

110TH CONGRESS  
2D SESSION

# S. 2730

To facilitate the participation of private capital and skills in the strategic, economic, and environmental development of a diverse portfolio of clean energy and energy efficiency technologies within the United States, to facilitate the commercialization and market penetration of the technologies, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 6, 2008

Mr. DOMENICI (for himself, Ms. LANDRIEU, Ms. MURKOWSKI, Mr. MARTINEZ, Mr. BUNNING, Mr. CRAIG, Mr. ALEXANDER, and Mrs. DOLE) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To facilitate the participation of private capital and skills in the strategic, economic, and environmental development of a diverse portfolio of clean energy and energy efficiency technologies within the United States, to facilitate the commercialization and market penetration of the technologies, 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 “Clean Energy Invest-  
5       ment Bank Act of 2008”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) BANK.—The term “Bank” means the Clean  
4 Energy Investment Bank of the United States estab-  
5 lished by section 3(a).

6 (2) BOARD.—The term “Board” means the  
7 Board of Directors of the Bank established under  
8 section 4(b).

9 (3) CLEAN ENERGY INVESTMENT BANK  
10 FUND.—The term “Clean Energy Investment Bank  
11 Fund” means the revolving fund account established  
12 under section 6(b).

13 (4) COMMERCIAL TECHNOLOGY.—The term  
14 “commercial technology” means a technology in gen-  
15 eral use in the commercial marketplace.

16 (5) ELIGIBLE PROJECT.—The term “eligible  
17 project” means a project in a State related to the  
18 production or use of energy that uses a commercial  
19 technology that the Bank determines avoids, re-  
20 duces, or sequesters 1 or more air pollutants or an-  
21 thropogenic emissions of greenhouse gases more ef-  
22 fectively than other technology options available to  
23 the project developer.

24 (6) INVESTMENT.—The term “investment” in-  
25 cludes any contribution or commitment to an eligible  
26 project in the form of—

1 (A) loans or loan guarantees;

2 (B) the purchase of equity shares in the  
3 project;

4 (C) participation in royalties, earnings, or  
5 profits; or

6 (D) furnishing commodities, services or  
7 other rights under a lease or other contract.

8 (7) STATE.—The term “State” means—

9 (A) a State;

10 (B) the District of Columbia;

11 (C) the Commonwealth of Puerto Rico;

12 and

13 (D) any other territory or possession of the  
14 United States.

15 **SEC. 3. ESTABLISHMENT OF BANK.**

16 (a) ESTABLISHMENT.—

17 (1) IN GENERAL.—There is established in the  
18 Executive branch a bank to be known as the “Clean  
19 Energy Investment Bank of the United States,”  
20 which shall be an agency of the United States.

21 (2) GOVERNMENT CORPORATION.—The Bank  
22 shall be—

23 (A) a Government corporation (as defined  
24 in section 103 of title 5, United States Code);  
25 and

1 (B) subject to chapter 91 of title 31,  
2 United States Code, except as expressly pro-  
3 vided in this Act.

4 (b) AUTHORITY.—

5 (1) IN GENERAL.—The Bank shall assist in the  
6 financing, and facilitate the commercial use, of clean  
7 energy and energy efficient technologies within the  
8 United States.

9 (2) ASSISTANCE FOR ELIGIBLE PROJECTS.—  
10 The Bank may make investments—

11 (A) in eligible projects on such terms and  
12 conditions as the Bank considers appropriate in  
13 accordance with this Act; or

14 (B) under title XVII of the Energy Policy  
15 Act of 2005 (42 U.S.C. 16511 et seq.), and any  
16 of the regulations promulgated under that Act,  
17 as the Bank considers appropriate.

18 (3) REPAYMENT.—No loan or loan guarantee  
19 shall be made under this subsection unless the Bank  
20 determines that there is a reasonable prospect of re-  
21 payment of the principal and interest by the bor-  
22 rower.

23 (4) PROJECT DIVERSITY.—The Bank shall en-  
24 sure that a reasonable diversity of projects, tech-

1       nologies, and energy sectors receive assistance under  
2       this subsection.

