

111TH CONGRESS
2D SESSION

S. 3780

To establish a building efficiency retrofit loan credit support program, a State building revolving fund grant program, and a commercial and large building grant program.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 14, 2010

Mrs. SHAHEEN (for herself and Ms. LANDRIEU) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To establish a building efficiency retrofit loan credit support program, a State building revolving fund grant program, and a commercial and large building grant program.

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 “Recovery Through
5 Building Renovation Act of 2010”.

1 **SEC. 2. BUILDING EFFICIENCY RETROFIT LOAN CREDIT**
2 **SUPPORT PROGRAM.**

3 Title XVII of the Energy Policy Act of 2005 (42
4 U.S.C. 16511 et seq.) is amended by adding at the end
5 the following:

6 **“SEC. 1706. BUILDING RETROFIT FINANCING PROGRAM.**

7 “(a) DEFINITIONS.—In this section:

8 “(1) CREDIT SUPPORT.—The term ‘credit sup-
9 port’ means a guarantee or commitment to issue a
10 guarantee or other forms of credit enhancement to
11 ameliorate risks for efficiency obligations.

12 “(2) EFFICIENCY OBLIGATION.—The term ‘effi-
13 ciency obligation’ means a debt or repayment obliga-
14 tion incurred in connection with financing a project,
15 or a portfolio of such debt or payment obligations.

16 “(3) PROJECT.—The term ‘project’ means the
17 installation of efficiency or renewable energy meas-
18 ures in a building (or in multiple buildings on a
19 given property) that are expected to increase the en-
20 ergy efficiency of the building (including fixtures) in
21 accordance with criteria established by the Sec-
22 retary.

23 “(b) ELIGIBLE PROJECTS.—

24 “(1) IN GENERAL.—Notwithstanding sections
25 1703 and 1705, the Secretary may provide credit

1 support under this section, in accordance with sec-
2 tion 1702.

3 “(2) INCLUSIONS.—Buildings eligible for credit
4 support under this section include commercial, in-
5 dustrial, municipal, university, school, and hospital
6 facilities that satisfy criteria established by the Sec-
7 retary.

8 “(c) GUIDELINES.—

9 “(1) IN GENERAL.—Not later than 180 days
10 after the date of enactment of this section, the Sec-
11 retary shall establish guidelines for credit support
12 provided under this section.

13 “(2) REQUIREMENTS.—The guidelines estab-
14 lished by the Secretary under this subsection shall
15 include—

16 “(A) standards for assessing the energy
17 savings that could reasonably be expected to re-
18 sult from a project;

19 “(B) examples of financing mechanisms
20 (and portfolios of such financing mechanisms)
21 that qualify as efficiency obligations;

22 “(C) the threshold levels of energy savings
23 that a project, at the time of issuance of credit
24 support, shall be reasonably expected to achieve
25 to be eligible for credit support;

1 “(D) the eligibility criteria the Secretary
2 determines to be necessary for making credit
3 support available under this section; and

4 “(E) any lien priority requirements that
5 the Secretary determines to be necessary.

6 “(3) EFFICIENCY OBLIGATIONS.—The financing
7 mechanisms qualified by the Secretary under para-
8 graph (2)(B) may include—

9 “(A) loans, including loans made by the
10 Federal Financing Bank;

11 “(B) power purchase agreements, including
12 energy efficiency power purchase agreements;

13 “(C) energy services agreements, including
14 energy performance contracts;

15 “(D) property assessed clean energy bonds
16 and other tax assessment-based financing mech-
17 anisms;

18 “(E) aggregate on-meter agreements that
19 finance retrofit projects; and

20 “(F) any other efficiency obligations the
21 Secretary determines to be appropriate.

