

117TH CONGRESS
1ST SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

Ms. WARREN introduced the following bill; which was read twice and referred
to the Committee on _____

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:

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

1 (A) the Committee on Commerce, Science,
2 and Transportation of the Senate;

3 (B) the Committee on Environment and
4 Public Works of the Senate;

5 (C) the Committee on Transportation and
6 Infrastructure of the House of Representatives;

7 and

8 (D) the Committee on Energy and Com-
9 merce of the House of Representatives.

10 (2) CLEAN POWER.—The term “clean power”
11 means power derived from a renewable energy
12 source.

13 (3) COVERED PRODUCT.—

14 (A) IN GENERAL.—The term “covered
15 product” means—

16 (i) energy—

17 (I) used to power a facility; and

18 (II) the production of which
19 comes from a renewable energy
20 source; and

21 (ii) a product that—

22 (I) is produced or manufac-
23 tured—

1 (aa) in the United States
2 (including the territories of the
3 United States);

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

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

11 (II) reduces energy usage during
12 the lifecycle of the product by—

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

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

20 (cc) improving environ-
21 mental and human health im-
22 pacts.

23 (B) INCLUSIONS.—The term “covered
24 product” includes a product described in sub-
25 paragraph (A)(ii) that—

1 (i) is a zero-emission vehicle or a non-
2 motorized alternative mode of transpor-
3 tation;

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

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

10 (iv) improves the energy efficiency
11 measures of facilities to make facilities en-
12 vironmentally responsible;

13 (v) is a product used to maintain or
14 clean buildings;

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

19 (vii) is an electronics product bearing
20 the EPEAT certification; or

21 (viii) is an energy-storage technology.

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

24 (A) a small business concern owned and
25 controlled by socially and economically dis-

1 advantaged individuals (as defined in section
2 8(d)(3)(C) of the Small Business Act (15
3 U.S.C. 637(d)(3)(C)));

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

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

10 (5) ELIGIBLE MATERIAL.—The term “eligible
11 material” means a material for which the Secretary
12 establishes a maximum global warming potential
13 under section 4(b).

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

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

22 (B) in the case of a facility, the facility is
23 built or retrofitted with materials that minimize
24 the use of—

25 (i) energy;

1 (ii) water; and

2 (iii) material resources that produce
3 pollutants or toxins, as determined by the
4 Secretary.

5 (7) FEDERAL BUILDING.—The term “Federal
6 building” has the meaning given the term in section
7 551 of the National Energy Conservation Policy Act
8 (42 U.S.C. 8259).

9 (8) FRONTLINE, VULNERABLE, AND DISADVAN-
10 TAGED COMMUNITY.—The term “frontline, vulner-
11 able, and disadvantaged community” means a com-
12 munity—

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

16 (B) in which climate change, pollution, or
17 environmental destruction have exacerbated sys-
18 temic racial, regional, social, environmental,
19 gender, and economic injustices by dispropor-
20 tionately affecting Black, Brown, and Indige-
21 nous peoples, other communities of color, mi-
22 grant communities, deindustrialized commu-
23 nities, depopulated rural communities, the poor,
24 low-income workers, women, the elderly, the
25 unhoused, people with disabilities, or youth.

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

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

12 (11) OVERSIGHT ADVISORY BOARD.—The term
13 “Oversight Advisory Board” means the Green Pro-
14 curement Oversight Advisory Board established
15 under section 7.

16 (12) RENEWABLE ENERGY SOURCE.—The term
17 “renewable energy source” means energy generated
18 from a renewable source, including the following re-
19 newable energy sources:

20 (A) Solar, including electricity.

21 (B) Wind.

22 (C) Ocean, including tidal, wave, current,
23 and thermal.

24 (D) Geothermal, including electricity and
25 heat pumps.

1 products relating to information technology
2 and general supplies and services, in ac-
3 cordance with subsection (g) and section 5;

4 (ii) to establish and carry out the
5 grant programs under subsections (c) and
6 (d); and

7 (iii) to carry out the Federal building
8 activities described in subsection (e); and

9 (B) transfer amounts from the Fund—

10 (i) to 1 or more Federal agencies (ex-
11 cluding the Department of Defense)—

12 (I) to purchase covered products
13 for use by the Federal agency, in ac-
14 cordance with subsection (g) and sec-
15 tion 5; and

16 (II) to carry out the Federal
17 building activities described in sub-
18 section (e); and

19 (ii) to the Administrator of General
20 Services to carry out subsection (f).

