

112TH CONGRESS
1ST SESSION

H. R. 402

To facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Bank, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2011

Ms. DELAURO (for herself, Mr. ELLISON, Mr. ISRAEL, Mr. WEINER, Mr. TIERNEY, Mr. VAN HOLLEN, Ms. HIRONO, Ms. BORDALLO, Ms. LEE of California, Mr. LARSON of Connecticut, Mr. COURTNEY, Ms. BERKLEY, Mr. HIMES, Mr. BOSWELL, Mr. CONYERS, Mr. MURPHY of Connecticut, Mr. YARMUTH, Mr. LUJÁN, Ms. SUTTON, Mr. BRALEY of Iowa, Mr. LYNCH, Ms. RICHARDSON, Mr. GONZALEZ, and Mr. BLUMENAUER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Bank, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “National Infrastruc-
3 ture Development Bank Act of 2011”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) According to the American Society of Civil
7 Engineers, the current condition of the infrastruc-
8 ture in the United States earns a grade point aver-
9 age of D, and an estimated \$2,200,000,000,000 in-
10 vestment is needed over the next 5 years to meet
11 adequate conditions.

12 (2) According to the National Surface Trans-
13 portation Policy and Revenue Study Commission,
14 \$225,000,000,000 is needed annually from all
15 sources for the next 50 years to upgrade our surface
16 transportation system to a state of good repair and
17 create a more advanced system.

18 (3) The Environmental Protection Agency
19 projects that—

20 (A) \$334,000,000,000 is needed to invest
21 in infrastructure improvements over 20 years to
22 ensure the provision of safe water; and

23 (B) \$202,500,000,000 is needed for pub-
24 licly owned wastewater systems-related infra-
25 structure needs over 20 years.

1 (4) According to the Edison Electric Institute,
2 the electric power industry will need to invest
3 \$298,000,000,000 in the Nation's transmission sys-
4 tem by 2030 in order to maintain reliable service.

5 (5) According to the American Council on Re-
6 newable Energy, renewable energy could provide up
7 to 635 gigawatts of new electricity generating capac-
8 ity by 2025, a substantial contribution and poten-
9 tially more than the Nation's need for new capacity,
10 according to the United States Energy Information
11 Administration.

12 (6) According to the United States Green
13 Building Council, United States buildings account
14 for nearly 39 percent of primary energy use and 38
15 percent of carbon emissions.

16 (7) According to the Organization for Economic
17 Cooperation and Development (OECD), the United
18 States ranks 14th among OECD nations in
19 broadband access per 100 inhabitants.

20 (8) Although grant programs of the Govern-
21 ment must continue to play a central role in financ-
22 ing the transportation, environment, energy, and
23 telecommunications infrastructure needs of the
24 United States, current and foreseeable demands on
25 existing Federal, State, and local funding for infra-

1 structure expansion exceed the resources to support
2 these programs by margins wide enough to prompt
3 serious concerns about the United States' ability to
4 sustain long-term economic development, produc-
5 tivity, and international competitiveness.

6 (9) The capital markets, including central
7 banks, pension funds, financial institutions, sov-
8 ereign wealth funds, and insurance companies, have
9 a growing interest in infrastructure investment. The
10 establishment of a United States Government-owned
11 institution that would provide this investment oppor-
12 tunity through high quality bond issues that would
13 be used to finance qualifying infrastructure projects
14 would attract needed capital for United States infra-
15 structure development.

16 **SEC. 3. DEFINITIONS.**

17 For purposes of this Act, the following definitions
18 apply unless the context requires otherwise:

19 (1) **BANK.**—The term “Bank” means the Na-
20 tional Infrastructure Development Bank established
21 under section 4(a).

22 (2) **BOARD.**—The term “Board” means the Na-
23 tional Infrastructure Development Bank Board.

24 (3) **CHIEF ASSET AND LIABILITY MANAGEMENT**
25 **OFFICER.**—The term “chief asset and liability man-

1 agement officer” means the chief individual respon-
2 sible for coordinating the management of assets and
3 liabilities of the Bank.

4 (4) CHIEF COMPLIANCE OFFICER.—The term
5 “chief compliance officer or CCO” means the chief
6 individual responsible for overseeing and managing
7 the compliance and regulatory affairs issues of the
8 Bank.

9 (5) CHIEF FINANCIAL OFFICER.—The term
10 “chief financial officer or CFO” means the chief in-
11 dividual responsible for managing the financial risks,
12 planning, and reporting of the Bank.

13 (6) CHIEF LOAN ORIGINATION OFFICER.—The
14 term “chief loan origination officer” means the chief
15 individual responsible for the processing of new
16 loans provided by the Bank.

17 (7) CHIEF OPERATIONS OFFICER.—The term
18 “chief operations officer or COO” means the chief
19 individual responsible for information technology and
20 the day to day operations of the Bank.

21 (8) CHIEF RISK OFFICER.—The term “chief
22 risk officer or CRO” means the chief individual re-
23 sponsible for managing operational and compliance-
24 related risks of the Bank.

