112TH CONGRESS  
1ST SESSION  

S. 652

To facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of an American Infrastructure Financing Authority, to provide for an extension of the exemption from the alternative minimum tax treatment for certain tax-exempt bonds, and for other purposes.

IN THE SENATE OF THE UNITED STATES  
MARCH 17, 2011

Mr. KERRY (for himself, Mrs. Hutchison, Mr. Warner, and Mr. Graham) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of an American Infrastructure Financing Authority, to provide for an extension of the exemption from the alternative minimum tax treatment for certain tax-exempt bonds, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Building and Upgrading Infrastructure for Long-Term Development”.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purpose.
Sec. 3. Definitions.

TITLE I—AMERICAN INFRASTRUCTURE FINANCING AUTHORITY

Sec. 101. Establishment and general authority of AIFA.
Sec. 102. Voting members of the Board of Directors.
Sec. 103. Chief executive officer of AIFA.
Sec. 104. Powers and duties of the Board of Directors.
Sec. 105. Senior management.
Sec. 106. Special Inspector General for AIFA.
Sec. 107. Other personnel.
Sec. 108. Compliance.

TITLE II—TERMS AND LIMITATIONS ON DIRECT LOANS AND LOAN GUARANTEES

Sec. 201. Eligibility criteria for assistance from AIFA and terms and limitations of loans.
Sec. 202. Loan terms and repayment.
Sec. 203. Compliance and enforcement.
Sec. 204. Audits; reports to the President and Congress.

TITLE III—FUNDING OF AIFA

Sec. 301. Fees.
Sec. 302. Self-sufficiency of AIFA.
Sec. 303. Funding.
Sec. 304. Contract authority.

TITLE IV—EXTENSION OF EXEMPTION FROM ALTERNATIVE MINIMUM TAX TREATMENT FOR CERTAIN TAX-EXEMPT BONDS

Sec. 401. Extension of exemption from alternative minimum tax treatment for certain tax-exempt bonds.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) infrastructure has always been a vital element of the economic strength of the United States
and a key indicator of the international leadership of
the United States;

(2) the Erie Canal, the Hoover Dam, the rail-
roads, and the interstate highway system are all tes-
taments to American ingenuity and have helped pro-
pel and maintain the United States as the world’s
largest economy;

(3) according to the World Economic Forum’s
Global Competitiveness Report, the United States
fell to second place in 2009, and dropped to fourth
place overall in 2010, however, in the “Quality of
overall infrastructure” category of the same report,
the United States ranked twenty-third in the world;

(4) according to the World Bank’s 2010 Logis-
tic Performance Index, the capacity of countries to
efficiently move goods and connect manufacturers
and consumers with international markets is improv-
ing around the world, and the United States now
ranks seventh in the world in logistics-related infra-
structure behind countries from both Europe and
Asia;

(5) according to a January 2009 report from
the University of Massachusetts/Alliance for Amer-
ican Manufacturing entitled “Employment, Product-
tivity and Growth,” infrastructure investment is a
“highly effective engine of job creation” such that $1,000,000,000 in new investment in infrastructure results in 18,000 total jobs;

(6) 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 $2,200,000,000,000 investment is needed over the next 5 years to bring American infrastructure up to adequate condition;

(7) according to the National Surface Transportation Policy and Revenue Study Commission, $225,000,000,000 is needed annually from all sources for the next 50 years to upgrade the United States surface transportation system to a state of good repair and create a more advanced system;

(8) the current infrastructure financing mechanisms of the United States, both on the Federal and State level, will fail to meet current and foreseeable demands and will create large funding gaps;

(9) published reports state that there may not be enough demand for municipal bonds to maintain the same level of borrowing at the same rates, resulting in significantly decreased infrastructure investment at the State and local level;
(10) current funding mechanisms are not readily scalable and do not—

(A) serve large in-State or cross jurisdiction infrastructure projects, projects of regional or national significance, or projects that cross sector silos;

(B) sufficiently catalyze private sector investment; or

(C) ensure the optimal return on public resources;

