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[Report No. 117–268]

To ensure that certain Federal infrastructure programs require the use of materials produced in the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 22, 2021

Mr. BROWN (for himself, Mr. PORTMAN, Mr. PETERS, and Mr. BRAUN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

DECEMBER 19, 2022

Reported by Mr. PETERS, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To ensure that certain Federal infrastructure programs require the use of materials produced 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 “Build America, Buy
5 America Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the United States must make significant in-
4 vestments to install, upgrade, or replace the public
5 works infrastructure of the United States;

6 (2) with respect to investments in the infra-
7 structure of the United States, taxpayers expect that
8 their public works infrastructure will be produced in
9 the United States by American workers;

10 (3) United States taxpayer dollars invested in
11 public infrastructure should not be used to reward
12 companies that have moved their operations, invest-
13 ment dollars, and jobs to foreign countries or foreign
14 factories, particularly those that do not share or
15 openly flout the commitments of the United States
16 to environmental, worker, and workplace safety pro-
17 tections;

18 (4) in procuring materials for public works
19 projects, entities using taxpayer-financed Federal as-
20 sistance should give a commonsense procurement
21 preference for the materials and products produced
22 by companies and workers in the United States in
23 accordance with the high ideals embodied in the en-
24 vironmental, worker, workplace safety, and other
25 regulatory requirements of the United States;

1 (5) the benefits of domestic content preferences
2 extend beyond economies;

3 (6) by incentivizing domestic manufacturing;
4 domestic content preferences reinvest tax dollars in
5 companies and processes using the highest labor and
6 environmental standards in the world;

7 (7) strong domestic content preference policies
8 act to prevent shifts in production to countries that
9 rely on production practices that are significantly
10 less energy efficient and far more polluting than
11 those in the United States;

12 (8) for over 75 years, Buy America and other
13 domestic preference laws have been part of the
14 United States procurement policy, ensuring that the
15 United States can build and rebuild the infrastruc-
16 ture of the United States with high-quality Amer-
17 ican-made materials;

18 (9) Buy America laws create demand for do-
19 mestically produced goods, helping to sustain and
20 grow domestic manufacturing and the millions of
21 jobs domestic manufacturing supports throughout
22 product supply chains;

23 (10) as of the date of enactment of this Act,
24 domestic procurement preference policies apply to all

1 Federal Government procurement and to various
 2 Federal-aid infrastructure programs;

3 ~~(11)~~ a robust domestic manufacturing sector is
 4 a vital component of the national security of the
 5 United States;

6 ~~(12)~~ as more manufacturing operations of the
 7 United States have moved offshore, the strength and
 8 readiness of the defense industrial base of the
 9 United States has been diminished; and

10 ~~(13)~~ domestic procurement preference laws—

11 ~~(A)~~ are fully consistent with the inter-
 12 national obligations of the United States; and

13 ~~(B)~~ together with the government procure-
 14 ments to which the laws apply, are important
 15 levers for ensuring that United States manufac-
 16 turers can access the government procurement
 17 markets of the trading partners of the United
 18 States.

19 **SEC. 3. DEFINITIONS.**

20 In this Act:

21 ~~(1)~~ DEFICIENT PROGRAM.—The term “deficient
 22 program” means a program identified by the head of
 23 a Federal agency under section 4(c).

24 ~~(2)~~ DOMESTIC CONTENT PROCUREMENT PREF-
 25 ERENCE.—The term “domestic content procurement

1 preference” means a requirement that no amounts
 2 made available through a program for Federal finan-
 3 cial assistance may be obligated for a project un-
 4 less—

5 (A) all iron and steel used in the project
 6 are produced in the United States; or

7 (B) the manufactured products used in the
 8 project are produced in the United States.

9 ~~(3) FEDERAL AGENCY.—~~The term “Federal
 10 agency” has the meaning given the term “agency”
 11 in section 552(f) of title 5, United States Code.

12 ~~(4) FEDERAL FINANCIAL ASSISTANCE.—~~

13 ~~(A) IN GENERAL.—~~The term “Federal fi-
 14 nancial assistance” has the meaning given the
 15 term in section 200.40 of title 2, Code of Fed-
 16 eral Regulations (or successor regulations).

17 ~~(B) INCLUSION.—~~The term “Federal fi-
 18 nancial assistance” includes all expenditures by
 19 a Federal agency for an infrastructure project.

20 ~~(5) INFRASTRUCTURE.—~~The term “infrastruc-
 21 ture” includes, at a minimum, the structures, facili-
 22 ties, and equipment for, in the United States—

23 (A) roads, highways, and bridges;

24 (B) public transportation;

1 (C) dams, ports, harbors, and other mari-
2 time facilities;

3 (D) intercity passenger and freight rail-
4 roads;

5 (E) freight and intermodal facilities;

6 (F) airports;

7 (G) water systems, including drinking
8 water and wastewater systems;

9 (H) electrical transmission facilities and
10 systems;

11 (I) utilities;

12 (J) broadband infrastructure; and

13 (K) buildings and real property.

14 (6) PRODUCED IN THE UNITED STATES.—The
15 term “produced in the United States” means, in the
16 case of iron or steel products, that all manufacturing
17 processes, from the initial melting stage through the
18 application of coatings, occurred in the United
19 States.

20 (7) PROJECT.—The term “project” means the
21 construction, alteration, maintenance, or repair of
22 infrastructure in the United States.

1 **SEC. 4. IDENTIFICATION OF DEFICIENT PROGRAMS.**

2 (a) ~~IN GENERAL.~~—Not later than 60 days after the
3 date of enactment of this Act, the head of each Federal
4 agency shall—

5 (1) submit to the Office of Management and
6 Budget and to Congress, including a separate notice
7 to each appropriate congressional committee, a re-
8 port that identifies each Federal financial assistance
9 program for infrastructure administered by the Fed-
10 eral agency; and

11 (2) publish in the Federal Register the report
12 under paragraph (1).

13 (b) ~~REQUIREMENTS.~~—In the report under subsection
14 (a), the head of each Federal agency shall, for each Fed-
15 eral financial assistance program—

16 (1) identify all domestic content procurement
17 preferences applicable to the Federal financial as-
18 sistance;

19 (2) assess the applicability of the domestic con-
20 tent procurement preference requirements, includ-
21 ing—

22 (A) section 313 of title 23, United States
23 Code;

24 (B) section 5323(j) of title 49, United
25 States Code;

1 (C) section 22905(a) of title 49, United
2 States Code;

3 (D) section 50101 of title 49, United
4 States Code;

5 (E) section 603 of the Federal Water Pol-
6 lution Control Act (33 U.S.C. 1388);

7 (F) section 1452(a)(4) of the Safe Drink-
8 ing Water Act (42 U.S.C. 300j-12(a)(4));

9 (G) section 5035 of the Water Infrastruc-
10 ture Finance and Innovation Act of 2014 (33
11 U.S.C. 3914);

12 (H) any domestic content procurement
13 preference included in an appropriations Act;
14 and

15 (I) any other domestic content procure-
16 ment preference in Federal law (including regu-
17 lations);

18 (3) provide details on any applicable domestic
19 content procurement preference requirement, includ-
20 ing the purpose, scope, applicability, and any excep-
21 tions and waivers issued under the requirement; and

22 (4) include a description of the type of infra-
23 structure projects that receive funding under the
24 program, including information relating to—

1 (A) the number of entities that are partici-
2 pating in the program;

3 (B) the amount of Federal funds that are
4 made available for the program for each fiscal
5 year; and

6 (C) any other information the head of the
7 Federal agency determines to be relevant.