3       (c) POWERS.—In carrying out this Act, the Bank  
4       may—

5               (1) conduct a general banking business (other  
6       than currency circulation), including—

7                       (A) borrowing and lending money;

8                       (B) issuing letters of credit;

9                       (C) accepting bills and drafts drawn upon  
10       the Bank;

11                      (D) purchasing, discounting, rediscounting,  
12       selling, and negotiating, with or without en-  
13       dorsement or guaranty, and guaranteeing,  
14       notes, drafts, checks, bills of exchange, accept-  
15       ances (including bankers' acceptances), cable  
16       transfers, and other evidences of indebtedness;

17                      (E) issuing guarantees, insurance, coinsur-  
18       ance, and reinsurance;

19                      (F) purchasing and selling securities; and

20                      (G) receiving deposits;

21               (2) make investments in eligible projects on a  
22       self-sustaining basis, taking into account the financ-  
23       ing operations of the Bank and the economic and fi-  
24       nancial soundness of projects;

1           (3) use private credit, investment institutions,  
 2           and the guarantee authority of the Bank as the  
 3           principal means of mobilizing capital investment  
 4           funds;

5           (4) broaden private participation and revolve  
 6           the funds of the Bank through selling the direct in-  
 7           vestments of the Bank to private investors whenever  
 8           the Bank can appropriately do so on satisfactory  
 9           terms;

10          (5) conduct the insurance operations of the  
 11          Bank with due regard to principles of risk manage-  
 12          ment, including efforts to share the insurance risks  
 13          of the Bank;

14          (6) foster private initiative and competition and  
 15          discourage monopolistic practices; and

16          (7) advise and assist interested agencies of the  
 17          United States and other organizations, public and  
 18          private and national and international, with respect  
 19          to projects and programs relating to the develop-  
 20          ment of private enterprise in the market sector in  
 21          accordance with this Act.

22 **SEC. 4. ORGANIZATION AND MANAGEMENT.**

23          (a) STRUCTURE OF BANK.—The Bank shall have—

24               (1) a Board of Directors;

25               (2) a President;

1 (3) an Executive Vice President; and

2 (4) such other officers and staff as the Board  
3 may determine.

4 (b) BOARD OF DIRECTORS.—

5 (1) ESTABLISHMENT.—There is established a  
6 Board of Directors of the Bank to exercise all pow-  
7 ers of the Bank.

8 (2) COMPOSITION.—

9 (A) IN GENERAL.—The Board shall be  
10 composed of 7 members, of whom—

11 (i) 5 members shall be independent di-  
12 rectors appointed by the President of the  
13 United States, by and with the advice and  
14 consent of the Senate (referred to in this  
15 subsection as “independent directors”; and

16 (ii) 2 members shall be the President  
17 of the Bank and the Executive Vice Presi-  
18 dent of the Bank, appointed by the inde-  
19 pendent directors.

20 (B) FEDERAL EMPLOYMENT.—An inde-  
21 pendent director shall not be an officer or em-  
22 ployee of the Federal Government at the time  
23 of appointment.

1 (C) POLITICAL PARTY.—Not more than 3  
 2 of the independent directors shall be members  
 3 of the same political party.

4 (3) TERM; VACANCIES.—

5 (A) TERM.—

6 (i) IN GENERAL.—Subject to clause  
 7 (ii), the independent directors shall be ap-  
 8 pointed for a term of 5 years and may be  
 9 reappointed.

10 (ii) STAGGERED TERMS.—The terms  
 11 of not more than 2 independent directors  
 12 shall expire in any year.

13 (B) VACANCIES.—A vacancy on the  
 14 Board—

15 (i) shall not affect the powers of the  
 16 Board; and

17 (ii) shall be filled in the same manner  
 18 as the original appointment was made.

19 (4) MEETINGS.—

20 (A) INITIAL MEETING.—Not later than 30  
 21 days after the date on which all members of the  
 22 Board have been appointed, the Board shall  
 23 hold the initial meeting of the Board.

24 (B) MEETINGS.—The Board shall meet at  
 25 the call of the Chairman of the Board.



1 (C) QUORUM.—Four members of the  
 2 Board shall constitute a quorum, but a lesser  
 3 number of members may hold hearings.

4 (5) CHAIRMAN AND VICE CHAIRMAN.—

5 (A) IN GENERAL.—The Board shall select  
 6 a Chairman and Vice Chairman from among  
 7 the members of the Board.

8 (B) ELIGIBILITY.—The Chairman of the  
 9 Board shall not be an Executive Director of the  
 10 Board.