1 (9) CHIEF TREASURY OFFICER.—The term
2 “chief treasury officer” means the chief individual
3 responsible for managing the Bank’s treasury oper-
4 ations.

5 (10) DEVELOPMENT.—The terms “develop-
6 ment” and “develop” mean, with respect to an infra-
7 structure project, any—

8 (A) preconstruction planning, feasibility re-
9 view, permitting, design work, and other
10 preconstruction activities; and

11 (B) construction, reconstruction, rehabili-
12 tation, replacement, or expansion.

13 (11) DISADVANTAGED COMMUNITY.—The term
14 “disadvantaged community” means a community
15 with a median household income of less than 80 per-
16 cent of the statewide median household income for
17 the State in which the community is located.

18 (12) ENERGY INFRASTRUCTURE PROJECT.—
19 The term “energy infrastructure project” means any
20 project for energy transmission, energy efficiency en-
21 hancement for buildings, public housing, and
22 schools, renewable energy, and energy storage.

23 (13) ENTITY.—The term “entity” means an in-
24 dividual, corporation, partnership (including a pub-
25 lic-private partnership), joint venture, trust, and a

1 State or other governmental entity, including a polit-
2 ical subdivision or any other instrumentality of a
3 State or a revolving fund.

4 (14) ENVIRONMENTAL INFRASTRUCTURE
5 PROJECT.—The term “environmental infrastructure
6 project” means any project for the establishment,
7 maintenance, or enhancement of any drinking water
8 and wastewater treatment facility, storm water man-
9 agement system, dam, levee, open space manage-
10 ment system, solid waste disposal facility, hazardous
11 waste facility, or industrial site cleanup.

12 (15) EXECUTIVE DIRECTOR.—The term “execu-
13 tive director” means the individual serving as the
14 chief executive officer of the Bank.

15 (16) GENERAL COUNSEL.—The term “general
16 counsel” means the individual who serves as the
17 chief lawyer for the Bank.

18 (17) INFRASTRUCTURE PROJECT.—The term
19 “infrastructure project” means any energy, environ-
20 mental, telecommunications, or transportation infra-
21 structure project.

22 (18) PUBLIC BENEFIT BOND.—The term “pub-
23 lic benefit bond” means a bond issued with respect
24 to an infrastructure project in accordance with this
25 Act if—

1 (A) the net spendable proceeds from the
2 sale of the issue may be used for expenditures
3 incurred after the date of issuance with respect
4 to the project, subject to the rules of the Bank;

5 (B) the bond issued by the Bank is in reg-
6 istered form and meets the requirements of this
7 Act and otherwise applicable law; and

8 (C) the payment of principal with respect
9 to the bond is the obligation of the Bank.

10 (19) PUBLIC-PRIVATE PARTNERSHIP.—The
11 term “public-private partnership” means any enti-
12 ty—

13 (A)(i) which is undertaking the develop-
14 ment of all or part of an infrastructure project,
15 which will have a public benefit, pursuant to re-
16 quirements established in one or more contracts
17 between the entity and a State or an instru-
18 mentality of a State; or

19 (ii) the activities of which, with respect to
20 such an infrastructure project, are subject to
21 regulation by a State or any instrumentality of
22 a State; and

23 (B) which owns, leases, or operates, or will
24 own, lease, or operate, the project in whole or

1 in part, and at least one of the participants in
2 the entity is a nongovernmental entity.

3 (20) REVOLVING FUND.—The term “revolving
4 fund” means a fund or program established by a
5 State or a political subdivision or other instrumen-
6 tality of a State, the principal activity of which is to
7 make loans, commitments, or other financial accom-
8 modation available for the development of one or
9 more categories of infrastructure projects.

10 (21) SECRETARY.—The term “Secretary”
11 means the Secretary of the Treasury or the designee
12 of the Secretary.

13 (22) SMART GRID.—The term “smart grid”
14 means a system that provides for any of the smart
15 grid functions set forth in section 1306(d) of the
16 Energy Independence and Security Act of 2007 (42
17 U.S.C. 17386(d)).

18 (23) STATE.—The term “State” includes the
19 District of Columbia, Puerto Rico, Guam, American
20 Samoa, the Virgin Islands, the Commonwealth of
21 Northern Mariana Islands, and any other territory
22 of the United States.

23 (24) TELECOMMUNICATIONS INFRASTRUCTURE
24 PROJECT.—The term “telecommunications infra-
25 structure project” means any project involving infra-

1 structure required to provide communications by
2 wire or radio.

3 (25) TRANSPORTATION INFRASTRUCTURE
4 PROJECT.—The term “transportation infrastructure
5 project” means any project for the construction,
6 maintenance, or enhancement of highways, roads,
7 bridges, transit and intermodal systems, inland wa-
8 terways, commercial ports, airports, high speed rail
9 and freight rail systems.

10 **SEC. 4. ESTABLISHMENT OF NATIONAL INFRASTRUCTURE**
11 **DEVELOPMENT BANK.**

12 (a) ESTABLISHMENT OF NATIONAL INFRASTRUC-
13 TURE DEVELOPMENT BANK.—The National Infrastruc-
14 ture Development Bank is established as a wholly owned
15 Government corporation subject to chapter 91 of title 31,
16 United States Code (commonly known as the “Govern-
17 ment Corporation Control Act”), except as otherwise pro-
18 vided in this Act.