8 (e) LIST OF DEFICIENT PROGRAMS.—In the report
9 under subsection (a), the head of each Federal agency
10 shall include a list of Federal financial assistance pro-
11 grams for infrastructure identified under that subsection
12 for which a domestic content procurement preference re-
13 quirement—

14 (1) does not apply; or

15 (2) is subject to a waiver of general applica-
16 bility not limited to the use of specific products for
17 use in a specific project.

18 **SEC. 5. APPLICATION OF BUY AMERICA PREFERENCE.**

19 (a) IN GENERAL.—Not later than 180 days after the
20 date of enactment of this Act, the head of each Federal
21 agency shall ensure that none of the funds made available
22 for a Federal financial assistance program for infrastruc-
23 ture, including each deficient program, may be used for
24 a project unless all of the iron, steel, and manufactured

1 products used in the project are produced in the United
2 States.

3 (b) ~~WAIVER.~~—The head of a Federal agency that ap-
4 plies a domestic content procurement preference under
5 this section may waive the application of that preference
6 in any case in which the head of the Federal agency finds
7 that—

8 (1) applying the domestic content procurement
9 preference would be inconsistent with the public in-
10 terest;

11 (2) types of iron, steel, or manufactured prod-
12 ucts are not produced in the United States in suffi-
13 cient and reasonably available quantities or of a sat-
14 isfactory quality; or

15 (3) the inclusion of iron, steel, or manufactured
16 products produced in the United States will increase
17 the cost of the overall project by more than 25 per-
18 cent.

19 (c) ~~WRITTEN JUSTIFICATION.~~—Before issuing a
20 waiver under subsection (b), the head of the Federal agen-
21 cy shall—

22 (1) publish in the Federal Register and make
23 publicly available in an easily accessible location on
24 the website of the Federal agency a detailed written

1 explanation for the proposed determination to issue
 2 the waiver; and

3 ~~(2) provide a reasonable period for public com-~~
 4 ~~ment on the proposed waiver.~~

5 ~~(d) PROHIBITION ON WAIVERS OF GENERAL APPLI-~~
 6 ~~CABILITY.—A waiver issued under subsection (b) shall be~~
 7 ~~limited to the use of specific products for use in a specific~~
 8 ~~project.~~

9 ~~(e) CONSISTENCY WITH INTERNATIONAL AGREE-~~
 10 ~~MENTS.—This section shall be applied in a manner con-~~
 11 ~~sistent with United States obligations under international~~
 12 ~~agreements.~~

13 **SEC. 6. OMB GUIDANCE.**

14 The Director of the Office of Management and Budget
 15 et shall—

16 ~~(1) issue guidance to the head of each Federal~~
 17 ~~agency—~~

18 ~~(A) to assist in identifying deficient pro-~~
 19 ~~grams under section 4(c); and~~

20 ~~(B) to assist in applying new domestic con-~~
 21 ~~tent procurement preferences under section 5;~~
 22 ~~and~~

23 ~~(2) if necessary, amend subtitle A of title 2,~~
 24 ~~Code of Federal Regulations (or successor regula-~~
 25 ~~tions), to ensure that domestic content procurement~~

1 preference requirements required by this Act or
 2 other Federal law are imposed through the terms
 3 and conditions of awards of Federal financial assist-
 4 ance.

5 **SEC. 7. APPLICATION.**

6 (a) **IN GENERAL.**—This Act shall apply to a Federal
 7 financial assistance program for infrastructure only to the
 8 extent that a domestic content procurement preference as
 9 described in section 5 does not already apply to iron, steel,
 10 and manufactured products.

11 (b) **SAVINGS PROVISION.**—Nothing in this Act affects
 12 a domestic content procurement preference for a Federal
 13 financial assistance program for infrastructure that is in
 14 effect and that meets the requirements of section 5.

15 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

16 (a) **SHORT TITLE.**—*This Act may be cited as the*
 17 *“Build America, Buy America Act”.*

18 (b) **TABLE OF CONTENTS.**—*The table of contents for*
 19 *this Act is as follows:*

Sec. 1. Short title; table of contents.

TITLE I—BUILD AMERICA, BUY AMERICA

Sec. 101. Findings.

Sec. 102. Definitions.

Sec. 103. Identification of deficient programs.

Sec. 104. Application of Buy America preference.

Sec. 105. OMB guidance and standards.

*Sec. 106. Technical assistance partnership and consultation supporting Depart-
 ment of Transportation Buy America requirements.*

Sec. 107. Application.

TITLE II—MAKE IT IN AMERICA

Sec. 201. Regulations relating to Buy American Act.
 Sec. 202. Amendments relating to Buy American Act.
 Sec. 203. Made in America Office.
 Sec. 204. Hollings Manufacturing Extension Partnership activities.
 Sec. 205. United States obligations under international agreements.
 Sec. 206. Definitions.
 Sec. 207. Prospective amendments to internal cross-references.

1 **TITLE I—BUILD AMERICA, BUY**
 2 **AMERICA**

3 **SEC. 101. FINDINGS.**

4 *Congress finds that—*

5 *(1) the United States must make significant in-*
 6 *vestments to install, upgrade, or replace the public*
 7 *works infrastructure of the United States;*

8 *(2) with respect to investments in the infrastruc-*
 9 *ture of the United States, taxpayers expect that their*
 10 *public works infrastructure will be produced in the*
 11 *United States by American workers;*

12 *(3) United States taxpayer dollars invested in*
 13 *public infrastructure should not be used to reward*
 14 *companies that have moved their operations, invest-*
 15 *ment dollars, and jobs to foreign countries or foreign*
 16 *factories, particularly those that do not share or open-*
 17 *ly flout the commitments of the United States to envi-*
 18 *ronmental, worker, and workplace safety protections;*

19 *(4) in procuring materials for public works*
 20 *projects, entities using taxpayer-financed Federal as-*
 21 *sistance should give a commonsense procurement pref-*

1 *erence for the materials and products produced by*
2 *companies and workers in the United States in ac-*
3 *cordance with the high ideals embodied in the envi-*
4 *ronmental, worker, workplace safety, and other regu-*
5 *latory requirements of the United States;*

6 *(5) common construction materials used in pub-*
7 *lic works infrastructure projects, including steel, iron,*
8 *manufactured products, non-ferrous metals, plastic*
9 *and polymer-based products (including*
10 *polyvinylchloride, composite building materials, and*
11 *polymers used in fiber optic cables), concrete and*
12 *other aggregates, glass (including optic glass), lumber,*
13 *and drywall are not adequately covered by a domestic*
14 *content procurement preference, thus limiting the im-*
15 *pect of taxpayer purchases to enhance supply chains*
16 *in the United States;*

