

112TH CONGRESS  
1ST SESSION

# H. R. 3389

To provide for the establishment of Clean Energy Consortia to enhance the Nation's economic, environmental, and energy security by promoting commercial application of clean energy technology.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 4, 2011

Mr. MARKEY introduced the following bill; which was referred to the  
Committee on Science, Space, and Technology

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## A BILL

To provide for the establishment of Clean Energy Consortia to enhance the Nation's economic, environmental, and energy security by promoting commercial application of clean energy technology.

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 “Consortia-Led Energy  
5 Advancement Networks Act” or the “CLEAN Act”.

6 **SEC. 2. CLEAN ENERGY CONSORTIA.**

7 (a) PURPOSE.—The Secretary shall carry out a pro-  
8 gram to establish Clean Energy Consortia to enhance the

1 Nation’s economic, environmental, and energy security by  
2 promoting commercial application of clean energy tech-  
3 nology and ensuring that the United States maintains a  
4 technological lead in the development and commercial ap-  
5 plication of state-of-the-art energy technologies. To  
6 achieve these purposes the program shall leverage the ex-  
7 pertise and resources of the university and private re-  
8 search communities, industry, venture capital, national  
9 laboratories, and other participants in energy innovation  
10 to support collaborative, cross-disciplinary research and  
11 development in areas not being served by the private sec-  
12 tor in order to develop and accelerate the commercial ap-  
13 plication of innovative clean energy technologies.

14 (b) DEFINITIONS.—For purposes of this section:

15 (1) CLEAN ENERGY TECHNOLOGY.—The term  
16 “clean energy technology” means a technology  
17 that—

18 (A) produces energy from solar, wind, geo-  
19 thermal, biomass, tidal, wave, ocean, and other  
20 renewable energy resources (as such term is de-  
21 fined in section 610 of the Public Utility Regu-  
22 latory Policies Act of 1978);

23 (B) more efficiently transmits, distributes,  
24 or stores energy;

1 (C) enhances energy efficiency for build-  
2 ings and industry, including combined heat and  
3 power;

4 (D) enables the development of a Smart  
5 Grid (as described in section 1301 of the En-  
6 ergy Independence and Security Act of 2007  
7 (42 U.S.C. 17381)), including integration of re-  
8 newable energy resources and distributed gen-  
9 eration, demand response, demand side man-  
10 agement, and systems analysis;

11 (E) produces an advanced or sustainable  
12 material with energy or energy efficiency appli-  
13 cations;

14 (F) improves energy efficiency for trans-  
15 portation, including electric vehicles; or

16 (G) enhances water security through im-  
17 proved water management, conservation, dis-  
18 tribution, and end use applications.

19 (2) CLUSTER.—The term “cluster” means a  
20 network of entities directly involved in the research,  
21 development, finance, and commercial application of  
22 clean energy technologies whose geographic prox-  
23 imity facilitates utilization and sharing of skilled  
24 human resources, infrastructure, research facilities,

1 educational and training institutions, venture cap-  
2 ital, and input suppliers.

3 (3) CONSORTIUM.—The term “Consortium”  
4 means a Clean Energy Consortium established in ac-  
5 cordance with this section.

6 (4) PROJECT.—The term “project” means an  
7 activity with respect to which a Consortium provides  
8 support under subsection (e).

9 (5) QUALIFYING ENTITY.—The term “quali-  
10 fying entity” means each of the following:

11 (A) A research university.

12 (B) A State or Federal institution with a  
13 focus on the advancement of clean energy tech-  
14 nologies.

15 (C) A nongovernmental organization with  
16 research or technology transfer expertise in  
17 clean energy technology development.

18 (6) SECRETARY.—The term “Secretary” means  
19 the Secretary of Energy.

20 (7) TECHNOLOGY DEVELOPMENT FOCUS.—The  
21 term “technology development focus” means the  
22 unique clean energy technology or technologies in  
23 which a Consortium specializes.

24 (8) TRANSLATIONAL RESEARCH.—The term  
25 “translational research” means coordination of basic

1 or applied research with technical applications to en-  
2 able promising discoveries or inventions to achieve  
3 commercial application of energy technology.

