structure' means fully integrated public sector intelligent transportation system components, as defined by the Secretary [of Transportation].

''(3) INTELLIGENT TRANSPORTATION SYSTEM.—The term 'intelligent transportation system' means electronics, photonics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

''(4) NATIONAL ARCHITECTURE.—The term 'national architecture' means the common framework for interoperability that defines—

''(A) the functions associated with intelligent transportation system user services;

''(B) the physical entities or subsystems within which the functions reside;

''(C) the data interfaces and information flows between physical subsystems; and

''(D) the communications requirements associated with the information flows.

''(5) PROJECT.—The term 'project' means an undertaking to research, develop, or operationally test intelligent transportation systems or any other undertaking eligible for assistance under this subtitle.

''(6) STANDARD.—The term 'standard' means a document that—

''(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

''(B) may support the national architecture and promote—

''(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

''(ii) interoperability among intelligent transportation system technologies implemented throughout the States.

''(7) STATE.—The term 'State' has the meaning given the term under section 101 of title 23, United States Code.

''(8) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—The term 'transportation systems management and operations' has the meaning given the term under section 101(a) of title 23, United States Code [section 101(a) of this title does not define the term].''

ENVIRONMENTAL REVIEW OF ACTIVITIES THAT SUPPORT DEPLOYMENT OF INTELLIGENT TRANSPORTATION SYSTEMS

Pub. L. 109–59, title VI, § 6010, Aug. 10, 2005, 119 Stat. 1877, provided that:

''(a) CATEGORICAL EXCLUSIONS.—Not later than one year after the date of enactment of this Act [Aug. 10, 2005], the Secretary [of Transportation] shall initiate a rulemaking process to establish, to the extent appropriate, categorical exclusions for activities that support the deployment of intelligent transportation infrastructure and systems from the requirement that an environmental assessment or an environmental impact statement be prepared under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) in compliance with the standards for categorical exclusions established by that Act [42 U.S.C. 4321 et seq.].

''(b) NATIONWIDE PROGRAMMATIC AGREEMENT.—

''(1) DEVELOPMENT.—The Secretary [of Transportation] shall develop a nationwide programmatic agreement governing the review of activities that support the deployment of intelligent transportation infrastructure and systems in accordance with section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and the regulations of the Advisory Council on Historic Preservation.

''(2) CONSULTATION.—The Secretary shall develop the agreement under paragraph (1) in consultation with the National Conference of State Historic Preservation Officers and the Advisory Council on Historic Preservation established under title II of the National Historic Preservation Act (26 U.S.C. 470i et seq.) and after soliciting the views of other interested parties.

''(c) INTELLIGENT TRANSPORTATION INFRASTRUCTURE AND SYSTEMS DEFINED.—In this section, the term 'intelligent transportation infrastructure and systems' means intelligent transportation infrastructure and intelligent transportation systems, as such terms are defined in subtitle C of title V of this Act [subtitle C (§§ 5301–5310) of title V of Pub. L. 109–59, enacting this section and section 513 of this title and provisions set out as a note above].''

§ 513. Use of funds for ITS activities

(a) IN GENERAL.—For each fiscal year, not more than $250,000 of the funds made available to carry out this[1] subtitle C of title V of the SAFETEA–LU shall be used for intelligent transportation system outreach, public relations, displays, tours, and brochures.

(b) APPLICABILITY.—Subsection (a) shall not apply to intelligent transportation system training, scholarships, or the publication or distribution of research findings, technical guidance, or similar documents.

(Added Pub. L. 109–59, title V, § 5302(a), Aug. 10, 2005, 119 Stat. 1805.)

REFERENCES IN TEXT

Subtitle C of title V of the SAFETEA–LU, referred to in subsec. (a), is subtitle C (§§ 5301–5310) of title V of Pub. L. 109–59, Aug. 10, 2005, 119 Stat. 1804–1813, which enacted this section and section 512 of this title and provisions set out as a note under section 512 of this title.

CHAPTER 6—INFRASTRUCTURE FINANCE

Sec.
601. Generally applicable provisions.
602. Determination of eligibility and project selection.
603. Secured loans.
604. Lines of credit.
605. Program administration.
606. State and local permits.
607. Regulations.
608. Funding.
609. Reports to Congress.
610. State infrastructure bank program.

CODIFICATION

This chapter, consisting of sections 601 to 610 of this title, was previously set out as subchapter II, consisting of sections 181 to 190, of chapter 1 of this title.

§ 601. Generally applicable provisions

(a) DEFINITIONS.—In this chapter, the following definitions apply:

(1) ELIGIBLE PROJECT COSTS.—The term ''eligible project costs'' means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real

[1] So in original.

property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

(C) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

(2) FEDERAL CREDIT INSTRUMENT.—The term ''Federal credit instrument'' means a secured loan, loan guarantee, or line of credit authorized to be made available under this chapter with respect to a project.

(3) INVESTMENT-GRADE RATING.—The term ''investment-grade rating'' means a rating of BBB minus, Baa3, bbb minus, BBB (low), or higher assigned by a rating agency to project obligations.

(4) LENDER.—The term ''lender'' means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

(5) LINE OF CREDIT.—The term ''line of credit'' means an agreement entered into by the Secretary with an obligor under section 604 to provide a direct loan at a future date upon the occurrence of certain events.

(6) LOAN GUARANTEE.—The term ''loan guarantee'' means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(7) OBLIGOR.—The term ''obligor'' means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(8) PROJECT.—The term ''project'' means—

(A) any surface transportation project eligible for Federal assistance under this title or chapter 53 of title 49;

(B) a project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible;

(C) a project for intercity passenger bus or rail facilities and vehicles, including facilities and vehicles owned by the National Railroad Passenger Corporation and components of magnetic levitation transportation systems; and

(D) a project that—

(i) is a project—

(I) for a public freight rail facility or a private facility providing public benefit for highway users;

(II) for an intermodal freight transfer facility;

(III) for a means of access to a facility described in subclause (I) or (II);

(IV) for a service improvement for a facility described in subclause (I) or (II) (including a capital investment for an intelligent transportation system); or

(V) that comprises a series of projects described in subclauses (I) through (IV) with the common objective of improving the flow of goods;

(ii) may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements; and

(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port.

(9) PROJECT OBLIGATION.—The term ''project obligation'' means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

(10) RATING AGENCY.—The term ''rating agency'' means a credit rating agency registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization, as that term is defined in section 3(a) of the Securities Exchange Act of 1934.

(11) SECURED LOAN.—The term ''secured loan'' means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 603.

(12) STATE.—The term ''State'' has the meaning given the term in section 101.

(13) SUBSIDY AMOUNT.—The term ''subsidy amount'' means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(14) SUBSTANTIAL COMPLETION.—The term ''substantial completion'' means the opening of a project to vehicular or passenger traffic.

(b) TREATMENT OF CHAPTER.—For purposes of this title, this chapter shall be treated as being part of chapter 1.

(Added Pub. L. 105–178, title I, §1503(a), June 9, 1998, 112 Stat. 241, §181; renumbered §601 and amended Pub. L. 109–59, title I, §§1601(a), 1602(b)(1), (5), (d), Aug. 10, 2005, 119 Stat. 1239, 1246, 1247; Pub. L. 109–291, §4(b)(6), Sept. 29, 2006, 120 Stat. 1338; Pub. L. 110–244, title I, §101(r), June 6, 2008, 122 Stat. 1577.)

REFERENCES IN TEXT

The Securities Act of 1933, referred to in subsec. (a)(4), is act May 27, 1933, ch. 38, title I, 48 Stat. 74, as amended, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Internal Revenue Code of 1986, referred to in subsec. (a)(4), is set out in Title 26, Internal Revenue Code.

Section 3(a) of the Securities and Exchange Act of 1934, referred to in subsec. (a)(10), is classified to section 78c(a) of Title 15, Commerce and Trade.