(11) although grant programs of the United States Government must continue to play a central role in financing the transportation, environment, and energy infrastructure needs of the United States, current and foreseeable demands on existing Federal, State, and local funding for infrastructure expansion clearly exceed the resources to support these programs by margins wide enough to prompt serious concerns about the United States ability to sustain long-term economic development, productivity, and international competitiveness;

(12) the capital markets, including pension funds, private equity funds, mutual funds, sovereign wealth funds, and other investors, have a growing interest in infrastructure investment and represent
hundreds of billions of dollars of potential investment; and

(13) the establishment of a United States Government-owned, independent, professionally managed institution that could provide credit support to qualified infrastructure projects of regional and national significance, making transparent merit-based investment decisions based on the commercial viability of infrastructure projects, would catalyze the participation of significant private investment capital.

(b) PURPOSE.—The purpose of this Act is to facilitate investment in, and long-term financing of, economically viable infrastructure projects of regional or national significance in a manner that both complements existing Federal, State, local, and private funding sources for these projects and introduces a merit-based system for financing such projects, in order to mobilize significant private sector investment, create jobs, and ensure United States competitiveness through a self-sustaining institution that limits the need for ongoing Federal funding.

SEC. 3. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:
(1) AIFA.—The term “AIFA” means the American Infrastructure Financing Authority established under this Act.

(2) Blind trust.—The term “blind trust” means a trust in which the beneficiary has no knowledge of the specific holdings and no rights over how those holdings are managed by the fiduciary of the trust prior to the dissolution of the trust.

(3) Board of directors.—The term “Board of Directors” means Board of Directors of AIFA.

(4) Chairperson.—The term “Chairperson” means the Chairperson of the Board of Directors of AIFA.

(5) Chief executive officer.—The term “chief executive officer” means the chief executive officer of AIFA, appointed under section 103.

(6) Cost.—The term “cost” has the same meaning as in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(7) Direct loan.—The term “direct loan” has the same meaning as in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(8) Eligible entity.—The term “eligible entity” means an individual, corporation, partnership (including a public-private partnership), joint ven-
ture, trust, State, or other governmental entity, including a political subdivision or any other instrumentality of a State, or a revolving fund.

(9) INFRASTRUCTURE PROJECT.—

(A) IN GENERAL.—The term “eligible infrastructure project” means any transportation, water, or energy infrastructure project, or an aggregation of such infrastructure projects, as provided in this Act.

(B) TRANSPORTATION INFRASTRUCTURE PROJECT.—The term “transportation infrastructure project” means the construction, alteration, or repair, including the facilitation of intermodal transit, of the following subsectors:

(i) Highway or road.

(ii) Bridge.

(iii) Mass transit.

(iv) Inland waterways.

(v) Commercial ports.

(vi) Airports.

(vii) Air traffic control systems.

(viii) Passenger rail, including high-speed rail.

(ix) Freight rail systems.
(C) Water infrastructure project.—The term “water infrastructure project” means the construction, consolidation, alteration, or repair of the following subsectors:

(i) Water waste treatment facility.
(ii) Storm water management system.
(iii) Dam.
(iv) Solid waste disposal facility.
(v) Levee.
(vi) Open space management system.

(D) Energy infrastructure project.—The term “energy infrastructure project” means the construction, alteration, or repair of the following subsectors:

(i) Pollution reduced energy generation.
(ii) Transmission and distribution.
(iii) Storage.
(iv) Energy efficiency enhancements for buildings, including public and commercial buildings.

(E) Board authority to modify subsectors.—The Board of Directors may make modifications, at the discretion of the Board, to the subsectors described in this paragraph by a
vote of not fewer than 5 of the voting members
of the Board of Directors.

(10) **INVESTMENT-GRADE RATING.**—The term
“investment-grade rating” means a rating of BBB
minus, Baa3, or higher assigned to an infrastructure
project by a ratings agency.

(11) **LOAN GUARANTEE.**—The term “loan guar-
antee” has the same meaning as in section 502 of
the Federal Credit Reform Act of 1990 (2 U.S.C.
661a).

