(Original Signature of Member)

111TH CONGRESS
1ST SESSION

H. R. _____

To establish the Green Bank to assist in the financing of qualified clean energy projects and qualified energy efficiency projects.

IN THE HOUSE OF REPRESENTATIVES

Mr. VAN HOLLEN introduced the following bill; which was referred to the Committee on _____

A BILL

To establish the Green Bank to assist in the financing of qualified clean energy projects and qualified energy efficiency projects.

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:

1 **"§ 3102A. Green Bonds**

2 "(a) INITIAL CAPITALIZATION.—The Secretary of the
3 Treasury shall issue bonds (in this section referred to as
4 'Green Bonds') in the amount of $10,000,000,000 on the
5 credit of the United States to acquire capital stock of the
6 Green Bank (established under section 9801 of this title),
7 of which not more than $200,000,000 shall be used for
8 costs that the Green Bank incurs for its first year in order
9 to provide loans, loan guarantees, debt securitization, in-
10 surance, portfolio insurance, and other forms of financing
11 support or risk management for qualified clean energy
12 projects and qualified energy efficiency projects (as such
13 terms are defined under such section). Stock certificates
14 evidencing ownership in the Green Bank shall be issued
15 by the Green Bank to the Secretary of the Treasury, to
16 the extent of payments made for the capital stock of the
17 Green Bank.

18 "(b) FUTURE CAPITALIZATION.—The Secretary of
19 the Treasury may issue additional Green Bonds on the
20 credit of the United States to acquire additional capital
21 stock of the Green Bank in an aggregate amount not to
22 exceed $50,000,000,000 outstanding at any one time.

23 "(c) DENOMINATIONS AND MATURITY.—Green
24 Bonds shall be in such forms and denominations, and shall
25 mature within such periods, as determined by the Sec-
26 retary of the Treasury.

1 "(d) INTEREST.—Green Bonds shall bear interest at
2 a rate not less than the current average yield on out-
3 standing market obligations of the United States of com-
4 parable maturity during the month preceding the issuance
5 of the obligation as determined by the Secretary of the
6 Treasury.

7 "(e) GUARANTEED.—Green Bonds shall be fully and
8 unconditionally guaranteed both as to interest and prin-
9 cipal by the United States, and such guaranty shall be
10 expressed on the face of each bond.

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

16 **SEC. 2. GREEN BANK.**

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

19 **"CHAPTER 98—GREEN BANK**

"Sec.
"9801. Green Bank.

20 **"§ 9801. Green Bank**

21 "(a) SHORT TITLE.— This section may be cited as
22 the 'Green Bank Act of 2009'.

23 "(b) PURPOSES.—The purposes of this section are as
24 follows:

1 "(1) To evaluate and coordinate financing for
2 qualified clean energy projects and qualified energy
3 efficiency projects.
4 "(2) To provide loans, loan guarantees, debt
5 securitization, insurance, portfolio insurance, and
6 other forms of financing support or risk manage-
7 ment to qualified clean energy projects and qualified
8 energy efficiency projects.
9 "(3) To facilitate—
10 "(A) efficient tax equity markets for quali-
11 fied clean energy projects; and
12 "(B) the financing of long-term clean en-
13 ergy purchasing by governmental and non-gov-
14 ernmental not-for-profit entities.
15 "(4) To foster—
16 "(A) the development and consistent appli-
17 cation of transparent underwriting standards,
18 standard contractual terms, and measurement
19 and verification protocols for qualified clean en-
20 ergy projects and qualified energy efficiency
21 projects;
22 "(B) the creation of performance data that
23 enables effective underwriting, risk manage-
24 ment, and pro-forma modeling of financial per-
25 formance of qualified clean energy projects and

