

110TH CONGRESS
2D SESSION

S. 3233

To promote development of a 21st century energy system to increase United States competitiveness in the world energy technology marketplace, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 8, 2008

Mr. BINGAMAN introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To promote development of a 21st century energy system to increase United States competitiveness in the world energy technology marketplace, 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 “21st Century Energy
5 Technology Deployment Act”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to promote the domestic
8 development and deployment of the advanced, clean en-
9 ergy technologies required for the 21st century through

1 the establishment of a 21st Century Energy Deployment
2 Corporation that will provide for an attractive investment
3 environment through—

4 (1) the development of a stable secondary mar-
5 ket for clean energy technology deployment loans;
6 and

7 (2) the cooperation and support of the private
8 capital market in order to promote access to afford-
9 able debt financing for accelerated deployment of ad-
10 vanced clean energy technologies and first-of-a-kind
11 commercial deployments.

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

14 (1) **ADVISORY COUNCIL.**—The term “Advisory
15 Council” means the Energy Technology Advisory
16 Council of the Corporation.

17 (2) **BOARD OF DIRECTORS.**—The term “Board
18 of Directors” means the Board of Directors of the
19 Corporation.

20 (3) **BREAKTHROUGH TECHNOLOGY.**—The term
21 “breakthrough technology” means a clean energy
22 technology that—

23 (A) receives a high rating according to the
24 criteria established by the Advisory Council for
25 meeting the objectives of this Act; but

1 (B) has been impeded in the development
2 of the technology due to perceived high tech-
3 nical risk by the commercial financial sector.

4 (4) CLEAN ENERGY TECHNOLOGY.—The term
5 “clean energy technology” means a technology re-
6 lated to the production, use, transmission, control,
7 or conservation of energy that will contribute to
8 meeting objectives of the United States—

9 (A) to reduce the need for additional en-
10 ergy supplies by using existing energy supplies
11 with greater efficiency or by transmitting en-
12 ergy with greater effectiveness through United
13 States energy infrastructure;

14 (B) to diversify the sources of energy sup-
15 ply of the United States to include supplies that
16 are environmentally sustainable; or

17 (C) to stabilize atmospheric greenhouse
18 gas levels thorough reduction, avoidance, and
19 sequestration of energy-related emissions.

20 (5) CORPORATION.—The term “Corporation”
21 means the 21st Century Energy Deployment Cor-
22 poration established by section 5.

23 (6) NATIONAL LABORATORY.—The term “Na-
24 tional Laboratory” has the meaning given the term

1 in section 2 of the Energy Policy Act of 2005 (42
2 U.S.C. 15801).

3 (7) NOVEL TECHNOLOGY.—The term “novel
4 technology” means a clean energy technology that,
5 as determined by the Advisory Council or the Sec-
6 retary—

7 (A) has been sufficiently demonstrated;
8 and

9 (B) has not been widely deployed on a
10 commercial scale.

11 (8) SECRETARY.—The term “Secretary” means
12 the Secretary of Energy.

13 (9) SECURITY.—The term “security” has the
14 meaning given the term in section 2 of the Securities
15 Act of 1933 (15 U.S.C. 77b).

16 (10) STATE.—The term “State” means—

17 (A) a State;

18 (B) the District of Columbia;

19 (C) the Commonwealth of Puerto Rico;

20 and

21 (D) any other territory or possession of the
22 United States.

23 (11) TECHNOLOGY RISK.—The term “tech-
24 nology risk” means risk of project failure generally

1 considered by lenders due to the lack of operating
2 applications of the technology.