19 (b) RESPONSIBILITY OF THE SECRETARY.—The Sec-
20 retary shall take such action as may be necessary to assist
21 in implementing the establishment of the bank in accord-
22 ance with this Act.

23 (c) CONFORMING AMENDMENT.—Section 9101(3) of
24 title 31, United States Code, is amended by inserting after
25 subparagraph (N) the following:

1 “(O) the National Infrastructure Develop-
2 ment Bank.”.

3 **SEC. 5. BOARD OF DIRECTORS.**

4 (a) IN GENERAL.—The Bank shall have a Board of
5 Directors consisting of 5 members appointed by the Presi-
6 dent by and with the advice and consent of the Senate.

7 (b) QUALIFICATIONS.—The directors of the Board
8 shall include individuals representing different regions of
9 the United States and—

10 (1) 2 of the directors shall have public sector
11 experience; and

12 (2) 3 of the directors shall have private sector
13 experience.

14 (c) CHAIRPERSON AND VICE CHAIRPERSON.—As des-
15 igned at the time of appointment, one of the directors
16 of the Board shall be designated chairperson of the Board
17 by the President and one shall be designated as vice chair-
18 person of the Board by the President.

19 (d) TERMS.—

20 (1) IN GENERAL.—Except as provided in para-
21 graph (2) and subsection (f), each director shall be
22 appointed for a term of 6 years.

23 (2) INITIAL STAGGERED TERMS.—Of the initial
24 members of the Board—

1 (A) the chairperson and vice chairperson
2 shall be appointed for terms of 6 years;

3 (B) 1 shall be appointed for a term of 5
4 years;

5 (C) 1 shall be appointed for a term of 4
6 years; and

7 (D) 1 shall be appointed for a term of 3
8 years.

9 (e) DATE OF INITIAL NOMINATIONS.—The initial
10 nominations by the President for appointment of directors
11 to the Board shall be made not later than 60 days after
12 the date of enactment of this Act.

13 (f) VACANCIES.—

14 (1) IN GENERAL.—A vacancy on the Board
15 shall be filled in the manner in which the original
16 appointment was made.

17 (2) APPOINTMENT TO REPLACE DURING
18 TERM.—Any director appointed to fill a vacancy oc-
19 ccurring before the expiration of the term for which
20 the director's predecessor was appointed shall be ap-
21 pointed only for the remainder of the term.

22 (3) DURATION.—A director may serve after the
23 expiration of that director's term until a successor
24 has taken office.

1 (g) QUORUM.—Three directors shall constitute a
2 quorum.

3 (h) REAPPOINTMENT.—A director of the Board ap-
4 pointed by the President may be reappointed by the Presi-
5 dent in accordance with this section.

6 (i) PER DIEM REIMBURSEMENT.—Directors of the
7 Board shall serve on a part-time basis and shall receive
8 a per diem when engaged in the actual performance of
9 Bank business, plus reasonable reimbursement for travel,
10 subsistence, and other necessary expenses incurred in the
11 performance of their duties.

12 (j) LIMITATIONS.—A director of the Board may not
13 participate in any review or decision affecting a project
14 under consideration for assistance under this Act if the
15 director has or is affiliated with a person who has an inter-
16 est in such project.

17 (k) POWERS AND LIMITATIONS OF THE BOARD.—

18 (1) POWERS.—In order to carry out the pur-
19 poses of the Bank as set forth in this Act, the Board
20 shall be responsible for monitoring and overseeing
21 infrastructure projects and have the following pow-
22 ers:

23 (A) To make senior and subordinated
24 loans and purchase senior and subordinated
25 debt securities and enter into a binding commit-

1 ment to make any such loan or purchase any
2 such security, on such terms as the Board may
3 determine, in the Board's discretion, to be ap-
4 propriate, the proceeds of which are used to as-
5 sist in the financing or refinancing of the devel-
6 opment of one or more infrastructure projects.

7 (B) To issue and sell debt securities of the
8 Bank on such terms as the Board shall deter-
9 mine from time to time.

10 (C) To issue public benefit bonds and to
11 provide financing to infrastructure projects
12 from amounts made available from the issuance
13 of such bonds.

14 (D) To make loan guarantees.

15 (E) To make agreements and contracts
16 with any entity in furtherance of the business
17 of the Bank.

18 (F) To borrow on the global capital market
19 and lend to regional, State, and local entities,
20 and commercial banks for the purpose of fund-
21 ing infrastructure projects.

22 (G) To purchase in the open market any of
23 the Bank's outstanding obligations at any time
24 and at any price.

1 (H) To monitor and oversee infrastructure
2 projects financed, in whole or in part, by the
3 Bank.

4 (I) To acquire, lease, pledge, exchange,
5 and dispose of real and personal property and
6 otherwise exercise all the usual incidents of
7 ownership of property to the extent the exercise
8 of such powers are appropriate to and con-
9 sistent with the purposes of the Bank.