11 (6) COMPENSATION OF MEMBERS.—An inde-  
 12 pendent director shall be compensated at a rate  
 13 equal to the daily equivalent of the annual rate of  
 14 basic pay prescribed for level IV of the Executive  
 15 Schedule under section 5315 of title 5, United  
 16 States Code, for each day (including travel time)  
 17 during which the member is engaged in the perform-  
 18 ance of the duties of the Board.

19 (7) TRAVEL EXPENSES.—An independent direc-  
 20 tor shall be allowed travel expenses, including per  
 21 diem in lieu of subsistence, at rates authorized for  
 22 an employee of an agency under subchapter I of  
 23 chapter 57 of title 5, United States Code, while  
 24 away from the home or regular place of business of

1 the member in the performance of the duties of the  
2 Board.

3 (c) PRESIDENT OF THE BANK.—

4 (1) APPOINTMENT.—The President of the Bank  
5 shall be appointed by the Board.

6 (2) DUTIES.—The President of the Bank  
7 shall—

8 (A) be the Chief Executive Officer of the  
9 Bank;

10 (B) be responsible for the operations and  
11 management of the Bank, subject to bylaws and  
12 policies established by the Board; and

13 (C) serve as an Executive Director on the  
14 Board.

15 (d) EXECUTIVE VICE PRESIDENT.—

16 (1) APPOINTMENT.—The Executive Vice Presi-  
17 dent of the Bank shall be appointed by the Board.

18 (2) DUTIES.—The Executive Vice President of  
19 the Bank shall—

20 (A) serve as the President of the Bank  
21 during the absence or disability, or in the event  
22 of a vacancy in the office, of the President of  
23 the Bank;

1 (B) at other times, perform such functions  
2 as the President of the Bank may from time to  
3 time prescribe; and

4 (C) serve as an Executive Director on the  
5 Board.

6 (e) STAFF.—

7 (1) IN GENERAL.—The Board may—

8 (A) appoint and terminate such officers,  
9 attorneys, employees, and agents as are nec-  
10 essary to carry out this Act; and

11 (B) vest the personnel with such powers  
12 and duties as the Board may determine.

13 (2) CIVIL SERVICE LAWS.—Persons employed  
14 by the Bank may be appointed, compensated, or re-  
15 moved without regard to civil service laws (including  
16 regulations).

17 (3) REAPPOINTMENT.—Under such regulations  
18 as the President of the United States may promul-  
19 gate, an officer or employee of the Federal Govern-  
20 ment who is appointed to a position under this sub-  
21 section may be entitled, on removal from the posi-  
22 tion, except for cause, to reinstatement to the posi-  
23 tion occupied at the time of appointment or to a po-  
24 sition of comparable grade and salary.

1           (4) ADDITIONAL POSITIONS.—Positions author-  
 2           ized under this subsection shall be in addition to  
 3           other positions otherwise authorized by law, includ-  
 4           ing positions authorized by section 5108 of title 5,  
 5           United States Code.

6 **SEC. 5. FINANCING, GUARANTIES, INSURANCE, CREDIT**  
 7                                   **SUPPORT, AND OTHER PROGRAMS.**

8           (a) INTERGOVERNMENTAL AGREEMENTS.—Subject  
 9           to the other provisions of this section, the Bank may enter  
 10          into arrangements with State and local governments (in-  
 11          cluding agencies, instrumentalities, or political subdivi-  
 12          sions of State and local governments) for sharing liabilities  
 13          assumed by providing financial assistance for eligible  
 14          projects under this Act.

15          (b) INSURANCE.—

16               (1) IN GENERAL.—The Bank may issue insur-  
 17          ance, on such terms and conditions as the Bank may  
 18          determine, to ensure protection in whole or in part  
 19          against any or all of the risks with respect to eligible  
 20          projects that the Bank has approved.

21               (2) DUPLICATION OF ASSISTANCE.—The Bank  
 22          shall not offer any insurance products under this  
 23          subsection that duplicate or augment any other simi-  
 24          lar Federal assistance.

25          (c) GUARANTEES.—

1           (1) IN GENERAL.—The Bank may issue guar-  
2           antees of loans and other investments made by in-  
3           vestors assuring against loss in eligible projects on  
4           such terms and conditions as the Bank may deter-  
5           mine.

