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(Original Signature of Member)

117TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To promote United States energy security and independence by bolstering renewable energy supply chains in the United States, and for other purposes.

\_\_\_\_\_  
IN THE HOUSE OF REPRESENTATIVES

Ms. BUSH introduced the following bill; which was referred to the Committee  
on \_\_\_\_\_  
\_\_\_\_\_

**A BILL**

To promote United States energy security and independence by bolstering renewable energy supply chains in the United States, 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 “Energy Security and  
5 Independence Act of 2022”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1           (1) COVERED ENERGY-EFFICIENCY OR RENEW-  
2           ABLE ENERGY SYSTEM OR TECHNOLOGY.—The term  
3           “covered energy-efficiency or renewable energy sys-  
4           tem or technology” means—

5                   (A) a renewable energy generation system;

6                   (B) a renewable energy storage system;

7                   (C) an energy-efficiency system (including  
8           a heat pump);

9                   (D) an energy-efficiency technology;

10                  (E) an electric transportation system;

11                  (F) a renewable energy technology; and

12                  (G) an energy storage technology utilizing  
13           energy generated from a renewable energy  
14           source.

15           (2) DIRECT LOAN.—

16                   (A) IN GENERAL.—The term “direct loan”  
17           means a disbursement of funds by the Federal  
18           Government to a non-Federal borrower under a  
19           contract that requires the repayment of those  
20           funds with or without interest.

21                   (B) INCLUSION.—The term “direct loan”  
22           includes the purchase of, or participation in—

23                           (i) a loan made by another lender; or

24                           (ii) a financing arrangement that de-  
25           fers payment for more than 90 days, in-

1 cluding the sale of a Government asset on  
2 credit terms.

3 (3) ELIGIBLE ENTITY.—The term “eligible enti-  
4 ty” means a private entity, including a manufac-  
5 turer, or a partnership of private entities.

6 (4) ENVIRONMENTAL JUSTICE COMMUNITY.—  
7 The term “environmental justice community” means  
8 a community with significant representation of 1 or  
9 more communities of color, low-income communities,  
10 or Tribal or indigenous communities that experience,  
11 or are at risk of experiencing, higher or more ad-  
12 verse human health or environmental effects as com-  
13 pared to other communities.

14 (5) HEAT PUMP.—The term “heat pump”  
15 means a device that—

16 (A) transfers heat from a colder area to a  
17 hotter area by using mechanical energy; and

18 (B) is used to maintain a safe, com-  
19 fortable, and affordable temperature in a build-  
20 ing.

21 (6) PUBLIC HEAT PUMP.—The term “public  
22 heat pump” means a heat pump that is owned or  
23 operated by—

24 (A) a unit of Federal, State, or local gov-  
25 ernment; or

1 (B) a cooperatively owned utility.

2 (7) RENEWABLE ENERGY.—The term “renew-  
3 able energy” means energy generated from a renew-  
4 able energy source.

5 (8) RENEWABLE ENERGY SOURCE.—The term  
6 “renewable energy source” means wind, solar, tidal,  
7 wave, or geothermal energy.

8 **SEC. 3. FINDING.**

9 Congress finds that it is in the interests of the United  
10 States—

11 (1) to have a viable domestic manufacturing  
12 supply chain for components of covered energy-effi-  
13 ciency and renewable energy systems and tech-  
14 nologies; and

15 (2) to reduce the reliance of United States  
16 manufacturers on components of covered energy-effi-  
17 ciency and renewable energy systems and tech-  
18 nologies made in foreign countries.

19 **SEC. 4. USE OF DEFENSE PRODUCTION ACT OF 1950 AU-**  
20 **THORITIES TO SUPPORT DOMESTIC INDUS-**  
21 **TRIAL BASE AND MANUFACTURING CAPA-**  
22 **BILITIES FOR RENEWABLE ENERGY TECH-**  
23 **NOLOGIES.**

24 (a) RENEWABLE ENERGY TECHNOLOGIES AS STRA-  
25 TEGIC AND CRITICAL MATERIALS.—Section 106 of the

1 Defense Production Act of 1950 (50 U.S.C. 4516) is  
2 amended—

3 (1) by inserting “(a)” before “For purposes”;

4 and

5 (2) by adding at the end the following:

6 “(b) The designation of energy as a strategic and  
7 critical material under subsection (a) includes the designa-  
8 tion of covered energy-efficiency and renewable energy sys-  
9 tems and technologies (as defined in section 2 of the En-  
10 ergy Security and Independence Act of 2022) as strategic  
11 and critical materials.”.

