

CLEAN ENERGY DEMONSTRATION TRANSPARENCY
ACT OF 2023

SEPTEMBER 21, 2023.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. LUCAS, from the Committee on Science, Space, and Technology,
submitted the following

R E P O R T

[To accompany H.R. 1069]

The Committee on Science, Space, and Technology, to whom was
referred the bill (H.R. 1069) to amend the Infrastructure Invest-
ment and Jobs Act to require reporting regarding clean energy
demonstration projects, and for other purposes, having considered
the same, reports favorably thereon with an amendment and rec-
ommends that the bill as amended do pass.

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The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Clean Energy Demonstration Transparency Act of 2023”.

SEC. 2. PROJECT MANAGEMENT AND OVERSIGHT REPORTING REQUIREMENTS.

Subsection (h) of section 41201 of the Infrastructure Investment and Jobs Act (42 U.S.C. 18861) is amended by adding at the end following new paragraph:

“(3) FURTHER REPORTS.—

“(A) IN GENERAL.—Not later than six months after the date of the enactment of this paragraph and at least semiannually thereafter, the Secretary shall submit to the Committee on Science, Space, and Technology and the Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate a report, and make publicly available in digital online format, that contains, for the period covered by each such report, for each covered project or other demonstration project administered or supported by the program, the following:

“(i) A copy of any initial contracts or financial assistance agreements executed between the Department and an award recipient, including any related documentation, as the Secretary determines appropriate.

“(ii) A list of any material, technical, or financial milestones that have or have not been met.

“(iii) Any material modifications to the scope, schedule, funding profile (including cost-share requirements), project partners or participating entities, or budget of the project.

“(B) STREAMLINING.—To the extent practicable, the Secretary may synchronize the reports required under subparagraph (A) with other required reports, such as those required under—

“(i) paragraph (1); and

“(ii) section 9005(e) of the Energy Act of 2020 (42 U.S.C. 7256c(e); enacted as division Z of the Consolidated Appropriations Act, 2021).”.

PURPOSE AND SUMMARY

This bill amends the Infrastructure Investment and Jobs Act to require the Secretary of Energy to submit additional reports to Congress on the Department of Energy (DOE)’s clean energy demonstration activities.

BACKGROUND AND NEED FOR LEGISLATION

Energy demonstration projects, like those carried out by the U.S. Department of Energy (DOE), are a critical bridge between lab discoveries and deployment of new technologies. However, the scale and complexity of these projects can make administering them a challenge.

In 2021, the Infrastructure Investments and Jobs Act (IIJA) established the DOE Office of Clean Energy Demonstrations (OCED) and tasked it with the management of the clean energy demonstration projects funded by DOE. Together with the Inflation Reduction Act, the IIJA appropriated more than \$27 billion dollars for this office in the coming fiscal years.

Given the creation and unprecedented expansion of this new office and past reports of DOE’s mismanagement of demonstration projects, additional transparency is needed to ensure DOE is implementing these projects in an efficient and timely manner that reduces the potential for waste, fraud, and abuse. By requiring DOE to provide Congress with semiannual reports on the status of all their demonstration activities, this legislation takes simple but important steps to improve Congressional oversight of OCED.

LEGISLATIVE HISTORY

On February 17, 2023, Representative Mike Carey (R–OH) introduced H.R. 1069, with Representatives Frank Lucas (R–OK), Zoe Lofgren (D–CA) and Brandon Williams (R–NY) as the original cosponsors. Additional cosponsors include Representatives Sharice Davids (D–KS) and Byron Donalds (R–FL).

On July 27, 2023, the Committee on Science, Space, and Technology met to consider H.R. 1069. Representative Lee (PA) offered an amendment to require that these DOE reports submitted to Congress also be made publicly available. The amendment was agreed to via voice vote.

Chairman Lucas moved that Committee favorably report the bill, H.R. 1069, as amended, to the House of Representatives with the recommendation that the bill be approved. The motion was agreed to by a vote of 35–0.

SECTION-BY-SECTION

Section 1. Short title

This section establishes that this legislation may be referred to as the “Clean Energy Demonstration Transparency Act of 2023”.

Section 2. Project management and oversight reporting requirements

This section amends subsection (h) of section 41201 of the Infrastructure Investment and Jobs Act by directing the Secretary of Energy to submit to Congress semiannual reports that contain for each covered project or other demonstration project administered or supported by the Office of Clean Energy Demonstrations, a copy of any initial contracts or financial assistance agreements executed between the Department and an award recipient, a list of any material, technical, or financial milestones that have or have not been met, and any material modifications to the scope, schedule funding profile, project partners, or participating entities, or the budget of the project. This section also authorizes the Secretary to synchronize the reports required in this bill with other required reports such as those in subsection (h) paragraph 1 and section 9005(e) of the Energy Act of 2020 (42 U.S.C. 7256c(e); enacted as division Z of the Consolidated Appropriations Act, 2021).

