

AMENDMENT

OFFERED BY MR. DINGELL OF MICHIGAN

*for himself, Mr Inslee of Washington and
Mr. Gordon of Tennessee*

In title I, add at the end the following new subtitle:

1 **Subtitle J—Nuclear and Advanced**
2 **Technologies**

3 **SEC. 191. REVISIONS TO LOAN GUARANTEE PROGRAM AU-**
4 **THORITY.**

5 (a) **DEFINITION OF CONDITIONAL COMMITMENT.—**

6 Section 1701 of the Energy Policy Act of 2005 (42 U.S.C.
7 16511) is amended by adding after paragraph (5) the fol-
8 lowing:

9 “(6) **CONDITIONAL COMMITMENT.—**The term
10 ‘conditional commitment’ means a final term sheet
11 negotiated between the Secretary and a project
12 sponsor or sponsors, which term sheet shall be bind-
13 ing on both parties and become a final loan guar-
14 antee agreement if all conditions precedent estab-
15 lished in the term sheet, which shall include the ac-
16 quisition of all necessary permits and licenses, are
17 satisfied..”.

18 (b) **SPECIFIC APPROPRIATION OR CONTRIBUTION.—**

19 Section 1702 of the Energy Policy Act of 2005 (42 U.S.C.

1 16512) is amended by striking subsection (b) and insert-
2 ing the following:

3 “(b) SPECIFIC APPROPRIATION OR CONTRIBU-
4 TION.—

5 “(1) IN GENERAL.—No guarantee shall be
6 made unless—

7 “(A) an appropriation for the cost has
8 been made;

9 “(B) the Secretary has received from the
10 borrower a payment in full for the cost of the
11 obligation and deposited the payment into the
12 Treasury; or

13 “(C) a combination of appropriations or
14 payments from the borrower has been made
15 sufficient to cover the cost of the obligation.

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

20 (c) FEES.—Section 1702(h) of the Energy Policy Act
21 of 2005 (42 U.S.C. 16512(h)) is amended by striking
22 paragraph (2) and inserting the following:

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

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

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

9 (d) WAGE RATE REQUIREMENTS.—Section 1702 of
10 the Energy Policy Act of 2005 (42 U.S.C. 16512) is
11 amended by adding at the end the following new sub-
12 section:

13 “(k) WAGE RATE REQUIREMENTS.—No loan guar-
14 antee shall be made under this title unless the borrower
15 has provided to the Secretary reasonable assurances that
16 all laborers and mechanics employed by contractors and
17 subcontractors in the performance of construction work fi-
18 nanced in whole or in part by the guaranteed loan will
19 be paid wages at rates not less than those prevailing on
20 projects of a character similar to the contract work in the
21 civil subdivision of the State in which the contract work
22 is to be performed as determined by the Secretary of
23 Labor in accordance with subchapter IV of chapter 31 of
24 part A of subtitle II of title 40, United States Code. With
25 respect to the labor standards specified in this subsection,

1 the Secretary of Labor shall have the authority and func-
2 tions set forth in Reorganization Plan Numbered 14 of
3 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145
4 of title 40, United States Code.”.

5 **SEC. 192. PURPOSE.**

6 The purpose of sections 193 through 199 of this sub-
7 title is to promote the domestic development and deploy-
8 ment of clean energy technologies required for the 21st
9 century through the establishment of a self-sustaining
10 Clean Energy Deployment Administration that will pro-
11 vide for an attractive investment environment through
12 partnership with and support of the private capital market
13 in order to promote access to affordable financing for ac-
14 celerated and widespread deployment of—

- 15 (1) clean energy technologies;
- 16 (2) advanced or enabling energy infrastructure
17 technologies;
- 18 (3) energy efficiency technologies in residential,
19 commercial, and industrial applications, including
20 end-use efficiency in buildings; and
- 21 (4) manufacturing technologies for any of the
22 technologies or applications described in this section.

23 **SEC. 193. DEFINITIONS.**

24 In this subtitle:

1 (1) ADMINISTRATION.—The term “Administra-
2 tion” means the Clean Energy Deployment Adminis-
3 tration established by section 196.

4 (2) ADVISORY COUNCIL.—The term “Advisory
5 Council” means the Energy Technology Advisory
6 Council of the Administration.

7 (3) BREAKTHROUGH TECHNOLOGY.—The term
8 “breakthrough technology” means a clean energy
9 technology that—

10 (A) presents a significant opportunity to
11 advance the goals developed under section 195,
12 as assessed under the methodology established
13 by the Advisory Council; but

14 (B) has generally not been considered a
15 commercially ready technology as a result of
16 high perceived technology risk or other similar
17 factors.