12 (b) APPROPRIATION.—

13 (1) IN GENERAL.—In addition to amounts oth-  
14 erwise available, there is appropriated for fiscal year  
15 2022, out of any money in the Treasury not other-  
16 wise appropriated, \$100,000,000,000 to the Presi-  
17 dent to carry out subsection (c).

18 (2) AVAILABILITY OF AMOUNTS.—Amounts ap-  
19 propriated under paragraph (1) shall remain avail-  
20 able until September 30, 2032.

21 (c) SUPPORT FOR DOMESTIC INDUSTRIAL BASE AND  
22 MANUFACTURING CAPABILITIES.—

23 (1) IN GENERAL.—The President shall use the  
24 authorities under titles I and III and section 708(c)  
25 of the Defense Production Act of 1950 (50 U.S.C.

1 4501 et seq.) to establish, maintain, protect, or re-  
2 store the domestic industrial base and manufac-  
3 turing capabilities for covered energy-efficiency and  
4 renewable energy systems and technologies, includ-  
5 ing by providing loan guarantees, loans, purchase  
6 agreements, and grants to manufacturing entities to  
7 expand the domestic productive capacity of those en-  
8 tities and repurpose equipment to meet the manufac-  
9 turing demands of such systems and technologies.

10 (2) REQUIREMENTS.—In carrying out para-  
11 graph (1), the President shall—

12 (A) identify the domestic industrial base  
13 needs to transform the United States domestic  
14 energy system into a 100 percent renewable en-  
15 ergy system;

16 (B) use the authorities under title I of the  
17 Defense Production Act (50 U.S.C. 4501 et  
18 seq.)—

19 (i) to prioritize contracts and allocate  
20 materials, services, and facilities to achieve  
21 the goal described in subparagraph (A);  
22 and

23 (ii) to allocate the strategic and crit-  
24 ical materials described in section 106(b)

1 of that Act, as added by subsection (a), in  
2 a manner that prioritizes—

3 (I) environmental justice commu-  
4 nities first;

5 (II) publicly owned systems of re-  
6 newable energy;

7 (III) systems that reduce utility  
8 and energy costs in the United States;

9 (IV) Federal agencies whose  
10 buildings can be used as public  
11 sources of solar energy for environ-  
12 mental justice communities; and

13 (C) take the actions described in subpara-  
14 graph (B) in tandem with existing financial and  
15 technical assistance programs of the Depart-  
16 ment of Energy, the Department of Transpor-  
17 tation, and such other agencies as the President  
18 considers appropriate; and

19 (D) coordinate with the task force estab-  
20 lished under section 5.

21 **SEC. 5. DOMESTIC RENEWABLE ENERGY INDUSTRIAL BASE**  
22 **TASK FORCE.**

23 (a) IN GENERAL.—The President shall establish a  
24 domestic renewable energy industrial base task force that  
25 includes—

1           (1) manufacturers, engineers, scientists, and  
2           planning experts in the fields of—

3                   (A) equitable energy; and

4                   (B) energy democracy and transportation  
5           design;

6           (2) environmental justice community leaders;

7           (3) labor unions;

8           (4) the Secretary of Energy, the Secretary of  
9           Transportation, and the Secretary of Labor;

10           (5) staff of the National Laboratories (as de-  
11           fined in section 2 of the Energy Policy Act of 2005  
12           (42 U.S.C. 15801)); and

13           (6) other relevant Federal, State, and local  
14           agencies.

