

117TH CONGRESS  
1ST SESSION

# S. 874

To establish a green transportation infrastructure grant program, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 18, 2021

Ms. WARREN (for herself, Mr. MARKEY, Mr. MERKLEY, Mr. SANDERS, Mr. PADILLA, Mr. BOOKER, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To establish a green transportation infrastructure grant program, 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 “Better Utilizing Invest-  
5 ments to Leverage Development and Generating Renew-  
6 able Energy to Electrify the Nation’s Infrastructure and  
7 Jobs Act” or the “BUILD GREEN Infrastructure and  
8 Jobs Act”.

1 **SEC. 2. GREEN TRANSPORTATION INFRASTRUCTURE**  
2 **GRANT PROGRAM.**

3 (a) DEFINITIONS.—In this section:

4 (1) ELECTRIC VEHICLE.—The term “electric  
5 vehicle” has the meaning given the term in section  
6 523.2 of title 49, Code of Federal Regulations (or  
7 successor regulations).

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

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

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

25 (3) GLOBAL WARMING POTENTIAL.—The term  
26 “global warming potential” has the meaning given

1 the term in section 98.6 of title 40, Code of Federal  
2 Regulations (or successor regulations).

3 (4) GREEN PROJECT.—The term “green  
4 project” means a project that—

5 (A) deeply reduces transportation green-  
6 house gas emissions and local air pollution; and

7 (B) results in a reduction in overall energy  
8 use, maximization of energy efficiency, imple-  
9 mentation and use of energy recovery, and an  
10 offset of the remaining demand for energy with  
11 production of energy from renewable energy  
12 sources, such that the project produces as much  
13 energy or energy savings as the project uses  
14 over the course of a year.

15 (5) GREEN SPACE.—

16 (A) IN GENERAL.—The term “green  
17 space” means publicly accessible land or water  
18 that—

19 (i) is partly or completely covered with  
20 grass, trees, shrubs, or other vegetation;  
21 and

22 (ii) provides floodwater alleviation,  
23 storm water mitigation, green travel  
24 routes, water purification, cooling tempera-  
25 tures, pollution management, public health

1 benefits, enhancements to biodiversity, eco-  
2 logical resilience, or greenhouse gas emis-  
3 sions sequestration.

4 (B) INCLUSIONS.—The term “green  
5 space” includes parks, gardens, playing fields,  
6 children’s play areas, woods, grassed areas,  
7 bodies of water, and trails.

8 (6) GREENHOUSE GAS.—The term “greenhouse  
9 gas” means—

10 (A) carbon dioxide;

11 (B) hydrofluorocarbons;

12 (C) methane;

13 (D) nitrous oxide;

14 (E) perfluorocarbons;

15 (F) sulfur hexafluoride;

16 (G) nitrogen trifluoride;

17 (H) chlorofluorocarbons;

18 (I) criteria pollutants for which there are  
19 national ambient air quality standards under  
20 section 109 of the Clean Air Act (42 U.S.C.  
21 7409); and

22 (J) any other anthropogenically-emitted  
23 gas or particulate that the Administrator of the  
24 Environmental Protection Agency determines,  
25 after notice and comment—

- 1 (i) to contribute to climate change; or  
2 (ii) to produce negative effects on  
3 human health, biodiversity, or ecological  
4 resilience.

5 (7) GREENHOUSE GAS EMISSIONS.—The term  
6 “greenhouse gas emissions” means emissions of  
7 greenhouse gas, expressed in terms of metric tons of  
8 carbon dioxide equivalent.

9 (8) NEW RENEWABLE ENERGY.—The term  
10 “new renewable energy” means renewable energy  
11 from a source that is not currently producing power.

12 (9) PROGRAM.—The term “program” means  
13 the green transportation infrastructure grant pro-  
14 gram established under subsection (b).