21 (2) PURCHASES FROM SMALL BUSINESSES.—Of
22 the amounts from the Fund made available to a
23 Federal agency in a fiscal year, the head of the Fed-
24 eral agency shall ensure that not less than 20 per-

1 cent is used to purchase covered products from small
2 businesses and covered small businesses.

3 (c) STATE, TRIBAL, AND LOCAL GOVERNMENT
4 GRANT PROGRAM.—

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

15 (2) SELECTION OF GRANT RECIPIENTS.—The
16 Secretary shall—

17 (A) share with the Oversight Advisory
18 Board applications received under the grant
19 program established under paragraph (1); and

20 (B) in coordination with the Secretary of
21 the Treasury, select grant recipients under that
22 program after receiving the recommendations of
23 the Oversight Advisory Board relating to grant
24 recipients.

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

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

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

21 (C) not less than 20 percent of the amount
22 of a grant awarded to a State, Indian Tribe, or
23 unit of local government shall be used to pur-
24 chase covered products from small businesses
25 and covered small businesses.

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

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

15 (d) INDUSTRY GRANTS.—

16 (1) DEFINITIONS.—In this subsection:

17 (A) ELIGIBLE ENTITY.—

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

20 (I) is organized under the laws of
21 the United States or any jurisdiction
22 within the United States; or

23 (II) is otherwise subject to the
24 jurisdiction of the United States.

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

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

7 (i) Carbon dioxide.

8 (ii) Methane.

9 (iii) Nitrous oxide.

10 (iv) Hydrofluorocarbons.

11 (v) Perfluorocarbons.

12 (vi) Sulfur hexafluoride.

13 (vii) Nitrogen trifluoride.

14 (2) ESTABLISHMENT.—Not later than January
15 1, 2022, the Secretary shall establish a program
16 under which the Secretary shall provide grants, on
17 a competitive basis, to eligible entities—

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

22 (B) for the development of environmentally
23 responsible manufacturing capabilities to bol-
24 ster the production of covered products, includ-
25 ing by—

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

4 (ii) retrofitting or otherwise upgrading
5 existing facilities in the United States—

6 (I) to produce covered products;

7 and

8 (II) to make those facilities envi-
9 ronmentally responsible.

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

13 (A) share grant applications with the Over-
14 sight Advisory Board;

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

18 (C) consider—

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

22 (ii) any violations of the National
23 Labor Relations Act (29 U.S.C. 151 et
24 seq.) reported to the National Labor Rela-
25 tions Board in the preceding 2 years;

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

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

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

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

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

22 (D) prioritize applications that specify that
23 the eligible entity—

24 (i) participates or will participate in a
25 registered apprenticeship program; or

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

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

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

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

21 (B) a declaration made under a similarly
22 robust life cycle assessment method that has—

23 (i) uniform standards in data collec-
24 tion consistent with that standard;

25 (ii) industry acceptance; and

1 (iii) integrity.

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

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

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

21 (9) REPORT ON IMPLEMENTATION AND EFFEC-
22 TIVENESS.—Not later than January 1, 2023, the
23 Secretary shall submit to the appropriate committees
24 of Congress and the Oversight Advisory Board a re-
25 port describing—

1 (A) any obstacles to the implementation of
2 the grant program established under this sub-
3 section;

4 (B) the effectiveness of the grant program
5 in reducing—

6 (i) greenhouse gas emissions; and

7 (ii) the global warming potential for
8 eligible materials; and

9 (C) the effectiveness of the grant program
10 in—

11 (i) creating and maintaining jobs in
12 the United States that comply with the
13 labor requirements under section 6; and

14 (ii) protecting the rights of workers in
15 the United States, including the right of
16 certain workers to organize and bargain
17 collectively.

18 (e) FEDERAL BUILDING ACTIVITIES.—The Federal
19 building activities referred to in subsection (b) are, with
20 respect to a Federal agency, activities—

21 (1) to construct new, modern Federal buildings
22 of that Federal agency, including new hospitals,
23 medical centers, and clinics in the case of the De-
24 partment of Veterans Affairs, that are sustainable

1 and resilient, including through the purchase of low-
2 carbon materials for that construction; and

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

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

11 (B) the purchase of clean power for Fed-
12 eral buildings.

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

20 (g) PRIORITY FOR PURCHASING COVERED PROD-
21 UCTS.—A Federal agency, State, Indian Tribe, or unit of
22 local government purchasing covered products pursuant to
23 this section shall give priority to purchasing covered prod-
24 ucts that—

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

3 (2) have lower lifecycle emissions than com-
4 parable products; and

5 (3) are designed for—

6 (A) reducing environmental impacts; and

7 (B) recycling.