The Federal Credit Reform Act of 1990, referred to in subsec. (a)(13), is title V of Pub. L. 93–344, as added by Pub. L. 101–508, title XIII, § 13201(a), Nov. 5, 1990, 104 Stat. 1388–609, and amended, which is classified generally to subchapter III (§ 661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

AMENDMENTS

2008—Subsec. (a)(3). Pub. L. 110–244 inserted ''bbb minus, BBB (low),'' after ''Baa3,''.

2006—Subsec. (a)(10). Pub. L. 109–291, which directed amendment of section 181(11) of this title by substituting ''registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization, as that term is defined in section 3(a) of the Securities Exchange Act of 1934'' for ''identified by the Securities and Exchange Commission as a nationally recognized statistical rating organization'', was executed to subsec. (a)(10) of this section by making the substitution for ''identified by the Securities and Exchange Commission as a Nationally Recognized Statistical Rating Organization'' to reflect the probable intent of Congress and the amendment by Pub. L. 109–59. See 2005 Amendment notes below.

2005—Pub. L. 109–59, § 1602(d), renumbered section 181 of this title as this section.

Pub. L. 109–59, § 1602(b)(1), (5), substituted ''Generally applicable provisions'' for ''Definitions'' in section catchline, designated existing provisions as subsec. (a), inserted heading, substituted ''In this chapter'' for ''In this subchapter'' in introductory provisions, ''this chapter'' for ''this subchapter'' in par. (2), ''604'' for ''184'' in par. (5), ''603'' for ''183'' in par. (11), and added subsec. (b).

Par (3). Pub. L. 109–59, § 1601(a)(1), struck out ''category'' after ''rating'' and ''offered into the capital markets'' after ''obligations''.

Par. (7). Pub. L. 109–59, § 1601(a)(2), redesignated par. (8) as (7) and struck out heading and text of former par. (7). Text read as follows: ''The term 'local servicer' means—

''(A) a State infrastructure bank established under this title; or

''(B) a State or local government or any agency of a State or local government that is responsible for servicing a Federal credit instrument on behalf of the Secretary.''

Par. (8). Pub. L. 109–59, § 1601(a)(2), (3), redesignated par. (9) as (8), substituted semicolon for period at end of subpar. (B), added subpar. (D), and struck out former subpar. (D) which read as follows: ''a project for publicly owned intermodal surface freight transfer facilities, other than seaports and airports, if the facilities are located on or adjacent to National Highway System routes or connections to the National Highway System.'' Former par. (8) redesignated (7).

Par. (9). Pub. L. 109–59, § 1601(a)(2), redesignated par. (10) as (9). Former par. (9) redesignated (8).

Par. (10). Pub. L. 109–59, § 1601(a)(2), (4), redesignated par. (11) as (10) and substituted ''credit'' for ''bond''. Former par. (10) redesignated (9).

Pars. (11) to (15). Pub. L. 109–59, § 1601(a)(2), redesignated pars. (12) to (15) as (11) to (14), respectively. Former par. (11) redesignated (10).

CONGRESSIONAL FINDINGS

Pub. L. 105–178, title I, § 1502, June 9, 1998, 112 Stat. 241, provided that: ''Congress finds that—

''(1) a well-developed system of transportation infrastructure is critical to the economic well-being, health, and welfare of the people of the United States;

''(2) traditional public funding techniques such as grant programs are unable to keep pace with the infrastructure investment needs of the United States because of budgetary constraints at the Federal, State, and local levels of government;

''(3) major transportation infrastructure facilities that address critical national needs, such as intermodal facilities, border crossings, and multistate trade corridors, are of a scale that exceeds the capacity of Federal and State assistance programs in effect on the date of enactment of this Act [June 9, 1998];

''(4) new investment capital can be attracted to infrastructure projects that are capable of generating their own revenue streams through user charges or other dedicated funding sources; and

''(5) a Federal credit program for projects of national significance can complement existing funding resources by filling market gaps, thereby leveraging substantial private co-investment.''

STATE INFRASTRUCTURE BANK PILOT PROGRAMS

Pub. L. 105–178, title I, § 1511, June 9, 1998, 112 Stat. 251, as amended by Pub. L. 107–117, div. B, § 1108, Jan. 10, 2002, 115 Stat. 2332, provided that:

''(a) DEFINITIONS.—In this section:

''(1) OTHER ASSISTANCE.—The term 'other assistance' includes any use of funds in an infrastructure bank—

''(A) to provide credit enhancements;

''(B) to serve as a capital reserve for bond or debt instrument financing;

''(C) to subsidize interest rates;

''(D) to ensure the issuance of letters of credit and credit instruments;

''(E) to finance purchase and lease agreements with respect to transit projects;

''(F) to provide bond or debt financing instrument security; and

''(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which the assistance is being provided.

''(2) STATE.—The term 'State' has the meaning given the term under section 401 of title 23, United States Code.

''(b) COOPERATIVE AGREEMENTS.—

''(1) IN GENERAL.—

''(A) PURPOSE OF AGREEMENTS.—Subject to this section, the Secretary may enter into cooperative agreements with the States of California, Florida, Missouri, and [sic] Rhode Island, and Texas for the establishment of State infrastructure banks and multistate infrastructure banks for making loans and providing other assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section, provided that Texas may not compete for funds previously allocated or appropriated to any other State.

''(B) CONTENTS OF AGREEMENTS.—Each cooperative agreement shall specify procedures and guidelines for establishing, operating, and providing assistance from the infrastructure bank.

''(2) INTERSTATE COMPACTS.—If 2 or more States enter into a cooperative agreement under paragraph (1) with the Secretary for the establishment of a multistate infrastructure bank, Congress grants consent to those States to enter into an interstate compact establishing the bank in accordance with this section.

''(c) FUNDING.—

''(1) CONTRIBUTION.—Notwithstanding any other provision of law, the Secretary may allow, subject to subsection (h)(1), a State that enters into a cooperative agreement under this section to contribute to the infrastructure bank established by the State not to exceed—

''(A)(i) the total amount of funds apportioned to the State under each of paragraphs (1), (3), and (4) of section 104(b) and section 144 of title 23, United

States Code, excluding funds set aside under paragraphs (1) and (2) of section 133(d) of such title; and

''(ii) the total amount of funds allocated to the State under section 105 of such title;

''(B) the total amount of funds made available to the State or other Federal transit grant recipient for capital projects (as defined in section 5302 of title 49, United States Code) under sections 5307, 5309, and 5311 of such title; and

''(C) the total amount of funds made available to the State under subtitle V of title 49, United States Code.

''(2) CAPITALIZATION GRANT.—For the purposes of this section, Federal funds contributed to the infrastructure bank under this subsection shall constitute a capitalization grant for the infrastructure bank.

''(3) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds that are apportioned or allocated to a State under section 104(b)(3) of title 23, United States Code, and attributed to urbanized areas of a State with a population of over 200,000 individuals under section 133(d)(2) of such title may be used to provide assistance from an infrastructure bank under this section with respect to a project only if the metropolitan planning organization designated for the area concurs, in writing, with the provision of the assistance.

''(d) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—

''(1) IN GENERAL.—An infrastructure bank established under this section may make loans or provide other assistance to a public or private entity in an amount equal to all or part of the cost of carrying out a project eligible for assistance under this section.

''(2) SUBORDINATION OF LOANS.—The amount of any loan or other assistance provided for the project may be subordinated to any other debt financing for the project.

''(3) INITIAL ASSISTANCE.—Initial assistance provided with respect to a project from Federal funds contributed to an infrastructure bank under this section shall not be made in the form of a grant.

''(e) QUALIFYING PROJECTS.—

''(1) IN GENERAL.—Subject to paragraph (2), funds in an infrastructure bank established under this section may be used only to provide assistance with respect to projects eligible for assistance under title 23, United States Code, for capital projects (as defined in section 5302 of title 49, United States Code), or for any other project related to surface transportation that the Secretary determines to be appropriate.

''(2) INTERSTATE FUNDS.—Funds contributed to an infrastructure bank from funds apportioned to a State under section 104(b)(4) of title 23, United States Code, may be used only to provide assistance with respect to projects eligible for assistance under such paragraph.