3 **SEC. 4. ENERGY TECHNOLOGY DEPLOYMENT GOALS.**

4 (a) GOALS.—Not later than 1 year after the date of
5 enactment of this Act, the Secretary, after consultation
6 with the Advisory Council, shall develop and publish
7 near-, medium-, and long-term goals for the deployment
8 of clean energy technologies through the Corporation to
9 establish or promote—

10 (1) sufficient electric generating capacity using
11 clean energy technologies to meet the energy needs
12 of the United States;

13 (2) clean energy technologies in vehicles and
14 fuels that will end the reliance of the United States
15 on foreign sources of energy and insulate consumers
16 from the price shocks of world energy markets;

17 (3) a domestic commercialization and manufac-
18 turing capacity that will establish the United States
19 as a world leader in clean energy technologies across
20 multiple sectors;

21 (4) installation of sufficient infrastructure to
22 allow for the cost-effective deployment of clean en-
23 ergy technologies in each region of the United
24 States;

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

3 (6) the recovery, use, and prevention of waste
4 energy in the industrial sector;

5 (7) domestic manufacturing of clean energy
6 technologies on a scale that is sufficient to make the
7 cost to the consumer less than current technologies;

8 (8) domestic production of raw materials (such
9 as steel, cement, and iron) using clean energy tech-
10 nologies so that the United States will become a
11 world leader in sustainable production of the mate-
12 rials;

13 (9) a robust, efficient, and interactive electricity
14 transmission grid that will allow for the implementa-
15 tion of clean energy technologies, distributed genera-
16 tion, and demand-response in each State; and

17 (10) such other goals as the Secretary and Ad-
18 visory Council determine to be consistent with the
19 purposes of this Act.

20 (b) PERFORMANCE TARGETS.—Taking into account
21 the goals established under subsection (a), the Advisory
22 Council shall publish 5- and 10-year numerical targets,
23 and annual interim targets, to guide and measure the per-
24 formance of the Corporation toward supporting the de-

1 ployment of clean energy technologies and achieving other
2 goals developed under that subsection.

3 (c) INITIAL TARGETS.—Until the first publication by
4 the Advisory Council of targets under subsection (b), in
5 establishing the deployment priorities of the Corporation,
6 the Corporation shall consider deploying—

7 (1) commercial-scale carbon capture and stor-
8 age from electricity generation capturing at least
9 10,000,000 short tons per year by 2015;

10 (2) solar photovoltaic systems with a power pro-
11 duction cost of 14 cents per kilowatt-hour;

12 (3) concentrated solar power systems with a
13 power production cost of 6 cents per kilowatt-hour;

14 (4) wind power systems greater than 100 kilo-
15 watts with a power production cost of—

16 (A) 3.6 cents per kilowatt-hour by 2012
17 for land-based sites with average wind speeds of
18 13 miles per hour; and

19 (B) 5 cents per kilowatt-hour by 2015 for
20 offshore wind systems with average wind speeds
21 of 15 miles per hour;

22 (5) new enhanced geothermal systems genera-
23 tion capacity with a power production cost of 5 cents
24 per kilowatt-hour by 2023;

1 (1) IN GENERAL.—There is established the 21st
2 Century Energy Deployment Corporation, which
3 shall be a body corporate under the direction of a
4 Board of Directors.

5 (2) BOARD OF DIRECTORS.—Subject to other
6 provisions of law (including regulations), the Board
7 of Directors shall determine the general policies that
8 govern the operations of the Corporation.

9 (3) OFFICES.—

10 (A) PRINCIPAL OFFICE.—The Corporation
11 shall—

12 (i) maintain the principal office of the
13 Corporation in the District of Columbia;
14 and

15 (ii) for purposes of venue in civil ac-
16 tions, be considered to be a resident of the
17 District of Columbia.

18 (B) OTHER AGENCIES AND OFFICES.—The
19 Corporation may establish other agencies or of-
20 fices in such other places as the Corporation
21 considers necessary or appropriate for the con-
22 duct of the business of the Corporation.

23 (b) BOARD OF DIRECTORS.—

24 (1) IN GENERAL.—The Board of Directors shall
25 consist of—

1 (A) the Secretary, who shall serve an ex-
2 officio member of the Board; and

3 (B) 9 members who shall—

4 (i) be appointed by the President for
5 staggered 4-year terms, as determined by
6 the President; and

7 (ii) have experience in banking or fi-
8 nancial services relevant to the operations
9 of the Corporation, including—

10 (I) at least 1 individual with sub-
11 stantial experience in the development
12 of energy projects;

13 (II) at least 1 individual with ex-
14 perience in the electric utility indus-
15 try; and

16 (III) at least 1 individual with
17 experience in the banking industry.

