To amend title 31, United States Code, to provide for the issuance of Green Bonds and to establish the United States Green Bank, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Murphy (for himself, Mr. Van Hollen, Mr. Whitehouse, Mr. Blumenthal, and Mr. Markey) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend title 31, United States Code, to provide for the issuance of Green Bonds and to establish the United States Green Bank, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CAPITALIZATION, METHOD OF CAPITAL STOCK PAYMENTS, ISSUANCE OF GREEN BONDS.

Chapter 31 of title 31, United States Code, is amended by adding after section 3102 the following new section:

“§ 3102A. Green Bonds

“(a) Initial Capitalization.—The Secretary of the Treasury shall issue bonds (in this section referred to as
(c) DENOMINATIONS AND MATURITY.—Green Bonds shall be in such forms and denominations, and shall mature within such periods, as determined by the Secretary of the Treasury.

(d) INTEREST.—Green Bonds shall bear interest at a rate not less than the current average yield on outstanding market obligations of the United States of comparable maturity during the month preceding the issuance of the obligation as determined by the Secretary of the Treasury.
“(e) GUARANTEED.—Green Bonds shall be fully and unconditionally guaranteed both as to interest and principal by the United States, and such guaranty shall be expressed on the face of each bond.

“(f) LAWFUL INVESTMENTS.—Green Bonds shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof.”

SEC. 2. GREEN BANK.

Title 31, United States Code, is amended by adding the following new chapter at the end thereof:

“CHAPTER 98—GREEN BANK

§9801. United States Green Bank

“(a) SHORT TITLE.—This section may be cited as the ‘United States Green Bank Act of 2019’.

“(b) PURPOSES.—The purposes of this section are as follows:

“(1) To significantly increase the pace and amount of investment in clean energy, energy efficiency, and other climate change mitigation and adaptation projects at the State and local level.

“(2) To improve the standard of living for Americans by delivering clean electricity more efficiently and at lower cost and by funding projects
that will create high-paying, long-term jobs and make affordable financing available to low- and moderate-income families.

“(3) To address the main impediment to investment at the State and local level—limited capital and tight balance sheets—by establishing a national Green Bank to capitalize legitimate Regional, State, and Municipal Green Banks.

“(4) To facilitate—

“(A) efficient tax equity markets for qualified clean energy projects; and

“(B) the financing of long-term clean energy purchasing by governmental and non-governmental not-for-profit entities.

“(5) To foster—

“(A) the development and consistent application of transparent underwriting standards, standard contractual terms, and measurement and verification protocols for qualified clean energy projects, qualified energy efficiency projects, and qualified climate change mitigation or adaptation projects;

“(B) the creation of performance data that enables effective underwriting, risk management, and pro forma modeling of financial per-
formance of qualified clean energy projects and qualified energy efficiency projects to support primary financing markets and stimulate development of secondary investment markets for clean energy projects, energy efficiency projects, and climate change mitigation or adaptation projects; and

“(C) the level of financing support for qualified clean energy projects, qualified energy efficiency projects, and qualified climate mitigation and adaptation projects necessary to advance vital national objectives, including—

“(i) achieving energy independence from foreign energy sources;

“(ii) abating climate change by increasing zero or low carbon electricity generation and transportation capabilities;

“(iii) adapting to the impacts resulting from climate change;

“(iv) realizing energy efficiency potential in existing infrastructure;

“(v) easing the economic effects of transitioning from a carbon-based economy to a clean energy economy;
“(vi) achieving job creation through the construction and operation of qualified clean energy projects, qualified energy efficiency projects, and qualified climate change mitigation or adaptation projects;

“(vii) fostering long-term domestic manufacturing capacity in the clean energy, energy efficiency, and climate change mitigation or adaptation industries; and

“(viii) complementing and supplementing other clean energy, energy efficiency, and climate change mitigation and adaptation legislation at the regional, State, municipal, and county level.

“(c) DEFINITIONS.—In this section:

“(1) BANK.—The term ‘Bank’ means the United States Green Bank established under subsection (d).

“(2) BOARD.—The term ‘Board’ means the Board of Directors of the Bank.

“(3) CLEAN ENERGY PROJECT.—The term ‘clean energy project’ means any electricity generation, transmission, storage, heating, cooling, transportation, distribution, industrial process, or manufacturing project whose primary purpose is the de-
ployment, development, or production of an energy system or technology that avoids, reduces, or sequesters air pollutants or anthropogenic greenhouse gases, including the following:

“(A) Solar.