15           (b) DUTIES.—The task force established under sub-  
16           section (a) shall develop a manufacturing and allocation  
17           plan—

18                   (1) to establish, maintain, protect, and restore  
19           a domestic industrial base and manufacturing capa-  
20           bilities for covered energy-efficiency and renewable  
21           energy systems and technologies;

22                   (2) to reach the goal of a 100 percent renew-  
23           able energy system as soon as possible, using the  
24           best available science and technologies;



1           (3) to prioritize distributed energy resources  
2           and storage to boost climate resilience and equity;

3           (4) to make an equitable allocation of Federal  
4           renewable energy investments and assistance, in  
5           partnership with environmental justice communities  
6           and public entities; and

7           (5) to ensure that the domestic industrial base  
8           of covered energy-efficiency and renewable energy  
9           systems and technologies creates and maintains  
10          high-quality jobs that are represented by labor orga-  
11          nizations.

12          (c) APPROPRIATIONS.—In addition to amounts other-  
13          wise available, there is appropriated, out of any money in  
14          the Treasury not otherwise appropriated, \$25,000,000 to  
15          the President to carry out this section for fiscal year 2022,  
16          to remain available until September 30, 2031.

17 **SEC. 6. RENEWABLE ENERGY GENERATION SYSTEM COM-**  
18 **PONENT MANUFACTURING SUPPLY CHAIN**  
19 **ASSISTANCE.**

20          (a) IN GENERAL.—Not later than 180 days after the  
21          date of enactment of this Act, the Secretary of Energy  
22          (referred to in this section as the “Secretary”) shall estab-  
23          lish a program (referred to in this section as the “pro-  
24          gram”) to provide financial assistance, including grants,

1 direct loans, and loan guarantees, to eligible entities to  
2 carry out projects—

3 (1) to construct new facilities that manufacture  
4 components of covered energy-efficiency and renew-  
5 able energy systems and technologies; and

6 (2) to retool, retrofit, or expand existing facili-  
7 ties that manufacture, or have the ability to manu-  
8 facture, components of covered energy-efficiency and  
9 renewable energy systems and technologies.

10 (b) APPLICATION.—To be eligible to receive financial  
11 assistance under the program, an eligible entity shall sub-  
12 mit to the Secretary an application at such time, in such  
13 manner, and containing such information as the Secretary  
14 may require.

15 (c) PRIORITY.—In providing financial assistance  
16 under the program, the Secretary shall give priority to  
17 projects that—

18 (1) have the potential to benefit an environ-  
19 mental justice community, including by reducing the  
20 pollution and emissions within, and the utility costs  
21 of, such a community;

22 (2) are strategically located near manufacturers  
23 of components of covered energy-efficiency and re-  
24 newable energy systems and technologies to create a

1 geographic concentration of those manufacturers in  
2 the manufacturing supply chain;

3 (3) have potential to directly and indirectly cre-  
4 ate domestic jobs, including jobs for low-income  
5 communities, dislocated workers, and workers from  
6 groups that are underrepresented in the manufac-  
7 turing industry, including formerly incarcerated  
8 workers;

9 (4) will result in economic development or eco-  
10 nomic diversification in economically distressed re-  
11 gions or localities; and

12 (5) do not expedite or fast track any applicable  
13 environmental review processes.

14 (d) DIRECT LOAN CONDITIONS.—A direct loan made  
15 under the program shall—

16 (1) bear interest at a rate that does not exceed  
17 a level that the Secretary determines to be appro-  
18 priate; and

19 (2) be subject to such other terms and condi-  
20 tions as the Secretary determines to be appropriate.

21 (e) COST SHARING FOR GRANTS.—Section 988(c) of  
22 the Energy Policy Act of 2005 (42 U.S.C. 16352(c)) shall  
23 apply to a grant made under the program.

24 (f) CONDITIONS OF RECEIPT OF FINANCIAL ASSIST-  
25 ANCE.—

1           (1) REQUIRED AGREEMENT.—An eligible entity  
2           awarded financial assistance under the program  
3           shall enter into an agreement that specifies that,  
4           during the 5-year period immediately following the  
5           award of the financial assistance—

6                   (A) the eligible entity will not—

7                           (i) repurchase an equity security of  
8                           the eligible entity or any parent company  
9                           of the eligible entity that is listed on a na-  
10                          tional securities exchange, except to the ex-  
11                          tent required under a contractual obliga-  
12                          tion that is in effect as of the date of en-  
13                          actment of this Act;

14                           (ii) outsource or offshore jobs to a lo-  
15                           cation outside of the United States; or

16                           (iii) abrogate existing collective bar-  
17                           gaining agreements; and

18                          (B) the eligible entity will remain neutral  
19                          in any union organizing effort.