18 (2) REMOVAL.—Any appointed member of the
19 Board of Directors may be removed from office by
20 the President for good cause.

21 (3) VACANCIES.—Any appointive seat on the
22 Board of Directors that becomes vacant shall be
23 filled by appointment by the President, but only for
24 the unexpired portion of the term.

1 (4) COMPENSATION; TRAVEL EXPENSES.—A
2 member of the Board of Directors shall not be com-
3 pensated for service on the Board of Directors but
4 shall be allowed travel expenses, including per diem
5 in lieu of subsistence, at rates authorized for an em-
6 ployee of an agency under subchapter I of chapter
7 57 of title 5, United States Code, while away from
8 the home or regular place of business of the member
9 in the performance of the duties of the Board of Di-
10 rectors.

11 (c) ENERGY TECHNOLOGY ADVISORY COUNCIL.—

12 (1) IN GENERAL.—The Corporation shall have
13 an Energy Technology Advisory Council consisting
14 of—

15 (A) 5 members selected by the Secretary;

16 and

17 (B) 3 members selected by the Board of
18 Directors.

19 (2) QUALIFICATIONS.—The members of the Ad-
20 visory Council shall—

21 (A) have relevant scientific expertise; and

22 (B) include representatives of—

23 (i) the academic community;

24 (ii) the private research community;

25 and

1 (iii) National Laboratories.

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

3 (A) develop a rating system for projects
4 and clean energy technologies to determine how
5 well the projects and clean energy technologies
6 address the purpose of this Act and establish a
7 priority for the projects and clean energy tech-
8 nologies for financial assistance under this Act,
9 taking into account—

10 (i) the extent to which a project or
11 clean energy technology will enhance the
12 energy security of the United States;

13 (ii) the potential the project or clean
14 energy technology has to enhance the com-
15 petitiveness of the United States in pro-
16 viding energy technologies likely to be in
17 demand throughout the world;

18 (iii) the potential benefits of the
19 project or clean energy technology in avert-
20 ing climate change; and

21 (iv) the potential of the technology,
22 once deployed, to become financially self-
23 sustaining;

24 (B) advise on the technological approaches
25 that should be supported by the Corporation to

1 meet the technology deployment goals estab-
2 lished by the Secretary; and

3 (C) set risk and default rate targets for in-
4 dividual technologies, such that the maximum
5 practicable ratio of breakthrough technologies
6 to novel technologies is developed.

7 (4) TERM.—

8 (A) IN GENERAL.—Members of the Advi-
9 sory Council shall have 3-year staggered terms,
10 as determined by the Secretary and the Board
11 of Directors.

12 (B) REAPPOINTMENT.—A member of the
13 Advisory Council may be reappointed.

14 (5) COMPENSATION.—A member of the Advi-
15 sory Council shall serve without compensation but
16 shall be allowed travel expenses, including per diem
17 in lieu of subsistence, at rates authorized for an em-
18 ployee of an agency under subchapter I of chapter
19 57 of title 5, United States Code, while away from
20 the home or regular place of business of the member
21 in the performance of the duties of the Advisory
22 Council.

1 **SEC. 6. CLEAN ENERGY TECHNOLOGY DEPLOYMENT**
2 **SECURITIZATION.**

3 (a) **IN GENERAL.**—The Corporation may purchase,
4 and make commitments to purchase, any debt instrument
5 associated with the deployment of clean energy tech-
6 nologies.

7 (b) **DISPOSITION OF DEBT OR INTEREST.**—The Cor-
8 poration may hold and deal with, and sell or otherwise
9 dispose of, pursuant to commitments or otherwise, any
10 debt described in subsection (a) or interest in the debt.

11 (c) **PRICING.**—

12 (1) **IN GENERAL.**—The Corporation may estab-
13 lish requirements, and impose charges or fees, which
14 may be regarded as elements of pricing, for different
15 classes of sellers or services.

16 (2) **CLASSIFICATION OF SELLERS.**—For the
17 purpose of paragraph (1), the Corporation may clas-
18 sify sellers as necessary to promote transparency
19 and liquidity and properly characterize the risk of
20 default.

