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.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Enhancing American Competitiveness Act of 2023”.

SEC. 2. DEFINITIONS.

In this Act:
(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

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

(B) the Committee on Foreign Affairs, the Committee on Appropriations, and the Committee on the Budget of the House of Representatives.

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

SEC. 3. FINDINGS.

Congress finds the following:

(1) The mission of the Corporation is to mobilize investment to advance global development, foreign policy objectives of the United States, and taxpayer interests.

(2) Congress established the Corporation to leverage private sector capabilities and to serve as a robust alternative to state-directed investments by authoritarian governments and strategic competitors of the United States.

(3) Congress authorized the Corporation—
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(A) to provide equity financing in order to provide the Corporation with greater flexibility to invest in early- and growth-stage companies, partner with other financial institutions, and enable investees to scale operations more effectively to create greater impact on developments;

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

(i) to provide insurance and reinsurance of debt for the purposes of furthering United States foreign policy, development, and national security objectives; and

(ii) to insure debt investments;

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

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

(4) Under section 1422(b)(3) of that Act (22 U.S.C. 9621(b)(3)), Congress limited the authority
described in paragraph (3)(D) by requiring that for any loan or guaranty to a project, the parties to the project bear the risk of loss in an amount equal to at least 20 percent of the guaranteed support by the Corporation in the project.

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

(6) Obstacles to the implementation of the authorities described in paragraph (3) have constrained the ability of the Corporation to leverage its full capacity to enhance the economic and strategic competitiveness of the United States and to cooperate effectively with foreign partners and the private sector.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the proper budgetary treatment of the insurance and reinsurance authorities of the Corporation, including insurance and reinsurance of debt, is not subject to budgetary treatment under the re-
requirements of Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.); and

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

SEC. 5. MODIFICATION OF ELIGIBILITY DEFINITIONS.

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

(1) in section 1402—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

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

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

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

“(B) the Corporation, after consultation with the Secretary of State and the Administrator of the United States Agency for Inter-
national Development, designates as fragile or
conflict-affected.’’; and
(2) in section 1412(c), by striking paragraph
(2) and inserting the following:
“(2) ELIGIBLE COUNTRIES.—The Corporation
may provide support under title II in a country that
is—
“(A) eligible to receive development lending
from the World Bank; and
“(B) a fragile and conflict-affected state.”.

SEC. 6. BUDGETARY TREATMENT OF EQUITY INVESTMENTS
BY THE CORPORATION.

Section 1421(c) of the BUILD Act of 2018 (22
U.S.C. 9521 (c)) is amended by adding at the end the
following:
“(7) PRESENT VALUE OF EQUITY ACCOUNT.—
There is established as a subaccount within the Cor-
porate Capital Account a fund to be known as the
‘Corporate Equity Account’ to carry out this sub-
section.
“(8) BUDGETARY TREATMENT OF EQUITY IN-
VESTMENTS.—
“(A) CALCULATION OF THE COSTS OF IN-
VESTMENT.—
“(i) IN GENERAL.—The cost of support provided under paragraph (1) with respect to a project shall be the net present value, at the time when funds are disbursed to provide the support, excluding administrative costs and any incidental effects on governmental receipts or outlays, of the following estimated cash flows:

“(I) The purchase price of the investment.

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

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

“(IV) Foreign currency fluctuations, for support denominated in foreign currencies.

“(V) Any other relevant cashflow.

“(ii) CHANGES IN TERMS INCLUDED.—The estimated cash flows described in subclauses (I) through (V) of clause (i) shall include the effects of changes in terms resulting from the exer-
exercise of options included in the agreement
to provide the support.

“(iii) Discount rate.—The discount
rate shall be the average interest rate on
marketable Treasury securities of similar
maturity to the support provided under
paragraph (1).

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

“(C) Differential amount.—

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

“(ii) Treatment as direct spend-
ing.—An amount appropriated pursuant
to clause (i) shall be recorded as direct
spending (as defined by section 250(c)(8)
of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(8)).


"(I) FUTURE APPROPRIATIONS.—Any amount appropriated pursuant to clause (i) shall not be recorded as budget authority or outlays for purposes of any estimate under the Congressional Budget Act of 1974 or the Balanced Budget and Emergency Deficit Control Act of 1985.

"(II) STATUTORY PAYGO SCORECARDS.—The budgetary effects of any amounts appropriated pursuant to clause (i) shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statu-
tory Pay As-You-Go Act of 2010 (2 U.S.C. 933(d)).

“(III) Senate paygo scorecards.—The budgetary effects of any amounts appropriated pursuant to clause (i) shall not be entered on any PAYGO scorecard maintained for purposes of section 4106 of H. Con. Res. 71 (115th Congress).

“(IV) Elimination of credit for cancellation or rescission of differential.—If there is enacted into law an Act that rescinds or reduces an amount appropriated pursuant to clause (i), the amount of any such rescission or reduction shall not be—

“(aa) estimated as a reduction in direct spending under the Congressional Budget Act of 1974 or the Balanced Budget and Emergency Deficit Control Act of 1985; or

“(bb) entered on either PAYGO scorecard maintained
pursuant to section 4(d) of the Statutory Pay As-You-Go Act of 2010 or any PAYGO scorecard maintained for purposes of section 4106 of H. Con. Res. 71 (115th Congress).

“(iv) DIFFERENTIAL AMOUNT DEFINED.—In this subparagraph, the term ‘differential amount’ means the difference between the cost of support provided under paragraph (1), as determined under subparagraph (A), and the purchase price of the equity investment involved.

“(D) COORDINATION.—

“(i) IN GENERAL.—The Director of the Office of Management and Budget, in consultation with the Corporation, shall be responsible for coordinating the cost estimates required by this paragraph.

“(ii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to change the authority or responsibility of the Corporation to determine the terms and conditions of eligibility for, or
the amount of support provided by, the Corporation.”.

SEC. 7. MAXIMUM CONTINGENT LIABILITY.

Section 1433 of the BUILD Act of 2018 (22 U.S.C. 9633) is amended by striking “$60,000,000,000” and inserting “$100,000,000,000”.

SEC. 8. REPORTING REQUIREMENT.

Not later than 180 days after the date of the enactment of this Act, the Chief Executive Officer of the Corporation shall submit to the appropriate congressional committees a plan to expand the financing of the Corporation to support national security and development priorities of the United States in critical regions, including—

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

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