

114TH CONGRESS  
1ST SESSION

# S. 1296

To establish the American Infrastructure Bank to offer States the option for more flexibility in financing and funding infrastructure projects.

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IN THE SENATE OF THE UNITED STATES

MAY 12, 2015

Mrs. FISCHER introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To establish the American Infrastructure Bank to offer States the option for more flexibility in financing and funding infrastructure projects.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Build USA Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

### TITLE I—AMERICAN INFRASTRUCTURE BANK

Sec. 101. Establishment of American Infrastructure Bank.

Sec. 102. State remittance agreements with Bank.

Sec. 103. Loans to States and units of local government for transportation projects.

#### TITLE II—CAPITALIZATION OF BANK

Sec. 201. Allowance of temporary dividends received deduction for dividends received from a controlled foreign corporation.

Sec. 202. Appropriations to Bank.

### 1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **BANK.**—The term “Bank” means the  
4 American Infrastructure Bank established by section  
5 101(a).

6 (2) **BOARD.**—The term “Board” means the  
7 Board of Directors of the Bank.

8 (3) **CORE INFRASTRUCTURE PROJECT.**—The  
9 term “core infrastructure project” means a Federal-  
10 aid highway or highway (as those terms are defined  
11 in section 101 of title 23, United States Code)  
12 project of a State that is eligible for funding under  
13 chapter 1 of title 23, United States Code.

14 (4) **SECRETARY.**—The term “Secretary” means  
15 the Secretary of Transportation.

16 (5) **STATE.**—The term “State” has the mean-  
17 ing given the term in section 101(a) of title 23,  
18 United States Code.

1                   **TITLE I—AMERICAN**  
2                   **INFRASTRUCTURE BANK**

3 **SEC. 101. ESTABLISHMENT OF AMERICAN INFRASTRUC-**  
4                   **TURE BANK.**

5           (a) ESTABLISHMENT.—

6               (1) IN GENERAL.—There is established as a  
7 wholly owned Government corporation subject to  
8 chapter 91 of title 31, United States Code (com-  
9 monly known as the “Government Corporation Con-  
10 trol Act”) (except as otherwise provided in this Act),  
11 a bank to be known as the “American Infrastructure  
12 Bank”.

13               (2) RESPONSIBILITY OF SECRETARY.—The Sec-  
14 retary shall take such action as the Secretary deter-  
15 mines to be necessary to assist in implementing the  
16 establishment of the Bank in accordance with this  
17 Act.

18               (3) CONFORMING AMENDMENT.—Section  
19 9101(3) of title 31, United States Code, is amended  
20 by inserting after subparagraph (N) the following:

21                       “(O) the American Infrastructure Bank.”.

22           (b) BOARD OF DIRECTORS.—

23               (1) MEMBERSHIP.—

24                       (A) IN GENERAL.—The Bank shall have a  
25 bipartisan Board of Directors consisting of—

1 (i) 4 voting members, 1 of each who  
2 shall be appointed, by and with the advice  
3 and consent of the Senate—

4 (I) by the Majority Leader of the  
5 Senate, in consultation with the  
6 Chairperson of the Committee on En-  
7 vironment and Public Works of the  
8 Senate;

9 (II) by the Minority Leader of  
10 the Senate, in consultation with the  
11 Ranking Member of the Committee on  
12 Environment and Public Works of the  
13 Senate;

14 (III) by the Speaker of the  
15 House of Representatives, in consulta-  
16 tion with the Chairperson of the Com-  
17 mittee on Transportation and Infra-  
18 structure of the House of Representa-  
19 tives; and

20 (IV) by the Minority Leader of  
21 the House of Representatives, in con-  
22 sultation with the Ranking Member of  
23 the Committee on Transportation and  
24 Infrastructure of the House of Rep-  
25 resentatives; and

1                   (ii) 1 non-voting member, who shall  
2                   be the Secretary (or a designee).

3                   (B) QUALIFICATIONS.—A Board member  
4                   appointed under subparagraph (A)(i) shall have  
5                   relevant expertise in the fields of public or pri-  
6                   vate finance, infrastructure financing, or trans-  
7                   portation infrastructure policy.

8                   (C) TERM.—A member of the Board shall  
9                   be appointed for a term of 3 years.