21 (d) **ELIGIBILITY.**—The Corporation shall establish
22 criteria and mechanisms such that, to the maximum ex-
23 tent practicable, sellers will be able to determine the eligi-
24 bility of loans for resale at the time of initial lending.

25 (e) **AGGREGATION OF SMALL SCALE PROJECTS.**—
26 The Corporation shall work with Federal, State, local, and

1 private sector entities to develop debt instruments that ag-
2 gregate projects for clean energy technology deployments
3 on a residential or small commercial scale.

4 (f) SECURITIZATION.—

5 (1) IN GENERAL.—The Corporation may lend
6 on the security of, and make commitments to lend
7 on the security of, any debt that the Corporation is
8 authorized to purchase under this section.

9 (2) AUTHORIZED ACTIONS.—On such terms
10 and conditions as the Corporation may prescribe, the
11 Corporation may—

12 (A) borrow;

13 (B) give security;

14 (C) pay interest or other return; and

15 (D) issue notes, debentures, bonds, or
16 other obligations or securities.

17 (g) LENDING ACTIVITIES.—

18 (1) IN GENERAL.—The Corporation shall deter-
19 mine—

20 (A) the volume of the lending activities of
21 the Corporation; and

22 (B) the type of loan ratios, risk profiles,
23 interest rates, maturities, and charges or fees in
24 the secondary market operations of the Cor-
25 poration.

1 (2) OBJECTIVES.—Determinations under para-
2 graph (1) shall be consistent with the objectives of—

3 (A) providing an attractive investment en-
4 vironment for clean energy technologies;

5 (B) making the operations of the Corpora-
6 tion self-supporting over the long term; and

7 (C) meeting the targets established by the
8 Advisory Council.

9 (h) NO FEDERAL GUARANTEE.—The Corporation
10 shall insert appropriate language in all of the obligations
11 and securities of the Corporation issued under this section
12 that clearly indicates that the obligations and securities
13 (together with the interest)—

14 (1) are not guaranteed by the United States;
15 and

16 (2) do not constitute a debt or obligation of the
17 United States or any agency or instrumentality
18 other than the Corporation.

19 (i) EXEMPT SECURITIES.—All securities issued or
20 guaranteed by the Corporation shall, to the same extent
21 as securities that are direct obligations of or obligations
22 guaranteed as to principal or interest by the United
23 States, be considered to be exempt securities within the
24 meaning of the laws administered by the Securities and
25 Exchange Commission.

1 (j) OTHER AUTHORIZED PROGRAMS.—

2 (1) IN GENERAL.—The Secretary may contract
3 with the Corporation to provide financial services
4 and program management for grant, loan, and other
5 credit enhancement programs authorized under any
6 other provision of law.

7 (2) ADMINISTRATION.—In administering any
8 other program under contract with the Secretary,
9 the Corporation shall, to the maximum extent prac-
10 ticable (as determined by the Corporation)—

11 (A) administer the program in a manner
12 that is consistent with the terms and conditions
13 of this Act; and

14 (B) minimize the administrative costs to
15 the Federal Government.

16 **SEC. 7. FEDERAL OWNERSHIP OF OBLIGATIONS.**

17 (a) IN GENERAL.—In order to maintain sufficient li-
18 quidity, the Corporation may issue notes, debentures,
19 bonds, or other obligations for purchase by the Secretary
20 of the Treasury.

21 (b) PUBLIC DEBT TRANSACTIONS.—For the purpose
22 of subsection (a)—

23 (1) the Secretary of the Treasury may use as
24 a public debt transaction the proceeds of the sale of

1 any securities issued under chapter 31 of title 31,
2 United States Code; and

3 (2) the purposes for which securities may be
4 issued under that chapter are extended to include
5 any purchase under this subsection.

6 (c) MAXIMUM OUTSTANDING HOLDING.—The Sec-
7 retary of the Treasury shall not purchase any obligations
8 under this section if the purchase would increase the ag-
9 gregate principal amount of the outstanding holdings of
10 obligations under this section by the Secretary to an
11 amount that is greater than \$1,500,000,000.