“(B) Wind.

“(C) Geothermal.

“(D) Biomass.

“(E) Hydropower.

“(F) Ocean and hydrokinetic.

“(G) Fuel cell.

“(H) Advanced battery.

“(I) Carbon capture and sequestration.

“(J) Next generation biofuels from nonfood feedstocks.

“(K) Alternative fuel vehicle infrastructure.

“(L) Alternative fuel vehicles.

“(4) CLIMATE CHANGE MITIGATION OR ADAPTATION PROJECT.—The term ‘climate change mitigation or adaptation project’ means any project that reduces the emissions of greenhouse gases by sources or enhance their removal from the atmosphere by sinks, or reduce the vulnerability of social and biological systems to relatively sudden change
and thus offset the effects of global warming, includ-
ing—

“(A) afforestation, reforestation, and land
conservation;
“(B) regenerative agriculture;
“(C) transit-oriented development and
mass transit infrastructure;
“(D) waste and recycling;
“(E) water treatment; and
“(F) wetland protection.”.

“(5) ELIGIBLE CLEAN ENERGY FINANCING IN-
STITUTION.—The term ‘Eligible Clean Energy Fi-
nancing Institution’ means a not-for-profit, inde-
dependent entity, quasi-independent entity, or a gov-
ernmental entity within an agency or financing au-
thority, established or designated by a State, group
of States, the District of Columbia, a territory of the
United States, or an Eligible State Political Subdivi-
sion to—

“(A) provide low-cost or long-term financ-
ing support or credit enhancements, including
loan guarantees and loan loss reserves, for
Qualified Clean Energy Projects, Qualified En-
ergy Efficiency Projects, or Qualified Mitigation
or Adaptation Projects; and
“(B) create liquid markets for these projects including warehousing and securitization, or take other steps to reduce financial barriers to the deployment of existing and innovative clean energy, energy efficiency projects, and climate change mitigation or adaptation projects. Eligible Clean Energy Financing Institutions may enter into partnerships with private entities.

“(6) ELIGIBLE STATE POLITICAL SUBDIVISION.—The term ‘Eligible State Political Subdivision’ means—

“(A) any municipality, county or other political subdivision within a State that, based on the population data from the most recent U.S. Census Bureau—

“(i) with respect to a municipality, has a population of not fewer than 200,000 people;

“(ii) with respect to a county, parish or borough, has a population of not fewer than 800,000 people; or

“(iii) with respect to a municipality, county, parish, or borough, has a population—
“(I) of not fewer than 84,000 people; and

“(II) that constitutes not less than 5 percent of the total population of the State in which the municipality, county, parish, or borough is located;

and

“(B) any political subdivision that—

“(i) is located in a State that collaborates as 1 region for the purposes of this Act; or

“(ii)(I) collaborates with another political subdivision; and

“(II) when combined with the political subdivision described in subclause (I), meets the requirements described in subparagraph (A).

“(7) ENERGY EFFICIENCY PROJECT.—The term ‘energy efficiency project’ means any project, technology, function, or measure that results in the reduction of energy use required to achieve the same level of service or output prior to the application of such project, technology, function, or measure, or substantially reduces greenhouse gas emissions relative to emissions that would have occurred prior to
the application of such project, technology, function, or measure.

“(8) GREEN BOND.—The term ‘Green Bond’ means a bond issued pursuant to section 3102A of this title.

“(9) QUALIFIED CLEAN ENERGY PROJECT.— The term ‘qualified clean energy project’ means a clean energy project that—

“(A) is a Clean Energy Project carried out domestically within the territorial borders of the United States;

“(B) stays in good standing with its financing entity;

“(C) to the extent otherwise required by law, pays wages in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the Davis-Bacon Act);

“(D) if for nuclear power, is funded by the Bank only after all other existing Federal financial support has been expended;

“(E) if for Alternative fuel vehicles, is for the purchase or lease of eligible vehicles and not the design or manufacture thereof; and
“(F) satisfies any other conditions established by the Bank and published in the Federal Register.

“(10) QUALIFIED ENERGY EFFICIENCY PROJECT.—The term ‘qualified energy efficiency project’ means an energy efficiency project, including smart grid technologies and functions characterized in section 1301 of the Energy Independence and Security Act of 2007 and end-use technologies for efficiency gains in new construction and across existing infrastructure that—

“(A) is an Energy Efficiency Project carried out domestically within the territorial borders of the United States;

“(B) stays current on interest and debt payment obligations;

“(C) to the extent otherwise required by law, pays wages in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the Davis-Bacon Act); and

“(D) satisfies any other conditions established by the Bank and published in the Federal Register.

