

118TH CONGRESS
1ST SESSION

S. 3005

To amend the Better Utilization of Investments Leading to Development Act of 2018 to enhance the economic and strategic competitiveness of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 3, 2023

Mr. COONS (for himself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To amend the Better Utilization of Investments Leading to Development Act of 2018 to enhance the economic and strategic competitiveness of the United States, 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 “Enhancing American
5 Competitiveness Act of 2023”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Foreign Relations,
5 the Committee on Appropriations, and the
6 Committee on the Budget of the Senate; and

7 (B) the Committee on Foreign Affairs, the
8 Committee on Appropriations, and the Com-
9 mittee on the Budget of the House of Rep-
10 resentatives.

11 (2) CORPORATION.—The term “Corporation”
12 means the United States International Development
13 Finance Corporation.

14 **SEC. 3. FINDINGS.**

15 Congress finds the following:

16 (1) The mission of the Corporation is to mobi-
17 lize investment to advance global development, for-
18 eign policy objectives of the United States, and tax-
19 payer interests.

20 (2) Congress established the Corporation to le-
21 verage private sector capabilities and to serve as a
22 robust alternative to state-directed investments by
23 authoritarian governments and strategic competitors
24 of the United States.

25 (3) Congress authorized the Corporation—

1 (A) to provide equity financing in order to
2 provide the Corporation with greater flexibility
3 to invest in early- and growth-stage companies,
4 partner with other financial institutions, and
5 enable investees to scale operations more effec-
6 tively to create greater impact on developments;

7 (B) under section 1421(d) of the BUILD
8 Act of 2018 (22 U.S.C. 9621(d))—

9 (i) to provide insurance and reinsur-
10 ance of debt for the purposes of furthering
11 United States foreign policy, development,
12 and national security objectives; and

13 (ii) to insure debt investments;

14 (C) to collect insurance and reinsurance
15 premiums and pay insurance and reinsurance
16 claims; and

17 (D) to make loans or guaranties upon such
18 terms and conditions as the Corporation may
19 determine under section 1421(b) of the BUILD
20 Act of 2018 (22 U.S.C. 9621(b)) for the pur-
21 poses of furthering foreign policy, development,
22 and national security objectives of the United
23 States.

24 (4) Under section 1422(b)(3) of that Act (22
25 U.S.C. 9621(b)(3)), Congress limited the authority

1 described in paragraph (3)(D) by requiring that for
2 any loan or guaranty to a project, the parties to the
3 project bear the risk of loss in an amount equal to
4 at least 20 percent of the guaranteed support by the
5 Corporation in the project.

6 (5) Congress authorized the Corporation to
7 guaranty 100 percent of an obligation, including a
8 loan, a bond issuance, or a tranche of any such loan
9 or bond in which other parties to the project bear
10 the risk of loss in an amount equal to at least 20
11 percent of the guaranteed support by the Corpora-
12 tion in the project.

13 (6) Obstacles to the implementation of the au-
14 thorities described in paragraph (3) have con-
15 strained the ability of the Corporation to leverage its
16 full capacity to enhance the economic and strategic
17 competitiveness of the United States and to cooper-
18 ate effectively with foreign partners and the private
19 sector.

20 **SEC. 4. SENSE OF CONGRESS.**

21 It is the sense of Congress that—

22 (1) the proper budgetary treatment of the in-
23 surance and reinsurance authorities of the Corpora-
24 tion, including insurance and reinsurance of debt, is
25 not subject to budgetary treatment under the re-

1 requirements of Federal Credit Reform Act of 1990 (2
2 U.S.C. 661 et seq.); and

3 (2) guaranties provided by the Corporation in
4 excess of 80 percent of an obligation are exempt
5 from applicable provisions of the Office of Manage-
6 ment and Budget Circular A-129.