18 (4) CLEAN ENERGY TECHNOLOGY.—The term
19 “clean energy technology” means a technology re-
20 lated to the production, use, transmission, storage,
21 control, or conservation of energy—

22 (A) that will contribute to a stabilization of
23 atmospheric greenhouse gas concentrations
24 through reduction, avoidance, or sequestration
25 of energy-related emissions and—

1 (i) reduce the need for additional en-
2 ergy supplies by using existing energy sup-
3 plies with greater efficiency or by transmit-
4 ting, distributing, or transporting energy
5 with greater effectiveness through the in-
6 frastructure of the United States; or

7 (ii) diversify the sources of energy
8 supply of the United States to strengthen
9 energy security and to increase supplies
10 with a favorable balance of environmental
11 effects if the entire technology system is
12 considered; and

13 (B) for which, as determined by the Ad-
14 ministrator, insufficient commercial lending is
15 available to allow for widespread deployment.

16 (5) COST.—The term “cost” has the meaning
17 given the term in section 502 of the Federal Credit
18 Reform Act of 1990 (2 U.S.C. 661a).

19 (6) DIRECT LOAN.—The term “direct loan” has
20 the meaning given the term in section 502 of the
21 Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

22 (7) FUND.—The term “Fund” means the Clean
23 Energy Investment Fund established by section
24 194(a).

1 (8) LOAN GUARANTEE.—The term “loan guar-
2 antee” has the meaning given the term in section
3 502 of the Federal Credit Reform Act of 1990 (2
4 U.S.C. 661a).

5 (9) NATIONAL LABORATORY.—The term “Na-
6 tional Laboratory” has the meaning given the term
7 in section 2 of the Energy Policy Act of 2005 (42
8 U.S.C. 15801).

9 (10) SECRETARY.—The term “Secretary”
10 means the Secretary of Energy.

11 (11) STATE.—The term “State” means—

12 (A) a State;

13 (B) the District of Columbia;

14 (C) the Commonwealth of Puerto Rico;

15 and

16 (D) any other territory or possession of the
17 United States.

18 (12) TECHNOLOGY RISK.—The term “tech-
19 nology risk” means the risks during construction or
20 operation associated with the design, development,
21 and deployment of clean energy technologies (includ-
22 ing the cost, schedule, performance, reliability and
23 maintenance, and accounting for the perceived risk),
24 from the perspective of commercial lenders, that
25 may be increased as a result of the absence of ade-

1 quate historical construction, operating, or perform-
2 ance data from commercial applications of the tech-
3 nology.

4 **SEC. 194. CLEAN ENERGY INVESTMENT FUND.**

5 (a) **ESTABLISHMENT.**—There is established in the
6 Treasury of the United States a revolving fund, to be
7 known as the “Clean Energy Investment Fund”, con-
8 sisting of—

9 (1) such amounts as are deposited in the Fund
10 under this subtitle; and

11 (2) such sums as may be appropriated to sup-
12 plement the Fund.

13 (b) **AUTHORIZATION OF APPROPRIATIONS.**—There
14 are authorized to be appropriated to the Fund such sums
15 as are necessary to carry out this subtitle.

16 (c) **EXPENDITURES FROM FUND.**—

17 (1) **IN GENERAL.**—Amounts in the Fund shall
18 be available to the Administrator of the Administra-
19 tion for obligation without fiscal year limitation, to
20 remain available until expended.

21 (2) **ADMINISTRATIVE EXPENSES.**—

22 (A) **FEES.**—Fees collected for administra-
23 tive expenses shall be available without limita-
24 tion to cover applicable expenses.

1 (B) FUND.—To the extent that adminis-
2 trative expenses are not reimbursed through
3 fees, an amount not to exceed 1.5 percent of
4 the amounts in the Fund as of the beginning of
5 each fiscal year shall be available to pay the ad-
6 ministrative expenses for the fiscal year nec-
7 essary to carry out this subtitle.

8 (d) TRANSFERS OF AMOUNTS.—

9 (1) IN GENERAL.—The amounts required to be
10 transferred to the Fund under this section shall be
11 transferred at least monthly from the general fund
12 of the Treasury to the Fund on the basis of esti-
13 mates made by the Secretary of the Treasury.

14 (2) ADJUSTMENTS.—Proper adjustment shall
15 be made in amounts subsequently transferred to the
16 extent prior estimates were in excess of or less than
17 the amounts required to be transferred.

18 **SEC. 195. ENERGY TECHNOLOGY DEPLOYMENT GOALS.**

19 (a) GOALS.—Not later than 1 year after the date of
20 enactment of this Act, the Secretary, after consultation
21 with the Advisory Council, shall develop and publish for
22 review and comment in the Federal Register near-, me-
23 dium-, and long-term goals (including numerical perform-
24 ance targets at appropriate intervals to measure progress
25 toward those goals) for the deployment of clean energy

1 technologies through the credit support programs estab-
2 lished by section 197 to promote—

3 (1) sufficient electric generating capacity using
4 clean energy technologies to meet the energy needs
5 of the United States;

6 (2) clean energy technologies in vehicles and
7 fuels that will substantially reduce the reliance of
8 the United States on foreign sources of energy and
9 insulate consumers from the volatility of world en-
10 ergy markets;