6           (2) BUDGETARY TREATMENT.—Any guarantee  
7           issued under this subsection shall, for budgetary  
8           purposes, be considered a loan guarantee (as defined  
9           in section 502 of the Federal Credit Reform Act of  
10          1990 (2 U.S.C. 661a)).

11          (d) LOANS AND CREDIT ASSISTANCE.—

12           (1) IN GENERAL.—The Bank may make loans,  
13           provide letters of credit, issue other credit enhance-  
14           ments, or provide other financing for eligible  
15           projects on such terms and conditions as the Bank  
16           may determine.

17           (2) BUDGETARY TREATMENT.—Any financial  
18           instrument issued under this subsection shall, for  
19           budgetary purposes, be considered a direct loan (as  
20           defined in section 502 of the Federal Credit Reform  
21           Act of 1990 (2 U.S.C. 661a)).

22          (e) ELIGIBLE PROJECT DEVELOPMENT INVESTMENT  
23          ENCOURAGEMENT.—The Bank may provide financial as-  
24          sistance under this section for development activities for  
25          eligible projects, under such terms and conditions as the

1 Bank may determine, if the Board determines that the  
2 assistance is necessary to encourage private investment or  
3 accelerate project development.

4 (f) OTHER INSURANCE FUNCTIONS.—The Bank  
5 may—

6 (1) using agreements and contracts that are  
7 consistent with this Act—

8 (A) make and carry out contracts of insur-  
9 ance or agreements to associate or share risks  
10 with insurance companies, financial institutions,  
11 any other person or group of persons; and

12 (B) employ entities described in subpara-  
13 graph (A), if appropriate, as the agent of the  
14 Bank in—

15 (i) the issuance and servicing of insur-  
16 ance;

17 (ii) the adjustment of claims;

18 (iii) the exercise of subrogation rights;

19 (iv) the ceding and acceptance of rein-  
20 surance; and

21 (v) any other matter incident to an in-  
22 surance business; and

23 (2) enter into pooling or other risk-sharing  
24 agreements with other governmental insurance or fi-  
25 nancing agencies or groups of those agencies.

(g) EQUITY FINANCE PROGRAM.—

(1) IN GENERAL.—Subject to the other provisions of this subsection, the Bank may establish an equity finance program under which the Bank may, in accordance with this subsection, purchase, invest in, or otherwise acquire equity or quasi-equity securities of any firm or entity, on such terms and conditions as the Bank may determine, for the purpose of providing capital for any project that is consistent with this Act.

(2) TOTAL AMOUNT OF EQUITY INVESTMENTS.—

(A) TOTAL AMOUNT OF EQUITY INVESTMENT UNDER EQUITY FINANCE PROGRAM.—

(i) IN GENERAL.—Except as provided in clause (ii), the total amount of the equity investment of the Bank with respect to any project under this subsection shall not exceed 30 percent of the aggregate amount of all equity investment made with respect to the project at the time at which the equity investment of the Bank is made.

(ii) DEFAULTS.—Clause (i) shall not apply to a security acquired through the enforcement of any lien, pledge, or contrac-

1           tual arrangement as a result of a default  
2           by any party under any agreement relating  
3           to the terms of the investment of the  
4           Bank.

5           (B) TOTAL AMOUNT OF EQUITY INVEST-  
6           MENT UNDER MULTIPLE PROGRAMS.—

7                   (i) IN GENERAL.—The equity invest-  
8           ment of the Bank under this subsection  
9           with respect to any project, when added to  
10          any other investments made or guaranteed  
11          by the Bank under subsection (c) or (d)  
12          with respect to the project, shall not cause  
13          the aggregate amount of all the invest-  
14          ments to exceed, at the time any such in-  
15          vestment is made or guaranteed by the  
16          Bank, 75 percent of the total investment  
17          committed to the project, as determined by  
18          the Bank.

19                   (ii) CONCLUSIVE DETERMINATION.—  
20          The determination of the Bank under this  
21          subparagraph shall be conclusive for pur-  
22          poses of the authority of the Bank to make  
23          or guarantee any investment described in  
24          clause (i).



1           (3) ADDITIONAL CRITERIA.—In making invest-  
 2           ment decisions under this subsection, the Bank shall  
 3           consider the extent to which the equity investment of  
 4           the Bank will assist in obtaining the financing re-  
 5           quired for the project.