1 qualified energy efficiency projects to support
2 primary financing markets and stimulate devel-
3 opment of secondary investment markets for
4 clean energy projects and energy efficiency
5 projects; and
6 "(C) the level of financing support for
7 qualified clean energy projects and qualified en-
8 ergy efficiency projects necessary to advance
9 vital national objectives, including—
10 "(i) achieving energy independence
11 from foreign energy sources;
12 "(ii) abating climate change by in-
13 creasing zero or low carbon electricity gen-
14 eration and transportation capabilities;
15 "(iii) realizing energy efficiency poten-
16 tial in existing infrastructure;
17 "(iv) easing the economic effects of
18 transitioning from a carbon-based economy
19 to a clean energy economy;
20 "(v) achieving job creation through
21 the construction and operation of qualified
22 clean energy projects and qualified energy
23 efficiency projects;

1 "(vi) fostering long-term domestic
2 manufacturing capacity in the clean energy
3 and energy efficiency industries; and
4 "(vii) complementing and
5 supplementing other clean energy and en-
6 ergy efficiency legislation at the Federal or
7 State level.
8 "(c) DEFINITIONS.—In this section:
9 "(1) CLEAN ENERGY PROJECT.—The term
10 'clean energy project' means any electricity genera-
11 tion, transmission, storage, heating, cooling, indus-
12 trial process, or manufacturing project whose pri-
13 mary purpose is the deployment, development, or
14 production of an energy system or technology that
15 avoids, reduces, or sequesters air pollutants or an-
16 thropogenic greenhouse gases, including the fol-
17 lowing:
18 "(A) Solar.
19 "(B) Wind.
20 "(C) Geothermal.
21 "(D) Biomass.
22 "(E) Hydropower.
23 "(F) Ocean.
24 "(G) Fuel cell.
25 "(H) Advanced battery.

1 "(I) Carbon capture and sequestration.

2 "(J) Next generation biofuels.

3 "(K) Nuclear.

4 "(2) QUALIFIED CLEAN ENERGY PROJECT.—
5 The term 'qualified clean energy project' means a
6 clean energy project that—

7 "(A) is carried out domestically within the
8 territorial borders of the United States;

9 "(B) stays current on interest and debt
10 payment obligations;

11 "(C) pays wages in accordance with sub-
12 chapter IV of chapter 31 of title 40, United
13 States Code (commonly referred to as the
14 Davis-Bacon Act);

15 "(D) if for nuclear power, is funded by the
16 Bank only after all other existing Federal fi-
17 nancial support has been expended; and

18 "(E) satisfies any other conditions estab-
19 lished by the Bank and published in the Fed-
20 eral Register.

21 "(3) ENERGY EFFICIENCY PROJECT.—The term
22 'energy efficiency project' means any project, tech-
23 nology, function, or measure that results in the re-
24 duction of energy use required to achieve the same
25 level of service or output prior to the application of

1 such project, technology, function, or measure, or
2 substantially reduces greenhouse gas emissions rel-
3 ative to emissions that would have occurred prior to
4 the application of such project, technology, function,
5 or measure.

6 "(4) QUALIFIED ENERGY EFFICIENCY
7 PROJECT.—The term 'qualified energy efficiency
8 project' means an energy efficiency project, includ-
9 ing smart grid technologies and functions character-
10 ized in section 1301 of the Energy Independence
11 and Security Act of 2007 and end-use technologies
12 for efficiency gains in new construction and across
13 existing infrastructure that—

14 "(A) is carried out domestically within the
15 territorial borders of the United States;

16 "(B) stays current on interest and debt
17 payment obligations;

18 "(C) pays wages in accordance with sub-
19 chapter IV of chapter 31 of title 40, United
20 States Code (commonly referred to as the
21 Davis-Bacon Act); and

22 "(D) satisfies any other conditions estab-
23 lished by the Bank and published in the Fed-
24 eral Register.