''(3) RAIL PROGRAM FUNDS.—Funds contributed to an infrastructure bank from funds made available to a State under subtitle V of title 49, United States Code, shall be used in a manner consistent with any project description specified under the law making the funds available to the State.

''(f) INFRASTRUCTURE BANK REQUIREMENTS.—

''(1) IN GENERAL.—Subject to paragraph (2), in order to establish an infrastructure bank under this section, each State establishing such a bank shall—

''(A) contribute, at a minimum, to the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and contributed to the bank under subsection (c), except that if the State has a higher Federal share payable under section 120(b) of title 23, United States Code, the State shall be required to contribute only an amount commensurate with the higher Federal share;

''(B) ensure that the bank maintains on a continuing basis an investment grade rating on its debt issuances and its ability to pay claims under credit enhancement programs of the bank;

''(C) ensure that investment income generated by funds contributed to the bank will be—

''(i) credited to the bank;

''(ii) available for use in providing loans and other assistance to projects eligible for assistance from the bank; and

''(iii) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

''(D) ensure that any loan from the bank will bear interest at or below market rates, as determined by the State, to make the project that is the subject of the loan feasible;

''(E) ensure that repayment of the loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

''(F) ensure that the term for repaying any loan will not exceed the lesser of—

''(i) 35 years after the date of the first payment on the loan under subparagraph (E); or

''(ii) the useful life of the investment; and

''(G) require the bank to make a biennial report to the Secretary and to make such other reports as the Secretary may require in guidelines.

''(2) WAIVERS BY THE SECRETARY.—The Secretary may waive a requirement of any of subparagraphs (C) through (G) of paragraph (1) with respect to an infrastructure bank if the Secretary determines that the waiver is consistent with the objectives of this section.

''(g) LIMITATION ON REPAYMENTS.—Notwithstanding any other provision of law, the repayment of a loan or other assistance provided from an infrastructure bank under this section may not be credited toward the non-Federal share of the cost of any project.

''(h) SECRETARIAL REQUIREMENTS.—In administering this section, the Secretary shall—

''(1) ensure that Federal disbursements shall be at an annual rate of not more than 20 percent of the amount designated by the State for State infrastructure bank capitalization under subsection (c)(1), except that the Secretary may disburse funds to a State in an amount needed to finance a specific project; and

''(2) revise cooperative agreements entered into with States under section 350 of the National Highway System Designation Act of 1995 (Public Law 104–59 [set out below]) to comply with this section.

''(i) APPLICABILITY OF FEDERAL LAW.—

''(1) IN GENERAL.—The requirements of titles 23 and 49, United States Code, that would otherwise apply to funds made available under such title and projects assisted with those funds shall apply to—

''(A) funds made available under such title and contributed to an infrastructure bank established under this section, including the non-Federal contribution required under subsection (f); and

''(B) projects assisted by the bank through the use of the funds;

except to the extent that the Secretary determines that any requirement of such title (other than sections 113 and 114 of title 23 and section 5333 of title 49), is not consistent with the objectives of this section.

''(2) REPAYMENTS.—The requirements of titles 23 and 49, United States Code, shall apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall be considered to be Federal funds.

''(j) UNITED STATES NOT OBLIGATED.—

''(1) IN GENERAL.—The contribution of Federal funds to an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party. No third party shall have any right against the United States for payment solely by virtue of the contribution.

''(2) STATEMENT.—Any security or debt financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

''(k) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31, United States Code, shall not apply to funds contributed under this section.

''(*l*) PROGRAM ADMINISTRATION.—

''(1) IN GENERAL.—A State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

''(2) NON-FEDERAL FUNDS.—The limitation described in paragraph (1) shall not apply to non-Federal funds.''

Pub. L. 104–59, title III, § 350, Nov. 28, 1995, 109 Stat. 618, provided that:

''(a) IN GENERAL.—

''(1) COOPERATIVE AGREEMENTS.—Subject to the provisions of this section, the Secretary [of Transportation] may enter into cooperative agreements with not to exceed 10 States for the establishment of State infrastructure banks and multistate infrastructure banks for making loans and providing other assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

''(2) INTERSTATE COMPACTS.—Congress grants consent to 2 or more of the States, entering into a cooperative agreement under paragraph (1) with the Secretary for the establishment of a multistate infrastructure bank, to enter into an interstate compact establishing such bank in accordance with this section.

''(b) FUNDING.—

''(1) SEPARATE ACCOUNTS.—An infrastructure bank established under this section shall maintain a separate highway account for Federal funds contributed to the bank under paragraph (2) and a separate transit account for Federal funds contributed to the bank under paragraph (3). No Federal funds contributed or credited to an account of an infrastructure bank established under this section may be commingled with Federal funds contributed or credited to any other account of such bank.

''(2) HIGHWAY ACCOUNT.—Notwithstanding any other provision of law, the Secretary may allow, subject to subsection (g)(1), a State entering into a cooperative agreement under this section to contribute not to exceed—

''(A) 10 percent of the funds apportioned to the State for each of fiscal years 1996 and 1997 under each of sections 104(b)(1), 104(b)(3), 104(b)(5)(B), 144, and 160 of title 23, United States Code, and section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102–240, 23 U.S.C. 104 note]; and

''(B) 10 percent of the funds allocated to the State for each of such fiscal years under each of section 157 of such title and section 1013(c) of such Act [formerly 23 U.S.C. 157 note];

into the highway account of the infrastructure bank established by the State. Federal funds contributed to such account under this paragraph shall constitute for purposes of this section a capitalization grant for the highway account of the infrastructure bank.

''(3) TRANSIT ACCOUNT.—Notwithstanding any other provision of law, the Secretary may allow, subject to subsection (g)(1), a State entering into a cooperative agreement under this section, and any other Federal transit grant recipient, to contribute not to exceed 10 percent of the funds made available to the State or other Federal transit grant recipient in each of fiscal years 1996 and 1997 for capital projects under sections 5307, 5309, and 5311 of title 49, United States Code, into the transit account of the infrastructure bank established by the State. Federal funds contributed to such account under this paragraph shall constitute for purposes of this section a capitalization grant for the transit account of the infrastructure bank.

''(4) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds that are apportioned or allocated to a State under section 104(b)(3) or 160 of title 23, United States Code, or under section 1013(c) or 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102–240, 23 U.S.C. 104 note, formerly 157 note] and attributed to urbanized areas of a State with an urbanized population of over 200,000 under section 133(d)(3) of such title may be used to provide assistance with respect to a project only if the metropolitan planning organization designated for such area concurs, in writing, with the provision of such assistance.

''(c) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—An infrastructure bank established under this section may make loans or provide other assistance to a public or private entity in an amount equal to all or part of the cost of carrying out a project eligible for assistance under this section. The amount of any loan or other assistance provided for such project may be subordinated to any other debt financing for the project. Initial assistance provided with respect to a project from Federal funds contributed to an infrastructure bank under this section may not be made in the form of a grant.

''(d) QUALIFYING PROJECTS.—Federal funds in the highway account of an infrastructure bank established under this section may be used only to provide assistance with respect to construction of Federal-aid highways. Federal funds in the transit account of such bank may be used only to provide assistance with respect to capital projects.

''(e) INFRASTRUCTURE BANK REQUIREMENTS.—In order to establish an infrastructure bank under this section, each State establishing the bank shall—

''(1) contribute, at a minimum, in each account of the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and contributed to the bank; except that if the contribution is into the highway account of the bank and the State has a lower non-Federal share under section 120(b) of title 23, United States Code, such percentage shall be adjusted by the Secretary to correspond with such lower non-Federal share;

''(2) ensure that the bank maintains on a continuing basis an investment grade rating on its debt issuances or has a sufficient level of bond or debt financing instrument insurance to maintain the viability of the bank;

''(3) ensure that investment income generated by funds contributed to an account of the bank will be—

''(A) credited to the account;

''(B) available for use in providing loans and other assistance to projects eligible for assistance from the account; and

''(C) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

''(4) provide that the repayment of a loan or other assistance from an account of the bank under this section shall be consistent with the repayment provisions of section 129(a)(7) of title 23, United States Code, except to the extent the Secretary determines that such provisions are not consistent with this section;

''(5) ensure that any loan from the bank will bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible;

''(6) ensure that repayment of any loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

''(7) ensure that the term for repaying any loan will not exceed 30 years after the date of the first payment on the loan under paragraph (6); and

''(8) require the bank to make an annual report to the Secretary on its status no later than September 30, 1996, and September 30, 1997, and to make such other reports as the Secretary may require by guidelines.