4 (c) ROLE OF THE SECRETARY.—The Secretary  
5 shall—

6 (1) have ultimate responsibility for, and over-  
7 sight of, all aspects of the program under this sec-  
8 tion;

9 (2) select recipients of grants for the establish-  
10 ment and operation of Consortia through a competi-  
11 tive selection process;

12 (3) coordinate the innovation activities of Con-  
13 sortia with those occurring through other Depart-  
14 ment of Energy entities, including the National Lab-  
15 oratories, the Advanced Research Projects Agency—  
16 Energy, Energy Innovation Hubs, and Energy Fron-  
17 tier Research Collaborations, and within industry,  
18 including by annually—

19 (A) issuing guidance regarding national  
20 energy research and development priorities and  
21 strategic objectives; and

22 (B) convening a conference of staff of the  
23 Department of Energy and representatives from  
24 such other entities to share research results,

1 program plans, and opportunities for collabora-  
2 tion.

3 (d) ENTITIES ELIGIBLE FOR SUPPORT.—A consor-  
4 tium shall be eligible to receive support under this section  
5 if—

6 (1) it is composed of—

7 (A) 2 research universities with a com-  
8 bined annual research budget of \$500,000,000;  
9 and

10 (B) 1 or more additional qualifying enti-  
11 ties;

12 (2) its members have established a binding  
13 agreement that documents—

14 (A) the structure of the partnership agree-  
15 ment;

16 (B) a governance and management struc-  
17 ture to enable cost-effective implementation of  
18 the program;

19 (C) a conflicts of interest policy consistent  
20 with subsection (e)(1)(B);

21 (D) an accounting structure that meets the  
22 requirements of the Department of Energy and  
23 can be audited under subsection (f)(4); and

24 (E) that it has an External Advisory Com-  
25 mittee consistent with subsection (e)(3);

1           (3) it receives funding from States, consortium  
2 participants, or other non-Federal sources, to be  
3 used to support project awards pursuant to sub-  
4 section (e);

5           (4) it is part of an existing cluster or dem-  
6 onstrates high potential to develop a new cluster;  
7 and

8           (5) it operates as a nonprofit organization.

9 (e) CLEAN ENERGY CONSORTIA.—

10           (1) ROLE.—A Consortium shall support  
11 translational research activities leading to commer-  
12 cial application of clean energy technologies, in ac-  
13 cordance with the purposes of this section, through  
14 issuance of awards to projects managed by quali-  
15 fying entities and other entities meeting the Consor-  
16 tium’s project criteria. Each Consortium shall—

17           (A) develop and make available to the pub-  
18 lic through the Department of Energy’s Web  
19 site proposed plans, programs, project selection  
20 criteria, and terms for individual project awards  
21 under this subsection;

22           (B) establish conflict of interest proce-  
23 dures, consistent with those of the Department  
24 of Energy, to ensure that employees and des-  
25 ignees for Consortium activities who are in deci-

1           sionmaking capacities disclose all material con-  
2           flicts of interest, including financial, organiza-  
3           tional, and personal conflicts of interest;

4           (C) establish policies—

5                 (i) to prevent resources provided to  
6                 the Consortium from being used to dis-  
7                 place private sector investment otherwise  
8                 likely to occur, including investment from  
9                 private sector entities that are members of  
10                the Consortium;

11               (ii) to facilitate the participation of  
12               private entities that invest in clean energy  
13               technologies to perform due diligence on  
14               award proposals, to participate in the  
15               award review process, and to provide guid-  
16               ance to projects supported by the Consor-  
17               tium; and

18               (iii) to facilitate the participation of  
19               parties with a demonstrated history of  
20               commercial application of clean energy  
21               technologies in the development of Consor-  
22               tium projects;

23           (D) oversee project solicitations, review  
24           proposed projects, and select projects for  
25           awards; and



1 (E) monitor project implementation.

2 (2) DISTRIBUTION OF AWARDS.—Consortia,  
3 with prior approval of the Secretary, shall distribute  
4 awards under this subsection to support clean en-  
5 ergy technology projects conducting translational re-  
6 search, provided that at least 50 percent of such  
7 support shall be provided to projects related to a  
8 Consortium’s clean energy technology development  
9 focus. Upon approval by the Secretary, all remaining  
10 funds shall be available to support any clean energy  
11 technology projects conducting translational re-  
12 search.