(12) **PUBLIC-PRIVATE PARTNERSHIP.**—The
term “public-private partnership” means any eligible
entity—

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

(ii) the activities of which, with respect to
such an infrastructure project, are subject to
regulation by a State or any instrumentality of
a State;
(B) which owns, leases, or operates or will own, lease, or operate, the project in whole or in part; and

(C) the participants in which include not fewer than 1 nongovernmental entity with significant investment and some control over the project or project vehicle.

(13) RURAL INFRASTRUCTURE PROJECT.—The term “rural infrastructure project” means an infrastructure project in a rural area, as that term is defined in section 343(a)(13)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)(A)).

(14) SECRETARY.—Unless the context otherwise requires, the term “Secretary” means the Secretary of the Treasury or the designee thereof.

(15) SENIOR MANAGEMENT.—The term “senior management” means the chief financial officer, chief risk officer, chief compliance officer, general counsel, chief lending officer, and chief operations officer of AIFA established under section 105, and such other officers as the Board of Directors may, by majority vote, add to senior management.

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

TITLE I—AMERICAN INFRASTRUCTURE FINANCING AUTHORITY

SEC. 101. ESTABLISHMENT AND GENERAL AUTHORITY OF AIFA.

(a) Establishment of AIFA.—The American Infrastructure Financing Authority is established as a wholly owned Government corporation.

(b) General Authority of AIFA.—AIFA shall provide direct loans and loan guarantees to facilitate infrastructure projects that are both economically viable and of regional or national significance, and shall have such other authority, as provided in this Act.

(c) Incorporation.—

(1) In general.—The Board of Directors first appointed shall be deemed the incorporator of AIFA, and the incorporation shall be held to have been effected from the date of the first meeting of the Board of Directors.

(2) Corporate office.—AIFA shall—

(A) maintain an office in Washington, DC; and
(B) for purposes of venue in civil actions, be considered to be a resident of Washington, DC.

(d) Responsibility of the Secretary.—The Secretary shall take such action as may be necessary to assist in implementing AIFA, and in carrying out the purpose of this Act.

(e) Rule of Construction.—Chapter 91 of title 31, United States Code, does not apply to AIFA, unless otherwise specifically provided in this Act.

SEC. 102. VOTING MEMBERS OF THE BOARD OF DIRECTORS.

(a) Voting Membership of the Board of Directors.—

(1) In General.—AIFA shall have a Board of Directors consisting of 7 voting members appointed by the President, by and with the advice and consent of the Senate, not more than 4 of whom shall be from the same political party.

(2) Chairperson.—One of the voting members of the Board of Directors shall be designated by the President to serve as Chairperson thereof.

(3) Congressional Recommendations.—Not later than 30 days after the date of enactment of this Act, the majority leader of the Senate, the mi-
nority leader of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives shall each submit a recommendation to the President for appointment of a member of the Board of Directors, after consultation with the appropriate committees of Congress.

(b) VOTING RIGHTS.—Each voting member of the Board of Directors shall have an equal vote in all decisions of the Board of Directors.

(c) QUALIFICATIONS OF VOTING MEMBERS.—Each voting member of the Board of Directors shall—

(1) be a citizen of the United States; and

(2) have significant demonstrated expertise in—

(A) the management and administration of a financial institution relevant to the operation of AIFA; or

(B) the financing, development, or operation of infrastructure projects.

(d) TERMS.—

(1) IN GENERAL.—Except as otherwise provided in this Act, each voting member of the Board of Directors shall be appointed for a term of 4 years.

(2) INITIAL STAGGERED TERMS.—Of the voting members first appointed to the Board of Directors—
(A) the initial Chairperson and 3 of the other voting members shall each be appointed for a term of 4 years; and

(B) the remaining 3 voting members shall each be appointed for a term of 2 years.

(3) Date of Initial Nominations.—The initial nominations for the appointment of all voting members of the Board of Directors shall be made not later than 60 days after the date of enactment of this Act.