11 (3) a domestic commercialization and manufac-
12 turing capacity that will establish the United States
13 as a world leader in clean energy technologies across
14 multiple sectors;

15 (4) installation of sufficient infrastructure to
16 allow for the cost-effective deployment of clean en-
17 ergy technologies appropriate to each region of the
18 United States;

19 (5) the transformation of the building stock of
20 the United States to zero net energy consumption;

21 (6) the recovery, use, and prevention of waste
22 energy;

23 (7) domestic manufacturing of clean energy
24 technologies on a scale that is sufficient to achieve
25 price parity with conventional energy sources;

1 (8) domestic production of commodities and
2 materials (such as steel, chemicals, polymers, and
3 cement) using clean energy technologies so that the
4 United States will become a world leader in environ-
5 mentally sustainable production of the commodities
6 and materials;

7 (9) a robust, efficient, and interactive electricity
8 transmission grid that will allow for the incorpora-
9 tion of clean energy technologies, distributed genera-
10 tion, and demand-response in each regional electric
11 grid;

12 (10) sufficient availability of financial products
13 to allow owners and users of residential, retail, com-
14 mercial, and industrial buildings to make energy ef-
15 ficiency and distributed generation technology in-
16 vestments with reasonable payback periods; and

17 (11) such other goals as the Secretary, in con-
18 sultation with the Advisory Council, determines to be
19 consistent with the purposes stated in section 192.

20 (b) REVISIONS.—The Secretary shall revise the goals
21 established under subsection (a), from time to time as ap-
22 propriate, to account for advances in technology and
23 changes in energy policy.

24 **SEC. 196. CLEAN ENERGY DEPLOYMENT ADMINISTRATION.**

25 (a) ESTABLISHMENT.—

1 (1) IN GENERAL.—There is established in the
2 Department of Energy an administration to be
3 known as the Clean Energy Deployment Administra-
4 tion, under the direction of the Administrator of the
5 Administration and the Board of Directors.

6 (2) STATUS.—

7 (A) IN GENERAL.—The Administration
8 (including officers, employees, and agents of the
9 Administration) shall not be responsible to, or
10 subject to the authority, direction, or control of,
11 any other officer, employee, or agent of the De-
12 partment of Energy other than the Secretary,
13 acting through the Administrator of the Admin-
14 istration.

15 (B) EXEMPTION FROM REORGANIZA-
16 TION.—The Administration shall be exempt
17 from the reorganization authority provided
18 under section 643 of the Department of Energy
19 Reorganization Act (42 U.S.C. 7253).

20 (C) INSPECTOR GENERAL.—Section 12 of
21 the Inspector General Act of 1978 (5 U.S.C.
22 App.) is amended—

23 (i) in paragraph (1), by inserting “the
24 Administrator of the Clean Energy Deploy-

1 ment Administration;” after “Export-Im-
2 port Bank;”; and

3 (ii) in paragraph (2), by inserting
4 “the Clean Energy Deployment Adminis-
5 tration,” after “Export-Import Bank,”.

6 (3) OFFICES.—

7 (A) PRINCIPAL OFFICE.—The Administra-
8 tion shall—

9 (i) maintain the principal office of the
10 Administration in the District of Columbia;
11 and

12 (ii) for purposes of venue in civil ac-
13 tions, be considered to be a resident of the
14 District of Columbia.

15 (B) OTHER OFFICES.—The Administration
16 may establish other offices in such other places
17 as the Administration considers necessary or
18 appropriate for the conduct of the business of
19 the Administration.

20 (b) ADMINISTRATOR.—

21 (1) IN GENERAL.—The Administrator of the
22 Administration shall be—

23 (A) appointed by the President, with the
24 advice and consent of the Senate, for a 5-year
25 term; and

1 (B) compensated at the annual rate of
2 basic pay prescribed for level II of the Execu-
3 tive Schedule under section 5313 of title 5,
4 United States Code.

5 (2) DUTIES.—The Administrator of the Admin-
6 istration shall—

7 (A) serve as the Chief Executive Officer of
8 the Administration and Chairman of the Board;

9 (B) ensure that—

10 (i) the Administration operates in a
11 safe and sound manner, including mainte-
12 nance of adequate capital and internal con-
13 trols (consistent with section 404 of the
14 Sarbanes-Oxley Act of 2002 (15 U.S.C.
15 7262));

16 (ii) the operations and activities of the
17 Administration foster liquid, efficient, com-
18 petitive, and resilient energy and energy ef-
19 ficiency finance markets;

20 (iii) the Administration carries out the
21 purposes stated in section 192 only
22 through activities that are authorized
23 under and consistent with sections 192
24 through 199; and

1 (iv) the activities of the Administra-
2 tion and the manner in which the Adminis-
3 tration is operated are consistent with the
4 public interest;

5 (C) develop policies and procedures for the
6 Administration that will—

7 (i) promote a self-sustaining portfolio
8 of investments that will maximize the value
9 of investments to effectively promote clean
10 energy technologies;

11 (ii) promote transparency and open-
12 ness in Administration operations;

13 (iii) afford the Administration with
14 sufficient flexibility to meet the purposes
15 stated in section 192; and

16 (iv) provide for the efficient proc-
17 essing of applications; and

18 (D) with the concurrence of the Board, set
19 expected loss reserves for the support provided
20 by the Administration consistent with section
21 197(c).