13 (3) EXTERNAL ADVISORY COMMITTEE.—

14 (A) IN GENERAL.—Each Consortium shall  
15 establish an External Advisory Committee, the  
16 members of which shall have extensive and rel-  
17 evant scientific, technical, industry, financial, or  
18 research management expertise. The External  
19 Advisory Committee shall review the Consor-  
20 tium’s proposed plans, programs, project selec-  
21 tion criteria, and projects and shall ensure that  
22 projects selected for awards meet the conflict of  
23 interest policies of the Consortium. External  
24 Advisory Committee members other than those  
25 representing Consortium members shall serve

1 for no more than 3 years. All External Advisory  
2 Committee members shall comply with the Con-  
3 sortium's conflict of interest policies and proce-  
4 dures.

5 (B) MEMBERS.—The External Advisory  
6 Committee shall consist of—

7 (i) 5 members selected by the Consor-  
8 tium's research universities;

9 (ii) 2 members selected by the Consor-  
10 tium's other qualifying entities;

11 (iii) 2 members selected at large by  
12 other External Advisory Committee mem-  
13 bers to represent the entrepreneur and  
14 venture capital communities; and

15 (iv) 1 member appointed by the Sec-  
16 retary.

17 (4) CONFLICT OF INTEREST.—The Secretary  
18 may disqualify an application or revoke funds dis-  
19 tributed to a Consortium if the Secretary discovers  
20 a failure to comply with conflict of interest proce-  
21 dures established under paragraph (1)(B).

22 (f) GRANTS.—

23 (1) IN GENERAL.—The Secretary shall make  
24 grants under this section in accordance with section  
25 989 of the Energy Policy Act of 2005 (42 U.S.C.

1 16353). The Secretary shall award grants, on a  
2 competitive basis, to 6 regional Consortia, each for  
3 an initial period not to exceed 5 years. The Sec-  
4 retary may extend the term of such award by up to  
5 5 additional years, and a Consortium may compete  
6 to receive an increase in funding that it shall receive  
7 during any such extension. A Consortium shall be el-  
8 igible to compete for a new award after the expira-  
9 tion of the term of any award, including any exten-  
10 sion of such term, under this subsection.

11 (2) AMOUNT.—Grants under this subsection  
12 shall be in an aggregate amount not greater than  
13 \$120,000,000 per fiscal year.

14 (3) USE.—Grants distributed under this section  
15 shall be used exclusively to support project awards  
16 pursuant to subsection (e)(1) and (2), provided that  
17 a Consortium may use not more than 10 percent of  
18 the amount of its grant for its administrative ex-  
19 penses related to making such awards. Grants made  
20 under this section shall not be used for construction  
21 of new buildings or facilities, and construction of  
22 new buildings or facilities shall not be considered as  
23 part of the non-Federal share of a cost sharing  
24 agreement under this section.

1           (4) AUDIT.—Consortia shall conduct, in accord-  
2           ance with such requirements as the Secretary may  
3           prescribe, annual audits to determine the extent to  
4           which grants distributed to Consortia under this  
5           subsection, and awards under subsection (e), have  
6           been utilized in a manner consistent with this sec-  
7           tion. Auditors shall transmit a report of the results  
8           of each audit to the Secretary and to the Govern-  
9           ment Accountability Office. The Secretary shall in-  
10          clude such reports in an annual report to Congress,  
11          along with a plan to remedy any deficiencies cited in  
12          the reports. The Government Accountability Office  
13          may review such audits as appropriate and shall  
14          have full access to the books, records, and personnel  
15          of Consortia to ensure that grants distributed to  
16          Consortia under this subsection, and awards made  
17          under subsection (e), have been utilized in a manner  
18          consistent with this section.

19          (5) REVOCATION OF AWARDS.—The Secretary  
20          shall have authority to review awards made under  
21          this subsection and to revoke such awards if the Sec-  
22          retary determines that a Consortium has used the  
23          award in a manner not consistent with the require-  
24          ments of this section.

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