6           (4) IMPLEMENTATION.—

7                 (A) IN GENERAL.—The Bank may create  
 8                 such legal vehicles as are necessary for imple-  
 9                 mentation of this subsection.

10                (B) NON-FEDERAL BORROWERS.—A bor-  
 11                rower participating in a legal vehicle created  
 12                under this paragraph shall be considered a non-  
 13                Federal borrower for purposes of the Federal  
 14                Credit Reform Act of 1990 (2 U.S.C. 661 et  
 15                seq.).

16                (C) SECURITIES.—Income and proceeds of  
 17                investments made under this subsection may be  
 18                used to purchase equity or quasi-equity securi-  
 19                ties in accordance with this section.

20           (h) RELATIONSHIP TO FEDERAL CREDIT REFORM  
 21   ACT OF 1990.—

22                (1) IN GENERAL.—Any liability assumed by the  
 23                Bank under subsections (c) and (d) shall be dis-  
 24                charged pursuant to the Federal Credit Reform Act  
 25                of 1990 (2 U.S.C. 661 et seq.).

1           (2) SPECIFIC APPROPRIATION OR CONTRIBU-  
2       TION.—

3           (A) IN GENERAL.—No loan guaranteed  
4       under subsection (c) or direct loan under sub-  
5       section (d) shall be made unless—

6           (i) an appropriation for the cost has  
7       been made; or

8           (ii) the Bank has received from the  
9       borrower a payment in full for the cost of  
10      the obligation.

11          (B) BUDGETARY TREATMENT.—Section  
12      504(b) of the Federal Credit Reform Act of  
13      1990 (2 U.S.C. 661c(b)) shall not apply to a  
14      loan or loan guarantee made in accordance with  
15      subparagraph (A)(ii).

16          (3) APPORTIONMENT.—Receipts, proceeds, and  
17      recoveries realized by the Bank and the obligations  
18      and expenditures made by the Bank pursuant to this  
19      subsection shall be exempt from apportionment  
20      under subchapter II of chapter 15 of title 31, United  
21      States Code.

22   **SEC. 6. ISSUING AUTHORITY; DIRECT INVESTMENT AU-**  
23   **THORITY AND RESERVES.**

24          (a) MAXIMUM CONTINGENT LIABILITY.—The max-  
25      imum contingent liability outstanding at any time pursu-

1 ant to actions taken by the Bank under section 5 shall  
 2 not exceed a total amount of \$100,000,000,000.

3 (b) CLEAN ENERGY INVESTMENT BANK FUND.—

4 (1) ESTABLISHMENT.—There is established in  
 5 the Treasury of the United States a revolving fund,  
 6 to be known as the “Clean Energy Investment Bank  
 7 Fund” (referred to in this section as the “Fund”).

8 (2) USE.—The Clean Energy Investment Bank  
 9 Fund shall be available for discharge of liabilities  
 10 under section 5 (other than subsections (c) and (d)  
 11 of section 5) until the earlier of—

12 (A) the date on which all liabilities of the  
 13 Bank have been discharged or expire; or

14 (B) the date on which all amounts in the  
 15 Fund have been expended in accordance with  
 16 this section.

17 (3) APPORTIONMENT.—Receipts, proceeds, and  
 18 recoveries realized by the Bank and the obligations  
 19 and expenditures made by the Bank pursuant to this  
 20 subsection shall be exempt from apportionment  
 21 under subchapter II of chapter 15 of title 31, United  
 22 States Code.

23 (c) PAYMENTS OF LIABILITIES.—Any payment made  
 24 to discharge liabilities arising from agreements under sec-  
 25 tion 5 (other than subsections (c) and (d) of section 5)

1 shall be paid out of the Clean Energy Investment Bank  
2 Fund.

3 (d) SUPPLEMENTAL BORROWING AUTHORITY.—

4 (1) IN GENERAL.—In order to maintain suffi-  
5 cient liquidity in the revolving loan fund, the Bank  
6 may issue from time to time for purchase by the  
7 Secretary of the Treasury notes, debentures, bonds,  
8 or other obligations.

9 (2) MAXIMUM TOTAL AMOUNT.—The total  
10 amount of obligations issued under paragraph (1)  
11 that is outstanding at any time shall not exceed  
12 \$2,000,000,000.

13 (3) REPAYMENT.—Any obligation issued under  
14 paragraph (1) shall be repaid to the Treasury not  
15 later than 1 year after the date of issue of the obli-  
16 gation.