22 (c) BOARD OF DIRECTORS.—

23 (1) IN GENERAL.—The Board of Directors of
24 the Administration shall consist of—

1 (A) the Secretary or the designee of the
2 Secretary, who shall serve as an ex-officio vot-
3 ing member of the Board of Directors;

4 (B) the Administrator of the Administra-
5 tion, who shall serve as the Chairman of the
6 Board of Directors; and

7 (C) 7 additional members who shall—

8 (i) be appointed by the President,
9 with the advice and consent of the Senate,
10 for staggered 5-year terms; and

11 (ii) have experience in banking, finan-
12 cial services, technology assessment, energy
13 regulation, or risk management, including
14 individuals with substantial experience in
15 the development of energy projects, the
16 electricity generation sector, the transpor-
17 tation sector, the manufacturing sector,
18 and the energy efficiency sector.

19 (2) DUTIES.—The Board of Directors shall—

20 (A) oversee the operations of the Adminis-
21 tration and ensure industry best practices are
22 followed in all financial transactions involving
23 the Administration;

24 (B) consult with the Administrator of the
25 Administration on the general policies and pro-

1 cedures of the Administration to ensure the in-
2 terests of the taxpayers are protected;

3 (C) ensure the portfolio of investments are
4 consistent with purposes stated in section 192
5 and with the long-term financial stability of the
6 Administration;

7 (D) ensure that the operations and activi-
8 ties of the Administration are consistent with
9 the development of a robust private sector that
10 can provide commercial loans or financing prod-
11 ucts; and

12 (E) not serve on a full-time basis, except
13 that the Board of Directors shall meet at least
14 quarterly to review, as appropriate, applications
15 for credit support and set policies and proce-
16 dures as necessary.

17 No member of the Board shall take part in any re-
18 view or decision of any project as to which that
19 member or member's immediate family has a finan-
20 cial or other interest.

21 (3) REMOVAL.—An appointed member of the
22 Board of Directors may be removed from office by
23 the President for good cause.

24 (4) VACANCIES.—An appointed seat on the
25 Board of Directors that becomes vacant shall be

1 filled by appointment by the President, but only for
2 the unexpired portion of the term of the vacating
3 member.

4 (5) COMPENSATION OF MEMBERS.—An ap-
5 pointed member of the Board of Directors shall be
6 compensated at a rate equal to the daily equivalent
7 of the annual rate of basic pay prescribed for level
8 III of the Executive Schedule under section 5314 of
9 title 5, United States Code, for each day (including
10 travel time) during which the member is engaged in
11 the performance of the duties of the Board of Direc-
12 tors.

13 (d) ENERGY TECHNOLOGY ADVISORY COUNCIL.—

14 (1) IN GENERAL.—The Administration shall
15 have an Energy Technology Advisory Council con-
16 sisting of—

17 (A) 5 members selected by the Secretary;
18 and

19 (B) 3 members selected by the Board of
20 Directors of the Administration.

21 (2) QUALIFICATIONS.—The members of the Ad-
22 visory Council shall—

23 (A) have relevant scientific expertise; and

1 (B) in the case of the members selected by
2 the Secretary under paragraph (1)(A), include
3 representatives of—

- 4 (i) the academic community;
5 (ii) the private research community;
6 (iii) National Laboratories;
7 (iv) the technology or project develop-
8 ment community; and
9 (v) the commercial energy financing
10 and operations sector.

11 (3) DUTIES.—The Advisory Council shall—

12 (A) develop and publish for comment in
13 the Federal Register a methodology for assess-
14 ment of clean energy technologies that will
15 allow the Administration to evaluate projects
16 based on the progress likely to be achieved per-
17 dollar invested in maximizing the attributes of
18 the definition of clean energy technology, taking
19 into account the extent to which support for a
20 clean energy technology is likely to accrue sub-
21 sequent benefits that are attributable to a com-
22 mercial scale deployment taking place earlier
23 than that which otherwise would have occurred
24 without the support; and

1 (B) advise on the technological approaches
2 that should be supported by the Administration
3 to meet the technology deployment goals estab-
4 lished by the Secretary pursuant to section 195.

5 (4) TERM.—

6 (A) IN GENERAL.—Members of the Advi-
7 sory Council shall have 5-year staggered terms,
8 as determined by the Secretary and the Admin-
9 istrator of the Administration.

10 (B) REAPPOINTMENT.—A member of the
11 Advisory Council may be reappointed.

12 (5) COMPENSATION.—A member of the Advi-
13 sory Council, who is not otherwise compensated as
14 a Federal employee, shall be compensated at a rate
15 equal to the daily equivalent of the annual rate of
16 basic pay prescribed for level IV of the Executive
17 Schedule under section 5315 of title 5, United
18 States Code, for each day (including travel time)
19 during which the member is engaged in the perform-
20 ance of the duties of the Advisory Council.

