

NATIONAL INFRASTRUCTURE DEVELOPMENT BANK ACT

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SUMMARY

The National Infrastructure Development Bank Act would establish a National Infrastructure Development Bank, modeled after the European Investment Bank, which would leverage private sector dollars to invest in transportation, environmental, energy and telecommunications infrastructure projects. The Bank would objectively consider the economic, environmental, social benefits and costs of infrastructure projects, as well as other specific criteria, and fund projects of significance. The Bank would provide investment opportunities that would supplement current federal programs creating jobs, spurring economic growth and rebuilding an infrastructure system for the 21st century.

BACKGROUND

According to the American Society of Civil Engineers, the current condition of the infrastructure in the United States earns a grade point average of D and an estimated \$2.2 trillion investment is needed over the next 5 years to meet adequate conditions. Every \$1 billion in federal funds invested in infrastructure creates or sustains approximately 47,500 jobs and \$6.2 billion in economic activity. Investing in our nation's infrastructure—roads, bridges, highways, transit, housing, water systems, energy grids, broadband and so on—is therefore critical to moving our economy from recovery to long-term growth, keeping the United States competitive globally and improving our way of life.

Given the challenges we face and the federal government's difficult fiscal outlook, it is clear that a bold new infrastructure policy that includes an innovative financing mechanism is needed. Members of Congress have in the past offered proposals to create special-purpose entities to help finance investment in infrastructure and Congress has created innovative programs such as the Department of Transportation's Transportation Infrastructure Finance and Innovation Act (TIFIA) program which provides assistance to public or private surface transportation projects that have dedicated revenues for repayment. Now is the time to create an entity, a development bank for America, to leverage the hundreds of billions of dollars in private monies available to invest in infrastructure and objectively steer these funds to significant projects across the country.

SUPPORT

Co-sponsors: (Ellison, Israel, Weiner) Berkley, Blumenauer, Bordallo, Courtney, Delahunt, Driehaus, Etheridge, Farr, Fattah, Frank, Hirono, Larson, Lynch, Massa, McDermott, McGovern, Gwen Moore, Tim Ryan, Schakowsky, Sutton, Van Hollen, Welch, Woolsey and Yarmuth.

Endorsements: American Society of Civil Engineers, Building and Construction Trades Department (AFL-CIO), Campaign for America's Future, National Construction Alliance II (United Brotherhood of Carpenters and the International Union of Operating Engineers), PolicyLink, Service Employees International Union and the U.S. Chamber of Commerce, as well as Amb. Felix G. Rohatyn (Co-chair on the Commission on Public Infrastructure of the Center for Strategic and International Studies) and Bernard L. Schwartz (Chairman and CEO of BLS Investments).

President Obama's budget includes \$25 billion, \$5 billion annually over 5 years, "to expand and enhance existing Federal infrastructure investments through a National Infrastructure Bank designed to deliver financial resources to priority infrastructure projects of significant national or regional economic benefit."

KEY PROVISIONS

- The Bank would include a Board of Directors with authority to consider projects based on objective criteria and provide financial assistance to qualified infrastructure projects, as well as an Executive Committee, Risk Management Committee and Audit Committee to carry out the day-to-day operations, manage risk and audit the operations of the Bank.
- The 5 member Board would, among other things, make senior and subordinated loans and purchase senior and subordinated debt securities; issue and sell debt securities; issue “public benefit” bonds; make loan guarantees; borrow on the global capital market; and purchase, pool, and sell infrastructure-related loans and securities.
- The 9 member Executive Committee would establish disclosure and application procedures for entities nominating projects for assistance; accept project proposals; place approved projects on a list for consideration for financial assistance from the Board; and provide technical assistance to entities receiving financing from the Bank.
- The 5 member Risk Management Committee would create financial, credit, and operational risk management guidelines; ensure diversification of lending activities by both region and infrastructure project type; create conforming standards for infrastructure finance securities; monitor financial, credit and operational exposure of the Bank; and provide financial recommendations to the Board.
- The 5 member Audit Committee would provide internal controls and internal auditing activities; maintain responsibility for the accounting activities; issue financial reports; and work with outside auditors and public accountants appointed by the Board.
- The Bank would conduct analyses of projects that take into account the economic, environmental, social benefits, and costs of each project, prioritizing projects that are of regional or national significance. The Bank would also use criteria specific to the type of infrastructure project-transportation, environment, energy or telecommunications-such as job creation, including for women and minorities, reduction in carbon emissions and public health benefits.
- The Bank would operate with \$250 billion in total subscribed capital, including \$25 billion authorized to be appropriated over 5 years as paid-in-capital. The bill allows an aggregate amount of outstanding loans and guarantees of up to 250 percent of the Bank’s total subscribed capital, leading to up to \$625 billion in infrastructure investment capability.