1 "(5) GREEN BOND.—The term 'Green Bond'
2 means a bond issued pursuant to section 3102A of
3 this title.
4 "(6) BANK.—The term 'Bank' means the Green
5 Bank established under subsection (d).
6 "(7) BOARD.—The term 'Board' means the
7 Board of Directors of the Bank.
8 "(d) GREEN BANK.—
9 "(1) ESTABLISHMENT OF CORPORATION.—
10 There is established a corporation to be known as
11 the Green Bank that shall be wholly owned by the
12 United States.
13 "(2) INDEPENDENT CORPORATION.—The Bank
14 shall be an independent corporation. Neither the
15 Bank nor any of its functions, powers, or duties
16 shall be transferred to or consolidated with any
17 other department, agency, or corporation of the Gov-
18 ernment unless the Congress provides otherwise.
19 "(3) CHARTER.—The Bank shall be chartered
20 for 20 years from the date of enactment of this sec-
21 tion.
22 "(4) GOVERNANCE.—
23 "(A) BOARD OF DIRECTORS OF THE
24 BANK.—

1 "(i) IN GENERAL.—The Bank shall be
2 under the direction of a Board of Direc-
3 tors.
4 "(ii) MEMBERSHIP.—The Board shall
5 consist of 8 members, as follows:
6 "(I) The Secretary of the Energy
7 or his designee.
8 "(II) The Secretary of the Treas-
9 ury or his designee.
10 "(III) The Secretary of the Inte-
11 rior or his designee.
12 "(IV) The Secretary of Agri-
13 culture or his designee.
14 "(V) Four members appointed by
15 the President of the United States in-
16 cluding a Chief Executive Officer, 1
17 member with expertise regarding re-
18 newable energy, 1 member with exper-
19 tise regarding electric utilities, and 1
20 member with expertise regarding con-
21 sumer affairs.
22 "(iii) QUORUM.—5 members of the
23 Board shall constitute a quorum.
24 "(iv) BYLAWS.—The Board shall
25 adopt, and may amend, such bylaws as are

1 necessary for the proper management and
2 functioning of the Bank, and shall, in such
3 bylaws, designate the vice-presidents and
4 other officers of the Bank and prescribe
5 their duties.

6 "(v) TERMS.—The initial terms of the
7 members of the Board shall be 4 years.
8 For terms beginning after the first 4 years
9 following the date of the enactment of this
10 section, the Board shall create staggered
11 terms of 2, 3, and 4 years for members of
12 the Board.

13 "(vi) VACANCIES.—Any vacancy on
14 the Board shall be filled in the same man-
15 ner in which the original appointment was
16 made.

17 "(vii) INTERIM APPOINTMENTS.—Any
18 member appointed to fill a vacancy occur-
19 ring before the expiration of the term for
20 which such member's predecessor was ap-
21 pointed shall be appointed only for the re-
22 mainder of such term.

23 "(viii) REAPPOINTMENT.—Members
24 of the Board may be reappointed for addi-

1 tional terms of service as members of the
2 Board.
3 "(ix) CONTINUATION OF SERVICE.—
4 Any member of the Board whose term has
5 expired may continue to serve on the
6 Board until the earlier of—
7 "(I) the date on which such
8 member's successor is appointed; or
9 "(II) the end of the 6-month pe-
10 riod beginning on the date such mem-
11 ber's term expires.
12 "(x) CHAIRMAN.—The Board shall se-
13 lect a Chairman from among its members.
14 "(B) EXECUTIVE VICE-PRESIDENT.—The
15 Chief Executive Officer shall appoint an Execu-
16 tive Vice-President who—
17 "(i) shall serve as Chief Executive Of-
18 ficer of the Bank during the absence or
19 disability of, or in the event of a vacancy
20 in the office, of Chief Executive Officer;
21 and
22 "(ii) shall at other times perform such
23 functions as the Chief Executive Officer
24 may prescribe.

1 "(C) POLICIES AND PROCEDURES.—At the
2 request of any 2 members of the Board, the
3 Chairman shall place an item pertaining to the
4 policies or procedures of the Bank on the agen-
5 da for discussion by the Board. Not later than
6 30 days after the date such a request is made,
7 the Chairman shall hold a meeting of the Board
8 at which such item shall be discussed.

