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INSIGHT

Inflation Reduction Act of 2022 (IRA): Department of Energy Loan Guarantee Programs

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As posted by the Senate Majority leader on July 27, 2022, the Inflation Reduction Act of 2022 (IRA) would amend, expand, and appropriate money for two loan guarantee programs administered by the Department of Energy's (DOE's) Loan Programs Office (LPO): (1) the Title XVII Innovative Technology Loan Guarantee Program (Title XVII) and (2) the Tribal Energy Loan Guarantee Program (TELGP). **Table 1** provides a high-level comparison of these programs under current law. LPO also manages the Advanced Technology Vehicles Manufacturing direct loan program, which the IRA would also amend but is not discussed in this Insight.

Background

Established by the Energy Policy Act of 2005 (EPACT05 Title XVII, P.L. 109-58, as amended at 42 USC §§16511 et seq.), the Title XVII program has supported projects under two separate loan guarantee authorities with different characteristics (see **Table 1**).

1. *Section 1703* authority is currently active and to date has committed funds to 2 projects, and
2. *Section 1705* authority expired in September 2011 and committed funds to 28 projects.

The TELGP was also established in 2005 (P.L. 109-58, at 25 USC §3502(c)). To date, no projects have received funding commitments under TELGP authority.

Generally, federal credit programs such as Title XVII and TELGP require that a subsidy cost be paid—through appropriations and/or payment by the borrower—prior to finalizing a loan guarantee agreement. The Federal Credit Reform Act of 1990 (FCRA; Section 13201 of P.L. 101-508) requires that estimated lifetime net costs, which consider default risk and other factors, of new loans and loan guarantees be recorded in the budget year in which the loans are disbursed (2 U.S.C §661c). The costs of these credit programs, referred to as subsidy costs, are measured on a net present value (NPV) basis—which is the

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combined value of expected future cash receipts, less expenditures adjusted or discounted, calculated using an interest rate based on Treasury securities.

Table 1. Existing Department of Energy Loan Guarantee Programs

	Innovative Technology Loan Guarantee Program (Title XVII)		Tribal Energy Program (Title XXVI)
	Section 1703	Section 1705	Section 503[a]
Establishment Year	2005	2009	2005
Program Authority	Ongoing	Expired September 30, 2011	Ongoing
Available Loan Guarantee Authority	$21.9 billion	N/A	$2 billion
Eligibility Criteria	Projects must (1) avoid, reduce, or sequester air pollutants or anthropogenic greenhouse gas emissions; and (2) employ new or significantly improved technologies, including projects that employ elements of commercial technologies in combination with new or significantly improved technologies	Projects were limited to (1) renewable energy systems; (2) electricity transmission; and (3) leading edge biofuel projects, but could employ commercial technology	Projects must be for energy development by a federally recognized Indian tribe or Alaska Native Corporation
Appropriations for Subsidy Costs	$161 million, available until expended, for a portion of subsidy costs for Renewable Energy and Efficient Energy projects	$2.5 billion (no longer available)	$8.5 million available until expended
Loan Guarantee Commitments	2 project commitments	28 project commitments	None

Source: Congressional Research Service.