12 (d) RATE OF RETURN.—Each purchase of obligations
13 by the Secretary of the Treasury under this section shall
14 be on terms and conditions established to yield a rate of
15 return determined by the Secretary to be appropriate, tak-
16 ing into account the current average rate on outstanding
17 marketable obligations of the United States as of the last
18 day of the month preceding the purchase.

19 (e) SALE OF OBLIGATIONS.—The Secretary of the
20 Treasury may at any time sell, on terms and conditions
21 and at prices determined by the Secretary, any of the obli-
22 gations acquired by the Secretary under this section.

23 (f) PUBLIC DEBT TRANSACTIONS.—All redemptions,
24 purchases, and sales by the Secretary of the Treasury of

1 obligations under this section shall be treated as public
2 debt transactions of the United States.

3 **SEC. 8. GENERAL PROVISIONS.**

4 (a) IMMUNITY FROM IMPAIRMENT, LIMITATION, OR
5 RESTRICTION.—

6 (1) IN GENERAL.—All rights and remedies of
7 the Corporation (including any rights and remedies
8 of the Corporation on, under, or with respect to any
9 mortgage or any obligation secured by a mortgage)
10 shall be immune from impairment, limitation, or re-
11 striction by or under—

12 (A) any law (other than a law enacted by
13 Congress expressly in limitation of this para-
14 graph) that becomes effective after the acquisi-
15 tion by the Corporation of the subject or prop-
16 erty on, under, or with respect to which the
17 right or remedy arises or exists or would so
18 arise or exist in the absence of the law; or

19 (B) any administrative or other action that
20 becomes effective after the acquisition.

21 (2) STATE LAW.—The Corporation may con-
22 duct the business of the Corporation without regard
23 to any qualification or law of any State relating to
24 incorporation.

1 (b) POWERS.—Subject to subsection (c), the Corpora-
2 tion shall have all the powers of a private corporation in-
3 corporated under the District of Columbia Business Cor-
4 poration Act (D.C. Code, sec. 29 et seq.).

5 (c) ADMINISTRATION.—

6 (1) PERFORMANCE-BASED COMPENSATION.—A
7 significant portion of potential compensation of all
8 executive officers of the Corporation shall be based
9 on the performance of the Corporation, all without
10 regard to any other law except as may be provided
11 by the Corporation or by a law enacted after the
12 date of enactment of this Act that expressly limits
13 this paragraph.

14 (2) USE OF OTHER AGENCIES.—With the con-
15 sent of a department, establishment, or instrumen-
16 tality (including any field office), the Corporation
17 may—

18 (A) use and act through any department,
19 establishment, or instrumentality;

20 (B) use, and pay compensation for, infor-
21 mation, services, facilities, and personnel of the
22 department, establishment, or instrumentality.

23 (d) FINANCIAL MATTERS.—

1 (1) INVESTMENTS.—Funds of the Corporation
2 may be invested in such investments as the Board
3 of Directors may prescribe.

4 (2) FISCAL AGENTS.—

5 (A) IN GENERAL.—Any Federal Reserve
6 bank or any bank as to which at the time of the
7 designation of the bank by the Corporation
8 there is outstanding a designation by the Sec-
9 retary of the Treasury as a general or other de-
10 pository of public money, may be designated by
11 the Corporation as a depository or custodian or
12 as a fiscal or other agent of the Corporation.

13 (B) DEPOSITORY OF PUBLIC MONEY.—If
14 designated for that purpose by the Secretary of
15 the Treasury, the Corporation—

16 (i) shall be a depository of public
17 money, under such regulations as may be
18 promulgated by the Secretary of the Treas-
19 ury;

20 (ii) may also be employed as a fiscal
21 or other agent of the United States; and

22 (iii) shall perform all such reasonable
23 duties of such depository or agent as may
24 be required.

25 (e) TAXATION.—

1 (1) IN GENERAL.—Subject to paragraph (2),
2 the Corporation (including the franchise, activities,
3 capital, reserves, surplus, and income of the Cor-
4 poration) shall be exempt from all taxation imposed
5 by any State or local political subdivision of a State.

6 (2) REAL PROPERTY.—Any real property of the
7 Corporation shall be subject to taxation by a State
8 or political subdivision of a State to the same extent
9 according to the value of the real property as other
10 real property is taxed.