“(d) GREEN BANK.—
“(1) Establishment of Corporation.—
There is established a corporation to be known as
the United States Green Bank that shall be wholly
owned by the United States.

“(2) Oversight.—The Bank shall be subject
to the general supervision and direction of the Sec-
retary of the Treasury. The Bank shall be an instru-
mentality of the United States Government and shall
maintain such offices as may be necessary or appro-
priate in the conduct of its business.

“(3) Charter.—The Bank shall be chartered
for 40 years from the date of enactment of this sec-
ction.

“(4) Governance.—

“(A) Board of Directors of the
Bank.—

“(i) In general.—The Bank shall be
under the direction of a Board of Directors
consisting of 9 members and be subject to
the general supervision and direction of the
Secretary of the Treasury as Chairman of
the Board.

“(ii) Membership.—The Board shall
consist of 9 members, as follows:
“(I) The Secretary of the Treasury or the Secretary’s designee as Chairman of the Board.

“(II) The Secretary of Energy or the Secretary’s designee.

“(III) The Secretary of Transportation or the Secretary’s designee.

“(IV) The Administrator of the Environmental Protection Agency or the Administrator’s designee.

“(V) The Secretary of the Department of Defense or the Secretary’s designee.

“(VI) Four members appointed by the President of the United States including a Chief Executive Officer, 1 member with expertise regarding renewable energy, 1 member with expertise regarding energy efficiency, 1 member with expertise regarding finance, 1 member with expertise regarding electric utilities, and 1 member with expertise regarding sustainable transportation.
“(iii) QUORUM.—Five members of the Board shall constitute a quorum.

“(iv) BYLAWS.—The Board shall adopt, and may amend, such bylaws as are necessary for the proper management and functioning of the Bank, and shall, in such bylaws, designate the vice presidents and other officers of the Bank and prescribe their duties.

“(v) TERMS.—The initial terms of the members of the Board shall be 4 years. For terms beginning after the first 4 years following the date of the enactment of this section, the Board shall create staggered terms of 2, 3, and 4 years for members of the Board.

“(vi) VACANCIES.—Any vacancy on the Board shall be filled in the same manner in which the original appointment was made.

“(vii) INTERIM APPOINTMENTS.—Any member appointed to fill a vacancy occurring before the expiration of the term for which such member’s predecessor was ap-
pointed shall be appointed only for the remainder of such term.

“(viii) REAPPOINTMENT.—Members of the Board may be reappointed for additional terms of service as members of the Board.

“(ix) CONTINUATION OF SERVICE.—Any member of the Board whose term has expired may continue to serve on the Board until the earlier of—

“(I) the date on which such member’s successor is appointed; or

“(II) the end of the 6-month period beginning on the date such member’s term expires.

“(B) EXECUTIVE VICE PRESIDENT.—The Chief Executive Officer shall appoint an Executive Vice President who—

“(i) shall serve as Chief Executive Officer of the Bank during the absence or disability of, or in the event of a vacancy in the office, of Chief Executive Officer; and
“(ii) shall at other times perform such functions as the Chief Executive Officer may prescribe.

“(C) POLICIES AND PROCEDURES.—At the request of any 2 members of the Board, the Chairman shall place an item pertaining to the policies or procedures of the Bank on the agenda for discussion by the Board. Not later than 30 days after the date such a request is made, the Chairman shall hold a meeting of the Board at which such item shall be discussed.

“(D) CONFLICTS OF INTEREST.—No director, officer, attorney, agent, or employee of the Bank shall in any manner, directly or indirectly, participate in the deliberation upon, or the determination of, any question affecting such individual’s personal interests, or the interests of any corporation, partnership, or association in which such individual is directly or indirectly personally interested.

“(5) HIRING AND CONTRACTING AUTHORITY.—

“(A) CONTRACTING.—The Bank may employ or otherwise contract with banks, credit agencies, attorneys, and other third parties at customary commercial rates.
“(B) Hiring.—Notwithstanding any otherwise applicable Federal rules and regulations, the Bank may employ and otherwise contract with employees and provide compensation to such employees at prevailing rates for compensation for similar positions in private industry.

“(6) Sunset.—

“(A) Expiration of Charter.—The Bank shall continue to exercise its functions until all obligations and commitments of the Bank are discharged, even after its charter has expired.