10                  (D) DATE OF INITIAL APPOINTMENTS.—  
11                  The initial appointments to the Board under  
12                  subparagraph (A)(i) shall be made not later  
13                  than 180 days after the date of enactment of  
14                  this Act.

15                  (E) VACANCIES.—A vacancy on the  
16                  Board—

17                         (i) shall not affect the powers of the  
18                         Board; and

19                         (ii) shall be filled in the same manner  
20                         as the original appointment was made.

21                  (F) MEETINGS.—The Board shall meet at  
22                  the call of the chairperson.

23                  (G) QUORUM.—A majority of the members  
24                  of the Board shall constitute a quorum.

1 (H) CHAIRPERSON AND VICE CHAIR-  
2 PERSON.—The Board shall select a chairperson  
3 and vice chairperson from among the members  
4 of the Board.

5 (I) COMPENSATION.—

6 (i) IN GENERAL.—Subject to clause  
7 (ii), the Secretary shall determine com-  
8 pensation of members of the Board in a  
9 manner that is consistent with similar  
10 compensation for members of other boards  
11 in the Federal Government.

12 (ii) FEDERAL EMPLOYEES AND OFFI-  
13 CIALS.—A member of the Commission who  
14 is an officer or employee of the Federal  
15 Government shall serve without compensa-  
16 tion in addition to the compensation re-  
17 ceived for the services of the member as an  
18 officer or employee of the Federal Govern-  
19 ment.

20 (J) ADMINISTRATIVE COSTS.—

21 (i) IN GENERAL.—For the first 3  
22 years beginning on the date of enactment  
23 of this Act, not more than  $\frac{1}{2}$  of 1 percent  
24 of the funds made available under section  
25 202 shall be used for—

1 (I) compensation for members of  
2 the Board under subparagraph (I);

3 (II) compensation for employees  
4 of the Board;

5 (III) administrative expenses;  
6 and

7 (IV) any other expenses incurred  
8 by the Bank.

9 (ii) 3 YEARS AFTER THE DATE OF EN-  
10 ACTMENT.—For any year beginning after  
11 the date that is 3 years after the date of  
12 enactment of this Act, funds from interest  
13 received by the Bank shall be used to pro-  
14 vide funds for the expenses described in  
15 clause (i).

16 (2) DUTIES.—The Board shall—

17 (A) not later than 18 months after the  
18 date of enactment of this Act, commence oper-  
19 ation of the Bank, including by establishing all  
20 operational and administrative parameters of  
21 the Bank; and

22 (B) monitor and exercise oversight of core  
23 infrastructure projects as necessary to achieve  
24 the purposes of the Bank.

1           (3) POWERS.—The Board shall have the au-  
2           thority—

3                   (A) in accordance with such terms as the  
4           Board determines to be appropriate, to make  
5           senior and subordinated loans, purchase senior  
6           and subordinated debt securities, and enter into  
7           a binding commitment to make any such loan  
8           or purchase any such security, the proceeds of  
9           which are used to assist in the financing or refi-  
10          nancing of the development of 1 or more core  
11          infrastructure projects;

12                   (B) to issue and sell debt securities of the  
13          Bank on such terms as the Board determines to  
14          be appropriate;

15                   (C) to issue public benefit bonds and pro-  
16          vide financing to core infrastructure projects  
17          from amounts made available from the issuance  
18          of those bonds;

19                   (D) to make loan guarantees;

20                   (E) to enter into agreements or contracts  
21          with any individual or entity in support of the  
22          business of the Bank;

23                   (F) to purchase in the open market any  
24          outstanding obligation of the Bank at any time  
25          and at any price;



1 (G) to acquire, lease, pledge, exchange, and  
2 dispose of real and personal property and other-  
3 wise exercise all the usual incidents of owner-  
4 ship of property to the extent the exercise of  
5 those powers are appropriate to, and consistent  
6 with, the purposes of the Bank;

7 (H) to sue and be sued in a corporate ca-  
8 pacity in any court of competent jurisdiction,  
9 except that no attachment, injunction, or simi-  
10 lar process, may be issued against the property  
11 of the Bank or against the Bank with respect  
12 to that property;

13 (I) to indemnify the members of the Board  
14 for liabilities arising out of the actions of the  
15 Board, in accordance with, and subject to the  
16 limitations contained in, this Act; and

17 (J) to exercise all other lawful powers that  
18 are necessary or appropriate to carry out, and  
19 are consistent with, the purposes of the Bank.