SECTION-BY-SECTION SUMMARY

Section 1: Short Title. “National Infrastructure Development Bank Act of 2009”.

Section 2: Findings. This section provides key findings demonstrating the need to invest in a broad range of infrastructure projects and finds that a United States Government-owned institution could provide an investment opportunity that takes advantage of the growing interest in infrastructure investment in the capital market—including central banks, pension funds, financial institutions, sovereign wealth funds and insurance companies—in order to help meet the current funding shortfall.

Section 3: Definitions. This section provides definitions of key terms including definitions of energy, environmental, telecommunications and transportation infrastructure projects, as well as 30+ year term “public benefit bonds.”

Section 4: Establishment of the Bank. The National Infrastructure Development Bank is established as a wholly owned Government corporation.

Section 5: Board of Directors. The section establishes the Bank Board, consisting of 5 Directors, appointed by the President with the advice and consent of the Senate with 2 of the directors required to have public sector experience and 3 with private sector experience, each serving a 6 year term with initial terms staggered.

The Board has the power to make senior and subordinated loans and purchase senior and subordinated debt securities; issue and sell debt securities of the Bank; issue “public benefit” bonds; make loan guarantees; make agreements and contracts; borrow on the global capital market and lend to regional, State, and local entities and commercial banks; purchase, pool, and sell infrastructure-related loans and securities; monitor and oversee infrastructure projects; make use of the services, facilities, and property of any Federal agency; acquire, lease, pledge, exchange, and dispose of real and personal property; sue and be sued in the Bank’s corporate capacity; indemnify the directors and officers of the Bank for liabilities arising out of the actions of the directors and officers in such capacity; serve as the primary liaison between the Bank, Congress, the executive branch and state and local governments; and purchase on the open market any of the Bank’s outstanding obligations.

The Board may not issue any debt security without the prior consent of the Treasury Secretary or issue any voting security in the Bank to any entity other than the Treasury Secretary.

Section 6: Executive Committee. This section establishes the Bank’s Executive Committee consisting of 9 members, headed by an executive director, serving 6 year terms, and including a chief compliance officer, chief financial officer, chief asset and liability management officer, chief loan origination officer, chief operations officer, chief risk officer, chief treasury officer and general counsel. Members shall have demonstrated experience and expertise in transportation infrastructure, environmental infrastructure, energy infrastructure, telecommunications infrastructure, economic development, workforce development, public health or private or public finance. The Executive Committee shall establish disclosure and application procedures for entities nominating projects for assistance; accept, for consideration, project proposals relating to the development of infrastructure projects; provide recommendations to the Board and place project proposals accepted by the Executive Committee on a list for consideration for financial assistance from the Board; and provide technical assistance to entities receiving financing from the Bank.

Section 7: Risk Management Committee. This section establishes the Bank’s Risk Management Committee consisting of 5 members, headed by the chief risk officer, appointed to 6 year terms, with demonstrated experience and expertise in Treasury and asset and liability management; investment regulations; insurance; credit risk management and credit evaluations; or related disciplines. The Risk Management Committee shall

create financial, credit, and operational risk management guidelines and policies to be adhered to by the Bank; set guidelines to ensure diversification of lending activities by both region and infrastructure project type; create conforming standards for infrastructure finance securities; monitor financial, credit and operational exposure of the Bank; and provide financial recommendations to the Board.

Section 8: Audit Committee. This section establishes an Audit Committee consisting of 5 members, headed by the chief compliance officer, appointed to 6 year terms, with demonstrated experience and expertise in internal auditing, internal investigations, accounting practices and financing practices. The Audit Committee shall: provide internal controls and internal auditing activities for the Bank; maintain responsibility for the accounting activities of the Bank; issue financial reports of the Bank and complete reports with outside auditors and public accountants appointed by the Board.