8 (h) BUY AMERICAN.—

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

13 (A) by a Federal agency; and

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

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

23 (i) REPORT.—Not less frequently than once each fis-
24 cal year, the Secretary shall submit to the appropriate

1 committees of Congress and the Oversight Advisory Board
2 a report that—

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

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

8 (3) includes data on compliance with subsection
9 (h).

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

15 (1) \$750,000,000,000 shall be used to carry out
16 the grant program established under subsection (c);
17 and

18 (2) \$250,000,000,000 shall be used to carry out
19 the grant program established under subsection (d).

20 **SEC. 4. DEPARTMENT OF ENERGY.**

21 (a) SENIOR PROCUREMENT OFFICER.—The Sec-
22 retary shall—

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

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

4 (b) MAXIMUM ACCEPTABLE GLOBAL WARMING PO-
5 TENTIAL OF ELIGIBLE MATERIALS.—

6 (1) ESTABLISHMENT.—

7 (A) IN GENERAL.—Not later than January
8 1, 2022, the Secretary shall establish, and pub-
9 lish in the Federal Register—

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

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

18 (B) REQUIREMENTS.—

19 (i) INDUSTRY AVERAGE.—

20 (I) IN GENERAL.—The maximum
21 acceptable global warming potential
22 for an eligible material under sub-
23 paragraph (A) shall be expressed as a
24 number that is equal to the industry
25 average of facility-specific global

1 warming potential emissions for that
2 eligible material, as determined under
3 subclause (II).

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

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

18 (C) REPORT.—Not later than January 1,
19 2023, the Secretary shall submit to the appro-
20 priate committees of Congress and the Over-
21 sight Advisory Board a report that describes
22 the method that the Secretary used to develop
23 the maximum global warming potential for each
24 eligible material under subparagraph (A).

25 (2) REVIEW AND ADJUSTMENT.—

1 (A) IN GENERAL.—Not later than January
2 1, 2026, and every 3 years thereafter through
3 2042, the Secretary—

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

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

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

21 (C) PROHIBITION.—After establishing the
22 maximum acceptable global warming potential
23 for an eligible material under paragraph (1),
24 the Secretary may not adjust that maximum ac-
25 ceptable global warming potential upward.

1 **SEC. 5. REQUIREMENTS FOR PROCUREMENT OF COVERED**
2 **PRODUCTS.**

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

5 (1) is conducted in compliance with all applica-
6 ble laws regarding fair and open competition in con-
7 tracting;

8 (2) is subject to appropriate cost controls;

9 (3) provides for whistleblower protections for
10 employees of contractors and subcontractors;

11 (4) requires contractors and subcontractors to
12 retain records pertinent to contract performance;

13 (5) requires contractors to submit to the entity
14 audited financial statements covering the contract
15 performance period; and

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

20 **SEC. 6. LABOR REQUIREMENTS.**

21 (a) DEFINITIONS.—In this section:

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

24 (A) with respect to a covered entity de-
25 scribed in subparagraph (A) of paragraph (2),

1 activities involving producing or manufacturing
2 a covered product; or

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

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

8 (A) an entity producing or manufacturing
9 a product as described in section
10 2(3)(A)(ii)(I)(cc); or

11 (B) an entity receiving a grant under this
12 Act.

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

16 (1) MINIMUM WAGE.—

17 (A) IN GENERAL.—The covered entity
18 shall ensure that all employees of the covered
19 entity, and of any contractor or subcontractor
20 of the covered entity with respect to the covered
21 activities, who are engaged in the covered ac-
22 tivities shall be paid at a rate of not less than—

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

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

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

12 (II) 10 percent more than the
13 minimum wage applicable under sec-
14 tion 6 of the Fair Labor Standards
15 Act of 1938 (29 U.S.C. 206).

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

21 (i) compile data on the hourly wages
22 of all employees to determine such a me-
23 dian hourly wage; and

24 (ii) compare such median hourly wage
25 for the most recent year for which data are

1 available with the median hourly wage de-
2 termined for the preceding year.