9 "(D) CONFLICTS OF INTEREST.—No direc-
10 tor, officer, attorney, agent, or employee of the
11 Bank shall in any manner, directly or indi-
12 rectly, participate in the deliberation upon, or
13 the determination of, any question affecting
14 such individual's personal interests, or the in-
15 terests of any corporation, partnership, or asso-
16 ciation in which such individual is directly or
17 indirectly personally interested.

18 "(5) HIRING AND CONTRACTING AUTHORITY.—

19 "(A) CONTRACTING.—The Bank may em-
20 ploy or otherwise contract with banks, credit
21 agencies, attorneys, and other third parties at
22 customary commercial rates.

23 "(B) HIRING.—Notwithstanding any oth-
24 erwise applicable Federal rules and regulations,
25 the Bank may employ and otherwise contract

1 with employees and provide compensation to
2 such employees at prevailing rates for com-
3 pensation for similar positions in private indus-
4 try.
5 "(6) SUNSET.—
6 "(A) EXPIRATION OF CHARTER.—The
7 Bank shall continue to exercise its functions
8 until all obligations and commitments of the
9 Bank are discharged, even after its charter has
10 expired.
11 "(B) PRIOR OBLIGATIONS.—No provisions
12 of this subsection shall be construed as pre-
13 venting the Bank from—
14 "(i) acquiring obligations prior to the
15 date of the expiration of its charter which
16 mature subsequent to such date;
17 "(ii) assuming, prior to the date of
18 the expiration of its charter, liability as
19 guarantor, endorser, or acceptor of obliga-
20 tions which mature subsequent to such
21 date;
22 "(iii) issuing, prior or subsequent to
23 the date of the expiration of its charter,
24 for purchase by the Secretary of the Treas-
25 ury or any other purchasers, its notes, de-

1 bentures, bonds, or other obligations which
2 mature subsequent to such date; or
3 "(iv) continuing as a corporation and
4 exercising any of its functions subsequent
5 to the date of the expiration of its charter
6 for purposes of orderly liquidation, includ-
7 ing the administration of its assets and the
8 collection of any obligations held by the
9 Bank.
10 "(e) LENDING, FINANCING, EXPENDITURES.—
11 "(1) IN GENERAL.—The Bank shall establish a
12 program to provide on a competitive basis loans,
13 loan guarantees, debt securitization, insurance, port-
14 folio insurance, and other forms of financing support
15 or risk management, as the Bank determines appro-
16 priate, for any qualifying clean energy project or
17 qualifying energy efficiency project.
18 "(2) GUARANTEED.—Loan guarantees provided
19 by the Bank shall be guaranteed by the United
20 States.
21 "(3) REQUIREMENTS.—The Bank may only
22 provide financing support (including loans, loan
23 guarantees, debt securitization, insurance, portfolio
24 insurance, and other forms of financing support or
25 risk management under paragraph (1)) if—

1 "(A) such support is commercially reason-
2 able and does not exceed 80 percent of the cap-
3 italization of the qualified clean energy project
4 or qualified energy efficiency project;
5 "(B) is secured by the underlying project
6 or such other collateral as the Chief Executive
7 Officer of the Bank determines appropriate;
8 and
9 "(C) in the judgment of the Chief Execu-
10 tive Officer—
11 "(i) the private credit market is not
12 providing adequately low-priced financing
13 to enable otherwise credit worthy entities
14 to carry out qualified clean energy projects
15 and qualified energy efficiency projects;
16 "(ii) such financing support would fa-
17 cilitate construction or expansion of a
18 qualified clean energy project or qualified
19 energy efficiency project at an accelerated
20 rate; and
21 "(iii) such financing support would
22 stimulate, aid, or otherwise support domes-
23 tic manufacturing of finished products or
24 component parts used in clean energy
25 projects or energy efficiency projects.