17 (4) INTEREST RATE.—Any obligation issued  
18 under paragraph (1) shall bear interest at a rate de-  
19 termined by the Secretary of the Treasury, taking  
20 into account the current average market yield on  
21 outstanding marketable obligations of the United  
22 States of comparable maturities during the month  
23 preceding the issuance of any obligation authorized  
24 by this subsection.

25 (5) PURCHASE OF OBLIGATIONS.—

1 (A) IN GENERAL.—The Secretary of the  
2 Treasury—

3 (i) shall purchase any obligation of  
4 the Bank issued under this subsection; and

5 (ii) for the purchase, may use as a  
6 public debt transaction the proceeds of the  
7 sale of any securities issued under chapter  
8 31 of title 31, United States Code.

9 (B) PURPOSES.—The purpose for which  
10 securities may be issued under chapter 31 of  
11 title 31, United States Code, shall include any  
12 purchase under this paragraph.

13 **SEC. 7. ADMINISTRATION.**

14 (a) PROTECTION OF INTEREST OF BANK.—The  
15 Bank shall ensure that suitable arrangements exist for  
16 protecting the interest of the Bank in connection with any  
17 agreement issued under this Act.

18 (b) FULL FAITH AND CREDIT.—

19 (1) OBLIGATION.—A loan guarantee issued by  
20 the Bank under section 5(c) shall constitute an obli-  
21 gation, in accordance with the terms of the guar-  
22 antee, of the United States.

23 (2) PAYMENT.—The full faith and credit of the  
24 United States is pledged for the full payment and  
25 performance of the obligation.

1 (c) FEES.—

2 (1) IN GENERAL.—The Bank shall establish  
3 and collect fees for services under this Act in  
4 amounts to be determined by the Bank.

5 (2) AVAILABILITY OF FEES.—Except as pro-  
6 vided in paragraph (3), fees collected by the Bank  
7 under paragraph (1) (including fees collected for ad-  
8 ministrative expenses in carrying out subsections (c)  
9 and (d) of section 5) may be retained by the Bank  
10 and may remain available to the Bank, without fur-  
11 ther appropriation or fiscal year limitation, for pay-  
12 ment of administrative expenses incurred in carrying  
13 out this Act.

14 (3) FEE TRANSFER AUTHORITY.—Fees col-  
15 lected by the Bank for the cost (as defined in section  
16 502 of the Federal Credit Reform Act of 1990 (2  
17 U.S.C. 661a)) of a loan or loan guarantee made  
18 under subsection (c) or (d) of section 5 shall be  
19 transferred by the Bank to the respective credit pro-  
20 gram accounts.

21 **SEC. 8. GENERAL PROVISIONS AND POWERS.**

22 (a) PRINCIPAL OFFICE.—The Bank shall—

23 (1) maintain its principal office in the District  
24 of Columbia; and

1           (2) be considered, for purposes of venue in civil  
2 actions, to be a resident of the District of Columbia.

3           (b) TRANSFER OF FUNCTIONS AND AUTHORITY.—

4           (1) IN GENERAL.—On appointment of a major-  
5 ity of the Board by the President, all of the func-  
6 tions and authority of the Secretary of Energy under  
7 predecessor programs and authorities similar to  
8 those provided under subsections (c) and (d) of sec-  
9 tion 5, including those under title XVII of the En-  
10 ergy Policy Act of 2005 (42 U. S.C. 16511 et seq.),  
11 shall be transferred to the Board

12           (2) CONTINUATION PRIOR TO TRANSFER.—

13           Until the transfer, the Secretary of Energy shall  
14 continue to administer such programs and activities,  
15 including programs and authorities under title XVII  
16 of the Energy Policy Act of 2005 (42 U.S.C. 16511  
17 et seq.).

18           (3) EFFECT ON EXISTING RIGHTS AND OBLIGA-

19 TIONS.—The transfer of functions and authority  
20 under this subsection shall not affect the rights and  
21 obligations of any party that arise under a prede-  
22 cessor program or authority prior to the transfer  
23 under this subsection.

24           (c) AUDITS.—

1           (1) IN GENERAL.—Except as otherwise pro-  
 2       vided in this Act, the Bank shall be subject to the  
 3       applicable provisions of chapter 91 of title 31,  
 4       United States Code.

