

Insights: Alert

The Proposed Inflation Reduction Act of 2022 Provides Additional Funding for the DOE Loan Program Office to Support U.S. Energy Infrastructure, Vehicle, and Mass Transit Development

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On July 27, 2022, Senator Manchin (D-WV) and Senator Schumer (D-NY) [announced](#) new draft reconciliation legislation, the [Inflation Reduction Act of 2022](#) (IRA). The IRA would provide \$433 billion in total investments, with \$369 billion for “Energy Security and Climate Change” and \$64 billion for an “Affordable Care Act Extension.” The proposed Act will need to pass in the Senate and the House before it can be signed into law by President Biden.

Of the \$369 billion for energy security and climate change, which supports various tax incentives, programs, and other initiatives, the IRA provides approximately \$70 billion in new funds to the Department of Energy (DOE) [Loan Program Office \(LPO\)](#). Allocations regarding the LPO include:

- **\$40 Billion in Additional Funding for the DOE Title XVII Loan Guarantee Program**

The IRA would provide an additional \$40 billion in funding to the Title XVII Loan Guarantee Program in the LPO to support U.S. energy infrastructure development.

The LPO finances large-scale energy infrastructure projects in the United States. The LPO currently administers “more than \$40 billion in loans and loan guarantees [...] to help deploy innovative clean energy, advanced transportation, and tribal energy projects in the United States.” Further, “since 2009, LPO has issued more than \$35 billion in loans & loan guarantees to more than 30 projects across the United States, catalyzing new energy technologies, creating jobs, and building on its deep sector expertise.” The \$40 billion provided to the DOE Title XVII Loan Guarantee Program under the IRA is in addition to the more than \$40 billion it already administers.

- **\$3 Billion in Funding to Support the Expanded DOE Advanced Technology Vehicles Manufacturing Direct Loan Program**

In addition to, and separate from, the \$40 billion in additional funding that would be provided to the LPO for the Title XVII Loan Guarantee Program, the IRA also would provide an additional \$3 billion in funding to DOE's [Advanced Technology Vehicles Manufacturing Direct Loan Program \(ATVM\)](#).

The ATVM, which operates through the LPO, currently administers approximately “\$17.7 billion in available funding to provide low-cost debt capital for fuel-efficient vehicle and eligible component manufacturing in the United States,” with a focus on light-duty vehicles that meet or exceed certain fuel efficiency requirements. The \$3 billion in additional funding to the ATVM will support manufacturing of medium-duty and heavy-duty vehicles that meet certain greenhouse gas emissions standards, along with, “a train or locomotive, a maritime vessel, an aircraft, and hyperloop technology.” The expansion of the ATVM was authorized in the Infrastructure Investment and Jobs Act of 2021 and now would be funded through the IRA.

- **\$3.6 Billion to the LPO for the Costs of Guarantees under Title XVII Loan Guarantee Program**

The IRA also provides the LPO with \$3.6 billion “for the costs of guarantees made under the [Title XVII Loan Guarantee Program](#), section 1703 of the Energy Policy Act of 2005 (42 U.S.C. 16513).”

The Title XVII Loan Guarantee Program supports the development of projects that: “(1) [e]mploy new or significantly improved technologies as compared to commercial technologies in services in the United States at the time the guarantee is issued; (2) avoid, reduce, or sequester anthropogenic emissions of greenhouse gases; (3) [are located in] the United States (foreign ownership or sponsorship of the projects is permissible as long as the project is located in one of the fifty states, the District of Columbia, or a U.S. territory); [and] (4) provide a reasonable prospect of repayment.” The \$3.6 billion in funding under the IRA would permit the LPO to pay down guarantee fees associated with the Title XVII Loan Guarantee Program.

- **\$5 Billion to Support Energy Infrastructure Reinvestment Financing under the Title XVII Loan Guarantee Program**

The IRA amends the Title XVII Loan Guarantee Program and allocates \$5 billion to support energy infrastructure reinvestment financing under the LPO.

The IRA amends the Title XVII Loan Guarantee Program by adding new Section 1706, which authorizes the DOE Secretary to make guarantees, including refinancing, for projects that “[a](1) retool, repower, repurpose, or replace energy infrastructure that has ceased operations; or [a](2) enable operating energy infrastructure to avoid, reduce, utilize, or sequester air pollutants or anthropogenic emissions of greenhouse gases.” For the purposes of this section, energy infrastructure is defined as “a facility, and associated equipment, used for (1) the generation or transmission of electric energy; or (2) the production, processing, and delivery of fossil fuels, fuels derived from petroleum, or petrochemical feedstocks.” Further, a project under subsection “(a)(1) that involves electricity generation through the use of fossil fuels shall be required to have controls or technologies to avoid, reduce, utilize, or sequester air pollutants and

anthropogenic emissions of greenhouse gases.” The \$5 billion allocated to support energy infrastructure reinvestment financing under the LPO is in addition to the amounts previously referenced.

- **The IRA Increased the Tribal Energy Loan Guarantee Program Funding Level to \$20 Billion**

The IRA increased the level of available guaranteed funds to the LPO's [Tribal Energy Loan Guarantee Program \(TELGP\)](#).

In addition to the ATVM, the LPO also administers the TELGP. The TELGP “supports tribal investment in energy-related projects by providing direct loans or partial loan guarantees to a federally recognized tribe, including Alaska Native village or regional or village corporations; or a Tribal Energy Development Organization (TEDO) that is wholly or substantially owned by a federally recognized tribe federally recognized Indian tribe or Alaska Native Corporation.” As stated, the IRA increases guaranteed funding to the TELGP, all of which is in addition to the aforementioned funding allocated to the LPO. The IRA amends the Energy Policy Act of 2005 by increasing the “aggregate outstanding amount guaranteed by the Secretary of Energy at any time under” the TELGP from an amount that “shall not exceed \$2 billion,” to an amount that shall not exceed \$20 billion.

If you have any questions concerning the proposed Inflation Reduction Act of 2022, please do not hesitate to reach out to: Mark J. Riedy at mriedy@kilpatricktownsend.com; John Loving at jloving@kilpatricktownsend.com; Patrick McShane at pmcshane@kilpatricktownsend.com; or Stephen M. Anstey at sanstey@kilpatricktownsend.com.

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