RELATED COMMITTEE HEARINGS

On May 10, 2023, Energy Subcommittee Chairman Brandon Williams presiding, the Energy and Investigation and Oversight Subcommittees of the House Committee on Science, Space, and held a joint hearing titled, “Return on Unprecedented Investment: An Analysis of the Department of Energy’s Implementation of the IIJA, the IRA, and the CHIPS and Science Act” to examine the status of DOE’s implementation of recently passed research and development legislation including the Infrastructure Investment and Jobs Act.

Witnesses:

- Dr. Geraldine Richmond, Under Secretary for Science and Innovation, U.S. Department of Energy

- Dr. Kathleen Hogan, Principal Deputy Under Secretary and Acting Under Secretary for Infrastructure, U.S. Department of Energy

COMMITTEE CONSIDERATION

On July 27, 2023, the Committee met in open session and ordered reported favorably the bill, H.R. 1069, as amended, by a recorded vote of 35 yeas to 0 nays, a quorum being present.

ROLL CALL VOTES

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following reflects the record votes taken during the Committee consideration:

House Committee on Science, Space, and Technology
118th Congress
Full Committee Markup

Bill # HR 1069

Motion to report HR 1069 to the House, as amended

Majority	Aye	No	Present
Frank Lucas, Oklahoma	1		
Bill Posey, Florida	1		
Randy Weber, Texas	1		
Brian Babin, Texas	1		
Jim Baird, Indiana	1		
Daniel Webster, Florida			
Mike Garcia, California	1		
Stephanie Bice, Oklahoma			
Jay Obernolte, California	1		
Chuck Fleischmann, Tennessee	1		
Darrell Issa, California	1		
Rick Crawford, Arkansas	1		
Claudia Tenney, New York	1		
Ryan Zinke, Montana			
Scott Franklin, Florida	1		
Dale Strong, Alabama	1		
Max Miller, Ohio	1		
Rich McCormick, Georgia	1		
Mike Collins, Georgia	1		
Brandon Williams, New York			
Tom Kean, New Jersey	1		
Minority	Aye	No	Present
Zoe Lofgren, California	1		
Suzanne Bonamici, Oregon	1		
Haley Stevens, Michigan	1		
Jamaal Bowman, New York	1		
Deborah Ross, New Carolina	1		
Eric Sorensen, Illinois	1		
Andrea Salinas, Oregon	1		
Vai Foushee, North Carolina	1		
Kevin Mullin, California	1		
Jeff Jackson, North Carolina	1		
Emilia Sykes, Ohio	1		
Maxwell Frost, Florida	1		
Yadira Caraveo, Colorado	1		
Summer Lee, Pennsylvania	1		
Jennifer McClellan, Virginia	1		
Ted Lieu, California	1		
Sean Casten, Illinois	1		
Paul Tonko	1		
Total	35	0	

Date: 7/27/23

Result?	Agreed To: [X]		
	Not Agreed To: []		
	Withdrawn: []		
Voice Vote	Ayes	Nays	Present
	35	0	

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

The Committee finds that H.R. 1069 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c)(4) of rule XIII, the goal of H.R. 1069 is to amend the Infrastructure Investment and Jobs Act to require the Secretary of Energy to submit additional reports to Congress on the Department of Energy (DOE)'s clean energy demonstration activities.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, the Committee finds that no provision of H.R. 1069 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of section 5(b) of the Federal Advisory Committee Act.

UNFUNDED MANDATE STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

EARMARK IDENTIFICATION

Pursuant to clauses 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 1069 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. At the time this report was filed, the estimate was not available.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND
TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 1069 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, at the time this report was filed, the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

INFRASTRUCTURE INVESTMENT AND JOBS ACT

* * * * *

DIVISION D—ENERGY

* * * * *

TITLE XII—MISCELLANEOUS

SEC. 41201. OFFICE OF CLEAN ENERGY DEMONSTRATIONS.

(a) **DEFINITIONS.**—In this section:

(1) **COVERED PROJECT.**—The term “covered project” means a demonstration project of the Department that—

(A) receives or is eligible to receive funding from the Secretary; and

(B) is authorized under—

(i) this division; or

(ii) the Energy Act of 2020 (Public Law 116-260; 134 Stat. 1182).