Section 9: Personnel. This section provides that the chairperson of the Board, executive director, chief risk officer, and chief compliance officer shall appoint, remove, fix the compensation of, and define the duties of such qualified personnel to serve at the Bank.

Section 10: Eligibility criteria for assistance from the bank. This section establishes that the Bank shall conduct an analysis that takes into account the economic, environmental, social benefits, and costs of each project under consideration for financial assistance under this Act, prioritizing projects that contribute to economic growth, lead to job creation, and are of regional or national significance. The Bank shall also consider the means by which development of the infrastructure project under consideration is being financed; the likelihood that the provision of assistance by the Bank will cause such development to proceed more promptly and with lower costs for financing than would be the case without such assistance; and the extent to which the provision of assistance by the Bank maximizes the level of private investment in such infrastructure project while providing a key public benefit.

This section also provides specific criteria for transportation infrastructure projects-job creation including workforce development for women and minorities; reduction in carbon emissions; reduction in surface and air traffic congestion; smart growth in urban areas; poverty and inequality reduction; public health benefit; and use of smart tolling, such as vehicle miles traveled and congestion pricing, for highway, road, and bridge projects.

It includes criteria for environmental infrastructure projects-public health benefits; pollution reduction; poverty and inequality reduction; and job creation, including workforce development for women and minorities.

It includes criteria for energy infrastructure projects-job creation, including workforce development for women and minorities; poverty and inequality reduction; reduction in carbon emissions; smart growth in urban areas; expanded use of renewable energy, including hydroelectric, solar, and wind; development of a smart grid; and energy efficient building, school and public housing modernization (including improvement of the physical shape and layout; environmental improvement; public health benefits and mobility improvements for residents in public housing).

It includes criteria for telecommunications infrastructure projects-the extent to which assistance expands or improves broadband and wireless services in rural and disadvantaged communities; poverty and inequality reduction; and job creation, including work force development for women and minorities.

The section provides for participation of other relevant agency personnel during project consideration by the Executive Committee and the Board.

Section 11: Exemption from local tax. This section provides that all notes, debentures and bonds shall be exempt, both as to principal and interest, from all taxation. The Bank, including its franchise, its capital, reserves, and surpluses, and its income, shall be exempt from taxation.

Section 12: Status and applicability of certain federal laws. This section provides that the Bank shall comply with all Federal laws regulating the budgetary and auditing practices of a government corporation. Any obligation issued by the Bank under this Act shall be an obligation supported by the full faith and credit of the United States. All debt securities and other obligations issued by the Bank pursuant to this Act shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission. The priority established in favor of the United States shall not apply with respect to any indebtedness of the Bank. The Federal Reserve banks may act as depositaries for, or custodians or fiscal agents of, the Bank. Any assistance providing under this Act shall be valid and lawful notwithstanding any State or local restrictions regarding extensions of credit or other benefits to private persons or entities, or other similar restrictions.

Section 13: Compliance with Davis-Bacon Act. This section provides that projects assisted by the Bank shall be compliant with the Davis-Bacon Act.

Section 14: Applicability of certain state laws. This section provides that any assistance provided to an entity by the Bank shall be lawful notwithstanding any State or local restrictions regarding extensions of credit or other benefits to private persons or entities.

Section 15: Audits; reports to president and Congress. This section provides that the Bank's books shall be subject to an annual audit by independent public accountants appointed by the Board; the Board shall submit a report to the President and the Congress at the end of each fiscal year detailing the Bank's operations; the GAO shall submit a report to Congress after 5 years; and the Bank shall maintain adequate books and records including a publically accessible database detailing the funding for each project.

Section 16: Capitalization of the Bank. This section authorizes to be appropriated \$5 billion annually over 5 years as paid in capital to the Bank. Paid in capital shall represent 10 percent of the total subscribed capital with the remaining 90 percent as callable capital subject to call from the Secretary only as and when required by the Bank to meet its obligations on borrowing of funds for inclusion in its ordinary capital resources or guarantees chargeable to such resources. At any time, the aggregate amount outstanding of public benefit bonds issued by the Bank shall not exceed 250 percent of its total subscribed capital. This provides the Bank with \$250 billion in total subscribed capital and \$625 billion in total loan making capability.

Section 17: Sunset. The Bank shall cease to exist after 15 years.