7 **SEC. 5. MODIFICATION OF ELIGIBILITY DEFINITIONS.**

8 The Build Act of 2018 (22 U.S.C. 9601 et seq.) is
9 amended—

10 (1) in section 1402—

11 (A) by redesignating paragraphs (2), (3),
12 and (4) as paragraphs (3), (4), and (5), respec-
13 tively; and

14 (B) by inserting after paragraph (1) the
15 following:

16 “(2) FRAGILE AND CONFLICT-AFFECTED
17 STATE.—The term ‘fragile and conflict-affected
18 state’ means a country that—

19 “(A) is on the List of Fragile and Conflict-
20 affected Situations maintained by the Fragility,
21 Conflict and Violence Group of the World
22 Bank; or

23 “(B) the Corporation, after consultation
24 with the Secretary of State and the Adminis-
25 trator of the United States Agency for Inter-

1 national Development, designates as fragile or
2 conflict-affected.”; and

3 (2) in section 1412(c), by striking paragraph
4 (2) and inserting the following:

5 “(2) ELIGIBLE COUNTRIES.—The Corporation
6 may provide support under title II in a country that
7 is—

8 “(A) eligible to receive development lending
9 from the World Bank; and

10 “(B) a fragile and conflict-affected state.”.

11 **SEC. 6. BUDGETARY TREATMENT OF EQUITY INVESTMENTS**

12 **BY THE CORPORATION.**

13 Section 1421(c) of the BUILD Act of 2018 (22
14 U.S.C. 9521 (c)) is amended by adding at the end the
15 following:

16 “(7) PRESENT VALUE OF EQUITY ACCOUNT.—
17 There is established as a subaccount within the Cor-
18 porate Capital Account a fund to be known as the
19 ‘Corporate Equity Account’ to carry out this sub-
20 section.

21 “(8) BUDGETARY TREATMENT OF EQUITY IN-
22 VESTMENTS.—

23 “(A) CALCULATION OF THE COSTS OF IN-
24 VESTMENT.—

1 “(i) IN GENERAL.—The cost of sup-
2 port provided under paragraph (1) with re-
3 spect to a project shall be the net present
4 value, at the time when funds are dis-
5 bursed to provide the support, excluding
6 administrative costs and any incidental ef-
7 fects on governmental receipts or outlays,
8 of the following estimated cash flows:

9 “(I) The purchase price of the in-
10 vestment.

11 “(II) Dividends, redemptions,
12 and other shareholder distributions
13 during the term of the support.

14 “(III) Proceeds received upon a
15 sale, redemption, or other liquidation
16 of the investment.

17 “(IV) Foreign currency fluctua-
18 tions, for support denominated in for-
19 eign currencies.

20 “(V) Any other relevant cashflow.

21 “(ii) CHANGES IN TERMS IN-
22 CLUDED.—The estimated cash flows de-
23 scribed in subclauses (I) through (V) of
24 clause (i) shall include the effects of
25 changes in terms resulting from the exer-

1 cise of options included in the agreement
2 to provide the support.

3 “(iii) DISCOUNT RATE.—The discount
4 rate shall be the average interest rate on
5 marketable Treasury securities of similar
6 maturity to the support provided under
7 paragraph (1).

8 “(B) TRANSFER.—Subject to the avail-
9 ability of appropriations, an amount equal to
10 the cost of support determined under subpara-
11 graph (A) shall be transferred from the Cor-
12 porate Capital Account to the Corporate Equity
13 Account.

14 “(C) DIFFERENTIAL AMOUNT.—

15 “(i) APPROPRIATION.—For any fiscal
16 year, upon the transfer of an amount pur-
17 suant to subparagraph (B), an amount
18 equal to the differential amount shall be
19 appropriated, out of any money in the
20 Treasury not otherwise appropriated, to
21 the Corporate Equity Account.

22 “(ii) TREATMENT AS DIRECT SPEND-
23 ING.—An amount appropriated pursuant
24 to clause (i) shall be recorded as direct
25 spending (as defined by section 250(e)(8)

1 of the Balanced Budget and Emergency
2 Deficit Control Act of 1985 (2 U.S.C.
3 900(e)(8)).