(4) Beginning of Term.—The term of each of the initial voting members appointed under this section shall commence immediately upon the date of appointment, except that, for purposes of calculating the term limits specified in this subsection, the initial terms shall each be construed as beginning on January 22 of the year following the date of the initial appointment.

(5) Vacancies.—A vacancy in the position of a voting member of the Board of Directors shall be filled by the President, and a member appointed to fill a vacancy on the Board of Directors occurring before the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of that term.
(c) MEETINGS.—

(1) OPEN TO THE PUBLIC; NOTICE.—Except as provided in paragraph (3), all meetings of the Board of Directors shall be—

(A) open to the public; and

(B) preceded by reasonable public notice.

(2) FREQUENCY.—The Board of Directors shall meet not later than 60 days after the date on which all members of the Board of Directors are first appointed, at least quarterly thereafter, and otherwise at the call of either the Chairperson or 5 voting members of the Board of Directors.

(3) EXCEPTION FOR CLOSED MEETINGS.—The voting members of the Board of Directors may, by majority vote, close a meeting to the public if, during the meeting to be closed, there is likely to be disclosed proprietary or sensitive information regarding an infrastructure project under consideration for assistance under this Act. The Board of Directors shall prepare minutes of any meeting that is closed to the public, and shall make such minutes available as soon as practicable, not later than 1 year after the date of the closed meeting, with any necessary redactions to protect any proprietary or sensitive information.
(4) QUORUM.—For purposes of meetings of the
Board of Directors, 5 voting members of the Board
of Directors shall constitute a quorum.

(f) COMPENSATION OF MEMBERS.—Each voting
member of the Board of Directors shall be compensated
at a rate equal to the daily equivalent of the annual rate
of basic pay prescribed for level III of the Executive
Schedule under section 5314 of title 5, United States
Code, for each day (including travel time) during which
the member is engaged in the performance of the duties
of the Board of Directors.

(g) CONFLICTS OF INTEREST.—A voting member of
the Board of Directors may not participate in any review
or decision affecting an infrastructure project under con-
sideration for assistance under this Act, if the member has
or is affiliated with an entity who has a financial interest
in such project.

SEC. 103. CHIEF EXECUTIVE OFFICER OF AIFA.

(a) IN GENERAL.—The chief executive officer of
AIFA shall be a nonvoting member of the Board of Direc-
tors, who shall be responsible for all activities of AIFA,
and shall support the Board of Directors as set forth in
this Act and as the Board of Directors deems necessary
or appropriate.
(b) APPOINTMENT AND TENURE OF THE CHIEF EXECUTIVE OFFICER.—

(1) IN GENERAL.—The President shall appoint the chief executive officer, by and with the advice and consent of the Senate.

(2) TERM.—The chief executive officer shall be appointed for a term of 6 years.

(3) VACANCIES.—Any vacancy in the office of the chief executive officer shall be filled by the President, and the person appointed to fill a vacancy in that position occurring before the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of that term.

(c) QUALIFICATIONS.—The chief executive officer—

(1) shall have significant expertise in management and administration of a financial institution, or significant expertise in the financing and development of infrastructure projects; and

(2) may not—

(A) hold any other public office;

(B) have any financial interest in an infrastructure project then being considered by the Board of Directors, unless that interest is placed in a blind trust; or
(C) have any financial interest in an investment institution or its affiliates or any other entity seeking or likely to seek financial assistance for any infrastructure project from AIFA, unless any such interest is placed in a blind trust for the tenure of the service of the chief executive officer plus 2 additional years.

(d) Responsibilities.—The chief executive officer shall have such executive functions, powers, and duties as may be prescribed by this Act, the bylaws of AIFA, or the Board of Directors, including—

(1) responsibility for the development and implementation of the strategy of AIFA, including—

(A) the development and submission to the Board of Directors of the annual business plans and budget;

(B) the development and submission to the Board of Directors of a long-term strategic plan; and

(C) the development, revision, and submission to the Board of Directors of internal policies; and

(2) responsibility for the management and oversight of the daily activities, decisions, operations, and personnel of AIFA, including—
(A) the appointment of senior management, subject to approval by the voting members of the Board of Directors, and the hiring and termination of all other AIFA personnel;