17 *(6) the benefits of domestic content procurement*
18 *preferences extend beyond economics;*

19 *(7) by incentivizing domestic manufacturing, do-*
20 *mestic content procurement preferences reinvest tax*
21 *dollars in companies and processes using the highest*
22 *labor and environmental standards in the world;*

23 *(8) strong domestic content procurement pref-*
24 *erence policies act to prevent shifts in production to*
25 *countries that rely on production practices that are*

1 *significantly less energy efficient and far more pol-*
2 *luting than those in the United States;*

3 *(9) for over 75 years, Buy America and other do-*
4 *mestic content procurement preference laws have been*
5 *part of the United States procurement policy, ensur-*
6 *ing that the United States can build and rebuild the*
7 *infrastructure of the United States with high-quality*
8 *American-made materials;*

9 *(10) before the date of enactment of this Act, a*
10 *domestic content procurement preference requirement*
11 *may not apply, may apply only to a narrow scope*
12 *of products and materials, or may be limited by*
13 *waiver with respect to many infrastructure programs,*
14 *which necessitates a review of such programs, includ-*
15 *ing programs for roads, highways, and bridges, public*
16 *transportation, dams, ports, harbors, and other mari-*
17 *time facilities, intercity passenger and freight rail-*
18 *roads, freight and intermodal facilities, airports,*
19 *water systems, including drinking water and waste-*
20 *water systems, electrical transmission facilities and*
21 *systems, utilities, broadband infrastructure, and*
22 *buildings and real property;*

23 *(11) Buy America laws create demand for do-*
24 *mestically produced goods, helping to sustain and*
25 *grow domestic manufacturing and the millions of jobs*

1 *domestic manufacturing supports throughout product*
2 *supply chains;*

3 *(12) as of the date of enactment of this Act, do-*
4 *mestic content procurement preference policies apply*
5 *to all Federal Government procurement and to var-*
6 *ious Federal-aid infrastructure programs;*

7 *(13) a robust domestic manufacturing sector is a*
8 *vital component of the national security of the United*
9 *States;*

10 *(14) as more manufacturing operations of the*
11 *United States have moved offshore, the strength and*
12 *readiness of the defense industrial base of the United*
13 *States has been diminished; and*

14 *(15) domestic content procurement preference*
15 *laws—*

16 *(A) are fully consistent with the inter-*
17 *national obligations of the United States; and*

18 *(B) together with the government procure-*
19 *ments to which the laws apply, are important le-*
20 *vers for ensuring that United States manufactur-*
21 *ers can access the government procurement mar-*
22 *kets of the trading partners of the United States.*

23 **SEC. 102. DEFINITIONS.**

24 *In this title:*

1 (1) *DEFICIENT PROGRAM.*—The term “deficient
2 program” means a program identified by the head of
3 a Federal agency under section 103(c).

4 (2) *DOMESTIC CONTENT PROCUREMENT PREFERENCE.*—The term “domestic content procurement
5 preference” means a requirement that no amounts
6 made available through a program for Federal finan-
7 cial assistance may be obligated for a project unless—

8 (A) all iron and steel used in the project are
9 produced in the United States;

10 (B) the manufactured products used in the
11 project are produced in the United States; or

12 (C) the construction materials used in the
13 project are produced in the United States.

14 (3) *FEDERAL AGENCY.*—The term “Federal agen-
15 cy” means any authority of the United States that is
16 an “agency” (as defined in section 3502 of title 44,
17 United States Code), other than an independent regu-
18 latory agency (as defined in that section).

19 (4) *FEDERAL FINANCIAL ASSISTANCE.*—

20 (A) *IN GENERAL.*—The term “Federal fi-
21 nancial assistance” has the meaning given the
22 term in section 200.1 of title 2, Code of Federal
23 Regulations (or successor regulations).
24

1 (B) *INCLUSION.*—The term “Federal finan-
 2 cial assistance” includes all expenditures by a
 3 Federal agency to a non-Federal entity for an
 4 infrastructure project, except that it does not in-
 5 clude expenditures for assistance authorized
 6 under section 402, 403, 404, 406, 408, or 502 of
 7 the Robert T. Stafford Disaster Relief and Emer-
 8 gency Assistance Act (42 U.S.C. 5170a, 5170b,
 9 5170c, 5172, 5174, or 5192) relating to a major
 10 disaster or emergency declared by the President
 11 under section 401 or 501, respectively, of such
 12 Act (42 U.S.C. 5170, 5191) or pre and post dis-
 13 aster or emergency response expenditures.

14 (5) *INFRASTRUCTURE.*—The term “infrastruc-
 15 ture” includes, at a minimum, the structures, facili-
 16 ties, and equipment for, in the United States—

17 (A) roads, highways, and bridges;

18 (B) public transportation;

19 (C) dams, ports, harbors, and other mari-
 20 time facilities;

21 (D) intercity passenger and freight rail-
 22 roads;

23 (E) freight and intermodal facilities;

24 (F) airports;

1 (G) *water systems, including drinking*
 2 *water and wastewater systems;*

3 (H) *electrical transmission facilities and*
 4 *systems;*

5 (I) *utilities;*

6 (J) *broadband infrastructure; and*

7 (K) *buildings and real property.*

8 (6) *PRODUCED IN THE UNITED STATES.—The*
 9 *term “produced in the United States” means—*

10 (A) *in the case of iron or steel products,*
 11 *that all manufacturing processes, from the ini-*
 12 *tial melting stage through the application of*
 13 *coatings, occurred in the United States;*

14 (B) *in the case of manufactured products,*
 15 *that—*

16 (i) *the manufactured product was*
 17 *manufactured in the United States; and*

18 (ii) *the cost of the components of the*
 19 *manufactured product that are mined, pro-*
 20 *duced, or manufactured in the United*
 21 *States is greater than 55 percent of the total*
 22 *cost of all components of the manufactured*
 23 *product, unless another standard for deter-*
 24 *mining the minimum amount of domestic*
 25 *content of the manufactured product has*

1 *been established under applicable law or*
 2 *regulation; and*

3 *(C) in the case of construction materials,*
 4 *that all manufacturing processes for the con-*
 5 *struction material occurred in the United States.*

6 *(7) PROJECT.—The term “project” means the*
 7 *construction, alteration, maintenance, or repair of in-*
 8 *frastructure in the United States.*

9 **SEC. 103. IDENTIFICATION OF DEFICIENT PROGRAMS.**

10 *(a) IN GENERAL.—Not later than 60 days after the*
 11 *date of enactment of this Act, the head of each Federal agen-*
 12 *cy shall—*

13 *(1) submit to the Office of Management and*
 14 *Budget and to Congress, including a separate notice*
 15 *to each appropriate congressional committee, a report*
 16 *that identifies each Federal financial assistance pro-*
 17 *gram for infrastructure administered by the Federal*
 18 *agency; and*

19 *(2) publish in the Federal Register the report*
 20 *under paragraph (1).*

21 *(b) REQUIREMENTS.—In the report under subsection*
 22 *(a), the head of each Federal agency shall, for each Federal*
 23 *financial assistance program—*