4 “(iii) BUDGETARY EFFECTS.—The
5 following shall apply to budget enforcement
6 under the Congressional Budget Act of
7 1974 (2 U.S.C. 601 et seq.), the Balanced
8 Budget and Emergency Deficit Control Act
9 of 1985 (2 U.S.C. 900 et seq.), and the
10 Statutory Pay-As-You-Go Act of 2010 (2
11 U.S.C. 931 et seq.):

12 “(I) FUTURE APPROPRIA-
13 TIONS.—Any amount appropriated
14 pursuant to clause (i) shall not be re-
15 corded as budget authority or outlays
16 for purposes of any estimate under
17 the Congressional Budget Act of 1974
18 or the Balanced Budget and Emer-
19 gency Deficit Control Act of 1985.

20 “(II) STATUTORY PAYGO SCORE-
21 CARDS.—The budgetary effects of any
22 amounts appropriated pursuant to
23 clause (i) shall not be entered on ei-
24 ther PAYGO scorecard maintained
25 pursuant to section 4(d) of the Statu-

1 tory Pay As-You-Go Act of 2010 (2
2 U.S.C. 933(d)).

3 “(III) SENATE PAYGO SCORE-
4 CARDS.—The budgetary effects of any
5 amounts appropriated pursuant to
6 clause (i) shall not be entered on any
7 PAYGO scorecard maintained for pur-
8 poses of section 4106 of H. Con. Res.
9 71 (115th Congress).

10 “(IV) ELIMINATION OF CREDIT
11 FOR CANCELLATION OR RESCISSION
12 OF DIFFERENTIAL.—If there is en-
13 acted into law an Act that rescinds or
14 reduces an amount appropriated pur-
15 suant to clause (i), the amount of any
16 such rescission or reduction shall not
17 be—

18 “(aa) estimated as a reduc-
19 tion in direct spending under the
20 Congressional Budget Act of
21 1974 or the Balanced Budget
22 and Emergency Deficit Control
23 Act of 1985; or

24 “(bb) entered on either
25 PAYGO scorecard maintained

1 pursuant to section 4(d) of the
2 Statutory Pay As-You-Go Act of
3 2010 or any PAYGO scorecard
4 maintained for purposes of sec-
5 tion 4106 of H. Con. Res. 71
6 (115th Congress).

7 “(iv) DIFFERENTIAL AMOUNT DE-
8 FINED.—In this subparagraph, the term
9 ‘differential amount’ means the difference
10 between the cost of support provided under
11 paragraph (1), as determined under sub-
12 paragraph (A), and the purchase price of
13 the equity investment involved.

14 “(D) COORDINATION.—

15 “(i) IN GENERAL.—The Director of
16 the Office of Management and Budget, in
17 consultation with the Corporation, shall be
18 responsible for coordinating the cost esti-
19 mates required by this paragraph.

20 “(ii) RULE OF CONSTRUCTION.—
21 Nothing in this subparagraph shall be con-
22 strued to change the authority or responsi-
23 bility of the Corporation to determine the
24 terms and conditions of eligibility for, or

1 the amount of support provided by, the
2 Corporation.”.

3 **SEC. 7. MAXIMUM CONTINGENT LIABILITY.**

4 Section 1433 of the BUILD Act of 2018 (22 U.S.C.
5 9633) is amended by striking “\$60,000,000,000” and in-
6 serting “\$100,000,000,000”.

7 **SEC. 8. REPORTING REQUIREMENT.**

8 Not later than 180 days after the date of the enact-
9 ment of this Act, the Chief Executive Officer of the Cor-
10 poration shall submit to the appropriate congressional
11 committees a plan to expand the financing of the Corpora-
12 tion to support national security and development prior-
13 ities of the United States in critical regions, including—

14 (1) a description of the budgetary, staffing, and
15 programmatic resources necessary to carry out the
16 plan; and

17 (2) the effective date and the basis used, in
18 consultation with the Director of the Office of Man-
19 agement and Budget, to calculate the net present
20 value of funds appropriated for use under section
21 1421(c) of the Build Act of 2018 (22 U.S.C.
22 9621(c)).

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