15 (10) PUBLICLY AVAILABLE EVSE.—

16 (A) IN GENERAL.—The term “publicly  
17 available EVSE” means Electric Vehicle Supply  
18 Equipment and any associated parking spaces  
19 designated by the property owner or lessee to be  
20 available to, and accessible by, the public for  
21 any period of time, including Electric Vehicle  
22 Supply Equipment and associated parking  
23 spaces located in parking garages or gated fa-  
24 cilities if any member of the public can obtain

1 vehicular access to the facility for free or  
2 through payment of a fee.

3 (B) EXCLUSION.—The term “publicly  
4 available EVSE” does not include Electric Ve-  
5 hicle Supply Equipment and any associated  
6 parking spaces in a workplace if the Electric  
7 Vehicle Supply Equipment and associated park-  
8 ing spaces are clearly marked and operated as  
9 available exclusively to employees or contracted  
10 drivers.

11 (11) RENEWABLE ENERGY SOURCE.—The term  
12 “renewable energy source” means energy generated  
13 from renewable sources, including the following:

14 (A) Solar, including electricity.

15 (B) Wind.

16 (C) Ocean, including tidal, wave, current,  
17 and thermal.

18 (D) Geothermal, including electricity and  
19 heat pumps.

20 (E) Hydroelectric generation capacity  
21 achieved from increased efficiency or additions  
22 of new capacity—

23 (i) at an existing hydroelectric project;

24 and

1 (ii) that was placed in service on or  
2 after January 1, 1999.

3 (F) Hydrogen used in fuel cells or other  
4 non-combustion technologies.

5 (G) Thermal energy generated by any of  
6 the sources described in subparagraphs (A)  
7 through (F).

8 (12) RESILIENT.—The term “resilient”, with  
9 respect to transportation infrastructure projects,  
10 means an anticipation of, preparation for, and adap-  
11 tation of the project to disruptions and changing en-  
12 vironmental and security conditions, and the  
13 achievement and maintenance by the project of the  
14 capability to withstand, respond to, and recover rap-  
15 idly from disruptions while ensuring the sustainment  
16 of operations.

17 (13) RURAL AREA.—The term “rural area”  
18 means an area with a population of 200,000 or  
19 fewer.

20 (14) SECRETARY.—The term “Secretary”  
21 means the Secretary of Transportation.

22 (15) URBANIZED AREA.—The term “urbanized  
23 area” means an area with a population of more than  
24 200,000.

1 (b) ESTABLISHMENT.—The Secretary shall establish  
2 a green transportation infrastructure grant program to  
3 provide grants on a competitive basis to eligible entities  
4 for capital investments in electrified surface transpor-  
5 tation infrastructure projects that—

6 (1) will have a significant local or regional im-  
7 pact to improve transportation and reduce green-  
8 house gas emissions and toxic emissions; and

9 (2) are—

10 (A) sustainable and resilient; and

11 (B) green projects.

12 (c) ELIGIBLE ENTITIES.—An entity eligible to re-  
13 ceive a grant under the program is—

14 (1) a State;

15 (2) a unit of local government;

16 (3) a transit agency;

17 (4) a port authority;

18 (5) an Indian tribe (as defined in section 4 of  
19 the Indian Self-Determination and Education Assist-  
20 ance Act (25 U.S.C. 5304)); or

21 (6) a group of entities described in paragraphs

22 (1) through (5).

23 (d) ELIGIBLE PROJECTS.—A project eligible to be  
24 carried out with funds from a grant provided under the  
25 program is—



1           (1) a highway or bridge project eligible for as-  
2           sistance under title 23, United States Code, that has  
3           or installs publicly available EVSE on the highway  
4           or on a highway in immediate proximity to the  
5           bridge;

6           (2) a public transportation project eligible for  
7           assistance under chapter 53 of title 49, United  
8           States Code, that is powered by electricity;

9           (3) a passenger or freight rail project that is  
10          powered solely by an external source of electricity or  
11          solar power;

12          (4) a port infrastructure investment, including  
13          inland port infrastructure and land ports of entry,  
14          that installs publicly available EVSE or converts fos-  
15          sil fuel-powered equipment to electrified equipment;  
16          and

17          (5) any other projects that—

18                (A) the Secretary determines to be appro-  
19                priate; and

20                (B) clearly demonstrate a contribution to  
21                the reduction of greenhouse gas emissions and  
22                toxic emissions.