1 (1) *identify all domestic content procurement*
2 *preferences applicable to the Federal financial assist-*
3 *ance;*

4 (2) *assess the applicability of the domestic con-*
5 *tent procurement preference requirements, includ-*
6 *ing—*

7 (A) *section 313 of title 23, United States*
8 *Code;*

9 (B) *section 5323(j) of title 49, United States*
10 *Code;*

11 (C) *section 22905(a) of title 49, United*
12 *States Code;*

13 (D) *section 50101 of title 49, United States*
14 *Code;*

15 (E) *section 603 of the Federal Water Pollu-*
16 *tion Control Act (33 U.S.C. 1388);*

17 (F) *section 1452(a)(4) of the Safe Drinking*
18 *Water Act (42 U.S.C. 300j-12(a)(4));*

19 (G) *section 5035 of the Water Infrastructure*
20 *Finance and Innovation Act of 2014 (33 U.S.C.*
21 *3914);*

22 (H) *any domestic content procurement pref-*
23 *erence included in an appropriations Act; and*

1 (I) any other domestic content procurement
2 preference in Federal law (including regula-
3 tions);

4 (3) provide details on any applicable domestic
5 content procurement preference requirement, includ-
6 ing the purpose, scope, applicability, and any excep-
7 tions and waivers issued under the requirement; and
8 (4) include a description of the type of infra-
9 structure projects that receive funding under the pro-
10 gram, including information relating to—

11 (A) the number of entities that are partici-
12 pating in the program;

13 (B) the amount of Federal funds that are
14 made available for the program for each fiscal
15 year; and

16 (C) any other information the head of the
17 Federal agency determines to be relevant.

18 (c) *LIST OF DEFICIENT PROGRAMS.*—In the report
19 under subsection (a), the head of each Federal agency shall
20 include a list of Federal financial assistance programs for
21 infrastructure identified under that subsection for which a
22 domestic content procurement preference requirement—

23 (1) does not apply in a manner consistent with
24 section 104; or

1 (2) *is subject to a waiver of general applicability*
 2 *not limited to the use of specific products for use in*
 3 *a specific project.*

4 **SEC. 104. APPLICATION OF BUY AMERICA PREFERENCE.**

5 (a) *IN GENERAL.*—Not later than 180 days after the
 6 *date of enactment of this Act, the head of each Federal agen-*
 7 *cy shall ensure that none of the funds made available for*
 8 *a Federal financial assistance program for infrastructure,*
 9 *including each deficient program, may be obligated for a*
 10 *project unless all of the iron, steel, manufactured products,*
 11 *and construction materials used in the project are produced*
 12 *in the United States.*

13 (b) *WAIVER.*—The head of a Federal agency that ap-
 14 *plies a domestic content procurement preference under this*
 15 *section may waive the application of that preference in any*
 16 *case in which the head of the Federal agency finds that—*

17 (1) *applying the domestic content procurement*
 18 *preference would be inconsistent with the public inter-*
 19 *est;*

20 (2) *types of iron, steel, manufactured products,*
 21 *or construction materials are not produced in the*
 22 *United States in sufficient and reasonably available*
 23 *quantities or of a satisfactory quality; or*

24 (3) *the inclusion of iron, steel, manufactured*
 25 *products, or construction materials produced in the*

1 *United States will increase the cost of the overall*
 2 *project by more than 25 percent.*

3 (c) *WRITTEN JUSTIFICATION.*—*Before issuing a waiver*
 4 *er under subsection (b), the head of the Federal agency*
 5 *shall—*

6 (1) *make publicly available in an easily acces-*
 7 *sible location on a website designated by the Office of*
 8 *Management and Budget and on the website of the*
 9 *Federal agency a detailed written explanation for the*
 10 *proposed determination to issue the waiver; and*

11 (2) *provide a period of not less than 15 days for*
 12 *public comment on the proposed waiver.*

13 (d) *AUTOMATIC SUNSET ON WAIVERS OF GENERAL*
 14 *APPLICABILITY.*—

15 (1) *IN GENERAL.*—*A general applicability waiver*
 16 *er issued under subsection (b) shall expire not later*
 17 *than 2 years after the date on which the waiver is*
 18 *issued.*

19 (2) *REISSUANCE.*—*The head of a Federal agency*
 20 *may reissue a general applicability waiver only*
 21 *after—*

22 (A) *publishing in the Federal Register a no-*
 23 *tice that—*

24 (i) *describes the justification for reissu-*
 25 *ing a general applicability waiver; and*

1 (ii) requests public comments for a pe-
 2 riod of not less than 30 days; and

3 (B) publishing in the *Federal Register* a
 4 second notice that—

5 (i) responds to the public comments re-
 6 ceived in response to the first notice; and

7 (ii) provides the final decision on
 8 whether the general applicability waiver
 9 will be reissued.

10 (e) *CONSISTENCY WITH INTERNATIONAL AGREE-*
 11 *MENTS.*—*This section shall be applied in a manner con-*
 12 *sistent with United States obligations under international*
 13 *agreements.*

14 **SEC. 105. OMB GUIDANCE AND STANDARDS.**

15 (a) *GUIDANCE.*—*The Director of the Office of Manage-*
 16 *ment and Budget shall—*

17 (1) *issue guidance to the head of each Federal*
 18 *agency—*

19 (A) *to assist in identifying deficient pro-*
 20 *grams under section 103(c); and*

21 (B) *to assist in applying new domestic con-*
 22 *tent procurement preferences under section 104;*
 23 *and*

24 (2) *if necessary, amend subtitle A of title 2, Code*
 25 *of Federal Regulations (or successor regulations), to*

1 *ensure that domestic content procurement preference*
2 *requirements required by this title or other Federal*
3 *law are imposed through the terms and conditions of*
4 *awards of Federal financial assistance.*

5 **(b) STANDARDS FOR CONSTRUCTION MATERIALS.—**

6 **(1) IN GENERAL.—***Not later than 180 days after*
7 *the date of enactment of this Act, the Director of the*
8 *Office of Management and Budget shall issue stand-*
9 *ards that define the term “all manufacturing proc-*
10 *esses” in the case of construction materials.*

11 **(2) CONSIDERATIONS.—***In issuing standards*
12 *under paragraph (1), the Director shall—*

13 **(A)** *ensure that the standards require that*
14 *each manufacturing process required for the*
15 *manufacture of the construction material and the*
16 *inputs of the construction material occurs in the*
17 *United States; and*

18 **(B)** *take into consideration and seek to*
19 *maximize the direct and indirect jobs benefited*
20 *or created in the production of the construction*
21 *material.*

1 **SEC. 106. TECHNICAL ASSISTANCE PARTNERSHIP AND CON-**
 2 **SULTATION SUPPORTING DEPARTMENT OF**
 3 **TRANSPORTATION BUY AMERICA REQUIRE-**
 4 **MENTS.**