21 (e) STAFF.—

22 (1) IN GENERAL.—The Administrator of the
23 Administration, in consultation with the Board of
24 Directors, may—

1 (A) appoint and terminate such officers,
2 attorneys, employees, and agents as are nec-
3 essary to carry out this subtitle; and

4 (B) vest those personnel with such powers
5 and duties as the Administrator of the Adminis-
6 tration may determine.

7 (2) DIRECT HIRE AUTHORITY.—

8 (A) IN GENERAL.—Notwithstanding sec-
9 tion 3304 and sections 3309 through 3318 of
10 title 5, United States Code, the Administrator
11 of the Administration may, on a determination
12 that there is a severe shortage of candidates or
13 a critical hiring need for particular positions,
14 recruit and directly appoint highly qualified
15 critical personnel with specialized knowledge
16 important to the function of the Administration
17 into the competitive service.

18 (B) EXCEPTION.—The authority granted
19 under subparagraph (A) shall not apply to posi-
20 tions in the excepted service or the Senior Exec-
21 utive Service.

22 (C) REQUIREMENTS.—In exercising the
23 authority granted under subparagraph (A), the
24 Administrator of the Administration shall en-

1 sure that any action taken by the Administrator
2 of the Administration—

3 (i) is consistent with the merit prin-
4 ciples of section 2301 of title 5, United
5 States Code; and

6 (ii) complies with the public notice re-
7 quirements of section 3327 of title 5,
8 United States Code.

9 (D) TERMINATION OF EFFECTIVENESS.—

10 The authority provided by this paragraph ter-
11 minates effective on the date that is 2 years
12 after the date of enactment of this Act.

13 (3) CRITICAL PAY AUTHORITY.—

14 (A) IN GENERAL.—Notwithstanding sec-
15 tion 5377 of title 5, United States Code, and
16 without regard to the provisions of that title
17 governing appointments in the competitive serv-
18 ice or the Senior Executive Service and chap-
19 ters 51 and 53 of that title (relating to classi-
20 fication and pay rates), the Administrator of
21 the Administration may establish, fix the com-
22 pensation of, and appoint individuals to critical
23 positions needed to carry out the functions of
24 the Administration, if the Administrator of the
25 Administration certifies that—

1 (i) the positions require expertise of
2 an extremely high level in a financial, tech-
3 nical, or scientific field;

4 (ii) the Administration would not suc-
5 cessfully accomplish an important mission
6 without such an individual; and

7 (iii) exercise of the authority is nec-
8 essary to recruit an individual who is ex-
9 ceptionally well qualified for the position.

10 (B) LIMITATIONS.—The authority granted
11 under subparagraph (A) shall be subject to the
12 following conditions:

13 (i) The number of critical positions
14 authorized by subparagraph (A) may not
15 exceed 20 at any 1 time in the Administra-
16 tion.

17 (ii) The term of an appointment
18 under subparagraph (A) may not exceed 4
19 years.

20 (iii) An individual appointed under
21 subparagraph (A) may not have been an
22 Administration employee at any time dur-
23 ing the 2-year period preceding the date of
24 appointment.

1 (iv) Total annual compensation for
2 any individual appointed under subpara-
3 graph (A) may not exceed the highest total
4 annual compensation payable at the rate
5 determined under section 104 of title 3,
6 United States Code.

7 (v) An individual appointed under
8 subparagraph (A) may not be considered
9 to be an employee for purposes of sub-
10 chapter II of chapter 75 of title 5, United
11 States Code.

12 (C) NOTIFICATION.—Each year, the Ad-
13 ministrator of the Administration shall submit
14 to Congress a notification that lists each indi-
15 vidual appointed under this paragraph.

16 **SEC. 197. DIRECT SUPPORT.**

17 (a) IN GENERAL.—The Administration may issue di-
18 rect loans, letters of credit, loan guarantees, insurance
19 products, or such other credit enhancements or debt in-
20 struments (including participation as a co-lender or a
21 member of a syndication) as the Administrator of the Ad-
22 ministration considers appropriate to deploy clean energy
23 technologies if the Administrator of the Administration
24 has determined that deployment of the technologies would
25 benefit or be accelerated by the support.

1 (b) ELIGIBILITY CRITERIA.—In carrying out this sec-
2 tion and awarding credit support to projects, the Adminis-
3 trator of the Administration shall account for—

4 (1) how the technology rates based on an eval-
5 uation methodology established by the Advisory
6 Council;

7 (2) how the project fits with the goals estab-
8 lished under section 195; and

9 (3) the potential for the applicant to success-
10 fully complete the project.