23          (e) APPLICATION.—

24                (1) IN GENERAL.—To be eligible to receive a  
25                grant under the program, an eligible entity shall

1 submit to the Secretary an application at such time,  
2 in such manner, and containing such information as  
3 the Secretary may require.

4 (2) DEADLINES.—The Secretary shall—

5 (A) publish a notice of funding opportunity  
6 for the program by not later than 10 days after  
7 October 1 of each fiscal year;

8 (B) require applications for grants under  
9 the program to be submitted to the Secretary  
10 by not later than 90 days after the date on  
11 which the notice of funding opportunity is pub-  
12 lished; and

13 (C) select eligible projects to receive grants  
14 under the program, in accordance with sub-  
15 section (f), by not later than 270 days after Oc-  
16 tober 1 of each fiscal year.

17 (f) SELECTION.—

18 (1) IN GENERAL.—The Secretary shall select el-  
19 igible projects to receive a grant under the program  
20 based on sustainability criteria, including—

21 (A) the extent to which the project pro-  
22 motes the electrification of all public transpor-  
23 tation, including electric city buses, electric  
24 commuter rail, electric vehicle fleets, and elec-  
25 tric school buses;

1 (B) criteria in the Infrastructure Vol-  
2 untary Evaluation Sustainability Tool (IN-  
3 VEST) of the Federal Highway Administration;

4 (C) criteria developed by the Secretary to  
5 promote electric vehicle charging infrastructure;

6 (D) criteria developed by the Secretary to  
7 reduce overall vehicle miles traveled in single  
8 occupancy, internal combustion engine vehicles;

9 (E) criteria developed by the Secretary, in  
10 consultation with the Administrator of the En-  
11 vironmental Protection Agency, that consider  
12 the extent to which the eligible project contrib-  
13 utes to—

14 (i) climate resilience;

15 (ii) climate mitigation;

16 (iii) air pollution and emissions of  
17 hazardous air pollutants (as defined in sec-  
18 tion 112(a) of the Clean Air Act (42  
19 U.S.C. 7412(a))); and

20 (iv) greenhouse gas emissions;

21 (F) criteria developed by the Secretary, in  
22 consultation with the Secretary of Energy, that  
23 consider the extent to which the eligible project  
24 will achieve energy savings and reduced energy  
25 usage compared to other eligible projects; and

1 (G) criteria developed by the Secretary, in  
2 consultation with the Secretary of Energy, that  
3 consider the extent to which the eligible project  
4 will improve pedestrian and nonmotorized vehi-  
5 cle access and safety compared to other eligible  
6 projects.

7 (2) EXCLUSION.—In selecting eligible projects  
8 to receive a grant under the program, the Secretary  
9 shall not use the Federal share percentage or the  
10 ability of an applicant to generate non-Federal rev-  
11 enue as a selection criterion.

12 (3) PRIORITY.—In selecting eligible projects to  
13 receive a grant under the program, the Secretary  
14 shall give priority to an eligible project that—

15 (A) is located in—

16 (i) a frontline, vulnerable, and dis-  
17 advantaged community;

18 (ii) an area identified as having dis-  
19 proportionately high adverse human health  
20 and environmental impacts on minority  
21 populations and low-income populations;

22 (iii) a community of color;

23 (iv) a low-income community;

24 (v) a deindustrialized community; or

1 (vi) a community facing environ-  
2 mental injustice;

3 (B) requires a contribution of Federal  
4 funds in order to complete an overall financing  
5 package; or

6 (C) includes—

7 (i) the addition of—

8 (I) a new green space; or

9 (II) new State or local park sys-  
10 tem units and recreation areas admin-  
11 istered for outdoor recreation pur-  
12 poses; or

13 (ii) an improvement to improve access  
14 to an existing green space, State or local  
15 park system unit, or recreation area ad-  
16 ministered for outdoor recreation purposes,  
17 including pedestrian and bicycle access.