20           (2) FINANCIAL PROTECTION OF GOVERN-  
21           MENT.—

22                   (A) IN GENERAL.—Financial assistance  
23                   may not be awarded under the program to an  
24                   eligible entity unless—

1 (i)(I) the eligible entity has issued se-  
2 curities that are traded on a national secu-  
3 rities exchange; and

4 (II) the Secretary of the Treasury re-  
5 ceives a warrant or equity interest in the  
6 eligible entity; or

7 (ii) in the case of an eligible entity  
8 other than an eligible entity described in  
9 clause (i)(I), the Secretary of the Treasury  
10 receives, in the discretion of the Secretary  
11 of the Treasury—

12 (I) a warrant or equity interest  
13 in the eligible entity; or

14 (II) a senior debt instrument  
15 issued by the eligible entity.

16 (B) TERMS AND CONDITIONS.—The terms  
17 and conditions of any warrant, equity interest,  
18 or senior debt instrument received under sub-  
19 paragraph (A)(ii) shall be set by the Secretary  
20 and shall meet the following requirements:

21 (i) PURPOSES.—Such terms and con-  
22 ditions shall be designed to provide for rea-  
23 sonable participation by the Secretary, for  
24 the benefit of taxpayers, in—

1 (I) equity appreciation in the  
2 case of a warrant or other equity in-  
3 terest; or

4 (II) a reasonable interest rate  
5 premium, in the case of a debt instru-  
6 ment.

7 (ii) AUTHORITY TO SELL, EXERCISE,  
8 OR SURRENDER.—

9 (I) IN GENERAL.—For the pri-  
10 mary benefit of taxpayers, the Sec-  
11 retary may sell, exercise, or surrender  
12 a warrant or any senior debt instru-  
13 ment received under this paragraph.

14 (II) NO VOTING.—The Secretary  
15 shall not exercise voting power with  
16 respect to any shares of common  
17 stock acquired under this paragraph.

18 (iii) SUFFICIENCY.—If the Secretary  
19 determines that an eligible entity cannot  
20 feasibly issue warrants or other equity in-  
21 terests as required by this paragraph, the  
22 Secretary may accept a senior debt instru-  
23 ment in an amount and on such terms as  
24 the Secretary determines appropriate.

1           (g) FREE, PRIOR, AND INFORMED CONSENT FOR IN-  
2 DIGENOUS COMMUNITIES IN THE SITING PROCESS.—The  
3 Secretary shall establish standards and procedural re-  
4 quirements to secure free, prior, and informed consent of  
5 Indian Tribes to the siting of projects carried out with  
6 financial assistance under the program that affect Indian  
7 land, water, livelihoods, and culture, including off-reserva-  
8 tion treaty-reserved rights to hunting, fishing, gathering,  
9 and protection of, and access to, sacred sites.

10          (h) PROHIBITION.—In carrying out the program, the  
11 Secretary may not provide financial assistance for projects  
12 that will source components of covered energy-efficiency  
13 and renewable energy systems and technologies from, or  
14 supply components of covered energy-efficiency and renew-  
15 able energy systems and technologies to, entities that use  
16 forced labor (as defined in section 307 of the Tariff Act  
17 of 1930 (19 U.S.C. 1307)).

18          (i) STUDY AND REPORT.—Not later than 1 year after  
19 the date of enactment of this Act, the Secretary shall con-  
20 duct, and submit to Congress a report describing the re-  
21 sults of, a study on—

22               (1) opportunities to convert fossil fuel infra-  
23               structure into renewable energy infrastructure;

1           (2) gaps in the current United States manufac-  
2           turing supply chains for covered energy-efficiency  
3           and renewable energy systems and technologies; and

4           (3) benefits to the energy security of the United  
5           States of onshoring supply chains for covered en-  
6           ergy-efficiency and renewable energy systems and  
7           technologies.