''(f) LIMITATION ON REPAYMENTS.—Notwithstanding any other provision of law, the repayment of a loan or other assistance provided from an infrastructure bank under this section may not be credited towards the non-Federal share of the cost of any project.

''(g) SECRETARIAL REQUIREMENTS.—In administering this section, the Secretary shall—

''(1) ensure that Federal disbursements shall be at a rate consistent with historic rates for the Federal-aid highway program and the Federal transit program, respectively;

''(2) issue guidelines to ensure that all requirements of title 23, United States Code, or title 49, United States Code, that would otherwise apply to funds made available under such title and projects assisted with such funds apply to—

''(A) funds made available under such title and contributed to an infrastructure bank established under this section; and

''(B) projects assisted by the bank through the use of such funds;

except to the extent that the Secretary determines that any requirement of such title is not consistent with the objectives of this section; and

''(3) specify procedures and guidelines for establishing, operating, and providing assistance from the bank.

''(h) UNITED STATES NOT OBLIGATED.—The contribution of Federal funds into an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States for payment solely by virtue of the contribution. Any security or debt financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

''(i) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31, United States Code, shall not apply to funds contributed under this section.

''(j) PROGRAM ADMINISTRATION.—For each of fiscal years 1996 and 1997, a State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

''(k) SECRETARIAL REVIEW.—The Secretary shall review the financial condition of each infrastructure bank established under this section and transmit to Congress a report on the results of such review not later than March 1, 1997. In addition, the report shall contain—

''(1) an evaluation of the pilot program conducted under this section and the ability of such program to increase public investment and attract non-Federal capital; and

''(2) recommendations of the Secretary as to whether the program should be expanded or made a part of the Federal-aid highway and transit programs.

''(*l*) DEFINITIONS.—In this section, the following definitions apply:

''(1) CAPITAL PROJECT.—The term 'capital project' has the meaning such term has under section 5302 of title 49, United States Code.

''(2) CONSTRUCTION; FEDERAL-AID HIGHWAY.—The terms 'construction' and 'Federal-aid highway' have the meanings such terms have under section 101 of title 23, United States Code.

''(3) OTHER ASSISTANCE.—The term 'other assistance' includes any use of funds in an infrastructure bank—

''(A) to provide credit enhancements;

''(B) to serve as a capital reserve for bond or debt instrument financing;

''(C) to subsidize interest rates;

''(D) to ensure the issuance of letters of credit and credit instruments;

''(E) to finance purchase and lease agreements with respect to transit projects;

''(F) to provide bond or debt financing instrument security; and

''(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which such assistance is being provided.

''(4) STATE.—The term 'State' has the meaning such term has under section 101 of title 23, United States Code.''

§ 602. Determination of eligibility and project selection

(a) ELIGIBILITY.—To be eligible to receive financial assistance under this chapter, a project shall meet the following criteria:

(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this chapter.

(2) APPLICATION.—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary, shall submit a project application to the Secretary.

(3) ELIGIBLE PROJECT COSTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under this chapter, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(i) $50,000,000; or

(ii) 33⅓ percent of the amount of Federal highway assistance funds apportioned for the most recently completed fiscal year to the State in which the project is located.

(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—In the case of a project principally involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed $15,000,000.

(4) DEDICATED REVENUE SOURCES.—The Federal credit instrument shall be repayable, in whole or in part, from tolls, user fees, or other dedicated revenue sources that also secure the project obligations.

(5) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraphs (1) and (2).

(b) SELECTION AMONG ELIGIBLE PROJECTS.—

(1) ESTABLISHMENT.—The Secretary shall establish criteria for selecting among projects that meet the eligibility requirements specified in subsection (a).

(2) SELECTION CRITERIA.—

(A) IN GENERAL.—The selection criteria shall include the following:

(i) The extent to which the project is nationally or regionally significant, in terms

of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

(ii) The creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features, such as a rate covenant, to ensure repayment.

(iii) The extent to which assistance under this chapter would foster innovative public-private partnerships and attract private debt or equity investment.

(iv) The likelihood that assistance under this chapter would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

(v) The extent to which the project uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project.

(vi) The amount of budget authority required to fund the Federal credit instrument made available under this chapter.

(vii) The extent to which the project helps maintain or protect the environment.

(viii) The extent to which assistance under this chapter and chapter 1 would reduce the contribution of Federal grant assistance to the project.

(B) PRELIMINARY RATING OPINION LETTER.—For purposes of subparagraph (A)(ii), the Secretary shall require each project applicant to provide a preliminary rating opinion letter from at least 1 rating agency indicating that the project's senior obligations, which may be the Federal credit instrument, have the potential to achieve an investment-grade rating.

(c) FEDERAL REQUIREMENTS.—In addition to the requirements of this title for highway projects, chapter 53 of title 49 for transit projects, and section 5333(a) of title 49 for rail projects, the following provisions of law shall apply to funds made available under this chapter and projects assisted with the funds:

(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(2) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(Added Pub. L. 105–178, title I, §1503(a), June 9, 1998, 112 Stat. 243, §182; renumbered §602 and amended Pub. L. 109–59, title I, §§1601(b), (c), 1602(b)(2), (5), (d), Aug. 10, 2005, 119 Stat. 1240, 1247.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (c)(1), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (c)(2), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in subsec. (c)(3), is act Jan. 2, 1971, Pub. L. 91–646, 84 Stat. 1894, as amended, and which is classified principally to chapter 61 (§4601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of Title 42 and Tables.

AMENDMENTS

2005—Pub. L. 109–59, §1602(d), renumbered section 182 of this title as this section.

Subsec. (a). Pub. L. 109–59, §1602(b)(5), substituted "this chapter" for "this subchapter" in introductory provisions.

Subsec. (a)(1). Pub. L. 109–59, §1602(b)(5), substituted "this chapter" for "this subchapter".

Pub. L. 109–59, §1601(b)(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: "The project—

"(A) shall be included in the State transportation plan required under section 135; and

"(B) at such time as an agreement to make available a Federal credit instrument is entered into under this subchapter, shall be included in the approved State transportation improvement program required under section 134."

Subsec. (a)(2). Pub. L. 109–59, §1601(b)(1), added par. (2) and struck out heading and text of former par. (2). Text read as follows: "A State, a local servicer identified under section 185(a), or the entity undertaking the project shall submit a project application to the Secretary."

Subsec. (a)(3)(A). Pub. L. 109–59, §1602(b)(5), substituted "this chapter" for "this subchapter" in introductory provisions.

Subsec. (a)(3)(A)(i). Pub. L. 109–59, §1601(b)(2), substituted "$50,000,000" for "$100,000,000".

Subsec. (a)(3)(A)(ii). Pub. L. 109–59, §1601(b)(3), substituted "33⅓" for "50".

Subsec. (a)(3)(B). Pub. L. 109–59, §1601(b)(4), substituted "$15,000,000" for "$30,000,000".

Subsec. (a)(4). Pub. L. 109–59, §1601(b)(5), substituted "The Federal credit instrument" for "Project financing" and inserted "that also secure the project obligations" before period at end.

Subsec. (b)(1). Pub. L. 109–59, §1601(c)(1), substituted "eligibility requirements" for "eligibility criteria".

Subsec. (b)(2)(A)(iii), (iv), (vi). Pub. L. 109–59, §1602(b)(5), substituted "this chapter" for "this subchapter".

Subsec. (b)(2)(A)(viii). Pub. L. 109–59, §1602(b)(2), inserted "and chapter 1" after "this chapter".