“(B) Prior Obligations.—No provisions of this subsection shall be construed as preventing the Bank from—

“(i) acquiring obligations prior to the date of the expiration of its charter which mature subsequent to such date; 

“(ii) assuming, prior to the date of the expiration of its charter, liability as guarantor, endorser, or acceptor of obligations which mature subsequent to such date;
“(iii) issuing, prior or subsequent to the date of the expiration of its charter, for purchase by the Secretary of the Treasury or any other purchasers, its notes, debentures, bonds, or other obligations which mature subsequent to such date; or

“(iv) continuing as a corporation and exercising any of its functions subsequent to the date of the expiration of its charter for purposes of orderly liquidation, including the administration of its assets and the collection of any obligations held by the Bank.

“(e) GREEN BANK ESTABLISHMENT FUND.—

“(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the ‘Green Bank Establishment Fund’ (hereinafter referred to as the ‘Fund’), consisting of—

“(A) such amounts as are deposited in the Fund under this subtitle, including but not limited to proceeds from the Green Bonds issued under section 3102A; and

“(B) such sums as may be appropriated to supplement the Fund.
“(2) Authorization of Appropriations.—
There are authorized to be appropriated to the Fund such sums as are necessary to carry out this sub-
title.

“(3) Expenditures from the Fund.—
Amounts in the Fund shall be available to the Chief Executive for obligation without fiscal year limita-
tion, to remain available until expended.

“(f) Lending, Financing, Expenditures.—

“(1) In General.—The Bank shall establish a program to provide, on a competitive basis financing or financing support from the Fund, as the Bank determines appropriate, solely to provide capitalization to an Eligible Clean Energy Financing Institution for the establishment or continuing operation of that entity.

“(2) Types of Financing or Financing Support.—The Bank may provide loans, loan guarantees, credit buy downs, or other financing or financing support the Bank determines appropriate.

“(3) Requirements.—The Bank may only provide loans, loan guarantees or credit buy downs under paragraph (1) if:

“(A) Application.—The applicant sub-
mits an application for loans, loan guarantees
or credit buy downs in accordance with application criteria established by the Bank.

“(B) **Eligible clean energy financing institutions.**—An entity is eligible to receive loans, loan guarantees or credit buy downs under this section only if the entity—

“(i) meets the definition of Eligible Clean Energy Financing Institution;

“(ii) uses the funding from the Bank solely for the purposes described in this section; and

“(iii) satisfies the capitalization and funding requirements as described in this section.

“(C) **Project finance.**—The Bank shall not directly lend or otherwise provide financial products to any individual projects, nor shall it be required to examine individual projects for the purposes of lending under paragraph (1) other than as necessary to determine whether an applicant meets the criteria for Eligible Clean Energy Financing Institutions.

“(D) **Capitalization and co-funding.**—The Eligible Clean Energy Financing Institution—
“(i) shall provide, at the time of receipt of any initial funding for capitalization by the Bank, an amount from funding sources other than the Bank equivalent to no less than $1,000,000 and no less than 20 percent of the total initial funding provided by the Bank; and

“(ii) may not receive any subsequent funding for capitalization by the Bank, in addition to any initial funding for capitalization provided by the Bank in accordance with (i) above in, of amounts greater than two times the amount of capital committed for use by the Eligible Clean Energy Financing Institution for Qualified Clean Energy Projects and Qualified Energy Efficiency Projects at the time of application.

“(4) REGULATIONS.—The Bank shall establish regulations to carry out the activities and operations set out in this chapter.

“(g) LENDING ACTIVITIES.—

“(1) FEES.—The Bank shall assess reasonable fees on its activities so as to cover its reasonable costs and expenses, consistent with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.),
provided the Bank operates as a not-for-profit entity.

“(2) Appropriations and Retention of Receipts.—For purposes of the Federal Credit Reform Act, funds made available to the Green Bank pursuant to section 3102A for carrying out this section are appropriated to the Green Bank for the purposes described in the section. Receipts collected by the Green Bank, consistent with the Federal Credit Reform Act, shall be considered to have been provided in advance in an appropriations Act, and shall remain available to the Green Bank until expended.

“(3) Immunity from Impairment, Limitation, or Restriction.—

“(A) In General.—All rights and remedies of the Bank shall be immune from impairment, limitation, or restrictions by or under—

“(i) any law (other than a law enacted by Congress expressly in limitation of this paragraph) that becomes effective after the acquisition by the Bank of the subject or property on, under, or with respect to which the right or remedy arises or exists
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or would so arise or exist in the absence of
the law; or

“(ii) any administrative or other ac-
tion that becomes effective after the acqui-
sition.