18 (4) REPORT.—Not less frequently than once  
19 each year, the Secretary shall—

20 (A) submit a report that contains the cri-  
21 teria for eligible projects developed under para-  
22 graph (1) to—

23 (i) the Committee on Commerce,  
24 Science, and Transportation of the Senate;

1 (ii) the Committee on Environment  
2 and Public Works of the Senate;

3 (iii) the Committee on Transportation  
4 and Infrastructure of the House of Rep-  
5 resentatives; and

6 (iv) the Committee on Energy and  
7 Commerce of the House of Representa-  
8 tives; and

9 (B) make the report under subparagraph  
10 (A) available to the public.

11 (g) GRANT REQUIREMENTS.—

12 (1) ENVIRONMENTAL STANDARD.—As a condi-  
13 tion of receiving a grant under the program, any  
14 building or structure that is part of an eligible  
15 project, including existing buildings, shall comply  
16 with, or, in the case of an existing building, be ren-  
17 ovated to comply with, environmental standards de-  
18 termined by the Secretary, that are at least as strin-  
19 gent as the Leadership in Energy and Environ-  
20 mental Design (LEED) standards of the United  
21 States Green Building Council.

22 (2) USE OF RENEWABLE ENERGY.—

23 (A) IN GENERAL.—As a condition of re-  
24 ceiving a grant under the program, any eligible  
25 project that, after completion of the project,

1 uses electrical energy shall use electrical energy  
2 in a manner that does not increase usage of  
3 nonrenewable energy sources, in accordance  
4 with subparagraph (B).

5 (B) METHODS.—An eligible entity may  
6 comply with subparagraph (A) by—

7 (i) purchasing new renewable energy  
8 or renewable energy credits for the eligible  
9 project;

10 (ii) generating new renewable energy  
11 for the eligible project;

12 (iii) converting to use of renewable en-  
13 ergy for another project of the eligible enti-  
14 ty in an equivalent quantity of nonrenew-  
15 able energy used for the eligible project; or

16 (iv) any combination of the methods  
17 described in clauses (i) through (iii).

18 (C) COMPLIANCE.—

19 (i) IN GENERAL.—If the Secretary de-  
20 termines that an eligible project is not in  
21 compliance with subparagraph (A), the  
22 Secretary shall promptly notify the eligible  
23 entity of the noncompliance.

24 (ii) WITHHOLDING OF FUNDS FOR  
25 NONCOMPLIANCE.—If an eligible entity

1           that receives a notification of noncompli-  
2           ance under clause (i) is not in compliance  
3           with subparagraph (A) beginning on the  
4           date that is 180 days after the date of the  
5           notification under clause (i), the Secretary  
6           shall withhold from the State in which the  
7           eligible project is located 10 percent of the  
8           amount required to be apportioned to the  
9           State under section 104(b) of title 23,  
10          United States Code, from that State until  
11          the eligible project is in compliance with  
12          subparagraph (A).

13          (h) DISTRIBUTION OF GRANTS.—

14           (1) IN GENERAL.—For each fiscal year, in car-  
15          rying out the program, the Secretary shall ensure  
16          that grants are provided—

17           (A) on an equitable geographical basis;

18           (B) in a manner that achieves an appro-  
19          priate balance in addressing the needs of urban-  
20          ized areas and rural areas;

21           (C) in a manner that ensures investment  
22          in a variety of electric vehicles; and

23           (D) in a manner that prioritizes eligible  
24          projects in areas described in section 301(a) of



1 the Public Works and Economic Development  
2 Act of 1965 (42 U.S.C. 3161(a)).

3 (2) STATE AMOUNTS.—

4 (A) MINIMUM AMOUNT.—For each fiscal  
5 year, the total amount awarded to eligible  
6 projects in each State shall be not less than the  
7 lesser of—

8 (i) 0.8 percent of the amounts made  
9 available to carry out the program for that  
10 fiscal year; and

11 (ii) the total amount requested for eli-  
12 gible projects in that State for that fiscal  
13 year for which the Secretary has deter-  
14 mined meet the selection criteria under the  
15 program.