Subsec. (b)(2)(B). Pub. L. 109–59, §1601(c)(2), inserted ", which may be the Federal credit instrument," after "obligations".

Subsec. (c). Pub. L. 109–59, §1602(b)(5), substituted "this chapter" for "this subchapter" in introductory provisions.

§ 603. Secured loans

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

(A) to finance eligible project costs of any project selected under section 602; or

(B) to refinance interim construction financing of eligible project costs of any project selected under section 602; or

(C) to refinance long-term project obligations or Federal credit instruments if such

refinancing provides additional funding capacity for the completion, enhancement, or expansion of any project that—

(i) is selected under section 602; or

(ii) otherwise meets the requirements of section 602.

(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.

(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget and each rating agency providing a preliminary rating opinion letter under section 602(b)(2)(B), shall determine an appropriate capital reserve subsidy amount for each secured loan, taking into account such letter.

(4) INVESTMENT-GRADE RATING REQUIREMENT.—The execution of a secured loan under this section shall be contingent on the project's senior obligations receiving an investment-grade rating.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed the lesser of 33 percent of the reasonably anticipated eligible project costs or, if the secured loan does not receive an investment grade rating, the amount of the senior project obligations.

(3) PAYMENT.—The secured loan—

(A) shall—

(i) be payable, in whole or in part, from tolls, user fees, or other dedicated revenue sources that also secure the senior project obligations; and

(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(4) INTEREST RATE.—The interest rate on the secured loan shall be not less than the yield on United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

(5) MATURITY DATE.—The final maturity date of the secured loan shall be not later than 35 years after the date of substantial completion of the project.

(6) NONSUBORDINATION.—The secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(7) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of making a secured loan under this section.

(8) NON-FEDERAL SHARE.—The proceeds of a secured loan under this chapter may be used for any non-Federal share of project costs required under this title or chapter 53 of title 49, if the loan is repayable from non-Federal funds.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

(3) DEFERRED PAYMENTS.—

(A) AUTHORIZATION.—If, at any time after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay the scheduled loan repayments of principal and interest on the secured loan, the Secretary may, subject to subparagraph (C), allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

(ii) be scheduled to be amortized over the remaining term of the loan.

(C) CRITERIA.—

(i) IN GENERAL.—Any payment deferral under subparagraph (A) shall be contingent on the project meeting criteria established by the Secretary.

(ii) REPAYMENT STANDARDS.—The criteria established under clause (i) shall include standards for reasonable assurance of repayment.

(4) PREPAYMENT.—

(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(d) SALE OF SECURED LOANS.—

(1) IN GENERAL.—Subject to paragraph (2), as soon as practicable after substantial completion of a project and after notifying the obligor, the Secretary may sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

(2) CONSENT OF OBLIGOR.—In making a sale or reoffering under paragraph (1), the Secretary may not change the original terms and condi-

tions of the secured loan without the written consent of the obligor.

(e) LOAN GUARANTEES.—

(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

(2) TERMS.—The terms of a guaranteed loan shall be consistent with the terms set forth in this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

(Added Pub. L. 105–178, title I, § 1503(a), June 9, 1998, 112 Stat. 245, § 183; renumbered § 603 and amended Pub. L. 109–59, title I, §§ 1601(d), 1602(b)(3), (5), (d), Aug. 10, 2005, 119 Stat. 1240, 1247.)

AMENDMENTS

2005—Pub. L. 109–59, § 1602(d), renumbered section 183 of this title as this section.

Subsec. (a)(1). Pub. L. 109–59, § 1601(d)(1), in subpars. (A) and (B) inserted ''of any project selected under section 602'' after ''costs'', added subpar. (C), and struck out concluding provisions which read as follows: ''of any project selected under section 182.''

Subsec. (a)(3). Pub. L. 109–59, § 1602(b)(3), substituted ''602(b)(2)(B)'' for ''182(b)(2)(B)''.

Subsec. (a)(4). Pub. L. 109–59, § 1601(d)(2), substituted ''The execution'' for ''The funding'' and struck out before period at end '', except that—

''(A) the Secretary may fund an amount of the secured loan not to exceed the capital reserve subsidy amount determined under paragraph (3) prior to the obligations receiving an investment-grade rating; and

''(B) the Secretary may fund the remaining portion of the secured loan only after the obligations have received an investment-grade rating by at least 1 rating agency''.

Subsec. (b)(2). Pub. L. 109–59, § 1601(d)(3)(A), inserted ''the lesser of'' before ''33 percent'' and ''or, if the secured loan does not receive an investment grade rating, the amount of the senior project obligations'' before period at end.

Subsec. (b)(3)(A)(i). Pub. L. 109–59, § 1601(d)(3)(B), inserted ''that also secure the senior project obligations'' after ''sources''.

Subsec. (b)(4). Pub. L. 109–59, § 1601(d)(3)(C), struck out ''marketable'' before ''United States Treasury securities''.

Subsec. (b)(8). Pub. L. 109–59, § 1602(b)(5), substituted ''this chapter'' for ''this subchapter''.

Subsec. (c)(3) to (5). Pub. L. 109–59, § 1601(d)(4), redesignated pars. (4) and (5) as (3) and (4), respectively, in par. (3)(A), struck out ''during the 10 years'' after ''at any time'', in par. (3)(B)(ii), substituted ''loan'' for ''loan beginning not later than 10 years after the date of substantial completion of the project in accordance with paragraph (1)'', and struck out heading and text of former par. (3). Text read as follows: ''The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.''

§ 604. Lines of credit

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 602.

(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget and each rating agency providing a preliminary rating opinion letter under section 602(b)(2)(B), shall determine an appropriate capital reserve subsidy amount for each line of credit, taking into account such letter.

(4) INVESTMENT-GRADE RATING REQUIREMENT.—The funding of a line of credit under this section shall be contingent on the project's senior obligations receiving an investment-grade rating from at least 1 rating agency.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNTS.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(3) DRAWS.—Any draw on the line of credit shall represent a direct loan and shall be made only if net revenues from the project (including capitalized interest but not including reasonably required financing reserves) are insufficient to pay the costs specified in subsection (a)(2).

(4) INTEREST RATE.—The interest rate on a direct loan resulting from a draw on the line of credit shall be not less than the yield on 30-year United States Treasury securities as of the date of execution of the line of credit agreement.

(5) SECURITY.—The line of credit—

(A) shall—

(i) be payable, in whole or in part, from tolls, user fees, or other dedicated revenue sources that also secure the senior project obligations; and

(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(6) PERIOD OF AVAILABILITY.—The full amount of the line of credit, to the extent not drawn upon, shall be available during the period beginning on the date of substantial completion of the project and ending not later than 10 years after that date.

(7) RIGHTS OF THIRD-PARTY CREDITORS.—

(A) AGAINST FEDERAL GOVERNMENT.—A third-party creditor of the obligor shall not

have any right against the Federal Government with respect to any draw on the line of credit.

(B) ASSIGNMENT.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the lenders' behalf.

(8) NONSUBORDINATION.—A direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(9) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of providing a line of credit under this section.

(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A project that receives a line of credit under this section also shall not receive a secured loan or loan guarantee under section 603 of an amount that, combined with the amount of the line of credit, exceeds 33 percent of eligible project costs.

(c) REPAYMENT.—

(1) TERMS AND CONDITIONS.—The Secretary shall establish repayment terms and conditions for each direct loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) TIMING.—All repayments of principal or interest on a direct loan under this section shall be scheduled to commence not later than 5 years after the end of the period of availability specified in subsection (b)(6) and to conclude, with full repayment of principal and interest, by the date that is 25 years after the end of the period of availability specified in subsection (b)(6).

(Added Pub. L. 105–178, title I, § 1503(a), June 9, 1998, 112 Stat. 247, § 184; renumbered § 604 and amended Pub. L. 109–59, title I, §§ 1601(e), 1602(b)(4), (d), Aug. 10, 2005, 119 Stat. 1241, 1247.)

AMENDMENTS

2005—Pub. L. 109–59, § 1602(d), renumbered section 184 of this title as this section.

