A bill for an act
relating to state purchasing; requiring the reporting of the global warming impacts
of certain construction materials used in state buildings; proposing coding for new
law in Minnesota Statutes, chapter 16B.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [16B.312] CONSTRUCTION MATERIALS; ENVIRONMENTAL
ANALYSIS.

Subdivision 1. Title. This act may be known and cited as the "Buy Clean and Buy Fair
Minnesota Act."

Subd. 2. Definitions. For purposes of this section, the following terms have the meanings
given.

(a) "Carbon steel" means steel in which the main alloying element is carbon and whose
properties are chiefly dependent on the percentage of carbon present.

(b) "Department" means the Department of Administration.

(c) "Eligible material category" means:

(1) carbon steel rebar;

(2) structural steel;

(3) photovoltaic devices, as defined in section 216C.06, subdivision 16; or

(4) an energy storage system, as defined in section 216B.2421, subdivision 1, paragraph
(f), that is installed as part of an eligible project.

(d) "Eligible project" means:
2.1 (1) new construction of a state building larger than 50,000 gross square feet of occupied
or conditioned space; or

2.2 (2) renovation of more than 50,000 gross square feet of occupied or conditioned space
in a state building whose renovation cost exceeds 50 percent of the building's assessed value.

2.3 (e) "Environmental product declaration" means a supply chain specific type III
environmental product declaration that:

2.4 (1) contains a lifecycle assessment of the environmental impacts of manufacturing a
specific product by a specific firm, including the impacts of extracting and producing the
raw materials and components that compose the product;

2.5 (2) is verified and registered by a third-party; and

2.6 (3) meets the applicable standards developed and maintained for such assessments by
the International Organization for Standardization (ISO).

2.7 (f) "Global warming potential" has the meaning given in section 216H.10, subdivision
5.

2.8 (g) "Greenhouse gas" has the meaning given to "statewide greenhouse gas emissions"
in section 216H.01, subdivision 2.

2.9 (h) "Lifecycle" means an analysis that includes the environmental impacts of all stages
of a specific product's production, from mining and processing its raw materials to the
process of manufacturing the product itself.

2.10 (i) "Rebar" means a steel reinforcing bar or rod encased in concrete.

2.11 (j) "State building" means a building whose construction or renovation is funded wholly
or partially from the proceeds of bonds issued by the state of Minnesota.

2.12 (k) "Structural steel" means steel that is classified by the shapes of its cross-sections,
such as I, T, and C shapes.

2.13 (l) "Supply chain specific" means an environmental product declaration that includes
specific data for the production processes of the materials and components composing a
product that contribute at least 80 percent of the product's lifecycle global warming potential,
as defined in International Organization for Standardization standard 21930.

2.14 Subd. 3. Standard; maximum global warming potential. (a) No later than September
1, 2022, the commissioner shall establish and publish a maximum acceptable global warming
potential for each eligible material used in an eligible project, in accordance with the
following requirements:
(1) the commissioner shall, after considering nationally or internationally recognized
databases of environmental product declarations for an eligible material category, establish
the maximum acceptable global warming potential at the industry average global warming
potential for that eligible material category; and

(2) the commissioner may set different maximums for different specific products within
each eligible material category.

The global warming potential shall be provided in a manner that is consistent with criteria
in an environmental product declaration.

(b) No later than September 1, 2025, and every three years thereafter, the commissioner
shall review the maximum acceptable global warming potential for each eligible materials
category and for specific products within an eligible materials category established under
paragraph (a). The commissioner may adjust those values downward for any eligible material
category or product to reflect industry improvements if the commissioner, based on the
process described in paragraph (a), clause (1), determines that the industry average has
decreased. The commissioner may not adjust the maximum acceptable global warming
potential upward for any eligible material category or product.

Subd. 4. Bidding process. (a) Except as provided in paragraph (c), the department shall
require in a specification for bids for an eligible project that the global warming potential
reported by a bidder in the environmental product declaration for any eligible material
category must not exceed the maximum acceptable global warming potential for that eligible
material category or product established under subdivision 2. The department may require
in a specification for bids for an eligible project a global warming potential for any eligible
material that is lower than the maximum acceptable global warming potential for that
material established under subdivision 2.

(b) Except as provided in paragraph (c), a successful bidder for a contract may not use
or install any eligible material on the project until the commissioner has provided notice to
the bidder in writing that the commissioner has determined that a supply chain-specific
environmental product declaration submitted by the bidder for that material meets the
requirements of this subdivision.

(c) A bidder may be exempted from the requirements of paragraphs (a) and (b) if the
commissioner determines that complying with the provisions of paragraph (a) would create
financial hardship for the bidder. The commissioner shall make a determination of hardship
if the commissioner finds that:
(1) the bidder has made a good faith effort to obtain the data required in an environmental
product declaration; and

(2) the bidder has provided all the data it obtained in pursuit of an environmental product
declaration to the commissioner; and

(3) based on a detailed estimate of the costs of obtaining an environmental product
declaration, and taking into consideration the bidder's annual gross revenues, complying
with paragraph (a) would cause the bidder financial hardship; or

(4) complying with paragraph (a) would disrupt the bidder's ability to perform its
contractual obligations.

Subd. 5. Pilot program. (a) No later than July 1, 2022, the department must establish
a pilot program that seeks to obtain from vendors an estimate of the lifecycle greenhouse
gas emissions, including greenhouse gas emissions from mining raw materials, of products
selected by the department from among those it procures. The pilot program must encourage,
but may not require, a product vendor to submit the following data for each selected product
that represents at least 90 percent of the total cost of the materials or components used in
the selected product:

(1) the quantity of the product purchased by the department;

(2) a current environmental product declaration for the product;

(3) the name and location of the product's manufacturer;

(4) a copy of the product vendor's Supplier Code of Conduct, if any;

(5) names and locations of product's actual production facilities; and

(6) an assessment of employee working conditions at the product's actual production
facilities.

(b) The department must construct a publicly accessible database posted on its website
containing the data reported under this subdivision. The data must be reported in a manner
that precludes, directly, or in combination with other publicly available data, the identification
of the product manufacturer.

EFFECTIVE DATE. This section is effective the day following final enactment.