(B) requesting the detail, on a reimbursable basis, of personnel from any Federal agency having specific expertise not available from within AIFA, following which request the head of the Federal agency may detail, on a reimbursable basis, any personnel of such agency reasonably requested by the chief executive officer;

(C) assessing and recommending in the first instance, for ultimate approval or disapproval by the Board of Directors, compensation and adjustments to compensation of senior management and other personnel of AIFA as may be necessary for carrying out the functions of AIFA;

(D) ensuring, in conjunction with the general counsel of AIFA, that all activities of AIFA are carried out in compliance with applicable law;

(E) overseeing the involvement of AIFA in all projects, including—
(i) developing eligible projects for AIFA financial assistance;

(ii) determining the terms and conditions of all financial assistance packages;

(iii) monitoring all infrastructure projects assisted by AIFA, including responsibility for ensuring that the proceeds of any loan made, guaranteed, or participated in are used only for the purposes for which the loan or guarantee was made;

(iv) preparing and submitting for approval by the Board of Directors the documents required under paragraph (1); and

(v) ensuring the implementation of decisions of the Board of Directors; and

(F) such other activities as may be necessary or appropriate in carrying out this Act.

(e) COMPENSATION.—

(1) IN GENERAL.—Any compensation assessment or recommendation by the chief executive officer under this section shall be without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

(2) CONSIDERATIONS.—The compensation assessment or recommendation required under this
subsection shall take into account merit principles, where applicable, as well as the education, experience, level of responsibility, geographic differences, and retention and recruitment needs in determining compensation of personnel.

SEC. 104. POWERS AND DUTIES OF THE BOARD OF DIRECTORS.

The Board of Directors shall—

(1) as soon as is practicable after the date on which all members are appointed, approve or disapprove senior management appointed by the chief executive officer;

(2) not later than 180 days after the date on which all members are appointed—

(A) develop and approve the bylaws of AIFA, including bylaws for the regulation of the affairs and conduct of the business of AIFA, consistent with the purpose, goals, objectives, and policies set forth in this Act;

(B) establish subcommittees, including an audit committee that is composed solely of members of the Board of Directors who are independent of the senior management of AIFA;
(C) develop and approve, in consultation with senior management, a conflict-of-interest policy for the Board of Directors and for senior management;

(D) approve or disapprove internal policies that the chief executive officer shall submit to the Board of Directors, including—

(i) policies regarding the loan application and approval process, including—

(I) disclosure and application procedures to be followed by entities in the course of nominating infrastructure projects for assistance under this Act;

(II) guidelines for the selection and approval of projects;

(III) specific criteria for determining eligibility for project selection, consistent with title II; and

(IV) standardized terms and conditions, fee schedules, or legal requirements of a contract or program, so as to carry out this Act; and

(ii) operational guidelines; and
(E) approve or disapprove a 1-year business plan and budget for AIFA;

(3) ensure that AIFA is at all times operated in a manner that is consistent with this Act, by—

(A) monitoring and assessing the effectiveness of AIFA in achieving its strategic goals;

(B) periodically reviewing internal policies;

(C) reviewing and approving annual business plans, annual budgets, and long-term strategies submitted by the chief executive officer;

(D) reviewing and approving annual reports submitted by the chief executive officer;

(E) engaging one or more external auditors, as set forth in this Act; and

(F) reviewing and approving all changes to the organization of senior management;

(4) appoint and fix, by a vote of 5 of the 7 voting members of the Board of Directors, and without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code, the compensation and adjustments to compensation of all AIFA personnel, provided that in appointing and fixing any compensation or adjustments to compensation under this paragraph, the Board shall—
(A) consult with, and seek to maintain comparability with, other comparable Federal personnel, as the Secretary may deem appropriate;

(B) consult with the Office of Personnel Management; and

(C) carry out such duties consistent with merit principles, where applicable, as well as the education, experience, level of responsibility, geographic differences, and retention and recruitment needs in determining compensation of personnel;