11 (c) RISK.—

12 (1) EXPECTED LOAN LOSS RESERVE.—The Ad-
13 ministrator of the Administration shall establish an
14 expected loan loss reserve to account for estimated
15 losses attributable to activities under this section
16 that is consistent with the purposes of—

17 (A) developing breakthrough technologies
18 to the point at which technology risk is largely
19 mitigated;

20 (B) achieving widespread deployment and
21 advancing the commercial viability of clean en-
22 ergy technologies; and

23 (C) advancing the goals established under
24 section 195.

1 (2) INITIAL EXPECTED LOAN LOSS RESERVE.—

2 Until such time as the Administrator of the Admin-
3 istration determines sufficient data exist to establish
4 an expected loan loss reserve that is appropriate, the
5 Administrator of the Administration shall consider
6 establishing an initial rate of 10 percent for the
7 portfolio of investments under this subtitle.

8 (3) PORTFOLIO INVESTMENT APPROACH.—The
9 Administration shall—

10 (A) use a portfolio investment approach to
11 mitigate risk and diversify investments across
12 technologies and ensure that no particular tech-
13 nology is provided more than 30 percent of the
14 financial support available;

15 (B) to the maximum extent practicable and
16 consistent with long-term self-sufficiency, weigh
17 the portfolio of investments in projects to ad-
18 vance the goals established under section 195;

19 (C) consistent with the expected loan loss
20 reserve established under this subsection, the
21 purposes stated in section 192, and section
22 196(b)(2)(B), provide the maximum practicable
23 percentage of support to promote breakthrough
24 technologies; and

1 (D) give the highest priority to investments
2 that promote technologies that will achieve the
3 maximum greenhouse gas emission reductions
4 within a reasonable period of time per dollar in-
5 vested and the earliest reductions in greenhouse
6 gas emissions.

7 (4) LOSS RATE REVIEW.—

8 (A) IN GENERAL.—The Board of Directors
9 shall review on an annual basis the loss rates
10 of the portfolio to determine the adequacy of
11 the reserves.

12 (B) REPORT.—Not later than 90 days
13 after the date of the initiation of the review, the
14 Administrator of the Administration shall sub-
15 mit to the Committee on Energy and Natural
16 Resources of the Senate and the Committee on
17 Energy and Commerce of the House of Rep-
18 resentatives a report describing the results of
19 the review and any recommended policy
20 changes.

21 (5) FEDERAL COST SHARE.—A loan guarantee
22 by the Administration shall not exceed an amount
23 equal to 80 percent of the project cost of the facility
24 that is the subject of the guarantee, as estimated at
25 the time at which the guarantee is issued.

1 (d) APPLICATION REVIEW.—

2 (1) IN GENERAL.—To the maximum extent
3 practicable and consistent with sound business prac-
4 tices, the Administration shall seek to consolidate re-
5 views of applications for credit support under this
6 subtitle such that final decisions on applications can
7 generally be issued not later than 180 days after the
8 date of submission of a completed application.

9 (2) ENVIRONMENTAL REVIEW.—In carrying out
10 this subtitle, the Administration shall, to the max-
11 imum extent practicable—

12 (A) avoid duplicating efforts that have al-
13 ready been undertaken by other agencies (in-
14 cluding State agencies acting under Federal
15 programs); and

16 (B) with the advice of the Council on Envi-
17 ronmental Quality and any other applicable
18 agencies, use the administrative records of simi-
19 lar reviews conducted throughout the executive
20 branch to develop the most expeditious review
21 process practicable.

22 (e) WAGE RATE REQUIREMENTS.—

23 (1) IN GENERAL.—No credit support shall be
24 issued under this section unless the borrower has
25 provided to the Administrator of the Administration

1 reasonable assurances that all laborers and mechan-
2 ics employed by contractors and subcontractors in
3 the performance of construction work financed in
4 whole or in part by the Administration will be paid
5 wages at rates not less than those prevailing on
6 projects of a character similar to the contract work
7 in the civil subdivision of the State in which the con-
8 tract work is to be performed as determined by the
9 Secretary of Labor in accordance with subchapter
10 IV of chapter 31 of part A of subtitle II of title 40,
11 United States Code.

12 (2) LABOR STANDARDS.—With respect to the
13 labor standards specified in this subsection, the Sec-
14 retary of Labor shall have the authority and func-
15 tions set forth in Reorganization Plan Numbered 14
16 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section
17 3145 of title 40, United States Code.

18 **SEC. 198. FEDERAL CREDIT AUTHORITY.**

19 (a) PAYMENTS OF LIABILITIES.—

20 (1) IN GENERAL.—Any payment made to dis-
21 charge liabilities arising from agreements under this
22 subtitle shall be paid out of the Fund or the associ-
23 ated credit program account, as appropriate.

24 (2) SECURITY.—The full faith and credit of the
25 United States is pledged to the payment of all obli-

1 gations entered into by the Administration pursuant
2 to this subtitle.

3 (b) FEES.—

4 (1) IN GENERAL.—Consistent with achieving
5 the purposes stated in section 192, the Adminis-
6 trator of the Administration shall charge fees or col-
7 lect compensation generally in accordance with com-
8 mercial rates.