10 (J) To sue and be sued in the Bank's cor-
11 porate capacity in any court of competent juris-
12 diction, except that no attachment, injunction,
13 or similar process, may be issued against the
14 property of the Bank or against the Bank with
15 respect to such property.

16 (K) To indemnify the directors and officers
17 of the Bank for liabilities arising out of the ac-
18 tions of the directors and officers in such capac-
19 ity, in accordance with, and subject to the limi-
20 tations contained in, this Act.

21 (L) To serve as the primary liaison be-
22 tween the Bank, Congress, the executive
23 branch, and State and local governments and to
24 represent the Bank's interests.

1 (M) To exercise all other lawful powers
2 which are necessary or appropriate to carry out,
3 and are consistent with, the purposes of the
4 Bank.

5 (2) LIMITATIONS.—

6 (A) ISSUANCE OF DEBT SECURITY.—The
7 Board may not issue any debt security without
8 the prior consent of the Secretary.

9 (B) ISSUANCE OF VOTING SECURITY.—The
10 Board may not issue any voting security in the
11 Bank to any entity other than the Secretary.

12 (3) ACTIONS CONSISTENT WITH SELF-SUP-
13 PORTING ENTITY STATUS.—The Board shall conduct
14 its business in a manner consistent with the require-
15 ments of this section.

16 (4) COORDINATION WITH STATE AND LOCAL
17 REGULATORY AUTHORITY.—The provision of finan-
18 cial assistance by the Board pursuant to this Act
19 shall not be construed as—

20 (A) limiting the right of any State or polit-
21 ical subdivision or other instrumentality of a
22 State to approve or regulate rates of return on
23 private equity invested in a project; or

24 (B) otherwise superseding any State law or
25 regulation applicable to a project.

1 (5) FEDERAL PERSONNEL REQUESTS.—The
2 Board shall have the power to request the detail, on
3 a reimbursable basis, of personnel from other Fed-
4 eral agencies with specific expertise not available
5 from within the Bank or elsewhere. The head of any
6 Federal agency may detail, on a reimbursable basis,
7 any personnel of such agency requested by the
8 Board and shall not withhold unreasonably the de-
9 tail of any personnel requested by the Board.

10 (1) MEETINGS.—

11 (1) OPEN TO THE PUBLIC; NOTICE.—All meet-
12 ings of the Board held to conduct the business of the
13 Bank shall be open to the public and shall be pre-
14 ceded by reasonable notice.

15 (2) INITIAL MEETING.—The Board shall meet
16 not later than 90 days after the date on which all
17 directors of the Board are first appointed and other-
18 wise at the call of the Chairperson.

19 (3) EXCEPTION FOR CLOSED MEETINGS.—Pur-
20 suant to such rules as the Board may establish
21 through their bylaws, the directors may close a
22 meeting of the Board if, at the meeting, there is
23 likely to be disclosed information which could ad-
24 versely affect or lead to speculation relating to an in-
25 frastructure project under consideration for assist-

1 ance under this Act or in financial or securities or
2 commodities markets or institutions, utilities, or real
3 estate. The determination to close any meeting of
4 the Board shall be made in a meeting of the Board,
5 open to the public, and preceded by reasonable no-
6 tice. The Board shall prepare minutes of any meet-
7 ing which is closed to the public and make such min-
8 utes available as soon as the considerations necessi-
9 tating closing such meeting no longer apply.

10 **SEC. 6. EXECUTIVE COMMITTEE.**

11 (a) **IN GENERAL.**—The Board shall have an executive
12 committee consisting of 9 members, headed by the execu-
13 tive director of the Bank.

14 (b) **EXECUTIVE DIRECTOR.**—A majority of the Board
15 shall have the authority to appoint and reappoint the exec-
16 utive director.

17 (c) **CEO.**—The executive director shall be the chief
18 executive officer of the Bank, with such executive func-
19 tions, powers, and duties as may be prescribed by this Act,
20 the bylaws of the Bank, or the Board.

21 (d) **OTHER EXECUTIVE OFFICERS.**—The Board shall
22 appoint, remove, fix the compensation, and define duties
23 of 8 other executive officers to serve on the Executive
24 Committee as the—

25 (1) chief compliance officer;

- 1 (2) chief financial officer;
- 2 (3) chief asset and liability management officer;
- 3 (4) chief loan origination officer;
- 4 (5) chief operations officer;
- 5 (6) chief risk officer;
- 6 (7) chief treasury officer; and
- 7 (8) general counsel.

8 (e) QUALIFICATIONS.—The executive director and
9 other executive officers shall have demonstrated experience
10 and expertise in one or more of the following:

- 11 (1) Transportation infrastructure.
- 12 (2) Environmental infrastructure.
- 13 (3) Energy infrastructure.
- 14 (4) Telecommunications infrastructure.
- 15 (5) Economic development.
- 16 (6) Workforce development.
- 17 (7) Public health.
- 18 (8) Private or public finance.