5 (a) *DEFINITIONS.—In this section:*

6 (1) *BUY AMERICA LAW.—The term “Buy Amer-*
 7 *ica law” means—*

8 (A) *section 313 of title 23, United States*
 9 *Code;*

10 (B) *section 5323(j) of title 49, United States*
 11 *Code;*

12 (C) *section 22905(a) of title 49, United*
 13 *States Code;*

14 (D) *section 50101 of title 49, United States*
 15 *Code; and*

16 (E) *any other domestic content procurement*
 17 *preference for an infrastructure project under the*
 18 *jurisdiction of the Secretary.*

19 (2) *SECRETARY.—The term “Secretary” means*
 20 *the Secretary of Transportation.*

21 (b) *TECHNICAL ASSISTANCE PARTNERSHIP.—Not later*
 22 *than 90 days after the date of the enactment of this Act,*
 23 *the Secretary shall enter into a technical assistance part-*
 24 *nership with the Secretary of Commerce, acting through the*
 25 *Director of the National Institute of Standards and Tech-*
 26 *nology—*

1 (1) *to ensure the development of a domestic sup-*
2 *ply base to support intermodal transportation in the*
3 *United States, such as intercity high speed rail trans-*
4 *portation, public transportation systems, highway*
5 *construction or reconstruction, airport improvement*
6 *projects, and other infrastructure projects under the*
7 *jurisdiction of the Secretary;*

8 (2) *to ensure compliance with Buy America laws*
9 *that apply to a project that receives assistance from*
10 *the Federal Highway Administration, the Federal*
11 *Transit Administration, the Federal Railroad Ad-*
12 *ministration, the Federal Aviation Administration, or*
13 *another office or modal administration of the Sec-*
14 *retary of Transportation;*

15 (3) *to encourage technologies developed with the*
16 *support of and resources from the Secretary to be*
17 *transitioned into commercial market and applica-*
18 *tions; and*

19 (4) *to establish procedures for consultation under*
20 *subsection (c).*

21 (c) *CONSULTATION.*—*Before granting a written waiver*
22 *under a Buy America law, the Secretary shall consult with*
23 *the Director of the Hollings Manufacturing Extension Part-*
24 *nership regarding whether there is a domestic entity that*

1 *could provide the iron, steel, manufactured product, or con-*
 2 *struction material that is the subject of the proposed waiver.*

3 *(d) ANNUAL REPORT.—Not later than 1 year after the*
 4 *date of enactment of this Act, and annually thereafter, the*
 5 *Secretary shall submit to the Committee on Commerce,*
 6 *Science, and Transportation, the Committee on Banking,*
 7 *Housing, and Urban Affairs, the Committee on Environ-*
 8 *ment and Public Works, and the Committee on Homeland*
 9 *Security and Governmental Affairs of the Senate and the*
 10 *Committee on Transportation and Infrastructure and the*
 11 *Committee on Oversight and Reform of the House of Rep-*
 12 *resentatives a report that includes—*

13 *(1) a detailed description of the consultation pro-*
 14 *cedures developed under subsection (b)(4);*

15 *(2) a detailed description of each waiver re-*
 16 *quested under a Buy America law in the preceding*
 17 *year that was subject to consultation under subsection*
 18 *(c), and the results of the consultation;*

19 *(3) a detailed description of each waiver granted*
 20 *under a Buy America law in the preceding year, in-*
 21 *cluding the type of waiver and the reasoning for*
 22 *granting the waiver; and*

23 *(4) an update on challenges and gaps in the do-*
 24 *mestic supply base identified in carrying out sub-*
 25 *section (b)(1), including a list of actions and policy*

1 *changes the Secretary recommends be taken to address*
 2 *those challenges and gaps.*

3 **SEC. 107. APPLICATION.**

4 (a) *IN GENERAL.*—*This title shall apply to a Federal*
 5 *financial assistance program for infrastructure only to the*
 6 *extent that a domestic content procurement preference as*
 7 *described in section 104 does not already apply to iron,*
 8 *steel, manufactured products, and construction materials.*

9 (b) *SAVINGS PROVISION.*—*Nothing in this title affects*
 10 *a domestic content procurement preference for a Federal fi-*
 11 *nancial assistance program for infrastructure that is in ef-*
 12 *fect and that meets the requirements of section 104.*

13 **TITLE II—MAKE IT IN AMERICA**

14 **SEC. 201. REGULATIONS RELATING TO BUY AMERICAN ACT.**

15 (a) *IN GENERAL.*—*Not later than 1 year after the date*
 16 *of the enactment of this Act, the Director of the Office of*
 17 *Management and Budget (“Director”), acting through the*
 18 *Administrator for Federal Procurement Policy and, in con-*
 19 *sultation with the Federal Acquisition Regulatory Council,*
 20 *shall promulgate final regulations or other policy or man-*
 21 *agement guidance, as appropriate, to standardize and sim-*
 22 *plify how Federal agencies comply with, report on, and en-*
 23 *force the Buy American Act. The regulations or other policy*
 24 *or management guidance shall include, at a minimum, the*
 25 *following:*

1 (1) *Guidelines for Federal agencies to determine,*
2 *for the purposes of applying sections 8302(a) and*
3 *8303(b)(3) of title 41, United States Code, the cir-*
4 *cumstances under which the acquisition of articles,*
5 *materials, or supplies mined, produced, or manufac-*
6 *tured in the United States is inconsistent with the*
7 *public interest.*

8 (2) *Guidelines to ensure Federal agencies base*
9 *determinations of non-availability on appropriate*
10 *considerations, including anticipated project delays*
11 *and lack of substitutable articles, materials, and sup-*
12 *plies mined, produced, or manufactured in the United*
13 *States, when making determinations of non-avail-*
14 *ability under section 8302(a)(1) of title 41, United*
15 *States Code.*

16 (3)(A) *Uniform procedures for each Federal*
17 *agency to make publicly available, in an easily iden-*
18 *tifiable location on the website of the agency, and*
19 *within the following time periods, the following infor-*
20 *mation:*

21 (i) *A written description of the cir-*
22 *cumstances in which the head of the agency may*
23 *waive the requirements of the Buy American Act.*

24 (ii) *Each waiver made by the head of the*
25 *agency within 30 days after making such waiv-*

1 *er, including a justification with sufficient detail*
 2 *to explain the basis for the waiver.*

3 *(B) The procedures established under this para-*
 4 *graph shall ensure that the head of an agency may*
 5 *limit the publication of classified information.*

6 *(4) Guidelines for Federal agencies to ensure that*
 7 *a project is not disaggregated for purposes of avoiding*
 8 *the applicability of the requirements under the Buy*
 9 *American Act.*

10 *(5) An increase to the price preferences for do-*
 11 *mestic end products and domestic construction mate-*
 12 *rials.*

13 *(6) Amending the definitions of “domestic end*
 14 *product” and “domestic construction material” to en-*
 15 *sure that iron and steel products are, to the greatest*
 16 *extent possible, made with domestic components.*

17 ***(b) GUIDELINES RELATING TO WAIVERS.—***

18 ***(1) INCONSISTENCY WITH PUBLIC INTEREST.—***

19 ***(A) IN GENERAL.—****With respect to the*
 20 *guidelines developed under subsection (a)(1), the*
 21 *Administrator shall seek to minimize waivers re-*
 22 *lated to contract awards that—*

23 *(i) result in a decrease in employment*
 24 *in the United States, including employment*

1 among entities that manufacture the arti-
2 cles, materials, or supplies; or

3 (ii) result in awarding a contract that
4 would decrease domestic employment.