9 (2) AVAILABILITY OF FEES.—All fees collected
10 by the Administration may be retained by the Ad-
11 ministration and placed in the Fund and may re-
12 main available to the Administration, without fur-
13 ther appropriation or fiscal year limitation, for use
14 in carrying out the purposes stated in section 192.

15 (3) BREAKTHROUGH TECHNOLOGIES.—The Ad-
16 ministration shall charge the minimum amount in
17 fees or compensation practicable for breakthrough
18 technologies, consistent with the long-term viability
19 of the Administration, unless the Administration
20 first determines that a higher charge will not impede
21 the development of the technology.

22 (4) ALTERNATIVE FEE ARRANGEMENTS.—The
23 Administration may use such alternative arrange-
24 ments (such as profit participation, contingent fees,
25 and other valuable contingent interests) as the Ad-

1 ministration considers appropriate to compensate the
2 Administration for the expenses of the Administra-
3 tion and the risk inherent in the support of the Ad-
4 ministration.

5 (c) COST TRANSFER AUTHORITY.—Amounts col-
6 lected by the Administration for the cost of a loan or loan
7 guarantee shall be transferred by the Administration to
8 the respective credit program accounts.

9 **SEC. 199. GENERAL PROVISIONS.**

10 (a) IMMUNITY FROM IMPAIRMENT, LIMITATION, OR
11 RESTRICTION.—

12 (1) IN GENERAL.—All rights and remedies of
13 the Administration (including any rights and rem-
14 edies of the Administration on, under, or with re-
15 spect to any mortgage or any obligation secured by
16 a mortgage) shall be immune from impairment, limi-
17 tation, or restriction by or under—

18 (A) any law (other than a law enacted by
19 Congress expressly in limitation of this para-
20 graph) that becomes effective after the acquisi-
21 tion by the Administration of the subject or
22 property on, under, or with respect to which the
23 right or remedy arises or exists or would so
24 arise or exist in the absence of the law; or

1 (B) any administrative or other action that
2 becomes effective after the acquisition.

3 (2) STATE LAW.—The Administrator of the Ad-
4 ministration may conduct the business of the Ad-
5 ministration without regard to any qualification or
6 law of any State relating to incorporation.

7 (b) USE OF OTHER AGENCIES.—With the consent of
8 a department, establishment, or instrumentality (including
9 any field office), the Administration may—

10 (1) use and act through any department, estab-
11 lishment, or instrumentality;

12 (2) use, and pay compensation for, information,
13 services, facilities, and personnel of the department,
14 establishment, or instrumentality.

15 (c) PROCUREMENT.—The Administrator of the Ad-
16 ministration shall be the senior procurement officer for the
17 Administration for purposes of section 16(a) of the Office
18 of Federal Procurement Policy Act (41 U.S.C. 414(a)).

19 (d) FINANCIAL MATTERS.—

20 (1) INVESTMENTS.—Funds of the Administra-
21 tion may be invested in such investments as the
22 Board of Directors may prescribe.

23 (2) FISCAL AGENTS.—Any Federal Reserve
24 bank or any bank as to which at the time of the des-
25 ignation of the bank by the Administrator of the Ad-

1 ministration there is outstanding a designation by
2 the Secretary of the Treasury as a general or other
3 depository of public money, may be designated by
4 the Administrator of the Administration as a deposi-
5 tary or custodian or as a fiscal or other agent of the
6 Administration.

7 (c) JURISDICTION.—Notwithstanding section 1349 of
8 title 28, United States Code, or any other provision of
9 law—

10 (1) the Administration shall be considered a
11 corporation covered by sections 1345 and 1442 of
12 title 28, United States Code;

13 (2) all civil actions to which the Administration
14 is a party shall be considered to arise under the laws
15 of the United States, and the district courts of the
16 United States shall have original jurisdiction of all
17 such actions, without regard to amount or value;
18 and

19 (3) any civil or other action, case or controversy
20 in a court of a State, or in any court other than a
21 district court of the United States, to which the Ad-
22 ministration is a party may at any time before trial
23 be removed by the Administration, without the giv-
24 ing of any bond or security and by following any

1 procedure for removal of causes in effect at the time
2 of the removal—

3 (A) to the district court of the United
4 States for the district and division embracing
5 the place in which the same is pending; or

6 (B) if there is no such district court, to the
7 district court of the United States for the dis-
8 trict in which the principal office of the Admin-
9 istration is located.

10 (f) PERIODIC REPORTS.—Not later than 1 year after
11 commencement of operation of the Administration and at
12 least biannually thereafter, the Administrator of the Ad-
13 ministration shall submit to the Committee on Energy and
14 Natural Resources of the Senate and the Committee on
15 Energy and Commerce of the House of Representatives
16 a report that includes a description of—

17 (1) the technologies supported by activities of
18 the Administration and how the activities advance
19 the purposes stated in section 192; and

20 (2) the performance of the Administration on
21 meeting the goals established under section 195.