19 (f) DUTIES.—In order to carry out the purposes of
20 the Bank as set forth in this Act, the executive committee
21 shall—

- 22 (1) establish disclosure and application proce-
23 dures for entities nominating projects for assistance
24 under this Act;

1 (2) accept, for consideration, project proposals
2 relating to the development of infrastructure
3 projects, which meet the basic criteria established by
4 the Board, and which are submitted by an entity;

5 (3) provide recommendations to the Board and
6 place project proposals accepted by the executive
7 committee on a list for consideration for financial
8 assistance from the Board; and

9 (4) provide technical assistance to entities re-
10 ceiving financing from the Bank and otherwise im-
11 plement decisions of the Board.

12 (g) VACANCY.—A vacancy in the position of executive
13 director shall be filled in the manner in which the original
14 appointment was made.

15 (h) COMPENSATION.—The compensation of the exec-
16 utive director and other executive officers of the executive
17 committee shall be determined by the Board.

18 (i) REMOVAL.—The executive director and other ex-
19 ecutive officers may be removed at the discretion of a ma-
20 jority of the Board.

21 (j) TERM.—The executive director and other execu-
22 tive officers shall serve a 6-year term and may be re-
23 appointed in accordance with this section.

24 (k) LIMITATIONS.—The executive director and other
25 executive officers shall not—

1 (1) hold any other public office;

2 (2) have any interest in an infrastructure
3 project considered by the Board;

4 (3) have any interest in an investment institu-
5 tion, commercial bank, or other entity seeking finan-
6 cial assistance for any infrastructure project from
7 the Bank; and

8 (4) have any such interest during the 2-year pe-
9 riod beginning on the date such officer ceases to
10 serve in such capacity.

11 **SEC. 7. RISK MANAGEMENT COMMITTEE.**

12 (a) ESTABLISHMENT OF RISK MANAGEMENT COM-
13 MITTEE.—The Bank shall establish a risk management
14 committee consisting of 5 members, headed by the chief
15 risk officer.

16 (b) APPOINTMENTS.—A majority of the Board shall
17 have the authority to appoint and reappoint the CRO of
18 the Bank.

19 (c) FUNCTIONS; DUTIES.—

20 (1) IN GENERAL.—The CRO shall have such
21 functions, powers, and duties as may be prescribed
22 by one or more of the following: This Act, the by-
23 laws of the Bank, and the Board. The CRO shall re-
24 port directly to the Board.

1 (2) RISK MANAGEMENT DUTIES.—In order to
2 carry out the purposes of this Act, the risk manage-
3 ment committee shall—

4 (A) create financial, credit, and operational
5 risk management guidelines and policies to be
6 adhered to by the Bank;

7 (B) set guidelines to ensure diversification
8 of lending activities by both region and infra-
9 structure project type;

10 (C) create conforming standards for infra-
11 structure finance securities;

12 (D) monitor financial, credit and oper-
13 ational exposure of the Bank; and

14 (E) provide financial recommendations to
15 the Board.

16 (d) OTHER RISK MANAGEMENT OFFICERS.—The
17 Board shall appoint, remove, fix the compensation, and
18 define the duties of 4 other risk management officers to
19 serve on the risk management committee.

20 (e) QUALIFICATIONS.—The CRO and other risk man-
21 agement officers shall have demonstrated experience and
22 expertise in one or more of the following:

23 (1) Treasury and asset and liability manage-
24 ment.

25 (2) Investment regulations.

1 (3) Insurance.

2 (4) Credit risk management and credit evalua-
3 tions.

4 (5) Related disciplines.

5 (f) VACANCY.—A vacancy in the position of CRO or
6 any other risk management officer shall be filled in the
7 manner in which the original appointment was made.

8 (g) COMPENSATION.—The compensation of the CRO
9 and other risk management officers shall be determined
10 by the Board.

11 (h) REMOVAL.—The CRO and any other risk man-
12 agement officers may be removed at the discretion of a
13 majority of the Board.

14 (i) TERM.—The CRO and other risk management of-
15 ficers shall serve a 6-year term and may be reappointed
16 in accordance with this section.

17 (j) LIMITATIONS.—The CRO and other risk manage-
18 ment officers shall not—

19 (1) hold any other public office;

20 (2) have any interest in an infrastructure
21 project considered by the Board;

22 (3) have any interest in an investment institu-
23 tion, commercial bank, or other entity seeking finan-
24 cial assistance for any infrastructure project from
25 the Bank; and

1 (4) have any such interest during the 2-year pe-
2 riod beginning on the date such officer ceases to
3 serve in such capacity.

4 **SEC. 8. AUDIT COMMITTEE.**

5 (a) IN GENERAL.—The Bank shall have an audit
6 committee consisting of 5 members, headed by the chief
7 compliance officer of the Bank.

8 (b) APPOINTMENTS.—A majority of the Board shall
9 have the authority to appoint and reappoint the CCO of
10 the Bank.

11 (c) FUNCTIONS; DUTIES.—The CCO shall have such
12 functions, powers, and duties as may be prescribed by one
13 or more of the following: This Act, the bylaws of the Bank,
14 and the Board. The CCO shall report directly to the
15 Board.