5           (2) PERIODIC AUDITS BY INDEPENDENT CER-  
 6       TIFIED PUBLIC ACCOUNTANTS.—

7           (A) IN GENERAL.—Except as provided in  
 8       paragraph (3), an independent certified public  
 9       accountant shall perform a financial and com-  
 10      pliance audit of the financial statements of the  
 11      Bank at least once every 3 years, in accordance  
 12      with generally accepted Government auditing  
 13      standards for a financial and compliance audit,  
 14      as issued by the Comptroller General of the  
 15      United States.

16          (B) REPORT TO BOARD.—The independent  
 17      certified public accountant shall report the re-  
 18      sults of the audit to the Board.

19          (C) GENERALLY ACCEPTED ACCOUNTING  
 20      PRINCIPLES.—The financial statements of the  
 21      Bank shall be presented in accordance with  
 22      generally accepted accounting principles.

23          (D) REPORTS.—



1 (i) IN GENERAL.—The financial state-  
2 ments and the report of the accountant  
3 shall be included in a report that—

4 (I) contains, to the extent appli-  
5 cable, the information identified in  
6 section 9106 of title 31, United States  
7 Code; and

8 (II) the Bank shall submit to  
9 Congress not later than 210 days  
10 after the end of the last fiscal year  
11 covered by the audit.

12 (ii) REVIEW.—The Comptroller Gen-  
13 eral of the United States may review the  
14 audit conducted by the accountant and the  
15 report to Congress in such manner and at  
16 such times as the Comptroller General con-  
17 sideres necessary.

18 (3) ALTERNATIVE AUDITS BY COMPTROLLER  
19 GENERAL OF THE UNITED STATES.—

20 (A) IN GENERAL.—In lieu of the financial  
21 and compliance audit required by paragraph  
22 (2), the Comptroller General of the United  
23 States shall, if the Comptroller General con-  
24 sideres it necessary, audit the financial state-

1           ments of the Bank in the manner provided  
2           under paragraph (2).

3           (B) REIMBURSEMENT.—The Bank shall  
4           reimburse the Comptroller General of the  
5           United States for the full cost of any audit con-  
6           ducted under this paragraph.

7           (4) AVAILABILITY OF RECORDS.—All books, ac-  
8           counts, financial records, reports, files, work papers,  
9           and property belonging to or in use by the Bank and  
10          the accountant who conducts the audit under para-  
11          graph (2), that are necessary for purposes of this  
12          subsection, shall be made available to the Comp-  
13          troller General of the United States.

14   **SEC. 9. REPORTS TO CONGRESS.**

15          As soon as practicable after the end of each fiscal  
16          year, the Bank shall submit to Congress a complete and  
17          detailed report describing the operations of the Bank dur-  
18          ing the fiscal year.

19   **SEC. 10. MODIFICATION TO LOAN GUARANTEE PROGRAM.**

20          (a) DEFINITION OF COMMERCIAL TECHNOLOGY.—  
21          Section 1701(1) of the Energy Policy Act of 2005 (42  
22          U.S.C. 16511(1)) is amended by striking subparagraph  
23          (B) and inserting the following:

24                       “(B) EXCLUSION.—The term ‘commercial  
25                       technology’ does not include a technology if the

1           sole use of the technology is in connection  
2           with—

3                       “(i) a demonstration plant; or

4                       “(ii) a project for which the Secretary  
5                       approved a loan guarantee.”.

6           (b) SPECIFIC APPROPRIATION OR CONTRIBUTION.—

7   Section 1702 of the Energy Policy Act of 2005 (42 U.S.C.  
8   16512) is amended by striking subsection (b) and insert-  
9   ing the following:

10       “(b) SPECIFIC APPROPRIATION OR CONTRIBU-  
11   TION.—

12               “(1) IN GENERAL.—No guarantee shall be  
13       made unless—

14                       “(A) an appropriation for the cost has  
15       been made; or

16                       “(B) the Secretary has received from the  
17       borrower a payment in full for the cost of the  
18       obligation and deposited the payment into the  
19       Treasury.

20               “(2) LIMITATION.—The source of payments re-  
21       ceived from a borrower under paragraph (1)(B) shall  
22       not be a loan or other debt obligation that is made  
23       or guaranteed by the Federal Government.