11 (f) JURISDICTION.—Notwithstanding section 1349 of
12 title 28, United States Code, or any other provision of
13 law—

14 (1) the Corporation shall be considered an
15 agency covered by sections 1345 and 1442 of title
16 28, United States Code;

17 (2) all civil actions to which the Corporation is
18 a party shall be considered to arise under the laws
19 of the United States, and the district courts of the
20 United States shall have original jurisdiction of all
21 such actions, without regard to amount or value;
22 and

23 (3) any civil or other action, case or controversy
24 in a court of a State, or in any court other than a
25 district court of the United States, to which the Cor-

1 poration is a party may at any time before trial be
2 removed by the Corporation, without the giving of
3 any bond or security and by following any procedure
4 for removal of causes in effect at the time of the re-
5 moval—

6 (A) to the district court of the United
7 States for the district and division embracing
8 the place in which the same is pending; or

9 (B) if there is no such district court, to the
10 district court of the United States for the dis-
11 trict in which the principal office of the Cor-
12 poration is located.

13 (g) ANNUAL REPORTS.—Not later than 1 year after
14 incorporation of the Corporation and annually thereafter,
15 the Corporation shall submit to the Committee on Energy
16 and Natural Resources of the Senate and the Committee
17 on Energy and Commerce in the House a report that in-
18 cludes—

19 (1) a description of—

20 (A) the technologies supported by activities
21 of the Corporation and how the activities ad-
22 vance the purposes of this Act;

23 (B) the performance of the Corporation on
24 meeting the goals established by the Secretary;

1 (C) the comparability of the compensation
2 policies of the Corporation with the compensa-
3 tion policies of other similar businesses;

4 (D) in the aggregate, the percentage of
5 total cash compensation and payments under
6 employee benefit plans (which shall be defined
7 in a manner consistent with the proxy state-
8 ment of the Corporation for the annual meeting
9 of shareholders for the preceding year) earned
10 by executive officers of the Corporation during
11 the preceding year that was based on the per-
12 formance of the Corporation; and

13 (E) the comparability of the financial per-
14 formance of the Corporation with the perform-
15 ance of other similar businesses; and

16 (2) the proxy statement of the Corporation for
17 the annual meeting of shareholders for the preceding
18 year.

19 (h) AUDITS BY THE COMPTROLLER GENERAL.—

20 (1) IN GENERAL.—The programs, activities, re-
21 ceipts, expenditures, and financial transactions of
22 the Corporation shall be subject to audit by the
23 Comptroller General of the United States under
24 such rules and regulations as may be prescribed by
25 the Comptroller General.

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

3 (A) have access to the personnel and to all
4 books, accounts, documents, records (including
5 electronic records), reports, files, and all other
6 papers, automated data, things, or property be-
7 longing to, under the control of, or in use by
8 the Corporation and necessary to facilitate the
9 audit;

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

13 (C) be authorized to obtain and duplicate
14 any such books, accounts, documents, records,
15 working papers, automated data and files, or
16 other information relevant to the audit without
17 cost to the Comptroller General; and

18 (D) have the right of access of the Comp-
19 troller General to such information be enforce-
20 able pursuant to section 716(c) of title 31,
21 United States Code.

22 (3) REPORT.—

23 (A) IN GENERAL.—The Comptroller Gen-
24 eral shall submit to Congress a report on each
25 audit conducted under this subsection.

1 (B) CONTENTS.—The report shall include
2 a description of—

3 (i) the scope of the audit;

4 (ii) any surplus or deficit;

5 (iii) income and expenses;

6 (iv) sources and application of funds;

7 (v) such comments and information as
8 is necessary to inform Congress of the fi-
9 nancial operations and condition of the
10 Corporation; and

11 (vi) any recommendations as the
12 Comptroller General considers appropriate.

13 (4) ASSISTANCE AND COST.—

14 (A) IN GENERAL.—For the purpose of con-
15 ducting an audit under this subsection, the
16 Comptroller General may, in the discretion of
17 the Comptroller General, employ by contract,
18 without regard to section 3709 of the Revised
19 Statutes (41 U.S.C. 5), professional services of
20 firms and organizations of certified public ac-
21 countants for temporary periods or for special
22 purposes.