16 (d) AUDIT DUTIES.—In order to carry out the pur-
17 poses of the Bank under this Act, the audit committee
18 shall—

19 (1) provide internal controls and internal audit-
20 ing activities for the Bank;

21 (2) maintain responsibility for the accounting
22 activities of the Bank;

23 (3) issue financial reports of the Bank; and

24 (4) complete reports with outside auditors and
25 public accountants appointed by the Board.

1 (e) OTHER AUDIT OFFICERS.—The Board shall ap-
2 point, remove, fix the compensation, and define the duties
3 of 4 other audit officers to serve on the audit committee.

4 (f) QUALIFICATIONS.—The CCO and other audit offi-
5 cers shall have demonstrated experience and expertise in
6 one or more of the following:

7 (1) Internal auditing.

8 (2) Internal investigations.

9 (3) Accounting practices.

10 (4) Financing practices.

11 (g) VACANCY.—A vacancy in the position of CCO or
12 any other audit officer shall be filled in the manner in
13 which the original appointment was made.

14 (h) COMPENSATION.—The compensation of the CCO
15 and other audit officers shall be determined by the Board.

16 (i) REMOVAL.—The CCO and other audit officers
17 may be removed at the discretion of a majority of the
18 Board.

19 (j) TERM.—The CCO and other audit officers shall
20 serve a 6-year term and may be reappointed in accordance
21 with this section.

22 (k) LIMITATIONS.—The CCO and other audit officers
23 shall not—

24 (1) hold any other public office;

1 (2) have any interest in an infrastructure
2 project considered by the Board;

3 (3) have any interest in an investment institu-
4 tion, commercial bank, or other entity seeking finan-
5 cial assistance for any infrastructure project from
6 the Bank; and

7 (4) have any such interest during the 2-year pe-
8 riod beginning on the date such officer ceases to
9 serve in such capacity.

10 **SEC. 9. PERSONNEL.**

11 The chairperson of the Board, executive director,
12 chief risk officer, and chief compliance officer shall ap-
13 point, remove, fix the compensation of, and define the du-
14 ties of such qualified personnel to serve under the Board,
15 executive committee, risk management committee, or
16 audit committee, as the case may be, as necessary and
17 prescribed by one or more of the following: This Act, the
18 bylaws of the Bank, and the Board.

19 **SEC. 10. ELIGIBILITY CRITERIA FOR ASSISTANCE FROM**
20 **BANK.**

21 (a) IN GENERAL.—No financial assistance shall be
22 available under this Act from the Bank unless the appli-
23 cant for such assistance has demonstrated to the satisfac-
24 tion of the Board that the project for which such assist-
25 ance is being sought meets—

1 (1) the requirements of this Act; and

2 (2) any criteria established in accordance with
3 this Act by the Board.

4 (b) ESTABLISHMENT OF PROJECT CRITERIA.—

5 (1) IN GENERAL.—Consistent with the require-
6 ments of subsections (c) and (d), the Board shall es-
7 tablish—

8 (A) criteria for determining eligibility for
9 financial assistance under this Act;

10 (B) disclosure and application procedures
11 to be followed by entities to nominate projects
12 for assistance under this Act; and

13 (C) such other criteria as the Board may
14 consider to be appropriate for purposes of car-
15 rying out this Act.

16 (2) FACTORS TO BE TAKEN INTO ACCOUNT.—

17 (A) IN GENERAL.—The Bank shall con-
18 duct an analysis that takes into account the
19 economic, environmental, social benefits, and
20 costs of each project under consideration for fi-
21 nancial assistance under this Act, prioritizing
22 projects that contribute to economic growth,
23 lead to job creation, and are of regional or na-
24 tional significance.

1 (B) CRITERIA.—The criteria established
2 pursuant to paragraph (1)(A) shall provide for
3 the consideration of the following factors in
4 considering eligibility for financial assistance
5 under this Act:

6 (i) The means by which development
7 of the infrastructure project under consid-
8 eration is being financed, including—

9 (I) the terms and conditions and
10 financial structure of the proposed fi-
11 nancing;

12 (II) the financial assumptions
13 and projections on which the project
14 is based; and

15 (III) the extent to which the in-
16 frastructure project maximizes invest-
17 ment from other sources.

18 (ii) The likelihood that the provision
19 of assistance by the Bank will cause such
20 development to proceed more promptly and
21 with lower costs for financing than would
22 be the case without such assistance.

23 (iii) The extent to which the provision
24 of assistance by the Bank maximizes the
25 level of private investment in the infra-

1 structure project while providing a public
2 benefit.

3 (c) FACTORS FOR SPECIFIC TYPES OF PROJECTS.—

4 (1) TRANSPORTATION INFRASTRUCTURE
5 PROJECTS.—For any transportation infrastructure
6 project, the Board shall consider the following:

7 (A) Job creation, including workforce de-
8 velopment for women and minorities, respon-
9 sible employment practices, and quality job
10 training opportunities.

11 (B) Reduction in carbon emissions.

12 (C) Reduction in surface and air traffic
13 congestion.

14 (D) Poverty and inequality reduction
15 through targeted training and employment op-
16 portunities for low-income workers.