16 (B) MAXIMUM AMOUNT.—For each fiscal  
17 year, the total amount provided under the pro-  
18 gram for eligible projects in a single State shall  
19 not exceed an amount equal to 8 percent of the  
20 amounts made available to carry out the pro-  
21 gram for that fiscal year.

22 (3) RURAL AREAS, URBANIZED AREAS, AND  
23 FRONTLINE, VULNERABLE, AND DISADVANTAGED  
24 COMMUNITIES.—

25 (A) RURAL AREAS.—

1 (i) IN GENERAL.—Of the amounts  
2 made available to carry out the program  
3 for each fiscal year, not less than 35 per-  
4 cent and not more than 40 percent shall be  
5 used for eligible projects located in rural  
6 areas.

7 (ii) GRANT AMOUNT.—The amount of  
8 a grant provided under the program for a  
9 project in a rural area shall be not less  
10 than \$1,000,000.

11 (iii) FEDERAL SHARE.—The Federal  
12 share of the cost of an eligible project in  
13 a rural area carried out with a grant under  
14 the program may exceed 85 percent, at the  
15 discretion of the Secretary.

16 (B) URBANIZED AREAS.—

17 (i) IN GENERAL.—Of the amounts  
18 made available to carry out the program  
19 for each fiscal year, not less than 60 per-  
20 cent and not more than 65 percent shall be  
21 used for eligible projects located in urban-  
22 ized areas.

23 (ii) METROPOLITAN PLANNING  
24 AREA.—Amounts made available under  
25 clause (i) may be used for eligible projects

1 in the metropolitan planning area estab-  
2 lished under section 134 of title 23, United  
3 States Code, that encompasses the urban-  
4 ized area.

5 (C) FRONTLINE, VULNERABLE, AND DIS-  
6 ADVANTAGED COMMUNITIES.—

7 (i) IN GENERAL.—Of the total  
8 amounts made available to carry out the  
9 program for each fiscal year under sub-  
10 paragraphs (A) and (B), not less than 40  
11 percent shall be used for eligible projects  
12 located in frontline, vulnerable, and dis-  
13 advantaged communities.

14 (ii) GRANT AMOUNT.—The amount of  
15 a grant provided under the program for a  
16 project in a frontline, vulnerable, and dis-  
17 advantaged community shall be not less  
18 than \$1,000,000.

19 (iii) FEDERAL SHARE.—The Federal  
20 share of the cost of an eligible project in  
21 a frontline, vulnerable, and disadvantaged  
22 community carried out with a grant under  
23 the program may exceed 85 percent, at the  
24 discretion of the Secretary.

25 (i) GRANT AMOUNT.—

1           (1) IN GENERAL.—Except as provided in para-  
2           graph (2), a grant under the program shall be in an  
3           amount that is not less than \$2,000,000.

4           (2) PLANNING GRANTS.—A grant under the  
5           program for the planning, preparation, or design of  
6           an eligible project shall not be subject to a minimum  
7           grant amount.

8           (j) FEDERAL SHARE.—Except as otherwise provided  
9           in this section, the Federal share of the cost of a project  
10          carried out with a grant under the program shall be, at  
11          the discretion of the eligible entity—

12           (1) not more than 85 percent, for the purpose  
13           of planning, design, and construction of the project;  
14           and

15           (2) not more than 50 percent of the operation  
16           and maintenance costs of the project for the first 10  
17           years of the project.

18          (k) TIFIA; RRIF.—For each fiscal year, the Sec-  
19          retary may use an amount equal to not more than 20 per-  
20          cent of the amounts made available to carry out the pro-  
21          gram for that fiscal year to pay the subsidy and adminis-  
22          trative costs of projects eligible for Federal credit assist-  
23          ance under chapter 6 of title 23, United States Code, or  
24          title V of the Railroad Revitalization and Regulatory Re-  
25          form Act of 1976 (45 U.S.C. 821 et seq.) if the Secretary

1 finds that such use of those amounts would advance the  
2 purposes of the program.