Subsec. (a)(1). Pub. L. 109–59, § 1602(b)(4)(A), substituted ''602'' for ''182''.

Subsec. (a)(3). Pub. L. 109–59, § 1602(b)(4)(B), substituted ''602(b)(2)(B)'' for ''182(b)(2)(B)''.

Subsec. (b)(2). Pub. L. 109–59, § 1601(e)(1)(A), added par. (2) and struck out heading and text of former par. (2). Text read as follows:

''(A) TOTAL AMOUNT.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

''(B) 1-YEAR DRAWS.—The amount drawn in any 1 year shall not exceed 20 percent of the total amount of the line of credit.''

Subsec. (b)(3). Pub. L. 109–59, § 1601(e)(1)(B), substituted ''but not including reasonably required financing reserves'' for '', any debt service reserve fund, and any other available reserve''.

Subsec. (b)(4). Pub. L. 109–59, § 1601(e)(1)(C), struck out ''marketable'' before ''United States Treasury securities'' and substituted ''date of execution of the line of credit agreement'' for ''date on which the line of credit is obligated''.

Subsec. (b)(5)(A)(i). Pub. L. 109–59, § 1601(e)(1)(D), inserted ''that also secure the senior project obligations'' after ''sources''.

Subsec. (b)(6). Pub. L. 109–59, § 1601(e)(1)(E), substituted ''The full amount of the line of credit, to the extent not drawn upon,'' for ''The line of credit''.

Subsec. (b)(10). Pub. L. 109–59, § 1602(b)(4)(C), substituted ''603'' for ''183''.

Subsec. (c)(2). Pub. L. 109–59, § 1601(e)(2)(A), struck out ''scheduled'' before ''repayments'', inserted ''be scheduled to'' after ''shall'', and substituted ''to conclude, with full repayment of principal and interest,'' for ''be fully repaid, with interest,''.

Subsec. (c)(3). Pub. L. 109–59, § 1601(e)(2)(B), struck out heading and text of par. (3). Text read as follows: ''The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.''

§ 605. Program administration

(a) REQUIREMENT.—The Secretary shall establish a uniform system to service the Federal credit instruments made available under this chapter.

(b) FEES.—

(1) IN GENERAL.—The Secretary may collect and spend fees, contingent upon authority being provided in appropriations Acts, at a level that is sufficient to cover—

(A) the costs of services of expert firms retained pursuant to subsection (d); and

(B) all or a portion of the costs to the Federal Government of servicing the Federal credit instruments.

(c) SERVICER.—

(1) IN GENERAL.—The Secretary may appoint a financial entity to assist the Secretary in servicing the Federal credit instruments.

(2) DUTIES.—The servicer shall act as the agent for the Secretary.

(3) FEE.—The servicer shall receive a servicing fee, subject to approval by the Secretary.

(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

(Added Pub. L. 105–178, title I, § 1503(a), June 9, 1998, 112 Stat. 249, § 185; renumbered § 605 and amended Pub. L. 109–59, title I, §§ 1601(f), 1602(b)(5), (d), Aug. 10, 2005, 119 Stat. 1241, 1247.)

AMENDMENTS

2005—Pub. L. 109–59, § 1602(d), renumbered section 185 of this title as this section.

Pub. L. 109–59, § 1601(f), amended section catchline and text generally, substituting provisions relating to establishment by the Secretary of a uniform system to service the Federal credit instruments made available under this subchapter for provisions authorizing a State to identify a local servicer to assist the Secretary in servicing the Federal credit instrument made available under this subchapter.

Subsec. (a). Pub. L. 109–59, § 1602(b)(5), substituted ''this chapter'' for ''this subchapter''.

§ 606. State and local permits

The provision of financial assistance under this chapter with respect to a project shall not—

(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

(Added Pub. L. 105–178, title I, § 1503(a), June 9, 1998, 112 Stat. 249, § 186; renumbered § 606 and amended Pub. L. 109–59, title I, § 1602(b)(5), (d), Aug. 10, 2005, 119 Stat. 1247.)

AMENDMENTS

2005—Pub. L. 109–59, § 1602(d), renumbered section 186 of this title as this section.

Pub. L. 109–59, § 1602(b)(5), substituted ''this chapter'' for ''this subchapter'' in introductory provisions.

§ 607. Regulations

The Secretary may issue such regulations as the Secretary determines appropriate to carry out this chapter.

(Added Pub. L. 105–178, title I, § 1503(a), June 9, 1998, 112 Stat. 249, § 187; renumbered § 607 and amended Pub. L. 109–59, title I, § 1602(b)(5), (d), Aug. 10, 2005, 119 Stat. 1247.)

AMENDMENTS

2005—Pub. L. 109–59, § 1602(d), renumbered section 187 of this title as this section.

Pub. L. 109–59, § 1602(b)(5), substituted ''this chapter'' for ''this subchapter''.

§ 608. Funding

(a) FUNDING.—

(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this chapter $122,000,000 for each of fiscal years 2005 through 2009.

(2) AVAILABILITY.—Amounts made available to carry out this chapter shall remain available until expended.

(3) ADMINISTRATIVE COSTS.—From funds made available to carry out this chapter, the Secretary may use, for the administration of this chapter, not more than $2,200,000 for each of fiscal years 2005 through 2009.

(b) CONTRACT AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this chapter shall impose upon the United States a contractual obligation to fund the Federal credit investment.

(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.

(Added and amended Pub. L. 105–178, title I, § 1503(a), (c), June 9, 1998, 112 Stat. 249, § 188; Pub. L. 105–206, title IX, § 9007(a), July 22, 1998, 112 Stat. 849; Pub. L. 108–88, § 5(a)(10), Sept. 30, 2003, 117 Stat. 1115; Pub. L. 108–202, § 5(a)(10), Feb. 29, 2004, 118 Stat. 481; Pub. L. 108–224, § 4(a)(10), Apr. 30, 2004, 118 Stat. 629; Pub. L. 108–263, § 4(a)(10), June 30, 2004, 118 Stat. 700; Pub. L. 108–280, § 4(a)(10), July 30, 2004, 118 Stat. 879; Pub. L. 108–310, § 5(a)(10), Sept. 30, 2004, 118 Stat. 1149; Pub. L. 109–14, § 4(a)(10), May 31, 2005, 119 Stat. 327; Pub. L. 109–20, § 4(a)(10), July 1, 2005, 119 Stat. 348; Pub. L. 109–35, § 4(a)(10), July 20, 2005, 119 Stat. 381; Pub. L. 109–37, § 4(a)(10), July 22, 2005, 119 Stat. 396; Pub. L. 109–40, § 4(a)(10), July 28, 2005, 119 Stat. 413; renumbered § 608 and amended Pub. L. 109–59, title I, §§ 1601(g), 1602(b)(5), (d), Aug. 10, 2005, 119 Stat. 1242, 1247.)

AMENDMENTS

2005—Pub. L. 109–59, § 1602(d), renumbered section 188 of this title as this section.

Pub. L. 109–59, § 1601(g), reenacted section catchline without change and amended text generally, substituting provisions relating to funding for fiscal years 2005 through 2009 and contract authority, consisting of subsecs. (a) and (b), for provisions relating to funding for fiscal years 1999 through 2004 and for the period of Oct. 1, 2004, through July 30, 2005, contract authority, and limitations on credit amounts, consisting of subsecs. (a) to (c).

Subsec. (a)(1). Pub. L. 109–59, § 1602(b)(5), substituted ''this chapter'' for ''this subchapter''.

Subsec. (a)(1)(G). Pub. L. 109–40, § 4(a)(10)(A), added subpar. (G) and struck out former subpar. (G) which read as follows: ''$106,849,340 for the period of October 1, 2004, through July 27, 2005.''

Pub. L. 109–37, § 4(a)(10)(A), added subpar. (G) and struck out former subpar. (G) which read as follows: ''$105,300,000 for the period of October 1, 2004, through July 21, 2005.''