17 (E) Use of smart tolling, such as vehicle
18 miles traveled and congestion pricing, for high-
19 way, road, and bridge projects.

20 (F) Public health benefits.

21 (2) ENVIRONMENTAL INFRASTRUCTURE
22 PROJECT.—For any environmental infrastructure
23 project, the Board shall consider the following:

24 (A) Public health benefits.

25 (B) Pollution reductions.

1 (C) Job creation, including workforce de-
2 velopment for women and minorities, respon-
3 sible employment practices, and quality job
4 training opportunities.

5 (D) Poverty and inequality reduction
6 through targeted training and employment op-
7 portunities for low-income workers.

8 (3) ENERGY INFRASTRUCTURE PROJECT.—For
9 any energy infrastructure project, the Board shall
10 consider the following:

11 (A) Job creation, including workforce de-
12 velopment for women and minorities, respon-
13 sible employment practices, and quality job
14 training opportunities.

15 (B) Poverty and inequality reduction
16 through targeted training and employment op-
17 portunities for low-income workers.

18 (C) Reduction in carbon emissions.

19 (D) Expanded use of renewable energy.

20 (E) Development of a smart grid.

21 (F) Energy efficient building, housing, and
22 school modernization.

23 (G) In any case in which the project is also
24 a public housing project—

- 1 (i) improvement of the physical shape
2 and layout;
3 (ii) environmental improvement; and
4 (iii) mobility improvements for resi-
5 dents.

6 (H) Public health benefits.

7 (4) TELECOMMUNICATIONS.—For any tele-
8 communications project, the Board shall consider
9 the following:

10 (A) The extent to which assistance ex-
11 pands or improves broadband and wireless serv-
12 ices in rural and disadvantaged communities.

13 (B) Poverty and inequality reduction
14 through targeted training and employment op-
15 portunities for low-income workers.

16 (C) Job creation, including work force de-
17 velopment for women and minorities, respon-
18 sible employment practices, and quality job
19 training opportunities.

20 (d) CONSIDERATION OF PROJECT PROPOSALS.—

21 (1) PARTICIPATION BY OTHER AGENCY PER-
22 SONNEL.—Consideration of projects by the executive
23 committee and the Board shall be conducted with
24 personnel on detail to the Bank from relevant Fed-
25 eral agencies from among individuals who are famil-

1 iar with and experienced in the selection criteria for
2 competitive projects.

3 (2) FEES.—A fee may be charged for the re-
4 view of any project proposal in such amount as
5 maybe considered appropriate by the executive com-
6 mittee to cover the cost of such review.

7 (e) DISCRETION OF BOARD.—Consistent with other
8 provisions of this Act, any determination of the Board to
9 provide assistance to any project, and the manner in which
10 such assistance is provided, including the terms, condi-
11 tions, fees, and charges shall be at the sole discretion of
12 the Board.

13 (f) STATE AND LOCAL PERMITS REQUIRED.—The
14 provision of assistance by the Board in accordance with
15 this Act shall not be deemed to relieve any recipient of
16 assistance or the related project of any obligation to obtain
17 required State and local permits and approvals.

18 (g) ANNUAL REPORT.—An entity receiving assistance
19 from the Board shall make annual reports to the Board
20 on the use of any such assistance, compliance with the
21 criteria set forth in this section, and a disclosure of all
22 entities with a development, ownership, or operational in-
23 terest in a project assisted or proposed to be assisted
24 under this Act.

1 **SEC. 11. EXEMPTION FROM LOCAL TAXATION.**

2 All notes, debentures, bonds or other such obligations
3 issued by the Bank, and the interest on or credits with
4 respect to such bonds or other obligations, shall not be
5 subject to taxation by any State, county, municipality, or
6 local taxing authority.

7 **SEC. 12. STATUS AND APPLICABILITY OF CERTAIN FED-**
8 **ERAL LAWS; NO FULL FAITH AND CREDIT.**

9 (a) BUDGETING AND AUDITORS PRACTICES.—The
10 Bank shall comply with all Federal laws regulating the
11 budgetary and auditing practices of a government corpora-
12 tion, except as otherwise provided in this Act.

13 (b) NO FULL FAITH AND CREDIT OF THE UNITED
14 STATES.—Obligations of the Bank shall not be obligations
15 of, or guaranteed as to principal or interest by, the United
16 States or any agency of the United States and the obliga-
17 tions shall so plainly state.

18 (c) EFFECT OF AND EXEMPTIONS FROM OTHER
19 LAWS.—

20 (1) EXEMPT SECURITIES.—All debt securities
21 and other obligations issued by the Bank pursuant
22 to this Act shall be deemed to be exempt securities
23 within the meaning of laws administered by the Se-
24 curities and Exchange Commission to the same ex-
25 tent as securities which are direct obligations of, or

1 obligations fully guaranteed as to principal or inter-
2 est by, the United States.

3 (2) OPEN MARKET OPERATIONS AND STATE
4 TAX EXEMPT STATUS.—The obligations of the Bank
5 shall be deemed to be obligations of the United
6 States for the purposes of the provision designated
7 as (b)(2) of the 2nd undesignated paragraph of sec-
8 tion 14 of the Federal Reserve Act (12 U.S.C. 355)
9 and section 3124 of title 31, United States Code.