22 “(4) PRIORITIES.—In carrying out this section,
23 the Secretary shall prioritize—

24 “(A) the maximization of energy savings
25 with the available credit support funding;

1 “(B) the establishment of a clear applica-
2 tion and approval process that allows private
3 building owners, lenders, and investors to rea-
4 sonably expect to receive credit support for
5 projects that conform to guidelines; and

6 “(C) the distribution of projects receiving
7 credit support under this section across States
8 or geographical regions of the United States.

9 “(5) MINIMUM ENERGY SAVINGS REQUIRE-
10 MENT.—

11 “(A) IN GENERAL.—In carrying out this
12 section, the Secretary shall establish an initial
13 minimum energy savings requirement for eligi-
14 ble projects that, to the maximum extent prac-
15 ticable, results in the greatest amount of energy
16 savings on a per project basis.

17 “(B) ADJUSTMENTS.—

18 “(i) IN GENERAL.—Not less than once
19 each year, the Secretary shall adjust the
20 minimum energy savings requirement de-
21 scribed in subparagraph (A) and any other
22 credit support terms the Secretary deter-
23 mines to be necessary, including the max-
24 imum percentage of the efficiency obliga-
25 tion that may be guaranteed, taking into

1 account market conditions and the avail-
2 able funding.

3 “(ii) **ADVANCED NOTICE.**—If the Sec-
4 retary adjusts the energy savings require-
5 ment, the Secretary shall provide at least
6 90 days advanced public notice.

7 “(d) **LIMITATION.**—Notwithstanding section 1702(c),
8 the Secretary shall not issue credit support under this sec-
9 tion in an amount that exceeds—

10 “(1) 90 percent of the principal amount of the
11 efficiency obligation that is the subject of the credit
12 support; or

13 “(2) \$10,000,000 for any single project.

14 “(e) **AGGREGATION OF PROJECTS.**—To the extent
15 provided in the guidelines developed in accordance with
16 subsection (c), the Secretary may issue credit support on
17 a portfolio, or pool of projects, that are not required to
18 be geographically contiguous, if each efficiency obligation
19 in the pool fulfills the requirements described in this sec-
20 tion.

21 “(f) **APPLICATION.**—

22 “(1) **IN GENERAL.**—To be eligible to receive
23 credit support under this section, the applicant shall
24 submit to the Secretary an application at such time,

1 in such manner, and containing such information as
2 the Secretary determines to be necessary.

3 “(2) CONTENTS.—An application submitted
4 under this section shall include assurances by the
5 applicant that—

6 “(A) each contractor carrying out the
7 project—

8 “(i) meets minimum experience level
9 criteria, including local retrofit experience,
10 as determined by the Secretary; and

11 “(ii) beginning on the date on which
12 credit support is issued, will comply with
13 subchapter IV of chapter 31 of title 40,
14 United States Code (commonly known as
15 the “Davis-Bacon Act”);

16 “(B) the project is reasonably expected to
17 achieve energy savings, as set forth in the appli-
18 cation using any methodology that meets the
19 standards described in the program guidelines;

20 “(C) the project meets any technical cri-
21 teria described in the program guidelines;

22 “(D) the recipient of the credit support
23 and the parties to the efficiency obligation will
24 provide the Secretary with—

1 “(i) any information the Secretary re-
2 quests to assess the energy savings that re-
3 sult from the project, including historical
4 energy usage data and detailed descrip-
5 tions of the building work, as described in
6 the program guidelines; and

7 “(ii) permission to access information
8 relating to building operations and usage
9 for the period described in the program
10 guidelines; and

11 “(E) any other assurances that the Sec-
12 retary determines to be necessary.

13 “(3) DETERMINATION.—Not later than 90 days
14 after receiving an application, the Secretary shall
15 make a final determination on the application, which
16 may include requests for additional information.

17 “(g) FEES.—

18 “(1) IN GENERAL.—In addition to the fees re-
19 quired by section 1702(h)(1), the Secretary may
20 charge reasonable fees for credit support provided
21 under this section.

22 “(2) AVAILABILITY.—Fees collected under this
23 section shall be subject to section 1702(h)(2).

