essential to advancing the energy independ-  
 8 ence and climate resilience efforts of the Depart-  
 9 ment.”.

10 (b) CLERICAL AMENDMENT.—The table of sections  
 11 at the beginning of such chapter is amended by inserting  
 12 after the item relating to section 1599i the following new  
 13 item:

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

14 **SEC. 6. INVESTMENT IN AND DEVELOPMENT OF ENERGY**  
 15 **EFFICIENT TECHNOLOGY BY DEPARTMENT**  
 16 **OF DEFENSE.**

17 (a) AUTHORITIES OF DEPARTMENT RELATING TO  
 18 CLIMATE AND ENERGY RESILIENCE.—

19 (1) CHARGING AND REFUELING STATIONS FOR  
 20 ALTERNATIVE FUEL VEHICLES.—

21 (A) IN GENERAL.—The Secretary of De-  
 22 fense may carry out the development of charg-  
 23 ing or refueling stations for alternative fuel ve-  
 24 hicles on installations of the Department of De-

1 fense under the authorities, and using the fund-  
2 ing methods, specified in subparagraph (B).

3 (B) AUTHORITIES SPECIFIED.—The au-  
4 thorities and funding methods specified in this  
5 subparagraph are the following:

6 (i) The authorities under sections  
7 2805 and 2912 of title 10, United States  
8 Code.

9 (ii) The authority under section  
10 2913(d) of such title to enter into agree-  
11 ments with utilities for the purpose of pro-  
12 viding or operating charging or refueling  
13 stations described in subparagraph (A).

14 (iii) The authority under section 2914  
15 of such title (known as the Energy Resil-  
16 ience and Conservation Investment Pro-  
17 gram).

18 (iv) Energy savings performance con-  
19 tracts.

20 (v) Utility energy services contracts.

21 (vi) Other funding mechanisms fi-  
22 nanced by non-Department entities for the  
23 deployment of alternative fuel vehicles and  
24 related charging or refueling infrastruc-  
25 ture.

1           (2) RENEWABLE ENERGY UTILITIES FOR  
2 POWER MANAGEMENT AT INSTALLATIONS.—The  
3 Secretary of Defense, in carrying out the Energy  
4 Resilience and Conservation Investment Program  
5 under section 2914 of title 10, United States Code,  
6 may enter into public-private partnerships with non-  
7 governmental entities determined appropriate by the  
8 Secretary under such Program for the purpose of  
9 developing renewable energy utilities for power man-  
10 agement at installations of the Department of De-  
11 fense.

12       (b) REVIEW OF INVESTMENT BY DEPARTMENT IN  
13 ALTERNATIVELY FUELED VEHICLES.—

14           (1) IN GENERAL.—The Secretary of Defense,  
15 acting through the Director of Cost Assessment and  
16 Program Evaluation of the Department of Defense,  
17 shall conduct a strategic review of the investment by  
18 the Department of Defense in alternative fuel vehi-  
19 cles.

20           (2) ELEMENTS.—The review under paragraph  
21 (1) shall include the following:

22               (A) An assessment of funding levels for in-  
23 vestment by the Department in alternative fuel  
24 vehicles and associated trends for such invest-

1           ment across programs of the Department and  
2           military departments.

3           (B) An assessment of any duplication of  
4           efforts relating to such investment across pro-  
5           grams of the Department and military depart-  
6           ments.

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

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

16          (E) An assessment of the relative tactical  
17          benefits and limitations of each type of vehicle  
18          propulsion with respect to the provision of sup-  
19          port to other tactical systems requiring elec-  
20          tricity.

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

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

6 (H) A projected timeline of when a poten-  
7 tial conversion to the use of alternative fuel ve-  
8 hicles as tactical vehicles could reasonably occur  
9 without causing a significant effect on the read-  
10 iness of the Armed Forces, as determined by  
11 the Secretary.

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

17 (J) An assessment of any national security  
18 implications relating to—

19 (i) the use of alternative fuel vehicles;

20 and

21 (ii) the effects of the use of such vehi-  
22 cles on the supply chain for such vehicles  
23 and the source materials of such vehicles.

24 (K) Recommendations for further coordi-  
25 nation of efforts of the Department and any

1 legislative or organizational changes that may  
2 improve the coordination or alignment of invest-  
3 ment by the Department in the  
4 operationalization of alternative energy sources.

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

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

13 (c) AUTHORIZATIONS OF APPROPRIATIONS.—

14 (1) DEFENSE INNOVATION UNIT.—There is au-  
15 thorized to be appropriated to the Department of  
16 Defense \$8,000,000 for fiscal year 2023 for the pur-  
17 pose of carrying out activities under the energy divi-  
18 sion of the Defense Innovation Unit of the Depart-  
19 ment to leverage advancements in energy and mate-  
20 rials technology, enhance capabilities, and strength-  
21 en energy resilience across military installation and  
22 distributed operations, including with respect to al-  
23 ternative fuel vehicles and the fuel efficiency of vehi-  
24 cles.