10 (3) NO PRIORITY AS A FEDERAL CLAIM.—The
11 priority established in favor of the United States by
12 section 3713 of title 31, United States Code, shall
13 not apply with respect to any indebtedness of the
14 Bank.

15 (d) FEDERAL RESERVE BANKS AS DEPOSITORIES,
16 CUSTODIANS, AND FISCAL AGENTS.—The Federal reserve
17 banks may act as depositaries for, or custodians or fiscal
18 agents of, the Bank.

19 (e) ACCESS TO BOOK-ENTRY SYSTEM.—The Sec-
20 retary may authorize the Bank to use the book-entry sys-
21 tem of the Federal reserve system.

22 **SEC. 13. COMPLIANCE WITH DAVIS-BACON ACT.**

23 All laborers and mechanics employed by contractors
24 and subcontractors on projects funded directly by or as-
25 sisted in whole or in part by and through the Bank pursu-

1 ant to this Act shall be paid wages at rates not less than
2 those prevailing on projects of a character similar in the
3 locality as determined by the Secretary of Labor in accord-
4 ance with subchapter IV of chapter 31 of part A of title
5 40, United States Code. With respect to the labor stand-
6 ards specified in this section, the Secretary of Labor shall
7 have the authority and functions set forth in Reorganiza-
8 tion Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C.
9 App.) and section 3145 of title 40, United States Code.

10 **SEC. 14. APPLICABILITY OF CERTAIN STATE LAWS.**

11 The receipt by any entity of any assistance under this
12 Act, directly or indirectly, and any financial assistance
13 provided by any governmental entity in connection with
14 such assistance under this Act shall be valid and lawful
15 notwithstanding any State or local restrictions regarding
16 extensions of credit or other benefits to private persons
17 or entities, or other similar restrictions.

18 **SEC. 15. AUDITS; REPORTS TO PRESIDENT AND CONGRESS.**

19 (a) ACCOUNTING.—The books of account of the Bank
20 shall be maintained in accordance with generally accepted
21 accounting principles and shall be subject to an annual
22 audit by independent public accountants appointed by the
23 Board and of nationally recognized standing.

24 (b) REPORTS.—

1 (1) BOARD.—The Board shall submit to the
2 President and Congress, within 90 days after the
3 last day of each fiscal year, a complete and detailed
4 report with respect to the preceding fiscal year, set-
5 ting forth—

6 (A) a summary of the Bank’s operations,
7 for such preceding fiscal year;

8 (B) a schedule of the Bank’s obligations
9 and capital securities outstanding at the end of
10 such preceding fiscal year, with a statement of
11 the amounts issued and redeemed or paid dur-
12 ing such preceding fiscal year; and

13 (C) the status of projects receiving funding
14 or other assistance pursuant to this Act, includ-
15 ing disclosure of all entities with a development,
16 ownership, or operational interest in such
17 projects.

18 (2) GAO.—Not later than 5 years after the
19 date of enactment of this Act, the Comptroller Gen-
20 eral of the United States shall submit to Congress
21 a report evaluating activities of the Bank for the fis-
22 cal years covered by the report that includes an as-
23 sessment of the impact and benefits of each funded
24 project, including a review of how effectively each

1 project accomplished the goals prioritized by the
2 Bank's project criteria.

3 (c) BOOKS AND RECORDS.—

4 (1) IN GENERAL.—The Bank shall maintain
5 adequate books and records to support the financial
6 transactions of the Bank with a description of finan-
7 cial transactions and infrastructure projects receiv-
8 ing funding, and the amount of funding for each
9 project maintained on a publically accessible data-
10 base.

11 (2) AUDITS BY THE SECRETARY AND GAO.—
12 The books and records of the Bank shall be main-
13 tained in accordance with recommended accounting
14 practices and shall be open to inspection by the Sec-
15 retary and the Comptroller General of the United
16 States.

17 **SEC. 16. CAPITALIZATION OF BANK.**

18 (a) AUTHORIZATION OF APPROPRIATION.—There is
19 authorized to be appropriated to the Secretary for pur-
20 chase of the shares of the Bank \$5,000,000,000 for each
21 of fiscal years 2012, 2013, 2014, 2015, and 2016 with
22 the aggregate representing 10 percent of the total sub-
23 scribed capital of the Bank.

24 (b) CALLABLE CAPITAL.—Of the total subscribed
25 capital of the Bank, 90 percent shall be callable capital

1 subject to call from the Secretary only as and when re-
2 quired by the Bank to meet its obligations on borrowing
3 of funds for inclusion in its ordinary capital resources or
4 guarantees chargeable to such resources.

5 (c) OUTSTANDING LOANS.—At any time, the aggre-
6 gate amount outstanding of bonds issued by the Bank
7 shall not exceed 250 percent of its total subscribed capital.

8 **SEC. 17. SUNSET.**

9 The Bank shall cease to exist 15 years after the date
10 of enactment of this Act.

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