1 “(h) UNDERWRITING.—The Secretary may delegate
2 the underwriting activities under this section to 1 or more
3 entities that the Secretary determines to be qualified.

4 “(i) REPORT.—Not later than 1 year after com-
5 mencement of the program, the Secretary shall submit to
6 the appropriate committees of Congress a report that de-
7 scribes in reasonable detail—

8 “(1) the manner in which this section is being
9 carried out;

10 “(2) the number and type of projects sup-
11 ported;

12 “(3) the types of funding mechanisms used to
13 provide credit support to projects;

14 “(4) the energy savings expected to result from
15 projects supported by this section;

16 “(5) any tracking efforts the Secretary is using
17 to calculate the actual energy savings produced by
18 the projects; and

19 “(6) any plans to improve the tracking efforts
20 described in paragraph (5).

21 “(j) FUNDING.—

22 “(1) AUTHORIZATION OF APPROPRIATIONS.—
23 There is authorized to be appropriated to the Sec-
24 retary to carry out this section \$500,000,000 for the

1 period of fiscal years 2011 through 2020, to remain
2 available until expended.

3 “(2) ADMINISTRATIVE COSTS.—Not more than
4 1 percent of any amounts made available to the Sec-
5 retary under paragraph (1) may be used by the Sec-
6 retary for administrative costs incurred in carrying
7 out this section.”.

8 **SEC. 3. MUSH BUILDING REVOLVING FUND.**

9 (a) DEFINITIONS.—In this section:

10 (1) PROJECT.—The term “project” means an
11 energy efficiency retrofit project that meets the
12 terms of this section and criteria determined to be
13 necessary by the Secretary.

14 (2) SECRETARY.—The term “Secretary” means
15 the Secretary of Energy.

16 (3) STATE.—The term “State” has the mean-
17 ing given the term in section 412 of the Energy
18 Conservation and Production Act (42 U.S.C. 6862).

19 (b) ESTABLISHMENT.—The Secretary shall establish
20 the MUSH Building Efficiency Program to provide grants
21 to State revolving funds to finance projects.

22 (c) ELIGIBILITY.—To be eligible to receive a grant
23 under this program, a State shall have, or propose to es-
24 tablish, a program to finance or support building improve-

1 ment projects on buildings that are owned or controlled
2 by—

3 (1) a municipality;

4 (2) a State or public university, including a
5 community college;

6 (3) a school or school district, including a tech-
7 nical school or a vocational school; and

8 (4) a State, city, or other publicly owned hos-
9 pital.

10 (d) TERMS AND CONDITIONS.—

11 (1) IN GENERAL.—As a condition of receiving a
12 grant under this section, a State shall—

13 (A) develop technical energy assessment
14 report guidelines for each project to be carried
15 out under this section;

16 (B) develop procedures—

17 (i) to monitor energy consumption
18 prior to, and for at least 3 years after, the
19 completion of each project carried out
20 using State revolving funds;

21 (ii) to make data publicly available in
22 aggregated summary reports regarding the
23 performance of each project carried out
24 using State revolving funds; and

1 (iii) to analyze energy savings, in kilo-
2 watt hours and dollars, before and for at
3 least 3 years after the completion of each
4 project carried out using State revolving
5 funds; and

6 (C) incorporate training on audit tech-
7 niques in any guidelines or procedures devel-
8 oped for State revolving funds that receive a
9 grant under this section.

10 (2) MAXIMUM REPAYMENT TERM.—A State re-
11 ceiving a grant under this section shall not enter
12 into any obligations with a repayment term that ex-
13 ceeds 15 years.

14 (3) CONFLICT OF INTEREST.—A commissioning
15 organization or individual that receives compensation
16 for professional services relating to a project carried
17 out under this section shall not acquire any direct or
18 indirect financial interest in the sale of energy effi-
19 ciency equipment or products that are directly re-
20 lated to the project.