8           (j) AUTHORIZATION OF APPROPRIATIONS.—There is  
9           authorized to be appropriated to carry out this section  
10          \$10,000,000,000 for the period of fiscal years 2023  
11          through 2032.

12          **SEC. 7. WEATHERIZATION ASSISTANCE PROGRAM.**

13          Section 422 of the Energy Conservation and Produc-  
14          tion Act (42 U.S.C. 6872) is amended—

15                 (1) by striking the section designation and  
16                 heading and all that follows through “For the” and  
17                 inserting the following:

18          **“SEC. 422. APPROPRIATIONS.**

19                 “For the”; and

20                 (2) in the matter preceding paragraph (1), by  
21                 striking “are authorized to be appropriated—” and  
22                 all that follows through the period at the end of  
23                 paragraph (2) and inserting “is appropriated, out of  
24                 any funds in the Treasury not otherwise appro-



1        appropriated, \$3,000,000,000 for each of fiscal years  
2        2023 through 2032.”.

3        **SEC. 8. PUBLIC HEAT PUMPS.**

4        In addition to amounts otherwise available, there is  
5        appropriated for fiscal year 2022, out of any funds in the  
6        Treasury not otherwise appropriated, \$10,000,000,000 to  
7        the Secretary of Energy, acting through the Office of En-  
8        ergy Efficiency and Renewable Energy, to procure and in-  
9        stall public heat pumps, to remain available until Sep-  
10       tember 30, 2032.

11       **SEC. 9. MINIMUM LABOR STANDARDS.**

12       (a) DEFINITIONS.—In this section:

13               (1) COVERED ENTITY.—The term “covered en-  
14        tity” means an entity that directly or indirectly re-  
15        ceives funds or assistance under a covered energy  
16        program, without regard to the form, amount, or  
17        type of Federal assistance provided.

18               (2) COVERED ENERGY PROGRAM.—The term  
19        “covered energy program” means—

20                       (A) a program authorized under this Act;

21                       or

22                       (B) the Weatherization Assistance Pro-  
23        gram for Low-Income Persons established  
24        under part A of title IV of the Energy Con-

1           servation and Production Act (42 U.S.C. 6861  
2           et seq.).

3           (3) PROJECT LABOR AGREEMENT.—The term  
4           “project labor agreement” means a pre-hire collec-  
5           tive bargaining agreement with one or more labor  
6           organizations that—

7                   (A) establishes the terms and conditions of  
8                   employment for a specific construction project;  
9                   and

10                   (B) is an agreement described in section  
11                   8(f) of the National Labor Relations Act (29  
12                   U.S.C. 158(f)).

13           (b) LABOR STANDARD REQUIREMENTS.—Notwith-  
14           standing any other provision of law, a covered entity shall  
15           comply with the labor standards under this section.

16           (c) PREVAILING WAGES.—A covered entity shall en-  
17           sure the following:

18                   (1) LABORERS AND MECHANICS.—Any laborer  
19                   or mechanic employed by the covered entity, or any  
20                   contractor or subcontractor in the performance of  
21                   work funded or assisted, in whole or in part, under  
22                   a covered energy program, shall be paid wages at  
23                   rates not less than those prevailing on work of a  
24                   similar character in the locality, as determined by  
25                   the Secretary of Labor under subchapter IV of chap-

1       ter 31 of title 40, United States Code (commonly  
2       known as the “Davis-Bacon Act”). With respect to  
3       the labor standards in this subsection, the Secretary  
4       of Labor shall have the authority and functions set  
5       forth in Reorganization Plan Numbered 14 of 1950  
6       (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of  
7       title 40, United States Code.