23 (B) REIMBURSEMENT.—On the request of
24 the Comptroller General, the Corporation shall
25 reimburse the General Accountability Office for

1 the full cost of any audit conducted by the
2 Comptroller General under this subsection.

3 (i) ANNUAL INDEPENDENT AUDIT.—

4 (1) IN GENERAL.—The Corporation shall have
5 an annual independent audit made of the financial
6 statements of the Corporation by an independent
7 public accountant in accordance with generally ac-
8 cepted auditing standards.

9 (2) CONTENT.—In conducting an audit under
10 this subsection, the independent public accountant
11 shall determine and report on whether the financial
12 statements of the Corporation—

13 (A) are presented fairly in accordance with
14 generally accepted accounting principles; and

15 (B) to the extent determined necessary by
16 the Director, comply with any disclosure re-
17 quirements imposed under this Act.

18 **SEC. 9. OVERSIGHT BY THE SECRETARY.**

19 (a) DUTIES.—The Secretary shall—

20 (1) oversee the operations of the Corporation;
21 and

22 (2) ensure that—

23 (A) the Corporation operates in a safe and
24 sound manner, including maintenance of ade-
25 quate capital and internal controls;

1 (B) the operations and activities of the
2 Corporation foster liquid, efficient, competitive,
3 and resilient energy finance markets;

4 (C) the Corporation carries out the statu-
5 tory mission of the Corporation only through
6 activities that are authorized under and con-
7 sistent with this Act; and

8 (D) the activities of the Corporation and
9 the manner in which the Corporation is oper-
10 ated is consistent with the public interest.

11 (b) FINANCIAL REPORTS.—

12 (1) IN GENERAL.—The Corporation shall sub-
13 mit to the Secretary annual and quarterly reports of
14 the financial condition and operations of the Cor-
15 poration which shall be in such form, contain such
16 information, and be submitted on such dates as the
17 Secretary shall require.

18 (2) CONTENTS OF ANNUAL REPORTS.—Each
19 annual report shall include—

20 (A) financial statements prepared in ac-
21 cordance with generally accepted accounting
22 principles;

23 (B) any supplemental information or alter-
24 native presentation that the Secretary may re-
25 quire; and

1 (C) an assessment (as of the end of the
2 most recent fiscal year of the Corporation),
3 signed by the chief executive officer and chief
4 accounting or financial officer of the Corpora-
5 tion, of—

6 (i) the effectiveness of the internal
7 control structure and procedures of the
8 Corporation; and

9 (ii) the compliance of the Corporation
10 with designated safety and soundness laws.

11 (3) SPECIAL REPORTS.—The Secretary may re-
12 quire the Corporation to submit other reports on the
13 condition (including financial condition), manage-
14 ment, activities, or operations of the Corporation, as
15 the Secretary considers appropriate.

16 (4) ACCURACY.—Each report of financial condi-
17 tion shall contain a declaration by the president, vice
18 president, treasurer, or any other officer designated
19 by the Board of Directors of the Corporation to
20 make the declaration, that the report is true and
21 correct to the best of the knowledge and belief of the
22 officer.

23 (c) MANAGEMENT AND OPERATION STANDARDS.—
24 The Secretary shall establish standards, by regulation or
25 guideline, for the Corporation relating to—

1 (1) the adequacy of internal controls and infor-
2 mation systems;

3 (2) the independence and adequacy of internal
4 audit systems;

5 (3) the management of market risk, including
6 standards to provide for systems that measure, mon-
7 itor, and control market risks and, as warranted, to
8 establish limitations on market risk;

9 (4) risk management processes, including the
10 adequacy of oversight by senior management and the
11 Board of Directors and of processes and policies to
12 measure, monitor, and control material risks, includ-
13 ing reputational risks, and for adequate, well-tested
14 business resumption plans in the case of disruptive
15 events;

16 (5) the management of credit and counterparty
17 risk, including systems to identify concentrations of
18 credit risk and prudential limits to restrict the expo-
19 sure of the Corporation to a single counterparty or
20 groups of related counterparties;

21 (6) the maintenance of adequate records, in ac-
22 cordance with consistent accounting policies and
23 practices to enable the Secretary to evaluate the fi-
24 nancial condition of the Corporation; and

1 (7) such other operational and management
2 standards as the Secretary determines to be appro-
3 priate.