Pub. L. 109–35, § 4(a)(10)(A), added subpar. (G) and struck out former subpar. (G) which read as follows: ''$104,000,000 for the period of October 1, 2004, through July 19, 2005.''

Pub. L. 109–20, § 4(a)(10)(A), added subpar. (G) and struck out former subpar. (G) which read as follows: ''$97,500,000 for the period of October 1, 2004, through June 30, 2005.''

Pub. L. 109–14, § 4(a)(10)(A), added subpar. (G) and struck out former subpar. (G) which read as follows: ''$86,666,667 for the period of October 1, 2004, through May 31, 2005.''

Subsec. (a)(2). Pub. L. 109–40, § 4(a)(10)(B), substituted ''$1,660,000 for the period of October 1, 2004, through July 30, 2005'' for ''$1,643,836 for the period of October 1, 2004, through July 27, 2005''.

Pub. L. 109–37, § 4(a)(10)(B), substituted ''$1,643,836 for the period of October 1, 2004, through July 27, 2005'' for ''$1,620,000 for the period of October 1, 2004, through July 21, 2005''.

Pub. L. 109–35, § 4(a)(10)(B), substituted ''$1,620,000 for the period of October 1, 2004, through July 21, 2005'' for ''$1,600,000 for the period of October 1, 2004, through July 19, 2005''.

Pub. L. 109–20, § 4(a)(10)(B), substituted ''$1,600,000 for the period of October 1, 2004, through July 19, 2005'' for ''$1,500,000 for the period of October 1, 2004, through June 30, 2005''.

Pub. L. 109–14, § 4(a)(10)(B), substituted ''$1,500,000 for the period of October 1, 2004, through June 30, 2005'' for ''$1,333,333 for the period of October 1, 2004, through May 31, 2005''.

Subsec. (a)(3). Pub. L. 109–59, § 1602(b)(5), substituted ''administration of this chapter'' for ''administration of this subchapter''.

Subsec. (b)(1). Pub. L. 109–59, § 1602(b)(5), substituted ''this chapter'' for ''this subchapter''.

Subsec. (c). Pub. L. 109–40, § 4(a)(10)(C), substituted ''$2,158,000,000'' for ''$2,136,986,800'' in item relating to fiscal year 2005 in table.

Pub. L. 109–37, § 4(a)(10)(C), substituted ''$2,136,986,800'' for ''$2,106,000,000'' in item relating to fiscal year 2005 in table.

Pub. L. 109–35, § 4(a)(10)(C), substituted ''$2,106,000,000'' for ''$2,080,000,000'' in item relating to fiscal year 2005 in table.

Pub. L. 109–20, § 4(a)(10)(C), substituted ''$2,080,000,000'' for ''$1,950,000,000'' in item relating to fiscal year 2005 in table.

Pub. L. 109–14, § 4(a)(10)(C), substituted ''$1,950,000,000'' for ''$1,733,333,333'' in item relating to fiscal year 2005 in table.

2004—Subsec. (a)(1)(F). Pub. L. 108–280, § 4(a)(10)(A), added subpar. (F) and struck out former subpar. (F) which read as follows: ''$116,666,667 for the period of October 1, 2003, through July 31, 2004.''

Pub. L. 108–263, § 4(a)(10)(A), added subpar. (F) and struck out former subpar. (F) which read as follows:

''$105,000,000 for the period of October 1, 2003, through June 30, 2004.''

Pub. L. 108–224, § 4(a)(10)(A), added subpar. (F) and struck out former subpar. (F) which read as follows: ''$81,666,666 for the period of October 1, 2003, through April 30, 2004.''

Pub. L. 108–202, § 5(a)(10)(A), added subpar. (F) and struck out former subpar. (F) which read as follows: ''$58,333,333 for the period of October 1, 2003, through February 29, 2004.''

Subsec. (a)(1)(G). Pub. L. 108–310, § 5(a)(10)(A), added subpar. (G).

Subsec. (a)(2). Pub. L. 108–310, § 5(a)(10)(B), inserted ''and $1,333,333 for the period of October 1, 2004, through May 31, 2005'' before period at end.

Pub. L. 108–280, § 4(a)(10)(B), struck out ''2003 and $1,666,667 for the period of October 1, 2003, through July 31,'' before ''2004.''

Pub. L. 108–263, § 4(a)(10)(B), substituted ''$1,666,667 for the period of October 1, 2003, through July 31, 2004'' for ''$1,500,000 for the period of October 1, 2003, through June 30, 2004''.

Pub. L. 108–224, § 4(a)(10)(B), substituted ''$1,500,000 for the period of October 1, 2003, through June 30, 2004'' for ''$1,166,667 for the period of October 1, 2003, through April 30, 2004''.

Pub. L. 108–202, § 5(a)(10)(B), substituted ''$1,166,667 for the period of October 1, 2003, through April 30, 2004'' for ''$833,333 for the period of October 1, 2003, through February 29, 2004''.

Subsec. (c). Pub. L. 108–310, § 5(a)(10)(C), substituted ''2005'' for ''2004'' in introductory provisions and inserted item in table relating to fiscal year 2005.

Pub. L. 108–280, § 4(a)(10)(C), substituted ''$2,600,000,000'' for ''$2,166,666,667'' in item relating to fiscal year 2004 in table.

Pub. L. 108–263, § 4(a)(10)(C), substituted ''$2,166,666,667'' for ''$1,950,000,000'' in item relating to fiscal year 2004 in table.

Pub. L. 108–224, § 4(a)(10)(C), substituted ''$1,950,000,000'' for ''$1,516,666,667'' in item relating to fiscal year 2004 in table.

Pub. L. 108–202, § 5(a)(10)(C), substituted ''$1,516,666,667'' for ''$1,083,333,333'' in item relating to fiscal year 2004 in table.

2003—Subsec. (a)(1)(F). Pub. L. 108–88, § 5(a)(10)(A), added subpar. (F).

Subsec. (a)(2). Pub. L. 108–88, § 5(a)(10)(B), inserted ''and $833,333 for the period of October 1, 2003, through February 29, 2004'' after ''2003''.

Subsec. (c). Pub. L. 108–88, § 5(a)(10)(C), substituted ''2004'' for ''2003'' and inserted item in table relating to fiscal year 2004.

1998—Subsec. (a)(2). Pub. L. 105–178, § 1503(c)(1), as added by Pub. L. 105–206, § 9007(a), substituted ''1999'' for ''1998''.

Subsec. (c). Pub. L. 105–178, § 1503(c)(2), as added by Pub. L. 105–206, § 9007(a), substituted ''1999'' for ''1998'' in introductory provisions, and substituted table for former table which read as follows:

"Fiscal year:	Maximum amount of credit:
1998	$1,200,000,000
1999	$1,200,000,000
2000	$1,800,000,000
2001	$1,800,000,000
2002	$2,300,000,000
2003	$2,300,000,000.''

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

§ 609. Reports to Congress

On June 1, 2006, and every 2 years thereafter, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this chapter (other than section 610), including a recommendation as to whether the objectives of this chapter (other than section 610) are best served—

(1) by continuing the program under the authority of the Secretary;

(2) by establishing a Government corporation or Government-sponsored enterprise to administer the program; or

(3) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this chapter (other than section 610) without Federal participation.

(Added Pub. L. 105–178, title I, § 1503(a), June 9, 1998, 112 Stat. 250, § 189; renumbered § 609 and amended Pub. L. 109–59, title I, §§ 1601(h), 1602(d), Aug. 10, 2005, 119 Stat. 1242, 1247.)

AMENDMENTS

2005—Pub. L. 109–59, § 1602(d), renumbered section 189 of this title as this section.

Pub. L. 109–59, § 1601(h), substituted ''Reports'' for ''Report'' in section catchline, ''On June 1, 2006, and every 2 years thereafter,'' for ''Not later than 4 years after the date of enactment of this subchapter,'' in introductory provisions, and ''chapter (other than section 610)'' for ''subchapter'' wherever appearing.

§ 610. State infrastructure bank program

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) CAPITAL PROJECT.—The term ''capital project'' has the meaning such term has under section 5302 of title 49.