8           (2) OTHER WORKERS.—All individuals em-  
9       ployed by the covered entity, or any contractor or  
10      subcontractor using funds or other assistance pro-  
11      vided under a covered energy program, in the manu-  
12      facture or furnishing of materials, supplies, articles,  
13      or equipment shall be paid wages at rates not less  
14      than employees performing similar work or in the  
15      particular or similar industries or groups of indus-  
16      tries currently operating in the locality in which the  
17      materials, supplies, articles, or equipment are to be  
18      manufactured or furnished, as determined by the  
19      Secretary of Labor in accordance with sections 6501  
20      through 6511 of title 41, United States Code (com-  
21      monly known as the “Public Contracts Act”).

22      (d) LABOR-MANAGEMENT COOPERATION.—

23           (1) DEFINITIONS.—In this subsection:

24           (A) NLRA DEFINITIONS.—The terms  
25           “employee”, “employer”, and “labor organiza-

1           tion” have the meanings given the terms in sec-  
2           tion 2 of the National Labor Relations Act (29  
3           U.S.C. 152).

4                   (B) BOARD.—The term “Board” means  
5           the National Labor Relations Board.

6                   (2) IN GENERAL.—Notwithstanding any con-  
7           trary provision of law, including the National Labor  
8           Relations Act (29 U.S.C. 151 et seq.), paragraphs  
9           (3) through (8) shall apply with respect to any cov-  
10          ered entity that is an employer and any labor orga-  
11          nization who represents or seeks to represent em-  
12          ployees of such covered entity.

13                   (3) LABOR PEACE.—Any employer that is a  
14          covered entity shall recognize for purposes of collec-  
15          tive bargaining a labor organization that dem-  
16          onstrates that a majority of the employees in a unit  
17          appropriate for bargaining who perform or will per-  
18          form work funded or assisted, in whole or in part,  
19          by a covered energy program have signed valid au-  
20          thorizations designating the labor organization as  
21          their bargaining representative and that no other  
22          labor organization is currently certified or recognized  
23          as the exclusive representative of any of the employ-  
24          ees in the unit pursuant to the National Labor Rela-  
25          tions Act (29 U.S.C. 151 et seq.). Upon such show-

1       ing of majority status, the employer shall notify the  
2       labor organization and the Board that the employer  
3       has determined that the labor organization rep-  
4       resents a majority of the employees and that the em-  
5       ployer is recognizing the labor organization as the  
6       exclusive representative of the employees for the pur-  
7       poses of collective bargaining pursuant to section 9  
8       of such Act (29 U.S.C. 159).

9           (4) CERTIFICATION.—Should a dispute over  
10       majority status or the appropriateness of the unit  
11       arise between the employer and the labor organiza-  
12       tion, either party may request that the Board inves-  
13       tigate and resolve the dispute. If the Board finds  
14       that a majority of the employees in a unit appro-  
15       priate for bargaining has signed valid authorizations  
16       designating the labor organization as their bar-  
17       gaining representative and that no other individual  
18       or labor organization is currently certified or recog-  
19       nized as the exclusive representative of any of the  
20       employees in the unit, the Board shall not direct an  
21       election but shall certify the labor organization as  
22       the representative described in section 9(a) of the  
23       National Labor Relations Act (29 U.S.C. 159(a)).

24           (5) COMMENCEMENT OF BARGAINING.—Not  
25       later than 10 days after receiving a written request

1 for collective bargaining from a recognized or cer-  
2 tified labor organization, or within such period as  
3 the parties agree upon, the labor organization and  
4 employer shall meet and commence to bargain collec-  
5 tively and shall make every reasonable effort to con-  
6 clude and sign a collective bargaining agreement.

7 (6) MEDIATION.—If after the expiration of the  
8 90-day period beginning on the date on which bar-  
9 gaining is commenced, or such additional period as  
10 the parties may agree upon, the parties have failed  
11 to reach an agreement, either party may notify the  
12 Federal Mediation and Conciliation Service of the  
13 existence of a dispute and request mediation. When-  
14 ever such a request is received, it shall be the duty  
15 of the Service promptly to put itself in communica-  
16 tion with the parties and to use its best efforts, by  
17 mediation and conciliation, to bring them to agree-  
18 ment.