20 (4) LIMITATIONS.—

21 (A) ISSUANCE OF DEBT SECURITY.—The  
22 Board may not issue any debt security without  
23 the consent of the Secretary.

1 (B) ISSUANCE OF VOTING SECURITY.—The  
2 Board may not issue any voting security in the  
3 Bank.

4 (c) AUDITS; REPORTS.—

5 (1) ACCOUNTING.—The book of accounts of the  
6 Bank shall be—

7 (A) maintained in accordance with gen-  
8 erally accepted accounting principles; and

9 (B) subject to an annual audit by an inde-  
10 pendent public accountant that is—

11 (i) appointed by the Board; and

12 (ii) of nationally recognized standing.

13 (2) REPORTS.—Not later than 90 days after  
14 the last day of each fiscal year during which the  
15 Bank is in operation, the Board shall submit to the  
16 President and the appropriate committees of Con-  
17 gress a report that describes, with respect to the  
18 preceding fiscal year—

19 (A) the operations of the Bank;

20 (B) a schedule of the obligations and out-  
21 standing capital securities of the Bank, together  
22 with a statement of the amounts issued and re-  
23 deemed or paid during that fiscal year; and

24 (C) the status of core infrastructure  
25 projects receiving funding or other assistance

1           pursuant to this Act, including disclosure of all  
2           entities with a development, ownership, or oper-  
3           ational interest in those core infrastructure  
4           projects.

5           (3) BOOKS AND RECORDS.—

6                   (A) IN GENERAL.—The Bank shall main-  
7           tain adequate books and records to support the  
8           financial transactions of the Bank, including a  
9           description, to be maintained on a publically ac-  
10          cessible database, of—

11                           (i) each financial transaction of the  
12           Bank and each core infrastructure project  
13           that receives funding from the Bank; and

14                           (ii) the amount of funding for each  
15           core infrastructure project.

16                   (B) AUDITS.—The books and records of  
17          the Bank shall be—

18                           (i) maintained in accordance with rec-  
19           ommended accounting practices; and

20                           (ii) open to inspection by the Comp-  
21           troller General of the United States.

22   **SEC. 102. STATE REMITTANCE AGREEMENTS WITH BANK.**

23           (a) IN GENERAL.—A State may enter into an agree-  
24          ment of not less than 3 years with the Bank, under  
25          which—

1           (1) the State agrees to remit not less than 60  
2           percent of the total amount of funds received by the  
3           State in each year of the 3-year period from the  
4           Federal Government for Federal-aid highway activi-  
5           ties under sections 119(d) and 133(b) of title 23,  
6           United States Code;

7           (2) the Board will issue to the State funds from  
8           the Bank received under section 202 in an amount  
9           equal to 90 percent of the amount the State remit-  
10          ted to the Bank under paragraph (1); and

11          (3) the State will use the funds received from  
12          the Bank under paragraph (2) to carry out core in-  
13          frastructure projects in accordance with subsection  
14          (b).

15          (b) STATE DETERMINATION OF COMPLIANCE.—Not-  
16          withstanding any other provision of law, in carrying out  
17          a project under subsection (a)(3), a State shall—

18                 (1) have the authority to determine whether the  
19                 State is in compliance with all Federal requirements  
20                 of—

21                         (A) environmental approvals relating to the  
22                         project;

23                         (B) environmental permits relating to the  
24                         project;

1 (C) section 313 of title 23, United States  
2 Code;

3 (D) the development and construction of  
4 the project, including—

5 (i) preliminary design;

6 (ii) right-of-way acquisition;

7 (iii) construction engineering; and

8 (iv) final acceptance of the project;

9 (E) preapproval for preventative mainte-  
10 nance projects and procedures;

11 (F) project agreements and modifications  
12 to project agreements; and

13 (G) consultant procurement services relat-  
14 ing to the project;

15 (2) assume responsibility of and oversight du-  
16 ties over compliance with the requirements described  
17 in paragraph (1); and

18 (3) to the maximum extent practicable, attempt  
19 to carry out the project in compliance with all Fed-  
20 eral requirements.

21 (c) USE OF STATE-REMITTED FUNDS.—The Bank  
22 shall use an amount equal to 10 percent of the funds re-  
23 mitted to the Bank by States under subsection (a)(1) to  
24 carry out section 103.