“(B) STATE LAW.—The Bank may con-
duct its business without regard to any quali-
fication or law of any State relating to incorpo-
ration.

“(4) TAXATION.—

“(A) IN GENERAL.—Subject to subpara-
graph (B), the Bank (including its activities, capital, reserves, surplus and income) shall be exempt from all taxation imposed by any State or local political subdivision of a State.

“(B) REAL PROPERTY.—Any real property of the Bank shall be subject to taxation by a State or political subdivision of a State to the same extent according to the value of the real property as other real property is taxed.

“(5) POWER TO REMOVE; JURISDICTION.—Not-
withstanding any other provision of law, any civil ac-
tion, suit, or proceeding to which the Bank is a party shall be deemed to arise under the laws of the United States, and the United States district courts
shall have original jurisdiction. The Bank may, without bond or security, remove any such action, suit, or proceeding from a State court to a United States district court or to the United States District Court for the District of Columbia.

“(6) SPENDING SAFEGUARDS.—

“(A) IN GENERAL.—The Chief Executive Officer of the Bank—

“(i) shall require any Eligible Clean Energy Financing Institution receiving financial support pursuant to this section to report quarterly, in a format specified by the Chief Executive Officer, on such entity’s use of such support and its progress fulfilling the objectives for which such support was granted, and the Chief Executive Officer shall make these reports available to the public;

“(ii) may establish additional reporting and information requirements for any recipient of financing support made available pursuant to this section;

“(iii) shall establish appropriate mechanisms to ensure appropriate use and compliance with all terms of any financing
support made available pursuant to this section;

“(iv) may, in addition to and consistent with any other authority under applicable law, deobligate financing support made available pursuant to this section to entities that demonstrate an insufficient level of performance, or wasteful or fraudulent spending, as defined in advance by the Chief Executive Officer, and award these funds competitively to new or existing applicants consistent with this section;

“(v) shall create and maintain a fully searchable database, accessible on the Internet (or successor protocol) at no cost to the public, that contains at least—

“(I) a list of each entity that has applied for loans, loan guarantees or credit buy downs under this section;

“(II) a description of each application;

“(III) the status of each such application;
“(IV) the name of each entity receiving funds made available pursuant to this section;

“(V) the purpose for which such entity is receiving such funds;

“(VI) each quarterly report submitted by the entity pursuant to this section; and

“(VII) information related to Qualifying Clean Energy Projects and Qualifying Energy Efficiency Projects funded by Eligible Clean Energy Financing Institutions using funding received from the Bank;

“(vi) to the extent practicable, data maintained under clause (v) shall be used to inform private capital markets, including the development of underwriting standards for the financing of clean energy projects and energy efficiency projects;

“(vii) shall make all financing transactions available for public inspection, including formal annual reviews by both a private auditor and the Comptroller General; and
“(viii) shall at all times be available to receive public comment in writing on the activities of the Bank.

“(B) Protection of confidential business information.—To the extent necessary and appropriate, the Chief Executive Officer may redact any information regarding applicants and borrowers to protect confidential business information.

“(7) Guarantee.—Except as provided in section 3102A(e) with respect to Green Bonds, financial support provided by the Bank shall not be fully and unconditionally guaranteed by the United States.

“(h) New Bank Division.—

“(1) In general.—The Bank shall establish a New Bank Division to provide technical assistance to States, group of States, the District of Columbia, territories of the United States, or Eligible State Political Subdivisions seeking to establish green banks.

“(2) Authorization of appropriations.—There are authorized to be appropriated to the New Bank Division such sums as are necessary to carry out this subsection.”.
SEC. 3. CONFORMING AMENDMENTS.

(a) Tax Exempt Status.—Section 501(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(4) The Green Bank established under section 9801 of title 31, United States Code.”.

(b) Wholly Owned Government Corporation.—Section 9101(3) of title 31, United States Code, is amended by adding at the end the following:

“(S) the Green Bank.”.

(c) Clerical Amendments.—

(1) The table of sections for chapter 31 of title 31, United States Code, is amended by inserting after the item relating to section 3102 the following new item:

“3102A. Green Bonds.”.

(2) The table of chapters for subtitle VI of title 31, United States Code, is amended by adding at the end the following new item:

“98. Green Bank ........................................................................................................... 9801”. 