(2) OTHER FORMS OF CREDIT ASSISTANCE.—The term ''other forms of credit assistance'' includes any use of funds in an infrastructure bank—

(A) to provide credit enhancements;

(B) to serve as a capital reserve for bond or debt instrument financing;

(C) to subsidize interest rates;

(D) to insure or guarantee letters of credit and credit instruments against credit risk of loss;

(E) to finance purchase and lease agreements with respect to transit projects;

(F) to provide bond or debt financing instrument security; and

(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which such assistance is being provided.

(3) STATE.—The term ''State'' has the meaning such term has under section 401.

(4) CAPITALIZATION.—The term ''capitalization'' means the process used for depositing funds as initial capital into a State infrastructure bank to establish the infrastructure bank.

(5) COOPERATIVE AGREEMENT.—The term ''cooperative agreement'' means written consent between a State and the Secretary which sets

forth the manner in which the infrastructure bank established by the State in accordance with this section will be administered.

(6) LOAN.—The term ''loan'' means any form of direct financial assistance from a State infrastructure bank that is required to be repaid over a period of time and that is provided to a project sponsor for all or part of the costs of the project.

(7) GUARANTEE.—The term ''guarantee'' means a contract entered into by a State infrastructure bank in which the bank agrees to take responsibility for all or a portion of a project sponsor's financial obligations for a project under specified conditions.

(8) INITIAL ASSISTANCE.—The term ''initial assistance'' means the first round of funds that are loaned or used for credit enhancement by a State infrastructure bank for projects eligible for assistance under this section.

(9) LEVERAGE.—The term ''leverage'' means a financial structure used to increase funds in a State infrastructure bank through the issuance of debt instruments.

(10) LEVERAGED.—The term ''leveraged'', as used with respect to a State infrastructure bank, means that the bank has total potential liabilities that exceed the capital of the bank.

(b) COOPERATIVE AGREEMENTS.—Subject to the provisions of this section, the Secretary may enter into cooperative agreements with States for the establishment of State infrastructure banks for making loans and providing other forms of credit assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

(c) INTERSTATE COMPACTS.—

(1) IN GENERAL.—Congress grants consent to two or more of the States, entering into a cooperative agreement under subsection (a) with the Secretary for the establishment by such States of a multistate infrastructure bank in accordance with this section, to enter into an interstate compact establishing such bank in accordance with this section.

(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

(d) FUNDING.—

(1) HIGHWAY ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank to deposit into the highway account of the bank not to exceed—

(A) 10 percent of the funds apportioned to the State for each of fiscal years 2005 through 2009 under each of sections 104(b)(1), 104(b)(3), 104(b)(4), and 144; and

(B) 10 percent of the funds allocated to the State for each of such fiscal years under section 105.

(2) TRANSIT ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under section 5307, 5309, or 5311 of title 49, to deposit into the transit account of the bank not to exceed 10 percent of the funds made available to the State or other recipient in each of fiscal years 2005 through 2009 for capital projects under each of such sections.

(3) RAIL ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under subtitle V of title 49, to deposit into the rail account of the bank funds made available to the State or other recipient in each of fiscal years 2005 through 2009 for capital projects under such subtitle.

(4) CAPITAL GRANTS.—

(A) HIGHWAY ACCOUNT.—Federal funds deposited into a highway account of a State infrastructure bank under paragraph (1) shall constitute for purposes of this section a capitalization grant for the highway account of the bank.

(B) TRANSIT ACCOUNT.—Federal funds deposited into a transit account of a State infrastructure bank under paragraph (2) shall constitute for purposes of this section a capitalization grant for the transit account of the bank.

(C) RAIL ACCOUNT.—Federal funds deposited into a rail account of a State infrastructure bank under paragraph 3 shall constitute for purposes of this section a capitalization grant for the rail account of the bank.

(5) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds in a State infrastructure bank that are attributed to urbanized areas of a State with urbanized populations of over 200,000 under section 133(d)(3) may be used to provide assistance with respect to a project only if the metropolitan planning organization designated for such area concurs, in writing, with the provision of such assistance.

(6) DISCONTINUANCE OF FUNDING.—If the Secretary determines that a State is not implementing the State's infrastructure bank in accordance with a cooperative agreement entered into under subsection (b), the Secretary may prohibit the State from contributing additional Federal funds to the bank.

(e) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—An infrastructure bank established under this section may make loans or provide other forms of credit assistance to a public or private entity in an amount equal to all or a part of the cost of carrying out a project eligible for assistance under this section. The amount of any loan or other form of credit assistance provided for the project may be subordinated to any other debt financing for the project. Initial assistance provided with respect to a project from Federal funds deposited into an infrastructure bank under this section may not be made in the form of a grant.

(f) ELIGIBLE PROJECTS.—Subject to subsection (e), funds in an infrastructure bank established under this section may be used only to provide assistance for projects eligible for assistance under this title and capital projects defined in section 5302 of title 49, and any other projects re-

lating to surface transportation that the Secretary determines to be appropriate.

(g) INFRASTRUCTURE BANK REQUIREMENTS.—In order to establish an infrastructure bank under this section, the State establishing the bank shall—

(1) deposit in cash, at a minimum, into each account of the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and deposited into such account; except that, if the deposit is into the highway account of the bank and the State has a non-Federal share under section 120(b) that is less than 25 percent, the percentage to be deposited from non-Federal sources shall be the lower percentage of such grant;

(2) ensure that the bank maintains on a continuing basis an investment grade rating on its debt, or has a sufficient level of bond or debt financing instrument insurance, to maintain the viability of the bank;

(3) ensure that investment income derived from funds deposited to an account of the bank are—

(A) credited to the account;

(B) available for use in providing loans and other forms of credit assistance to projects eligible for assistance from the account; and

(C) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

(4) ensure that any loan from the bank will bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible;

(5) ensure that repayment of any loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

(6) ensure that the term for repaying any loan will not exceed 30 years after the date of the first payment on the loan; and

(7) require the bank to make an annual report to the Secretary on its status no later than September 30 of each year and such other reports as the Secretary may require under guidelines issued to carry out this section.

(h) APPLICABILITY OF FEDERAL LAW.—

(1) IN GENERAL.—The requirements of this title and title 49 that would otherwise apply to funds made available under this title or such title and projects assisted with those funds shall apply to—

(A) funds made available under this title or such title and contributed to an infrastructure bank established under this section, including the non-Federal contribution required under subsection (g); and

(B) projects assisted by the bank through the use of the funds,

except to the extent that the Secretary determines that any requirement of such title (other than sections 113 and 114 of this title and section 5333 of title 49) is not consistent with the objectives of this section.

(2) REPAYMENTS.—The requirements of this title and title 49 shall apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall be considered to be Federal funds.

(i) UNITED STATES NOT OBLIGATED.—The deposit of Federal funds into an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States for payment solely by virtue of the contribution. Any security or debt-financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

(j) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31 shall not apply to funds deposited into an infrastructure bank under this section.

(k) PROGRAM ADMINISTRATION.—For each of fiscal years 2005 through 2009, a State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

(Added Pub. L. 109–59, title I, §1602(a), Aug. 10, 2005, 119 Stat. 1243, §190; renumbered §610, Pub. L. 109–59, title I, §1602(d), Aug. 10, 2005, 119 Stat. 1247, as amended Pub. L. 110–244, title I, §101(f), June 6, 2008, 122 Stat. 1574.)

AMENDMENTS

2008—Pub. L. 110–244 amended Pub. L. 109–59, §1602(d). See 2005 Amendment note below.

2005—Pub. L. 109–59, as amended by Pub. L. 110–244, renumbered section 190 of this title as this section.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–244 effective as of the date of enactment of Pub. L. 109–59 (Aug. 10, 2005) and to be treated as included in Pub. L. 109–59 as of that date, and provisions of Pub. L. 109–59, as in effect on the day before June 6, 2008, that are amended by Pub. L. 110–244 to be treated as not enacted, see section 121(b) of Pub. L. 110–244, set out as a note under section 101 of this title.