4 (d) FAILURE TO MEET STANDARDS.—

5 (1) IN GENERAL.—If the Secretary determines
6 that the Corporation fails to meet any standard es-
7 tablished under subsection (c), the Secretary may re-
8 quire the Corporation to submit an acceptable plan
9 to the Secretary within a reasonable time that speci-
10 fies the actions that the Corporation will take to cor-
11 rect the deficiency.

12 (2) REQUIRED ORDER ON FAILURE TO SUBMIT
13 OR IMPLEMENT PLAN.—If the Corporation fails to
14 submit an acceptable plan within the time specified
15 by the Secretary or fails in any material respect to
16 implement a plan accepted by the Secretary, the
17 Secretary shall, by order, require the Corporation to
18 correct the deficiency.

19 (e) PROHIBITION AND WITHHOLDING OF EXECUTIVE
20 COMPENSATION.—

21 (1) IN GENERAL.—The Secretary shall prohibit
22 the Corporation from providing compensation to any
23 executive officer that is not reasonable and com-
24 parable with compensation for employment in other
25 similar businesses (including other publicly held fi-

1 nancial institutions or major financial services com-
2 panies) involving similar duties and responsibilities.

3 (2) FACTORS.—In making any determination
4 under paragraph (1), the Secretary may take into
5 consideration any factors the Secretary considers rel-
6 evant, including any wrongdoing on the part of the
7 executive officer.

8 (3) WITHHOLDING OF COMPENSATION.—In car-
9 rying out paragraph (1), the Secretary may require
10 the Corporation to withhold any payment, transfer,
11 or disbursement of compensation to an executive of-
12 ficer, or to place such compensation in an escrow ac-
13 count, during the review of reasonableness and com-
14 parability of compensation.

15 (4) PROHIBITION OF SETTING COMPENSA-
16 TION.—In carrying out paragraph (1), the Secretary
17 may not prescribe or set a specific level or range of
18 compensation.

19 **SEC. 10. ISSUANCE OF COMMON STOCK TO EXPAND OPER-**
20 **ATIONS.**

21 (a) IN GENERAL.—Not later than 5 years after the
22 date of enactment of this Act, the Corporation may pre-
23 pare a strategic plan for issuing common stock to raise
24 the capital needed to expand the operations of the Cor-
25 poration in carrying out this Act.

1 (b) CONSIDERATION OF ALTERNATIVES FOR GOV-
2 ERNANCE.—The strategic plan shall include consideration
3 of alternatives for restructuring the Board of Directors to
4 allow for a majority of the Members to be selected by vot-
5 ing common stockholders.

6 (c) EVALUATION AND RECOMMENDATION.—The
7 strategic plan shall—

8 (1) evaluate the relative merits of the alter-
9 natives considered; and

10 (2) include the recommendation of the Corpora-
11 tion on a proposed alternative.

12 (d) TRANSMITTAL.—On completion of the strategic
13 plan, the Corporation shall submit copies of the strategic
14 plan to the President and Congress, along with any rec-
15 ommendations for legislative changes required to imple-
16 ment the plan.

17 (e) IMPLEMENTATION.—Subject to subsections (f)
18 and (g), subsequent to submitting a strategic plan pursu-
19 ant to this section, the Corporation may implement the
20 strategic plan.

21 (f) REQUIREMENT FOR PRESIDENTIAL APPROVAL.—
22 The Corporation may not implement the strategic plan
23 without the approval of the President.

24 (g) NOTIFICATION OF CONGRESS.—

1 (1) IN GENERAL.—The Corporation shall notify
2 Congress of any intent to implement the strategic
3 plan if the Corporation determines, in consultation
4 with the Secretary and other appropriate agencies of
5 the United States, that no further legislation is re-
6 quired for the implementation.

7 (2) IMPLEMENTATION.—The Corporation may
8 not implement the strategic plan under this sub-
9 section earlier than 60 days after notification of
10 Congress.

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