3 (l) BUY AMERICA.—No funds may be used for an eli-  
4 gible project under the program unless—

5 (1) in the case of an eligible project described  
6 in subsection (d)(1), the project complies with sec-  
7 tion 313 of title 23, United States Code;

8 (2) in the case of an eligible project described  
9 in subsection (d)(2), the project complies with sec-  
10 tion 5323(j) of title 49, United States Code;

11 (3) in the case of an eligible project described  
12 in subsection (d)(3), the project complies with sec-  
13 tion 22905(a) of title 49, United States Code;

14 (4) in the case of an eligible project described  
15 in subsection (d)(4), the project complies with sec-  
16 tion 54101(d)(2) of title 46, United States Code;  
17 and

18 (5) in the case of an eligible project described  
19 in subsection (d)(5), the project complies with ap-  
20 propriate domestic content requirements as deter-  
21 mined by the Secretary.

22 (m) LABOR PROVISIONS.—

23 (1) EMPLOYEE WAGES AND PROTECTIONS.—  
24 Each contractor and subcontractor for an eligible

1 project carried out under the program shall comply  
2 with the following:

3 (A) MINIMUM WAGE.—

4 (i) IN GENERAL.—All employees em-  
5 ployed in the performance of the eligible  
6 project shall be paid at a rate of not less  
7 than—

8 (I) \$15.00 an hour, beginning on  
9 the date of enactment of this Act; and

10 (II) beginning on the date that is  
11 1 year after such date of enactment,  
12 and annually thereafter, the amount  
13 in effect under this subparagraph for  
14 the preceding year, increased by the  
15 annual percentage increase, if any, in  
16 the median hourly wage of all employ-  
17 ees as determined by the Bureau of  
18 Labor Statistics and rounded up to  
19 the nearest multiple of \$0.05.

20 (ii) CALCULATION.—In calculating the  
21 annual percentage increase in the median  
22 hourly wage of all employees for purposes  
23 of clause (i)(II), the Secretary of Labor,  
24 through the Bureau of Labor Statistics,  
25 shall—

1 (I) compile data on the hourly  
 2 wages of all employees to determine  
 3 such a median hourly wage; and

4 (II) compare such median hourly  
 5 wage for the most recent year for  
 6 which data are available with the me-  
 7 dian hourly wage determined for the  
 8 preceding year.

9 (iii) PREVAILING WAGES FOR LABOR-  
 10 ERS AND MECHANICS.—

11 (I) IN GENERAL.—All laborers  
 12 and mechanics employed by contrac-  
 13 tors or subcontractors in the perform-  
 14 ance of construction, alteration, or re-  
 15 pair work carried out, in whole or in  
 16 part, with assistance made available  
 17 under the program shall be paid  
 18 wages at rates not less than the great-  
 19 er of—

20 (aa) the rates prevailing on  
 21 similar construction in the local-  
 22 ity as determined by the Sec-  
 23 retary of Labor in accordance  
 24 with subchapter IV of chapter 31

1 of title 40, United States Code;

2 or

3 (bb) the rate required under

4 clause (i).

5 (II) AUTHORITIES.—With respect

6 to the labor standards specified in

7 subclause (I)(aa), the Secretary of

8 Labor shall have the authority and

9 functions set forth in Reorganization

10 Plan Numbered 14 of 1950 (64 Stat.

11 1267; 5 U.S.C. App.) and section

12 3145 of title 40, United States Code.

13 (B) NEUTRALITY TOWARD ORGANIZED

14 LABOR.—The contractor or subcontractor shall

15 have—

16 (i) an explicit policy of neutrality with

17 regard to—

18 (I) labor organizing for the em-

19 ployees of the contractor or subcon-

20 tractor employed in the performance

21 of the eligible project; and

22 (II) such employees' choice to

23 form and join labor organizations; and

24 (ii) policies that require—



1 (I) the posting and maintenance  
2 of notices in the workplace to such  
3 employees of their rights under the  
4 National Labor Relations Act (29  
5 U.S.C. 151 et seq.); and

6 (II) that such employees are, at  
7 the beginning of their employment in  
8 the performance of the eligible  
9 project, provided notice and informa-  
10 tion regarding the employees' rights  
11 under such Act.