(5) establish such other criteria, requirements, or procedures as the Board of Directors may consider to be appropriate in carrying out this Act;

(6) serve as the primary liaison for AIFA in interactions with Congress, the Executive Branch, and State and local governments, and to represent the interests of AIFA in such interactions and others;

(7) approve by a vote of 5 of the 7 voting members of the Board of Directors any changes to the bylaws or internal policies of AIFA;

(8) have the authority and responsibility—
(A) to oversee entering into and carry out such contracts, leases, cooperative agreements, or other transactions as are necessary to carry out this Act with—

(i) any Federal department or agency;

(ii) any State, territory, or possession (or any political subdivision thereof, including State infrastructure banks) of the United States; and

(iii) any individual, public-private partnership, firm, association, or corporation;

(B) to approve of the acquisition, lease, pledge, exchange, and disposal of real and personal property by AIFA and otherwise approve the exercise by AIFA of all of the usual incidents of ownership of property, to the extent that the exercise of such powers is appropriate to and consistent with the purposes of AIFA;

(C) to determine the character of, and the necessity for, the obligations and expenditures of AIFA, and the manner in which the obligations and expenditures will be incurred, allowed, and paid, subject to this Act and other Federal
law specifically applicable to wholly owned Federal corporations;

(D) to execute, in accordance with applicable bylaws and regulations, appropriate instruments;

(E) to approve other forms of credit enhancement that AIFA may provide to eligible projects, as long as the forms of credit enhancements are consistent with the purposes of this Act and terms set forth in title II;

(F) to exercise all other lawful powers which are necessary or appropriate to carry out, and are consistent with, the purposes of AIFA;

(G) to sue or be sued in the corporate capacity of AIFA in any court of competent jurisdiction;

(H) to indemnify the members of the Board of Directors and officers of AIFA for any liabilities arising out of the actions of the members and officers in such capacity, in accordance with, and subject to the limitations contained in this Act;

(I) to review all financial assistance packages to all eligible infrastructure projects, as submitted by the chief executive officer and to
approve, postpone, or deny the same by majority vote;

(J) to review all restructuring proposals submitted by the chief executive officer, including assignation, pledging, or disposal of the interest of AIFA in a project, including payment or income from any interest owned or held by AIFA, and to approve, postpone, or deny the same by majority vote; and

(K) to enter into binding commitments, as specified in approved financial assistance packages;

(9) delegate to the chief executive officer those duties that the Board of Directors deems appropriate, to better carry out the powers and purposes of the Board of Directors under this section; and

(10) to approve a maximum aggregate amount of principal exposure of AIFA at any given time.

SEC. 105. SENIOR MANAGEMENT.

(a) In General.—Senior management shall support the chief executive officer in the discharge of the responsibilities of the chief executive officer.

(b) Appointment of Senior Management.—The chief executive officer shall appoint such senior managers as are necessary to carry out the purpose of AIFA, as
approved by a majority vote of the voting members of the Board of Directors.

(c) TERM.—Each member of senior management shall serve at the pleasure of the chief executive officer and the Board of Directors.

(d) REMOVAL OF SENIOR MANAGEMENT.—Any member of senior management may be removed, either by a majority of the voting members of the Board of Directors upon request by the chief executive officer, or otherwise by vote of not fewer than 5 voting members of the Board of Directors.

(e) SENIOR MANAGEMENT.—

(1) IN GENERAL.—Each member of senior management shall report directly to the chief executive officer, other than the Chief Risk Officer, who shall report directly to the Board of Directors.

(2) DUTIES AND RESPONSIBILITIES.—

(A) CHIEF FINANCIAL OFFICER.—The Chief Financial Officer shall be responsible for all financial functions of AIFA, provided that, at the discretion of the Board of Directors, specific functions of the Chief Financial Officer may be delegated externally.
(B) CHIEF RISK OFFICER.—The Chief Risk Officer shall be responsible for all functions of AIFA relating to—

(i) the creation of financial, credit, and operational risk management guidelines and policies;

(ii) the establishment of guidelines to ensure diversification of lending activities by region, infrastructure project type, and project size;

(iii) the creation of conforming standards for infrastructure finance agreements;

(iv) the monitoring of the financial, credit, and operational exposure of AIFA; and

(v) risk management and mitigation actions, including by reporting such actions, or recommendations of such actions to be taken, directly to the Board of Directors.