1           (2) SUSTAINABLE TECHNOLOGY EVALUATION  
 2           AND DEMONSTRATION PROGRAM.—There is author-  
 3           ized to be appropriated to the Department of De-  
 4           fense \$5,000,000 for fiscal year 2023 for the pur-  
 5           pose of carrying out activities under the Sustainable  
 6           Technology Evaluation and Demonstration program  
 7           of the Department for the evaluation and dem-  
 8           onstration of, and the transition to, more sustainable  
 9           products for use by the Department.

10           (3) STRATEGIC ENVIRONMENTAL RESEARCH  
 11           AND DEVELOPMENT PROGRAM.—There is authorized  
 12           to be appropriated to the Department of Defense  
 13           \$18,000,000 for fiscal year 2023 for the purpose of  
 14           carrying out activities under the Installation Energy  
 15           and Water program, or any successor program, of  
 16           the Strategic Environmental Research and Develop-  
 17           ment program of the Department.

18           (d) DEFINITIONS.—In this section:

19           (1) ALTERNATIVE FUEL VEHICLE.—The term  
 20           “alternative fuel vehicle” includes a vehicle that  
 21           uses—

22                   (A) a fuel or power source described in the  
 23                   first sentence of section 241(2) of the Clean Air  
 24                   Act (42 U.S.C. 7581(2)); or

25                   (B) propane.

1           (2) ENERGY SAVINGS PERFORMANCE CON-  
 2           TRACT.—The term “energy savings performance  
 3           contract” has the meaning given that term in sec-  
 4           tion 804(3) of the National Energy Conservation  
 5           Policy Act (42 U.S.C. 8287c(3)).

6 **SEC. 7. INDEPENDENT STUDY ON SCOPE 3 EMISSIONS RE-**  
 7 **SULTING FROM CERTAIN DEPARTMENT OF**  
 8 **DEFENSE ACTIVITIES.**

9           (a) INDEPENDENT STUDY.—Not later than 30 days  
 10 after the date of the enactment of this Act, the Secretary  
 11 of Defense shall seek to enter into a contract with a feder-  
 12 ally funded research and development center to conduct  
 13 a study on the scope 3 emissions resulting from certain  
 14 activities of the Department of Defense, including such ac-  
 15 tivities carried out under contracts or other agreements,  
 16 in accordance with the guidance of the Environmental  
 17 Protection Agency titled “Scope 3 Inventory Guidance”  
 18 (relating to scope 3 emissions), or any successor guidance.

19           (b) ELEMENTS.—The study conducted under sub-  
 20 section (a) shall include a comprehensive review and as-  
 21 sessment of the following:

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

24           (2) The extent to which, in performing work  
 25 under such contracts or other agreements, contrac-

1       tors and other partners track greenhouse gas emis-  
2       sions.

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

5       (c) REPORT.—

6           (1) SUBMISSION TO SECRETARY.—The terms of  
7       the contract under subsection (a) shall include a re-  
8       quirement that the federally funded research and de-  
9       velopment center that conducts the study under the  
10      contract submit to the Secretary of Defense a report  
11      on the results of the study, which shall include an  
12      identification of the following:

13           (A) Considerations and recommendations  
14      for the reduction of greenhouse gas emissions of  
15      contractors and other partners performing work  
16      under contracts or other agreements with the  
17      Department.

18           (B) Any existing alternatives that produce  
19      lower greenhouse gas emissions while still align-  
20      ing with the national security interests of the  
21      United States and the priorities set forth in the  
22      national defense strategy.

23           (C) Any recommendations for legislative  
24      action to—

1 (i) support and facilitate implementa-  
2 tion of the national defense strategy with  
3 respect to climate- and environmental-re-  
4 lated goals; or

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

8 (2) SUBMISSION TO CONGRESS.—

9 (A) IN GENERAL.—Upon receiving the re-  
10 port on the results of the study under para-  
11 graph (1), the Secretary of Defense shall sub-  
12 mit to the congressional defense committees an  
13 unedited copy of such report, together with the  
14 written perspectives of the Secretary of Defense  
15 and the Chairman of the Joint Chiefs of Staff  
16 with respect to those results.

17 (B) FORM.—The report submitted under  
18 subparagraph (A) shall be submitted in unclas-  
19 sified form, but may include a classified annex.

20 (d) DEFINITIONS.—In this section:

21 (1) CONGRESSIONAL DEFENSE COMMITTEE.—

22 The term “congressional defense committees” has  
23 the meaning given that term in section 101(a)(16)  
24 of title 10, United States Code.

1           (2) NATIONAL DEFENSE STRATEGY.—The term  
2       “national defense strategy” means the review of the  
3       defense programs and policies of the United States  
4       that is carried out every four years under section  
5       113(g) of title 10, United States Code.

6           (3) SCOPE 3 EMISSIONS.—The term “scope 3  
7       emissions” means emissions that result from activi-  
8       ties of a Federal department or agency but are gen-  
9       erated from sources that are neither owned nor con-  
10      trolled by the Federal department or agency.

○