12 (C) PAID FAMILY AND MEDICAL LEAVE.—  
13 The contractor or subcontractor shall have an  
14 explicit policy providing all employees employed  
15 in the performance of the eligible project not  
16 less than 12 workweeks of paid leave in a 12-  
17 month period for any purpose described in sec-  
18 tion 102(a)(1) of the Family and Medical Leave  
19 Act of 1993 (29 U.S.C. 2612(a)(1)), in accord-  
20 ance with regulations promulgated by the Sec-  
21 retary of Labor.

22 (D) FAIR SCHEDULING.—

23 (i) IN GENERAL.—The contractor or  
24 subcontractor shall have an explicit policy  
25 for fair scheduling for employees employed

1 in the performance of the eligible project,  
2 which shall include—

3 (I) an opportunity for the em-  
4 ployee to request—

5 (aa) an adjustment in the  
6 number of hours, work location,  
7 or times of the employee's work  
8 schedule;

9 (bb) a change in the amount  
10 of notification provided to the  
11 employee regarding the work  
12 schedule; or

13 (cc) the minimizing of fluc-  
14 tuations in the number of hours  
15 the employee is scheduled to  
16 work on a daily, weekly, or  
17 monthly basis; and

18 (II) a timely, good faith inter-  
19 active process through which the em-  
20 ployer and employee discuss the em-  
21 ployee's request under subclause (I)  
22 and the employer grants the request  
23 or suggests any alternatives that  
24 might meet the employee's needs.

1 (ii) EXCEPTION.—Clause (i) shall not  
2 apply to any employee covered by a valid  
3 collective bargaining agreement if—

4 (I) the terms of the collective  
5 bargaining agreement include terms  
6 that govern work scheduling practices;  
7 and

8 (II) the provisions of this Act are  
9 expressly waived in such collective  
10 bargaining agreement.

11 (E) PREFERENCE FOR LOCAL HIRING.—

12 The contractor or subcontractor shall have ex-  
13 plicit policies that provide a preference for local  
14 hiring, consistent with applicable Federal law  
15 and subject to rules issued by the Secretary of  
16 Labor.

17 (F) CONTRACTOR REQUIREMENT REGARD-

18 ING SUBCONTRACTORS.—The contractor or sub-  
19 contractor shall require that each subcontractor  
20 of the contractor for an eligible project carried  
21 out under the program comply with the require-  
22 ments of this paragraph with respect to all em-  
23 ployees of the subcontractor employed in the  
24 performance of the project.

1           (2) DISCLOSURE.—A contractor desiring a con-  
2           tract under an eligible project carried out under the  
3           program shall disclose to the Secretary in the con-  
4           tract application any administrative merits deter-  
5           mination, arbitral award or decision, or civil judg-  
6           ment against the contractor during the previous 5  
7           years for any violation of—

8                   (A) the Fair Labor Standards Act of 1938  
9                   (29 U.S.C. 201 et seq.);

10                   (B) the Occupational Safety and Health  
11                   Act of 1970 (29 U.S.C. 651 et seq.);

12                   (C) the Migrant and Seasonal Agricultural  
13                   Worker Protection Act (29 U.S.C. 1801 et  
14                   seq.);

15                   (D) the National Labor Relations Act (29  
16                   U.S.C. 151 et seq.);

17                   (E) subchapter IV of chapter 31 of title  
18                   40, United States Code (commonly known as  
19                   the “Davis-Bacon Act”);

20                   (F) chapter 67 of title 41, United States  
21                   Code (commonly known as the “Service Con-  
22                   tract Act”);

23                   (G) Executive Order 11246 (42 U.S.C.  
24                   2000e note; relating to equal employment op-  
25                   portunity);

1 (H) section 503 of the Rehabilitation Act  
2 of 1973 (29 U.S.C. 793);