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

21 (D) REQUIREMENTS APPLICABLE TO VEHI-
22 CLE PRODUCTION.—

23 (i) DEFINITIONS.—In this subpara-
24 graph:

1 (I) COVERED PRODUCTION
2 WORKER.—The term “covered produc-
3 tion worker” means a worker who—

4 (aa) is employed by an es-
5 tablishment in the Motor Vehicle
6 Manufacturing industry (Code
7 3361 of the North American In-
8 dustry Classification System);

9 (bb) is directly involved in
10 the production of a vehicle; and

11 (cc) is not a manager, engi-
12 neer, or involved in research and
13 development, or does not have a
14 skilled trade.

15 (II) INDUSTRY STANDARD WAGE
16 RATE.—The term “industry standard
17 wage rate”, with respect to covered
18 production workers, means the median
19 wage rate for all covered production
20 workers, as determined by the Sec-
21 retary of Labor in accordance with
22 clause (iv).

23 (III) TOP EARNING WAGE
24 RATE.—The term “top earning wage
25 rate” means the value of the wage

1 rate for which 75 percent of covered
2 production workers earn less, as de-
3 termined by the Secretary of Labor in
4 accordance with clause (iv).

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

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

16 (II) all covered production work-
17 ers described in subclause (I) are paid
18 not less than the rate in effect under
19 subparagraph (A).

20 (iii) PATHWAY TO TOP EARNING WAGE
21 RATE.—The covered entity shall ensure
22 that all covered production workers em-
23 ployed, directly by a manufacturer or
24 through a subcontractor or employment
25 services agency, in the performance of cov-

1 ered activities, are covered by a policy de-
2 termined in a labor organization contract
3 or a written company policy that provides,
4 to the extent practicable, a pathway for
5 such workers to earn the top earning wage
6 rate not later than 7 years after beginning
7 such employment.

8 (iv) DETERMINING WAGES OF WORK-
9 ERS IN THE INDUSTRY.—For purposes of
10 this subparagraph, in determining for a
11 year the industry standard wage rate and
12 the top earning wage rate, the Secretary of
13 Labor shall use the National Industry-Spe-
14 cific Occupational Employment and Wage
15 Estimates, for the preceding year, for the
16 Motor Vehicle Manufacturing industry
17 (Code 3361 of the North American Indus-
18 try Classification System) for the occupa-
19 tion of Assemblers and Fabricators (Occu-
20 pational Code 51–2000 of the Occupational
21 Employment Statistics of the Bureau of
22 Labor Statistics).

23 (2) NEUTRALITY TOWARD ORGANIZED
24 LABOR.—The covered entity shall have, and ensure
25 that all contractors and subcontractors of the cov-

1 ered entity with respect to the covered activities,
2 have—

3 (A) an explicit policy of neutrality with re-
4 gard to—

5 (i) labor organizing for the employees
6 engaged in the covered activities; and

7 (ii) such employees' choice to form
8 and join labor organizations; and

9 (B) policies that require—

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

14 (ii) that such employees are, at the
15 beginning of their employment, provided
16 notice and information regarding the em-
17 ployees' rights under such Act.

18 (3) PAID FAMILY AND MEDICAL LEAVE.—The
19 covered entity shall have, and ensure that all con-
20 tractors and subcontractors of the covered entity
21 with respect to the covered activities have, an ex-
22 plicit policy providing all employees engaged in the
23 covered activities not less than 12 workweeks of paid
24 leave in a 12-month period for any purpose de-
25 scribed in section 102(a)(1) of the Family and Med-

1 ical Leave Act of 1993 (29 U.S.C. 2612(a)(1)), in
2 accordance with regulations promulgated by the Sec-
3 retary of Labor.

4 (4) FAIR SCHEDULING.—

5 (A) IN GENERAL.—The covered entity
6 shall have, and ensure that all contractors and
7 subcontractors of the covered entity with re-
8 spect to the covered activities have, an explicit
9 policy for fair scheduling for employees engaged
10 in the covered activities, which shall include—

11 (i) an opportunity for the employee to
12 request—

13 (I) an adjustment in the number
14 of hours, work location, or times of
15 the employee’s work schedule;

16 (II) a change in the amount of
17 notification provided to the employee
18 regarding the work schedule; or

19 (III) the minimizing of fluctua-
20 tions in the number of hours the em-
21 ployee is scheduled to work on a daily,
22 weekly, or monthly basis; and

23 (ii) a timely, good faith interactive
24 process through which the covered entity,
25 or contractor or subcontractor, and em-

1 ployee discuss the employee's request
2 under clause (i) and the covered entity, or
3 contractor or subcontractor, grants the re-
4 quest or suggests any alternatives that
5 might meet the employee's needs.