5 (B) COVERED EMPLOYMENT.—For purposes
6 of subparagraph (A), employment refers to posi-
7 tions directly involved in the manufacture of ar-
8 ticles, materials, or supplies, and does not in-
9 clude positions related to management, research
10 and development, or engineering and design.

11 (2) ASSESSMENT ON USE OF DUMPED OR SUB-
12 SIDIZED FOREIGN PRODUCTS.—

13 (A) IN GENERAL.—To the extent otherwise
14 permitted by law, before granting a waiver in
15 the public interest to the guidelines developed
16 under subsection (a)(1) with respect to a product
17 sourced from a foreign country, a Federal agency
18 shall assess whether a significant portion of the
19 cost advantage of the product is the result of the
20 use of dumped steel, iron, or manufactured goods
21 or the use of injuriously subsidized steel, iron, or
22 manufactured goods.

23 (B) CONSULTATION.—The Federal agency
24 conducting the assessment under subparagraph
25 (A) shall consult with the International Trade

1 *Administration in making the assessment if the*
 2 *agency considers such consultation to be helpful.*

3 (C) *USE OF FINDINGS.—The Federal agency*
 4 *conducting the assessment under subparagraph*
 5 *(A) shall integrate any findings from the assess-*
 6 *ment into its waiver determination.*

7 (c) *SENSE OF CONGRESS ON INCREASING DOMESTIC*
 8 *CONTENT REQUIREMENTS.—It is the sense of Congress that*
 9 *the Federal Acquisition Regulatory Council should amend*
 10 *the Federal Acquisition Regulation to increase the domestic*
 11 *content requirements for domestic end products and domes-*
 12 *tic construction material to 75 percent, or, in the event of*
 13 *no qualifying offers, 60 percent.*

14 (d) *DEFINITION OF END PRODUCT MANUFACTURED IN*
 15 *THE UNITED STATES.—Not later than 1 year after the date*
 16 *of the enactment of this Act, the Federal Acquisition Regu-*
 17 *latory Council shall amend part 25 of the Federal Acquisi-*
 18 *tion Regulation to provide a definition for “end product*
 19 *manufactured in the United States,” including guidelines*
 20 *to ensure that manufacturing processes involved in produc-*
 21 *tion of the end product occur domestically.*

22 **SEC. 202. AMENDMENTS RELATING TO BUY AMERICAN ACT.**

23 (a) *SPECIAL RULES RELATING TO AMERICAN MATE-*
 24 *RIALS REQUIRED FOR PUBLIC USE.—Section 8302 of title*

1 41, *United States Code*, is amended by adding at the end
 2 the following new subsection:

3 “(c) *SPECIAL RULES.*—The following rules apply in
 4 carrying out the provisions of subsection (a):

5 “(1) *IRON AND STEEL MANUFACTURED IN THE*
 6 *UNITED STATES.*—For purposes of this section, manu-
 7 factured articles, materials, and supplies of iron and
 8 steel are deemed manufactured in the United States
 9 only if all manufacturing processes involved in the
 10 production of such iron and steel, from the initial
 11 melting stage through the application of coatings, oc-
 12 curs in the United States.

13 “(2) *LIMITATION ON EXCEPTION FOR COMMER-*
 14 *CIALLY AVAILABLE OFF-THE-SHELF ITEMS.*—Notwith-
 15 standing any law or regulation to the contrary, in-
 16 cluding section 1907 of this title and the Federal Ac-
 17 quisition Regulation, the requirements of this section
 18 apply to all iron and steel articles, materials, and
 19 supplies.”.

20 (b) *PRODUCTION OF IRON AND STEEL FOR PURPOSES*
 21 *OF CONTRACTS FOR PUBLIC WORKS.*—Section 8303 of title
 22 41, *United States Code*, is amended—

23 (1) by redesignating subsection (c) as subsection
 24 (d); and

1 (2) *by inserting after subsection (b) the following*
 2 *new subsection:*

3 “(c) *SPECIAL RULES.—*

4 “(1) *PRODUCTION OF IRON AND STEEL.—For*
 5 *purposes of this section, manufactured articles, mate-*
 6 *rials, and supplies of iron and steel are deemed man-*
 7 *ufactured in the United States only if all manufac-*
 8 *turing processes involved in the production of such*
 9 *iron and steel, from the initial melting stage through*
 10 *the application of coatings, occurs in the United*
 11 *States.*

12 “(2) *LIMITATION ON EXCEPTION FOR COMMER-*
 13 *CIALLY AVAILABLE OFF-THE-SHELF ITEMS.—Notwith-*
 14 *standing any law or regulation to the contrary, in-*
 15 *cluding section 1907 of this title and the Federal Ac-*
 16 *quisition Regulation, the requirements of this section*
 17 *apply to all iron and steel articles, materials, and*
 18 *supplies used in contracts described in subsection*
 19 *(a).”.*

20 “(c) *ANNUAL REPORT.—Subsection (b) of section 8302*
 21 *of title 41, United States Code, is amended to read as fol-*
 22 *lows:*

23 “(b) *REPORTS.—*

24 “(1) *IN GENERAL.—Not later than 180 days*
 25 *after the end of the fiscal year during which the Build*

1 *America, Buy America Act is enacted, and annually*
 2 *thereafter for 4 years, the Director of the Office of*
 3 *Management and Budget, in consultation with the*
 4 *Administrator of General Services, shall submit to the*
 5 *Committee on Homeland Security and Governmental*
 6 *Affairs of the Senate and the Committee on Oversight*
 7 *and Reform of the House of Representatives a report*
 8 *on the total amount of acquisitions made by Federal*
 9 *agencies in the relevant fiscal year of articles, mate-*
 10 *rials, or supplies acquired from entities that mine,*
 11 *produce, or manufacture the articles, materials, or*
 12 *supplies outside the United States.*

13 “(2) *EXCEPTION FOR INTELLIGENCE COMMU-*
 14 *NITY.—This subsection does not apply to acquisitions*
 15 *made by an agency, or component of an agency, that*
 16 *is an element of the intelligence community as speci-*
 17 *fied in, or designated under, section 3 of the National*
 18 *Security Act of 1947 (50 U.S.C. 3003).’.*

19 “(d) *DEFINITION.—Section 8301 of title 41, United*
 20 *States Code, is amended by adding at the end the following*
 21 *new paragraph:*

22 “(3) *FEDERAL AGENCY.—The term ‘Federal*
 23 *agency’ has the meaning given the term ‘executive*
 24 *agency’ in section 133 of this title.’.*

1 (e) *CONFORMING AMENDMENTS.*—*Title 41, United*
 2 *States Code, is amended—*

3 (1) *in section 8302(a)—*

4 (A) *in paragraph (1)—*

5 (i) *by striking “department or inde-*
 6 *pendent establishment” and inserting “Fed-*
 7 *eral agency”; and*