3 (I) chapter 42 or 43 of title 38, United  
4 States Code;

5 (J) the Family and Medical Leave Act of  
6 1993 (29 U.S.C. 2601 et seq.);

7 (K) title VII of the Civil Rights Act of  
8 1964 (42 U.S.C. 2000e et seq.);

9 (L) the Americans with Disabilities Act of  
10 1990 (42 U.S.C. 12101 et seq.);

11 (M) the Age Discrimination in Employ-  
12 ment Act of 1967 (29 U.S.C. 621 et seq.);

13 (N) Executive Order 13658 (79 Fed. Reg.  
14 9851; relating to establishing a minimum wage  
15 for contractors); or

16 (O) any State law equivalent of a law de-  
17 scribed in subparagraphs (A) through (N), in  
18 accordance with guidance issued by the Sec-  
19 retary of Labor.

20 (3) LABOR AGREEMENTS FOR CONSTRUCTION  
21 PROJECTS.—

22 (A) IN GENERAL.—A contractor for an eli-  
23 gible project carried out under the program  
24 that is a construction project shall be a party  
25 to a covered project labor agreement.

1 (B) DEFINITIONS.—In this paragraph:

2 (i) COVERED PROJECT LABOR AGREE-  
3 MENT.—The term “covered project labor  
4 agreement” means a project labor agree-  
5 ment that—

6 (I) binds all contractors and sub-  
7 contractors on the construction  
8 project through the inclusion of ap-  
9 propriate specifications in all relevant  
10 solicitation provisions and contract  
11 documents;

12 (II) allows all contractors and  
13 subcontractors to compete for con-  
14 tracts and subcontracts without re-  
15 gard to whether they are otherwise a  
16 party to a collective bargaining agree-  
17 ment;

18 (III) contains guarantees against  
19 strikes, lockouts, and other similar job  
20 disruptions;

21 (IV) sets forth effective, prompt,  
22 and mutually binding procedures for  
23 resolving labor disputes arising during  
24 the covered project labor agreement;  
25 and

1 (V) provides other mechanisms  
2 for labor-management cooperation on  
3 matters of mutual interest and con-  
4 cern, including productivity, quality of  
5 work, safety, and health.

6 (ii) PROJECT LABOR AGREEMENT.—  
7 The term “project labor agreement” means  
8 a pre-hire collective bargaining agreement  
9 with one or more labor organizations that  
10 establishes the terms and conditions of em-  
11 ployment for a specific construction project  
12 and is described in section 8(f) of the Na-  
13 tional Labor Relations Act (29 U.S.C.  
14 158(f)).

15 (n) FUNDING.—

16 (1) IN GENERAL.—There is authorized to be  
17 appropriated to carry out the program  
18 \$50,000,000,000 for each of fiscal years 2022  
19 through 2031, of which not less than  
20 \$15,000,000,000 shall be for grants for the pur-  
21 chase of electric vehicles and electric vehicle supply  
22 equipment.

23 (2) AVAILABILITY.—Amounts made available  
24 under paragraph (1) shall remain available until  
25 January 1, 2042.

1 **SEC. 3. FEDERAL FUNDING EXCHANGE PROGRAMS.**

2 Section 106(g) of title 23, United States Code, is  
3 amended by adding at the end the following:

4 “(6) FEDERAL FUNDING EXCHANGE PRO-  
5 GRAMS.—A State may implement a program under  
6 which a subrecipient has the option to exchange  
7 Federal funds allocated to the subrecipient in ac-  
8 cordance with the requirements of this title for State  
9 or local funds if the State certifies to the Secretary  
10 that—

11 “(A) the State has prevailing wage and do-  
12 mestic content requirements that are com-  
13 parable to the requirements under sections 113  
14 and 313, respectively; and

15 “(B) the requirements described in sub-  
16 paragraph (A) shall apply to projects carried  
17 out using the State or local funds if the  
18 projects would have been subject to the require-  
19 ments of sections 113 and 313 if the projects  
20 were carried out using Federal funds.”.

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