19 (7) ARBITRATION.—If after the expiration of  
20 the 30-day period beginning on the date on which  
21 the request for mediation is made under paragraph  
22 (6), or such additional period as the parties may  
23 agree upon, the Federal Mediation and Conciliation  
24 Service is not able to bring the parties to agreement  
25 by conciliation, the Service shall refer the dispute to

1 a tripartite arbitration panel established in accord-  
2 ance with such regulations as may be prescribed by  
3 the Service, with one member selected by the labor  
4 organization, one member selected by the employer,  
5 and one neutral member mutually agreed to by the  
6 parties. The labor organization and employer must  
7 each select the members of the tripartite arbitration  
8 panel within 14 days of the Service's referral; if the  
9 labor organization or employer fail to do so, the  
10 Service shall designate any members not selected by  
11 the labor organization or the employer. A majority  
12 of the tripartite arbitration panel shall render a deci-  
13 sion settling the dispute as soon as practicable and  
14 not later than within 120 days of the selection of all  
15 members of the panel, absent extraordinary cir-  
16 cumstances or by agreement or permission of the  
17 parties, and such decision shall be binding upon the  
18 parties for a period of 2 years, unless amended dur-  
19 ing such period by written consent of the parties.  
20 Such decision shall be based on—

21 (A) the employer's financial status and  
22 prospects;

23 (B) the size and type of the employer's op-  
24 erations and business;

25 (C) the employees' cost of living;

1           (D) the employees' ability to sustain them-  
2           selves, their families, and their dependents on  
3           the wages and benefits they earn from the em-  
4           ployer; and

5           (E) the wages and benefits other employers  
6           in the same business provide their employees.

7           (8) CONTRACTORS AND SUBCONTRACTORS.—  
8           Any employer that is a covered entity shall require  
9           any contractor or subcontractor whose employees  
10          perform or will perform work funded or assisted, in  
11          whole or in part, by a covered energy program to  
12          comply with the requirements set forth in para-  
13          graphs (2) through (7).

14          (e) PROJECT LABOR AGREEMENT.—A covered entity  
15          performing any construction project funded or assisted, in  
16          whole or in part, by a covered energy program shall be  
17          a party to, or, as applicable, require contractors and sub-  
18          contractors in the performance of such project to be a  
19          party to, a project labor agreement.

20          (f) LIMITS ON BACKGROUND CHECKS.—A covered  
21          entity, and each contractor and subcontractor in the per-  
22          formance of any work funded or assisted, in whole or in  
23          part, by a covered energy program, shall not request or  
24          otherwise consider the criminal history of an applicant for



1 employment before extending a conditional offer to the ap-  
2 plicant, unless—

3 (1) a background check is otherwise required by  
4 law;

5 (2) the position is for a Federal law enforce-  
6 ment officer (as defined in section 115(c) of title 18,  
7 United States Code) position; or

8 (3) the Secretary of Labor, in consultation with  
9 the Secretary of Energy, certifies that precluding  
10 criminal history prior to the conditional offer would  
11 pose a threat to national security.

12 (g) EMPLOYEE STATUS.—A covered entity, and each  
13 contractor and subcontractor of the covered entity in the  
14 performance of any project funded or assisted, in whole  
15 or in part, by a covered energy program, shall consider  
16 an individual performing any service in such performance  
17 as an employee (and not an independent contractor) of  
18 the covered entity, contractor, or subcontractor, respec-  
19 tively, unless—

20 (1) the individual is free from control and direc-  
21 tion in connection with the performance of the serv-  
22 ice, both under the contract for the performance of  
23 the service and in fact;

1           (2) the service is performed outside the usual  
2           course of the business of the covered entity, con-  
3           tractor, or subcontractor, respectively; and

4           (3) the individual is customarily engaged in an  
5           independently established trade, occupation, profes-  
6           sion, or business of the same nature as that involved  
7           in such service.

8   **SEC. 10. EQUITABLE ALLOCATION OF FUNDS.**

9           The President and the Secretary of Energy shall each  
10          ensure that of the total amount of Federal support and  
11          assistance provided under this Act by the President and  
12          the Secretary of Energy, respectively, not less than 40 per-  
13          cent shall be invested in environmental justice commu-  
14          nities.