22 (g) AUDITS BY THE COMPTROLLER GENERAL.—

23 (1) IN GENERAL.—The programs, activities, re-
24 cepts, expenditures, and financial transactions of
25 the Administration shall be subject to audit by the

1 Comptroller General of the United States under
2 such rules and regulations as may be prescribed by
3 the Comptroller General.

4 (2) ACCESS.—The representatives of the Gov-
5 ernment Accountability Office shall—

6 (A) have access to the personnel and to all
7 books, accounts, documents, records (including
8 electronic records), reports, files, and all other
9 papers, automated data, things, or property be-
10 longing to, under the control of, or in use by
11 the Administration, or any agent, representa-
12 tive, attorney, advisor, or consultant retained by
13 the Administration, and necessary to facilitate
14 the audit;

15 (B) be afforded full facilities for verifying
16 transactions with the balances or securities held
17 by depositories, fiscal agents, and custodians;

18 (C) be authorized to obtain and duplicate
19 any such books, accounts, documents, records,
20 working papers, automated data and files, or
21 other information relevant to the audit without
22 cost to the Comptroller General; and

23 (D) have the right of access of the Comp-
24 troller General to such information pursuant to
25 section 716(c) of title 31, United States Code.

1 (3) ASSISTANCE AND COST.—

2 (A) IN GENERAL.—For the purpose of con-
3 ducting an audit under this subsection, the
4 Comptroller General may, in the discretion of
5 the Comptroller General, employ by contract,
6 without regard to section 3709 of the Revised
7 Statutes (41 U.S.C. 5), professional services of
8 firms and organizations of certified public ac-
9 countants for temporary periods or for special
10 purposes.

11 (B) REIMBURSEMENT.—

12 (i) IN GENERAL.—On the request of
13 the Comptroller General, the Administra-
14 tion shall reimburse the Government Ac-
15 countability Office for the full cost of any
16 audit conducted by the Comptroller Gen-
17 eral under this subsection.

18 (ii) CREDITING.—Such reimburse-
19 ments shall—

20 (I) be credited to the appropria-
21 tion account entitled “Salaries and
22 Expenses, Government Accountability
23 Office” at the time at which the pay-
24 ment is received; and

1 (II) remain available until ex-
2 pended.

3 (h) ANNUAL INDEPENDENT AUDITS.—

4 (1) IN GENERAL.—The Administrator of the
5 Administration shall—

6 (A) have an annual independent audit
7 made of the financial statements of the Admin-
8 istration by an independent public accountant
9 in accordance with generally accepted auditing
10 standards; and

11 (B) submit to the Secretary the results of
12 the audit.

13 (2) CONTENT.—In conducting an audit under
14 this subsection, the independent public accountant
15 shall determine and report on whether the financial
16 statements of the Administration—

17 (A) are presented fairly in accordance with
18 generally accepted accounting principles; and

19 (B) comply with any disclosure require-
20 ments imposed under this subtitle.

21 (i) FINANCIAL REPORTS.—

22 (1) IN GENERAL.—The Administrator of the
23 Administration shall submit to the Secretary annual
24 and quarterly reports of the financial condition and
25 operations of the Administration, which shall be in

1 such form, contain such information, and be sub-
2 mitted on such dates as the Secretary shall require.

3 (2) CONTENTS OF ANNUAL REPORTS.—Each
4 annual report shall include—

5 (A) financial statements prepared in ac-
6 cordance with generally accepted accounting
7 principles;

8 (B) any supplemental information or alter-
9 native presentation that the Secretary may re-
10 quire; and

11 (C) an assessment (as of the end of the
12 most recent fiscal year of the Administration),
13 signed by the chief executive officer and chief
14 accounting or financial officer of the Adminis-
15 tration, of—

16 (i) the effectiveness of the internal
17 control structure and procedures of the
18 Administration; and

19 (ii) the compliance of the Administra-
20 tion with applicable safety and soundness
21 laws.

22 (3) SPECIAL REPORTS.—The Secretary may re-
23 quire the Administrator of the Administration to
24 submit other reports on the condition (including fi-
25 nancial condition), management, activities, or oper-

1 ations of the Administration, as the Secretary con-
2 siders appropriate.

3 (4) ACCURACY.—Each report of financial condi-
4 tion shall contain a declaration by the Administrator
5 of the Administration or any other officer designated
6 by the Board of Directors of the Administration to
7 make the declaration, that the report is true and
8 correct to the best of the knowledge and belief of the
9 officer.

10 (5) AVAILABILITY OF REPORTS.—Reports re-
11 quired under this section shall be published and
12 made publicly available as soon as is practicable
13 after receipt by the Secretary.

14 (j) SCOPE AND TERMINATION OF AUTHORITY.—

15 (1) NEW OBLIGATIONS.—The Administrator of
16 the Administration shall not initiate any new obliga-
17 tions under this subtitle on or after January 1,
18 2029.

19 (2) REVERSION TO SECRETARY.—The authori-
20 ties and obligations of the Administration shall re-
21 vert to the Secretary on January 1, 2029.