6 (B) EXCEPTION.—Subparagraph (A) shall
7 not apply to any employee covered by a valid
8 collective bargaining agreement if—

9 (i) the terms of the collective bar-
10 gaining agreement include terms that gov-
11 ern work scheduling practices; and

12 (ii) the provisions of this paragraph
13 are expressly waived in such collective bar-
14 gaining agreement.

15 (5) PREFERENCE FOR LOCAL HIRING.—The
16 covered entity shall have, and ensure that all con-
17 tractors and subcontractors with respect to the cov-
18 ered activities have, explicit policies that provide a
19 preference for local hiring for individuals engaged in
20 the covered activities, consistent with applicable Fed-
21 eral law and subject to rules issued by the Secretary
22 of Labor.

23 (6) EMPLOYEE CLASSIFICATION.—The covered
24 entity shall consider, and ensure that all contractors
25 and subcontractors of the covered entity with respect

1 to the covered activities consider, an individual per-
2 forming any service for remuneration for the covered
3 entity, or contractor or subcontractor, in the per-
4 formance of the covered activities as an employee
5 (and not an independent contractor) of the covered
6 entity, or contractor or subcontractor, unless—

7 (A) the individual is free from control and
8 direction in connection with the performance of
9 the service, both under the contract for the per-
10 formance of the service and in fact;

11 (B) the service is performed outside the
12 usual course of the business of the covered enti-
13 ty or the contractor or subcontractor; and

14 (C) the individual is customarily engaged
15 in an independently established trade, occupa-
16 tion, profession, or business of the same nature
17 as that involved in such service.

18 **SEC. 7. GREEN PROCUREMENT OVERSIGHT ADVISORY**

19 **BOARD.**

20 (a) **IN GENERAL.**—There is established a Green Pro-
21 curement Oversight Advisory Board within the Depart-
22 ment of Energy.

23 (b) **COORDINATION.**—The Oversight Advisory Board
24 shall carry out its activities in coordination with the Office

1 of Federal Sustainability and the Office of Management
2 and Budget.

3 (c) MEMBERSHIP.—The members of the Oversight
4 Advisory Board shall—

5 (1) be appointed by the Secretary of Energy;
6 and

7 (2) consist of—

8 (A) experts on procurement and clean en-
9 ergy, including scientists, from Federal and
10 State agencies;

11 (B) 1 or more representatives from—

12 (i) each of—

13 (I) the Office of Science and
14 Technology Policy;

15 (II) the General Services Admin-
16 istration; and

17 (III) the Council on Environ-
18 mental Quality;

19 (ii) environmental justice organiza-
20 tions; and

21 (iii) unionized labor groups; and

22 (C) chief financial officers of private com-
23 panies.

24 (d) FUNCTIONS.—The Oversight Advisory Board
25 shall—

1 (1) oversee the procurement of covered products
2 by Federal agencies pursuant to this Act, including
3 to ensure that procurement of those products is car-
4 ried out—

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

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

10 (C) in a manner that—

11 (i) promotes open competition; and

12 (ii) prevents frauds; and

13 (D) by Federal agency personnel suffi-
14 ciently trained to ensure responsible procure-
15 ment practices pursuant to this Act and the
16 goals of this Act;

17 (2) offer recommendations relating to the selec-
18 tion of recipients of grants under the grant pro-
19 grams established under this Act, with the goal of
20 ensuring that grant recipients will use the grant
21 funds—

22 (A) efficiently and in accordance with rel-
23 evant contracting and labor laws, including
24 open competition requirements;

1 (B) in compliance with relevant conflict of
2 interest requirements;

3 (C) in a manner that—

4 (i) promotes open competition; and

5 (ii) prevents frauds; and

6 (D) by personnel sufficiently trained to en-
7 sure responsible procurement practices pursu-
8 ant to this Act and the goals of this Act; and

9 (3) submit an annual report to the Comptroller
10 General of the United States, Congress, and the
11 President describing—

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

14 (B) the recommendations made by the
15 Oversight Advisory Board under paragraph (2).

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

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

18 and

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

23 (f) TREATMENT AS ADVISORY COMMITTEE.—The
24 Oversight Advisory Board is an advisory committee (as de-

1 fined in section 3 of the Federal Advisory Committee Act
2 (5 U.S.C. App.)).

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

4 The Comptroller General of the United States shall—

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

8 (2) shall make publicly available an annual re-
9 port that—

10 (A) evaluates the efficacy of the programs
11 established under this Act; and

12 (B) makes recommendations for any im-
13 provements to those programs.