8 (ii) *by striking “their acquisition to be*
 9 *inconsistent with the public interest or their*
 10 *cost to be unreasonable” and inserting*
 11 *“their acquisition to be inconsistent with*
 12 *the public interest, their cost to be unrea-*
 13 *sonable, or that the articles, materials, or*
 14 *supplies of the class or kind to be used, or*
 15 *the articles, materials, or supplies from*
 16 *which they are manufactured, are not*
 17 *mined, produced, or manufactured in the*
 18 *United States in sufficient and reasonably*
 19 *available commercial quantities and of a*
 20 *satisfactory quality”; and*

21 (B) *in paragraph (2), by amending sub-*
 22 *paragraph (B) to read as follows:*

23 “(B) *to any articles, materials, or supplies*
 24 *procured pursuant to a reciprocal defense pro-*
 25 *curement memorandum of understanding (as de-*

scribed in section 8304 of this title), or a trade agreement or least developed country designation described in subpart 25.400 of the Federal Acquisition Regulation; and”;

(2) in section 8303—

(A) in subsection (b)—

(i) by striking “department or independent establishment” each place it appears and inserting “Federal agency”;

(ii) by amending subparagraph (B) of paragraph (1) to read as follows:

“(B) to any articles, materials, or supplies procured pursuant to a reciprocal defense procurement memorandum of understanding (as described in section 8304), or a trade agreement or least developed country designation described in subpart 25.400 of the Federal Acquisition Regulation; and”;

(iii) in paragraph (3)—

(I) in the heading, by striking

“INCONSISTENT WITH PUBLIC INTEREST” and inserting “WAIVER AUTHORITY”;

(II) by striking “their purchase to

be inconsistent with the public interest

1 or their cost to be unreasonable” and
 2 inserting “their acquisition to be in-
 3 consistent with the public interest,
 4 their cost to be unreasonable, or that
 5 the articles, materials, or supplies of
 6 the class or kind to be used, or the arti-
 7 cles, materials, or supplies from which
 8 they are manufactured, are not mined,
 9 produced, or manufactured in the
 10 United States in sufficient and reason-
 11 ably available commercial quantities
 12 and of a satisfactory quality”; and

13 (B) in subsection (d), as redesignated by
 14 subsection (b)(1) of this section, by striking “de-
 15 partment, bureau, agency, or independent estab-
 16 lishment” each place it appears and inserting
 17 “Federal agency”.

18 (f) *EXCLUSION FROM INFLATION ADJUSTMENT OF AC-*
 19 *QUISITION-RELATED DOLLAR THRESHOLDS.*—Subpara-
 20 graph (A) of section 1908(b)(2) of title 41, United States
 21 Code, is amended by striking “chapter 67” and inserting
 22 “chapters 67 and 83”.

23 **SEC. 203. MADE IN AMERICA OFFICE.**

24 (a) *ESTABLISHMENT.*—The Director of the Office of
 25 Management and Budget shall establish within the Office

1 *of Management and Budget an office to be known as the*
 2 *“Made in America Office”. The head of the office shall be*
 3 *appointed by the Director of the Office of Management and*
 4 *Budget (in this section referred to as the “Made in America*
 5 *Director”).*

6 (b) *DUTIES.—The Made in America Director shall*
 7 *have the following duties:*

8 (1) *Maximize and enforce compliance with do-*
 9 *mestic preference statutes.*

10 (2) *Develop and implement procedures to review*
 11 *waiver requests or inapplicability requests related to*
 12 *domestic preference statutes.*

13 (3) *Prepare the reports required under sub-*
 14 *sections (c) and (e).*

15 (4) *Ensure that Federal contracting personnel,*
 16 *financial assistance personnel, and non-Federal re-*
 17 *cipients are regularly trained on obligations under*
 18 *the Buy American Act and other agency-specific do-*
 19 *mestic preference statutes.*

20 (5) *Conduct the review of reciprocal defense*
 21 *agreements required under subsection (d).*

22 (6) *Ensure that Federal agencies, Federal finan-*
 23 *cial assistance recipients, and the Hollings Manufac-*
 24 *turing Extension Partnership partner with each other*

1 to promote compliance with domestic preference stat-
2 utes.

3 (7) Support executive branch efforts to develop
4 and sustain a domestic supply base to meet Federal
5 procurement requirements.

6 (c) *OFFICE OF MANAGEMENT AND BUDGET REPORT.*—
7 Not later than 1 year after the date of the enactment of
8 this Act, the Director of the Office of Management and
9 Budget, working through the Made in America Director,
10 shall report to the relevant congressional committees on the
11 extent to which, in each of the three fiscal years prior to
12 the date of enactment of this Act, articles, materials, or sup-
13 plies acquired by the Federal Government were mined, pro-
14 duced, or manufactured outside the United States. Such re-
15 port shall include for each Federal agency the following:

16 (1) A summary of total procurement funds ex-
17 pended on articles, materials, and supplies mined,
18 produced, or manufactured—

19 (A) inside the United States;

20 (B) outside the United States; and

21 (C) outside the United States—

22 (i) under each category of waiver
23 under the Buy American Act;

24 (ii) under each category of exception
25 under such chapter; and

1 (iii) for each country that mined, pro-
2 duced, or manufactured such articles, mate-
3 rials, and supplies.

4 (2) For each fiscal year covered by the report—

5 (A) the dollar value of any articles, mate-
6 rials, or supplies that were mined, produced, or
7 manufactured outside the United States, in the
8 aggregate and by country;

9 (B) an itemized list of all waivers made
10 under the Buy American Act with respect to ar-
11 ticles, materials, or supplies, where available,
12 and the country where such articles, materials,
13 or supplies were mined, produced, or manufac-
14 tured;

15 (C) if any articles, materials, or supplies
16 were acquired from entities that mine, produce,
17 or manufacture such articles, materials, or sup-
18 plies outside the United States due to an excep-
19 tion (that is not the micro-purchase threshold ex-
20 ception described under section 8302(a)(2)(C) of
21 title 41, United States Code), the specific excep-
22 tion that was used to purchase such articles, ma-
23 terials, or supplies; and

24 (D) if any articles, materials, or supplies
25 were acquired from entities that mine, produce,

1 *or manufacture such articles, materials, or sup-*
 2 *plies outside the United States pursuant to a re-*
 3 *ciprocal defense procurement memorandum of*
 4 *understanding (as described in section 8304 of*
 5 *title 41, United States Code), or a trade agree-*
 6 *ment or least developed country designation de-*
 7 *scribed in subpart 25.400 of the Federal Acquisi-*
 8 *tion Regulation, a citation to such memorandum*
 9 *of understanding, trade agreement, or designa-*
 10 *tion.*

11 *(3) A description of the methods used by each*
 12 *Federal agency to calculate the percentage domestic*
 13 *content of articles, materials, and supplies mined,*
 14 *produced, or manufactured in the United States.*