(C) CHIEF COMPLIANCE OFFICER.—The Chief Compliance Officer shall be responsible for all functions of AIFA relating to internal audits, accounting safeguards, and the enforce-
ment of such safeguards and other applicable requirements.

(D) GENERAL COUNSEL.—The General Counsel shall be responsible for all functions of AIFA relating to legal matters and, in consultation with the chief executive officer, shall be responsible for ensuring that AIFA complies with all applicable law.

(E) CHIEF OPERATIONS OFFICER.—The Chief Operations Officer shall be responsible for all operational functions of AIFA, including those relating to the continuing operations and performance of all infrastructure projects in which AIFA retains an interest and for all AIFA functions related to human resources.

(F) CHIEF LENDING OFFICER.—The Chief Lending Officer shall be responsible for—

(i) all functions of AIFA relating to the development of project pipeline, financial structuring of projects, credit analysis of infrastructure projects, selection of infrastructure projects to be reviewed by the Board of Directors, preparation of infrastructure projects to be presented to the
Board of Directors, and set aside for rural infrastructure projects; and

(ii) the creation and management of—

(I) a Center for Excellence to provide technical assistance to public sector borrowers in the development and financing of infrastructure projects; and

(II) an Office of Rural Assistance to provide technical assistance in the development and financing of rural infrastructure projects.

(f) CHANGES TO SENIOR MANAGEMENT.—The Board of Directors, in consultation with the chief executive officer, may alter the structure of the senior management of AIFA at any time to better accomplish the goals, objectives, and purposes of AIFA, provided that the functions of the Chief Financial Officer set forth in subsection (e) remain separate from the functions of the Chief Risk Officer set forth in subsection (e).

(g) CONFLICTS OF INTEREST.—No individual appointed to senior management may—

(1) hold any other public office;

(2) have any financial interest in an infrastructure project then being considered by the Board of
Directors, unless that interest is placed in a blind trust; or

(3) have any financial interest in an investment institution or its affiliates, AIFA or its affiliates, or other entity then seeking or likely to seek financial assistance for any infrastructure project from AIFA, unless any such interest is placed in a blind trust during the term of service of that individual in a senior management position, and for a period of 2 years thereafter.

SEC. 106. SPECIAL INSPECTOR GENERAL FOR AIFA.

(a) IN GENERAL.—During the first 5 operating years of AIFA, the Office of the Inspector General of the Department of the Treasury shall have responsibility for AIFA.

(b) OFFICE OF THE SPECIAL INSPECTOR GENERAL.—Effective 5 years after the date of enactment of the commencement of the operations of AIFA, there is established the Office of the Special Inspector General for AIFA.

(c) APPOINTMENT OF INSPECTOR GENERAL; REMOVAL.—

(1) HEAD OF OFFICE.—The head of the Office of the Special Inspector General for AIFA shall be the Special Inspector General for AIFA (in this Act
referred to as the “Special Inspector General”), who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) BASIS OF APPOINTMENT.—The appointment of the Special Inspector General shall be made on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

(3) TIMING OF NOMINATION.—The nomination of an individual as Special Inspector General shall be made as soon as is practicable after the effective date under subsection (b).

(4) REMOVAL.—The Special Inspector General shall be removable from office in accordance with the provisions of section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.).

(5) RULE OF CONSTRUCTION.—For purposes of section 7324 of title 5, United States Code, the Special Inspector General shall not be considered an employee who determines policies to be pursued by the United States in the nationwide administration of Federal law.

(6) RATE OF PAY.—The annual rate of basic pay of the Special Inspector General shall be the an-

(d) Duties.—

(1) In general.—It shall be the duty of the Special Inspector General to conduct, supervise, and coordinate audits and investigations of the business activities of AIFA.