1 **SEC. 103. LOANS TO STATES AND UNITS OF LOCAL GOVERN-**  
 2 **MENT FOR TRANSPORTATION PROJECTS.**

3 (a) IN GENERAL.—The Bank may grant a loan to  
 4 a State or a unit of local government to carry out a core  
 5 infrastructure project in compliance with all applicable  
 6 Federal laws and requirements.

7 (b) SUBMISSION OF APPLICATIONS.—In order to be  
 8 eligible to receive a loan under subsection (a), a State or  
 9 unit of local government shall submit to the Board an ap-  
 10 plication at such time, in such manner, and containing  
 11 such information as the Board may reasonably require.

12 (c) INTEREST RATES FOR LOANS.—The Board  
 13 shall—

14 (1) set the interest rate for a loan provided  
 15 under subsection (a); and

16 (2) ensure that the interest rate remains at a  
 17 level that is more favorable than that of similar in-  
 18 frastructure loans available on the private market.

19 **TITLE II—CAPITALIZATION OF**  
 20 **BANK**

21 **SEC. 201. ALLOWANCE OF TEMPORARY DIVIDENDS RE-**  
 22 **CEIVED DEDUCTION FOR DIVIDENDS RE-**  
 23 **CEIVED FROM A CONTROLLED FOREIGN COR-**  
 24 **PORATION.**

25 (a) APPLICABILITY OF TEMPORARY DIVIDENDS RE-  
 26 CEIVED DEDUCTION.—

1           (1) IN GENERAL.—Subsection (f) of section 965  
2 of the Internal Revenue Code of 1986 is amended to  
3 read as follows:

4           “(f) ELECTION.—

5           “(1) IN GENERAL.—The taxpayer may elect to  
6 apply this section to the 3-taxable year period begin-  
7 ning with—

8           “(A) the taxpayer’s last taxable year which  
9 begins before the date of the enactment of the  
10 Build USA Act, or

11           “(B) the taxpayer’s first taxable year  
12 which begins during the 1-year period beginning  
13 on such date of enactment.

14           “(2) TIME FOR MAKING ELECTION.—Any elec-  
15 tion made under this section shall be made on or be-  
16 fore the due date (including extensions) for filing the  
17 return of tax for the first taxable year in the 3-tax-  
18 able year period described in paragraph (1).

19           “(3) DECLARATION OF AMOUNT REPATRI-  
20 ATED.—An election under this section shall des-  
21 ignate a limitation of the aggregate amount of divi-  
22 dends to be taken into account under subsection (a)  
23 during the 3-taxable year period.”.

24           (2) CONFORMING AMENDMENTS.—

1 (A) EXTRAORDINARY DIVIDENDS.—Section  
2 965(b)(2) of such Code is amended by striking  
3 “June 30, 2003” and inserting “December 31,  
4 2014”, and

5 (B) DETERMINATIONS RELATING TO RE-  
6 LATED PARTY INDEBTEDNESS.—Section  
7 965(b)(3)(B) of such Code is amended by strik-  
8 ing “October 3, 2004” and inserting “Decem-  
9 ber 31, 2014”.

10 (C) DETERMINATIONS RELATING TO BASE  
11 PERIOD.—Section 965(c)(2) of such Code is  
12 amended by striking “June 30, 2003” and in-  
13 serting “December 31, 2014”.

14 (b) AMOUNT OF DEDUCTION.—Paragraph (1) of sec-  
15 tion 965(a) of the Internal Revenue Code of 1986 is  
16 amended by striking “85 percent” and inserting “81.4  
17 percent”.

18 (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to taxable years ending after the  
20 date of the enactment of this Act.

21 **SEC. 202. APPROPRIATIONS TO BANK.**

22 (a) ESTIMATION OF REVENUES FROM REPATRI-  
23 ATION.—Not later than 60 days after the date of enact-  
24 ment of this Act, the Secretary of the Treasury (or the  
25 Secretary’s delegate) shall estimate the increase in the



1 amount of revenues to be received in the Treasury after  
2 the date of enactment of this Act and before October 1,  
3 2019, attributable to the amendments made by this title.

4 (b) APPROPRIATION.—Out of any money in the  
5 Treasury not otherwise appropriated, there is hereby ap-  
6 propriated to the Bank an amount equal to the amount  
7 described in subsection (a), to remain available until ex-  
8 pended.

○