15 *(d) REVIEW OF RECIPROCAL DEFENSE AGREE-*
 16 *MENTS.—*

17 *(1) REVIEW OF PROCESS.—Not later than 180*
 18 *days after the date of the enactment of this Act, the*
 19 *Made in America Director shall review the Depart-*
 20 *ment of Defense’s use of reciprocal defense agreements*
 21 *to determine if domestic entities have equal and pro-*
 22 *portional access and report the findings of the review*
 23 *to the Director of the Office of Management and*
 24 *Budget, the Secretary of Defense, and the Secretary of*
 25 *State.*

1 (2) *REVIEW OF RECIPROCAL PROCUREMENT*
 2 *MEMORANDA OF UNDERSTANDING.—The Made in*
 3 *America Director shall review reciprocal procurement*
 4 *memoranda of understanding entered into after the*
 5 *date of the enactment of this Act between the Depart-*
 6 *ment of Defense and its counterparts in foreign gov-*
 7 *ernments to assess whether domestic entities will have*
 8 *equal and proportional access under the memoranda*
 9 *of understanding and report the findings of the review*
 10 *to the Director of the Office of Management and*
 11 *Budget, the Secretary of Defense, and the Secretary of*
 12 *State.*

13 (e) *REPORT ON USE OF MADE IN AMERICA LAWS.—*
 14 *The Made in America Director shall submit to the relevant*
 15 *congressional committees a summary of each report on the*
 16 *use of Made in America Laws received by the Made in*
 17 *America Director pursuant to section 11 of Executive Order*
 18 *14005, dated January 25, 2021 (relating to ensuring the*
 19 *future is made in all of America by all of America’s work-*
 20 *ers) not later than 90 days after the date of the enactment*
 21 *of this Act or receipt of the reports required under section*
 22 *11 of such Executive Order, whichever is later.*

23 (f) *DOMESTIC PREFERENCE STATUTE DEFINED.—In*
 24 *this section, the term “domestic preference statute” means*
 25 *any of the following:*

1 (1) *the Buy American Act;*

2 (2) *a Buy America law (as that term is defined*
3 *in section 106(a));*

4 (3) *the Berry Amendment;*

5 (4) *section 604 of the American Recovery and*
6 *Reinvestment Act of 2009 (6 U.S.C. 453b) (commonly*
7 *referred to as the “Kissell amendment”);*

8 (5) *section 2533b of title 10 (commonly referred*
9 *to as the “specialty metals clause”);*

10 (6) *laws requiring domestic preference for mari-*
11 *time transport, including the Merchant Marine Act,*
12 *1920 (Public Law 66–261), commonly known as the*
13 *“Jones Act”; and*

14 (7) *any other law, regulation, rule, or executive*
15 *order relating to Federal financial assistance awards*
16 *or Federal procurement, that requires, or provides a*
17 *preference for, the purchase or acquisition of goods,*
18 *products, or materials produced in the United States,*
19 *including iron, steel, construction material, and man-*
20 *ufactured goods offered in the United States.*

21 **SEC. 204. HOLLINGS MANUFACTURING EXTENSION PART-**
22 **nership ACTIVITIES.**

23 (a) *USE OF HOLLINGS MANUFACTURING EXTENSION*
24 *PARTNERSHIP TO REFER NEW BUSINESSES TO CON-*
25 *TRACTING OPPORTUNITIES.*—*The head of each Federal*

1 *agency shall work with the Director of the Hollings Manu-*
 2 *facturing Extension Partnership, as necessary, to ensure*
 3 *businesses participating in this Partnership are aware of*
 4 *their contracting opportunities.*

5 (b) *AUTOMATIC ENROLLMENT IN GSA ADVANTAGE!.*—
 6 *The Administrator of the General Services Administration*
 7 *and the Secretary of Commerce, acting through the Under*
 8 *Secretary of Commerce for Standards and Technology, shall*
 9 *jointly ensure that each business that participates in the*
 10 *Hollings Manufacturing Extension Partnership is auto-*
 11 *matically enrolled in General Services Administration Ad-*
 12 *vantage!.*

13 **SEC. 205. UNITED STATES OBLIGATIONS UNDER INTER-**
 14 **NATIONAL AGREEMENTS.**

15 *This title, and the amendments made by this title,*
 16 *shall be applied in a manner consistent with United States*
 17 *obligations under international agreements.*

18 **SEC. 206. DEFINITIONS.**

19 *In this title:*

20 (1) *BERRY AMENDMENT.*—*The term “Berry*
 21 *Amendment” means section 2533a of title 10, United*
 22 *States Code.*

23 (2) *BUY AMERICAN ACT.*—*The term “Buy Amer-*
 24 *ican Act” means chapter 83 of title 41, United States*
 25 *Code.*

1 (3) *FEDERAL AGENCY.*—*The term “Federal agen-*
 2 *cy” has the meaning given the term “executive agen-*
 3 *cy” in section 133 of title 41, United States Code.*

4 (4) *RELEVANT CONGRESSIONAL COMMITTEES.*—
 5 *The term “relevant congressional committees”*
 6 *means—*

7 (A) *the Committee on Homeland Security*
 8 *and Governmental Affairs, the Committee on*
 9 *Commerce, Science, and Transportation, the*
 10 *Committee on Environment and Public Works,*
 11 *the Committee on Banking, Housing, and Urban*
 12 *Affairs, and the Committee on Armed Services of*
 13 *the Senate; and*

14 (B) *the Committee on Oversight and Re-*
 15 *form, the Committee on Armed Services, and the*
 16 *Committee on Transportation and Infrastructure*
 17 *of the House of Representatives.*

18 (5) *WAIVER.*—*The term “waiver”, with respect*
 19 *to the acquisition of an article, material, or supply*
 20 *for public use, means the inapplicability of chapter*
 21 *83 of title 41, United States Code, to the acquisition*
 22 *by reason of any of the following determinations*
 23 *under section 8302(a)(1) or 8303(b) of such title:*

1 (A) *A determination by the head of the Fed-*
 2 *eral agency concerned that the acquisition is in-*
 3 *consistent with the public interest.*

4 (B) *A determination by the head of the Fed-*
 5 *eral agency concerned that the cost of the acqui-*
 6 *sition is unreasonable.*

7 (C) *A determination by the head of the Fed-*
 8 *eral agency concerned that the article, material,*
 9 *or supply is not mined, produced, or manufac-*
 10 *tured in the United States in sufficient and rea-*
 11 *sonably available commercial quantities of a sat-*
 12 *isfactory quality.*

13 **SEC. 207. PROSPECTIVE AMENDMENTS TO INTERNAL**
 14 **CROSS-REFERENCES.**

15 (a) *SPECIALTY METALS CLAUSE REFERENCE.*—Sec-
 16 *tion 203(f)(5) is amended by striking “section 2533b” and*
 17 *inserting “section 4863”.*

18 (b) *BERRY AMENDMENT REFERENCE.*—Section 206(1)
 19 *is amended by striking “section 2533a” and inserting “sec-*
 20 *tion 4862”.*

21 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 22 *section shall take effect on January 1, 2022.*

Calendar No. 667

117TH CONGRESS
2D Session

S. 1303

[Report No. 117-268]

A BILL

To ensure that certain Federal infrastructure programs require the use of materials produced in the United States, and for other purposes.

DECEMBER 19, 2022

Reported with an amendment