24               “(3) RELATION TO OTHER LAWS.—Section  
25       504(b) of the Federal Credit Reform Act of 1990 (2

1 U.S.C. 661c(b)) shall not apply to a loan or loan  
 2 guarantee made in accordance with paragraph  
 3 (1)(B).”.

4 (c) AMOUNT.—Section 1702 of the Energy Policy Act  
 5 of 2005 (42 U.S.C. 16512) is amended by striking sub-  
 6 section (c) and inserting the following:

7 “(c) AMOUNT.—

8 “(1) IN GENERAL.—Subject to paragraph (2),  
 9 the Secretary shall guarantee up to 100 percent of  
 10 the principal and interest due on 1 or more loans for  
 11 a facility that are the subject of the guarantee.

12 “(2) LIMITATION.—The total amount of loans  
 13 guaranteed for a facility by the Secretary shall not  
 14 exceed 80 percent of the total cost of the facility, as  
 15 estimated at the time at which the guarantee is  
 16 issued.”.

17 (d) SUBROGATION.—Section 1702(g)(2) of the En-  
 18 ergy Policy Act of 2005 (42 U.S.C. 16512(g)(2)) is  
 19 amended—

20 (1) by striking subparagraph (B); and

21 (2) by redesignating subparagraph (C) as sub-  
 22 paragraph (B).

23 (e) FEES.—Section 1702(h) of the Energy Policy Act  
 24 of 2005 (42 U.S.C. 16512(h)) is amended by striking  
 25 paragraph (2) and inserting the following:

1           “(2) AVAILABILITY.—Fees collected under this  
2 subsection shall—

3           “(A) be deposited by the Secretary into a  
4 special fund in the Treasury to be known as the  
5 ‘Incentives For Innovative Technologies Fund’;  
6 and

7           “(B) remain available to the Secretary for  
8 expenditure, without further appropriation or  
9 fiscal year limitation, for administrative ex-  
10 penses incurred in carrying out this title.”.

11 **SEC. 11. INTEGRATION OF LOAN GUARANTEE PROGRAMS.**

12       (a) DEFINITION OF BANK.—Section 1701 of the En-  
13 ergy Policy Act of 2005 (42 U.S.C. 16511) is amended—

14           (1) by redesignating paragraphs (1) through  
15 (5) as paragraphs (2) through (6), respectively; and

16           (2) by inserting before paragraph (2) (as so re-  
17 designated) the following:

18           “(1) BANK.—The term ‘Bank’ means the Clean  
19 Energy Investment Bank of the United States estab-  
20 lished by section 3(a) of the Clean Energy Invest-  
21 ment Bank Act of 2008.”.

22       (b) ADMINISTRATION.—

23           (1) IN GENERAL.—Title XVII of the Energy  
24 Policy Act of 2005 (42 U.S.C. 16511 et seq.) is  
25 amended by striking “Secretary” each place it ap-

1       pears (other than the last place it appears in section  
2       1702(a)) and inserting “Board”.

3               (2)     CONFORMING     AMENDMENTS.—Section  
4       1702(g) of the Energy Policy Act of 2005 (42  
5       U.S.C. 16512(g)) is amended—

6                       (A) in the heading for paragraph (1), by  
7               striking “SECRETARY” and inserting “BANK”;  
8               and

9                       (B) in the heading for paragraph (3), by  
10       striking “SECRETARY” and inserting “BANK”.

11       (c) APPLICATION.—The amendments made by this  
12       section are effective on the date the President transfers  
13       to the Bank under section 9(b)(1) the authority to carry  
14       out title XVII of the Energy Policy Act of 2005 (42  
15       U.S.C. 16511 et seq.).

16   **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

17       (a) IN GENERAL.—Subject to subsection (b), there  
18       are authorized to be appropriated to the Bank, to remain  
19       available until expended, such sums as are necessary to—

20               (1) replenish or increase the Clean Energy In-  
21       vestment Bank Fund; or

22               (2) discharge obligations of the Bank purchased  
23       by the Secretary of the Treasury under this Act.

24       (b) MINIMUM LEVELS IN THE CLEAN ENERGY IN-  
25       VESTMENT BANK FUND.—No appropriations shall be

1 made to augment the Clean Energy Investment Bank  
2 Fund unless the balance in the Clean Energy Investment  
3 Bank Fund is projected to be less than \$50,000,000 dur-  
4 ing the fiscal year for which an appropriation is made.

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