21 (e) REPORT.—Not later than 1 year after commence-
22 ment of the MUSH Building Efficiency Program, the Sec-
23 retary shall submit to the appropriate committees of Con-
24 gress a report that—

1 (1) describes in detail the manner in which this
2 section has been carried out;

3 (2) aggregates the project performance data of
4 the State programs receiving a grant under this sec-
5 tion; and

6 (3) includes any recommendations of the Sec-
7 retary on modifications that may improve the grant
8 program.

9 (f) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated to carry out this section
11 such sums as are necessary.

12 **SEC. 4. ENERGY EFFICIENCY SUPPORT PROGRAM.**

13 (a) DEFINITIONS.—In this section:

14 (1) PROJECT.—The term “project” means an
15 energy efficiency retrofit project that meets the cri-
16 teria described in subsection (c).

17 (2) SECRETARY.—The term “Secretary” means
18 the Secretary of Energy.

19 (b) ESTABLISHMENT.—The Secretary shall establish
20 a program that provides grants to State or tribal govern-
21 ments to support property assessed clean energy bonds
22 and other tax assessment-based financing mechanisms to
23 support building retrofits that meet the criteria described
24 in subsection (c).

25 (c) AUTHORIZATION, TERMS, AND CONDITIONS.—

1 (1) AUTHORIZATION.—

2 (A) IN GENERAL.—In carrying out this
3 section, the Secretary shall provide grants to
4 capitalize loan loss reserves for property as-
5 sessed clean energy bonds and other tax assess-
6 ment-based financing mechanisms managed by
7 State or tribal governments.

8 (B) MAXIMUM.—No eligible entity shall re-
9 ceive a grant under this section that exceeds a
10 total amount of \$10,000,000.

11 (2) ELIGIBLE PROGRAMS.—

12 (A) IN GENERAL.—A grant under this sec-
13 tion shall be used to finance building retrofit
14 projects that are expected to produce significant
15 energy efficiency gains.

16 (B) USE OF FUNDS.—A State or tribal
17 government that receives a grant under this
18 section shall use the funds to provide credit en-
19 hancements or establish other loan loss reserve
20 funds approved by the Secretary.

21 (C) CONDITIONS.—As a condition of re-
22 ceiving a grant under this section, a State or
23 tribal government shall provide to the Secretary
24 such assurances as the Secretary determines to

1 be necessary, including assurances that the
2 State or tribal government shall—

3 (i) provide support for each financing
4 mechanism approved by the Secretary, in-
5 cluding property assessed clean energy
6 bonds and tax lien financing;

7 (ii) for each project receiving financial
8 assistance under this section, develop com-
9 prehensive procedures for—

10 (I) monitoring energy consump-
11 tion prior to the commencement of,
12 and at least 3 years after completion
13 of, each project;

14 (II) analyzing energy savings
15 achieved, measured in kilowatt hours
16 and dollars, prior to the commence-
17 ment of, and at least 3 years after
18 completion of, each project; and

19 (III) making data recorded from
20 each project publicly available in ag-
21 gregated summary reports describing
22 the performance of each project; and

23 (D) incorporate training on audit tech-
24 niques in any guidelines developed for the cap-
25 ital loan loss reserves.

1 (d) PROGRAM COORDINATION AND AGGREGATION.—
2 Subject to subsection (c)(1) and approval of the Secretary,
3 eligible State or tribal governments may combine grants
4 provided under this section to create multijurisdictional
5 programs to support projects that meet the requirements
6 of this section.

7 (e) REPORT.—Not later than 1 year after the com-
8 mencement of the program, the Secretary shall submit to
9 the appropriate committees of Congress a report that—

10 (1) describes in detail the manner in which this
11 section has been carried out;

12 (2) aggregates the project performance data of
13 the State, local, and tribal government programs re-
14 ceiving funding under this section; and

15 (3) includes any recommendations of the Sec-
16 retary on modifications that may improve the grant
17 program.

18 (f) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to carry out this section
20 such sums as are necessary.

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