1 "(4) FINANCING ACTIVITIES.—The Bank may
2 facilitate financing transactions in tax equity mar-
3 kets and long term purchasing of clean energy by
4 governmental and non-governmental not-for-profit
5 entities, to the degree and extent that the Bank de-
6 termines such financing activity is appropriate and
7 consistent with carrying out the terms of this sec-
8 tion.

9 "(5) TRUSTS.—The Bank is authorized to cre-
10 ate, accept, execute, and otherwise administer in all
11 respects trusts, receiverships, conservatorships, liqui-
12 dating or other agencies, or other fiduciary and rep-
13 resentative undertakings and activities, as appro-
14 priate for financing purposes. Instruments issued by
15 the Bank pursuant to this section are, to the same
16 extent as securities which are direct obligations of or
17 obligations guaranteed as to principal or interest by
18 the United States, exempt securities within the
19 meaning of laws administered by the Securities and
20 Exchange Commission.

21 "(6) FEES.—The Bank shall assess reasonable
22 fees on its activities, including loans, loan guaran-
23 tees, insurance, portfolio insurance, and other forms
24 of financing support or risk management it provides
25 so as to cover its reasonable costs and expenses, as

1 determined by the Board, provided the Bank oper-
2 ates as a not-for-profit entity.
3 "(7) ENVIRONMENTAL REVIEW.—In providing
4 any financing support under this section, the Bank
5 may, with the concurrence of the Council on Envi-
6 ronmental Quality, adopt by reference and rely on
7 any applicable categorical exclusion or environmental
8 review promulgated by any other Federal Agency
9 pursuant to the National Environmental Policy Act
10 of 1969 (Public Law 91-190).
11 "(8) IMMUNITY FROM IMPAIRMENT, LIMITA-
12 TION, OR RESTRICTION.—
13 "(A) IN GENERAL.—All rights and rem-
14 edies of the Bank shall be immune from impair-
15 ment, limitation, or restrictions by or under—
16 "(i) any law (other than a law enacted
17 by Congress expressly in limitation of this
18 paragraph) that becomes effective after the
19 acquisition by the Bank of the subject or
20 property on, under, or with respect to
21 which the right or remedy arises or exists
22 or would so arise or exist in the absence of
23 the law; or

1 "(ii) any administrative or other ac-
2 tion that becomes effective after the acqui-
3 sition.
4 "(B) STATE LAW.—The Bank may con-
5 duct its business without regard to any quali-
6 fication or law of any State relating to incorpo-
7 ration.
8 "(9) TAXATION.—
9 "(A) IN GENERAL.—Subject to subpara-
10 graph (B), the Bank (including its activities,
11 capital, reserves, surplus and income) shall be
12 exempt from all taxation imposed by any State
13 or local political subdivision of a State.
14 "(B) REAL PROPERTY.—Any real property
15 of the Bank shall be subject to taxation by a
16 State or political subdivision of a State to the
17 same extent according to the value of the real
18 property as other real property is taxed.
19 "(10) POWER TO REMOVE; JURISDICTION.—
20 Notwithstanding any other provision of law, any civil
21 action, suit, or proceeding to which the Bank is a
22 party shall be deemed to arise under the laws of the
23 United States, and the United States district courts
24 shall have original jurisdiction. The Bank may, with-
25 out bond or security, remove any such action, suit,