(2) **PROGRAM.**—The term “program” means the program established under subsection (b).

(b) **ESTABLISHMENT.**—The Secretary, in coordination with the heads of relevant program offices of the Department, including the Office of Technology Transitions, the Loan Program Office, and all applied program offices, shall establish a program to conduct project management and oversight of covered projects, including by—

(1) conducting evaluations of proposals for covered projects before the selection of a covered project for funding;

(2) conducting independent oversight of the execution of a covered project after funding has been awarded for that covered project; and

(3) ensuring a balanced portfolio of investments in covered projects.

(c) DUTIES.—The Secretary shall appoint a head of the program who shall, in coordination with the heads of relevant program offices of the Department—

(1) evaluate proposals for covered projects, including scope, technical specifications, maturity of design, funding profile, estimated costs, proposed schedule, proposed technical and financial milestones, and potential for commercial success based on economic and policy projections;

(2) develop independent cost estimates for a proposal for a covered project, if appropriate;

(3) recommend to the head of a program office of the Department, as appropriate, whether to fund a proposal for a covered project;

(4) oversee the execution of covered projects that receive funding from the Secretary, including reconciling estimated costs as compared to actual costs;

(5) conduct reviews of ongoing covered projects, including—

(A) evaluating the progress of a covered project based on the proposed schedule and technical and financial milestones; and

(B) providing the evaluations under subparagraph (A) to the Secretary; and

(6) assess the lessons learned in overseeing covered projects and implement improvements in the process of evaluating and overseeing covered projects.

(d) EMPLOYEES.—To carry out the program, the Secretary may hire appropriate personnel, including by using the authorities in section 10726 of the Research and Development, Competition, and Innovation Act, to perform the duties of the program.

(e) ADDITIONAL AUTHORITY.—The Secretary may solicit, select, and manage covered projects directly through the program.

(f) PROJECT TERMINATION.—Should an ongoing covered project receive an unfavorable review under subsection (c)(5), the Secretary or their designee may cease funding the covered project and reallocate the remaining funds to new or existing covered projects carried out by that program office.

(g) COORDINATION.—In carrying out the program, the head of the program shall coordinate with—

(1) project management and acquisition management entities with the Department, including the Office of Project Management; and

(2) professional organizations in project management, construction, cost estimation, and other relevant fields.

(h) REPORTS.—

(1) REPORT BY SECRETARY.—In accordance with section 9007 of division Z of the Consolidated Appropriations Act, 2021 (Public Law 116–260), the Secretary shall include in each updated technology transfer execution plan submitted under subsection (h)(2) of section 1001 of the Energy Policy Act of 2005 (42 U.S.C. 16391) information on the implementation of and progress made under the program, including, for the year covered by the report—

(A) the covered projects under the purview of the program; and

(B) the review of each covered project carried out under subsection (c)(5).

(2) **REPORT BY COMPTROLLER GENERAL.**—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report evaluating the operation of the program, including—

(A) a description of the processes and procedures used by the program to evaluate proposals of covered projects and the oversight of covered projects; and

(B) any recommended changes in the program, including changes to—

(i) the processes and procedures described in subparagraph (A); and

(ii) the structure of the program, for the purpose of better carrying out the program.

(3) **FURTHER REPORTS.**—

(A) *IN GENERAL.*—Not later than six months after the date of the enactment of this paragraph and at least semi-annually thereafter, the Secretary shall submit to the Committee on Science, Space, and Technology and the Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate a report, and make publicly available in digital online format, that contains, for the period covered by each such report, for each covered project or other demonstration project administered or supported by the program, the following:

(i) A copy of any initial contracts or financial assistance agreements executed between the Department and an award recipient, including any related documentation, as the Secretary determines appropriate.

(ii) A list of any material, technical, or financial milestones that have or have not been met.

(iii) Any material modifications to the scope, schedule, funding profile (including cost-share requirements), project partners or participating entities, or budget of the project.

(B) *STREAMLINING.*—To the extent practicable, the Secretary may synchronize the reports required under subparagraph (A) with other required reports, such as those required under—

(i) paragraph (1); and

(ii) section 9005(e) of the Energy Act of 2020 (42 U.S.C. 7256c(e); enacted as division Z of the Consolidated Appropriations Act, 2021).

(i) **TECHNICAL AMENDMENT.**—Section 1001 of the Energy Policy Act of 2005 (42 U.S.C. 16391) is amended by redesignating the second subsections (f) (relating to planning and reporting) and (g) (re-

lating to additional technology transfer programs) as subsections (h) and (i), respectively.

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