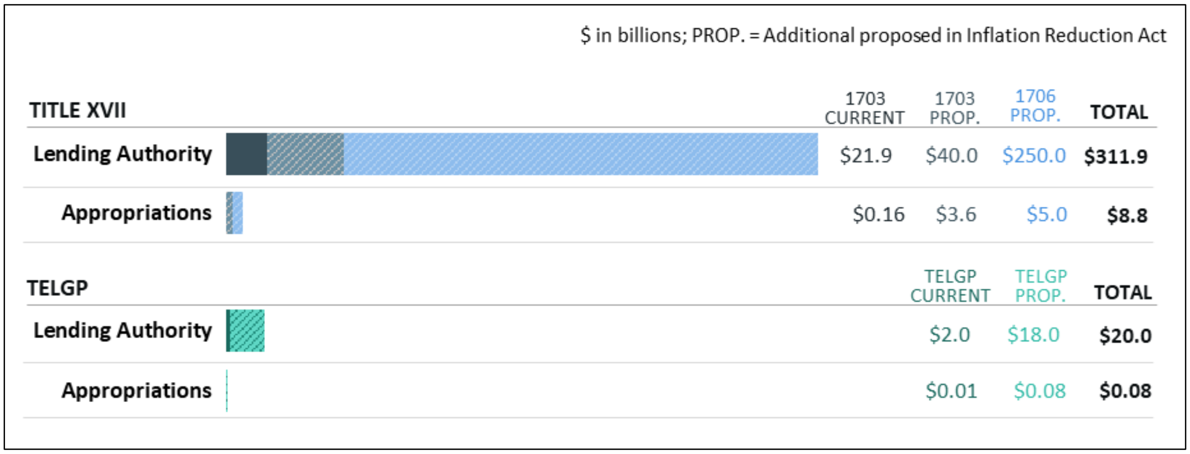
Notes: Section 1703 also includes eligible project categories (42 USC §16513). Generally, the borrower pays §1703 subsidy costs. Under §1705, appropriations covered these costs. The Tribal Energy Program is currently authorized, until September 30, 2022, to provide direct loans to qualifying projects.

a. P.L. 102-486, Title XXVI, §2602, as amended by P.L. 109-58, Title V, § 503(a); 25 U.S.C. §3501 et seq.

IRA Proposed Amendments to DOE Loan Guarantee Programs

Sections 50141, 50144, and 50145 of the IRA would amend Title XVII and TELGP programs. Loan guarantee commitment authority would increase for both programs, including $250 billion for a temporary Section 1706 loan guarantee authority that could finance energy infrastructure (see **Figure 1**). Additionally, the bill would appropriate nearly $9 billion that could be used to pay for subsidy costs. These amendments—including time-limited availability of appropriations and most commitment authority—could facilitate lending activity for two existing authorities (Section 1703 and TELGP), and for a new authority (Section 1706).

Figure 1. Current and Proposed Lending Authority and Appropriations for DOE Loan Guarantee Programs



Source: Congressional Research Service.

Notes: Numbers may not sum due to rounding. TELGP = Tribal Energy Loan Guarantee Program. Title XVII lending authority and appropriation increases would be available through fiscal year (FY) 2026. TELGP lending authority increase would be permanent. TELGP appropriation increase would be available through FY2028.

Title XVII

Proposed Title XVII amendments in the IRA would increase Section 1703 lending authority and appropriation levels, and would establish a temporary loan guarantee program that could support investment in energy infrastructure. Section 1703 amendments would build upon recently enacted legislation to address two related program challenges: (1) innovative technology requirements, and (2) limited credit subsidy appropriations. For example, the Energy Act of 2020 (P.L. 116-260, Division Z) relaxed innovative technology criteria, and the Infrastructure Investment and Jobs Act (P.L. 117-58, Section 40401) eliminated the requirement for projects supported by a State Energy Financing Institution. IRA provisions would increase Section 1703 lending authority by $40 billion and would also appropriate $3.6 billion to pay for program costs, including subsidy costs. Lending authority and appropriations would be available through the end of FY2026.

The IRA would also establish a time-limited (available through FY2026), $250 billion Title XVII loan guarantee commitment authority—Section 1706—for "Energy Infrastructure Reinvestment Financing." As defined in the bill, energy infrastructure would include (1) electricity generation and transmission, or (2) production, processing, and delivery of fossil fuels, petroleum-derived fuels, or petrochemical feedstocks. Additionally, $5 billion would be appropriated to carry out the program. To qualify for a 1706 loan guarantee, projects would need to

(1) retool, repower, repurpose, or replace energy infrastructure that has ceased operations—subject to a requirement that fossil fuel electricity generation projects must avoid, reduce, utilize, or sequester air pollutants and anthropogenic greenhouse gas emissions, or

(2) enable operating energy infrastructure to avoid, reduce, utilize, or sequester air pollutants or anthropogenic emissions of greenhouse gases.

TELGP

The IRA would permanently increase TELGP loan guarantee commitment authority to $20 billion. Additionally, $75 million would be available through FY2028 to pay for TELGP program activities.

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