1 or proceeding from a State court to a United States
2 district court or to the United States District Court
3 for the District of Columbia.
4 "(11) SPENDING SAFEGUARDS.—
5 "(A) IN GENERAL.—The Chief Executive
6 Officer of the Bank—
7 "(i) shall require any entity receiving
8 financing support (including a loan, loan
9 guarantee, debt securitization, insurance,
10 portfolio insurance, and other forms of fi-
11 nancing support or risk management) pur-
12 suant to this section to report quarterly, in
13 a format specified by the Chief Executive
14 Officer, on such entity's use of such sup-
15 port and its progress fulfilling the objec-
16 tives for which such support was granted,
17 and the Chief Executive Officer shall make
18 these reports available to the public;
19 "(ii) may establish additional report-
20 ing and information requirements for any
21 recipient of financing support made avail-
22 able pursuant to this section;
23 "(iii) shall establish appropriate mech-
24 anisms to ensure appropriate use and com-
25 pliance with all terms of any financing

1 support made available pursuant to this
2 section;
3 "(iv) may, in addition to and con-
4 sistent with any other authority under ap-
5 plicable law, deobligate financing support
6 made available pursuant to this section to
7 entities that demonstrate an insufficient
8 level of performance, or wasteful or fraud-
9 ulent spending, as defined in advance by
10 the Chief Executive Officer, and award
11 these funds competitively to new or exist-
12 ing applicants consistent with this section;
13 "(v) shall create and maintain a fully
14 searchable database, accessible on the
15 Internet (or successor protocol) at no cost
16 to the public, that contains at least—
17 "(I) a list of each entity that has
18 applied for a loan, loan guarantee, in-
19 surance, portfolio insurance, or other
20 forms of financing support or risk
21 management under this section;
22 "(II) a description of each appli-
23 cation;
24 "(III) the status of each such ap-
25 plication;

1 "(IV) the name of each entity re-
2 ceiving funds made available pursuant
3 to this section;
4 "(V) the purpose for which such
5 entity is receiving such funds;
6 "(VI) each quarterly report sub-
7 mitted by the entity pursuant to this
8 section; and
9 "(VII) such other information
10 sufficient to allow the public to under-
11 stand and monitor loans, loan guaran-
12 tees, insurance, portfolio insurance,
13 and other forms of financing support
14 or risk management provided under
15 this section;
16 "(vi) to the extent practicable, data
17 maintained under clause (v) shall be used
18 to inform private capital markets, includ-
19 ing the development of underwriting stand-
20 ards for the financing of clean energy
21 projects and energy efficiency projects;
22 "(vii) shall make all financing trans-
23 actions available for public inspection, in-
24 cluding formal annual reviews by both a

1 private auditor and the Comptroller Gen-
2 eral; and
3 "(viii) shall at all times be available to
4 receive public comment in writing on the
5 activities of the Bank.
6 "(B) PROTECTION OF CONFIDENTIAL
7 BUSINESS INFORMATION.—To the extent nec-
8 essary and appropriate, the Chief Executive Of-
9 ficer may redact any information regarding ap-
10 plicants and borrowers to protect confidential
11 business information.".

12 **SEC. 3. CONFORMING AMENDMENTS.**

13 (a) TAX EXEMPT STATUS.—Subsection (l) of section
14 501 of the Internal Revenue Code of 1986 is amended by
15 adding at the end the following:
16 "(4) The Green Bank established under
17 section 9801 of title 31, United States Code.".
18 (b) WHOLLY OWNED GOVERNMENT CORPORA-
19 TION.—Paragraph (3) of section 9101 of title 31, United
20 States Code, is amended by adding at the end the fol-
21 lowing:
22 "(S) the Green Bank.".
23 (c) CLERICAL AMENDMENTS.—
24 (1) The table of sections for chapter 31 of title
25 31, United States Code, is amended by inserting

1 after the item relating to section 3102 the following
2 new item:

"3102A. Green bonds.".

3 (2) The table of chapters for subtitle VI of title
4 31, United States Code, is amended by adding at
5 the end the following new item:

"98. Green Bank ..... 9801".

Ch Van Hollen

Original Cosponsors
for
The Green Bank Act of 2009
Introduced by
Congressman Chris Van Hollen
March 24, 2009

David Loebsack
Gabrielle Giffords
Earl Blumenauer
Madeleine Z. Bordallo