(2) Other systems, procedures, and controls.—The Special Inspector General shall establish, maintain, and oversee such systems, procedures, and controls as the Special Inspector General considers appropriate to discharge the duty under paragraph (1).

(3) Additional duties.—In addition to the duties specified in paragraphs (1) and (2), the Inspector General shall also have the duties and responsibilities of inspectors general under the Inspector General Act of 1978.

(e) Powers and authorities.—

(1) In general.—In carrying out the duties specified in subsection (e), the Special Inspector General shall have the authorities provided in section 6 of the Inspector General Act of 1978.
(2) ADDITIONAL AUTHORITY.—The Special Inspector General shall carry out the duties specified in subsection (c)(1) in accordance with section 4(b)(1) of the Inspector General Act of 1978.

(f) PERSONNEL, FACILITIES, AND OTHER RESOURCES.—

(1) ADDITIONAL OFFICERS.—

(A) The Special Inspector General may select, appoint, and employ such officers and employees as may be necessary for carrying out the duties of the Special Inspector General, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(B) The Special Inspector General may exercise the authorities of subsections (b) through (i) of section 3161 of title 5, United States Code (without regard to subsection (a) of that section).

(2) RETENTION OF SERVICES.—The Special Inspector General may obtain services as authorized by section 3109 of title 5, United States Code, at daily
rates not to exceed the equivalent rate prescribed for
grade GS–15 of the General Schedule by section
5332 of such title.

(3) Ability to contract for audits, studies, and other services.—The Special Inspector
General may enter into contracts and other arrange-
ments for audits, studies, analyses, and other serv-
ices with public agencies and with private persons,
and make such payments as may be necessary to
carry out the duties of the Special Inspector Gen-
eral.

(4) Request for information.—

(A) In general.—Upon request of the
Special Inspector General for information or as-
sistance from any department, agency, or other
entity of the Federal Government, the head of
such entity shall, insofar as is practicable and
not in contravention of any existing law, furnish
such information or assistance to the Special
Inspector General, or an authorized designee.

(B) Refusal to comply.—Whenever in-
formation or assistance requested by the Spe-
cial Inspector General is, in the judgment of the
Special Inspector General, unreasonably refused
or not provided, the Special Inspector General
shall report the circumstances to the Secretary
of the Treasury, without delay.

(g) REPORTS.—

(1) **ANNUAL REPORT.**—Not later than 1 year
after the confirmation of the Special Inspector Gen-
eral, and every calendar year thereafter, the Special
Inspector General shall submit to the President a re-
port summarizing the activities of the Special In-
spector General during the previous 1-year period
ending on the date of such report.

(2) **PUBLIC DISCLOSURES.**—Nothing in this
subsection shall be construed to authorize the public
disclosure of information that is—

(A) specifically prohibited from disclosure
by any other provision of law;

(B) specifically required by Executive order
to be protected from disclosure in the interest
of national defense or national security or in
the conduct of foreign affairs; or

(C) a part of an ongoing criminal inves-
tigation.

**SEC. 107. OTHER PERSONNEL.**

Except as otherwise provided in the bylaws of AIFA,
the chief executive officer, in consultation with the Board
of Directors, shall appoint, remove, and define the duties
of such qualified personnel as are necessary to carry out the powers, duties, and purpose of AIFA, other than senior management, who shall be appointed in accordance with section 105.

SEC. 108. COMPLIANCE.

The provision of assistance by the Board of Directors pursuant to this Act shall not be construed as superseding any provision of State law or regulation otherwise applicable to an infrastructure project.

TITLE II—TERMS AND LIMITATIONS ON DIRECT LOANS AND LOAN GUARANTEES

SEC. 201. ELIGIBILITY CRITERIA FOR ASSISTANCE FROM AIFA AND TERMS AND LIMITATIONS OF LOANS.

(a) IN GENERAL.—Any project whose use or purpose is private and for which no public benefit is created shall not be eligible for financial assistance from AIFA under this Act. Financial assistance under this Act shall only be made available if the applicant for such assistance has demonstrated to the satisfaction of the Board of Directors that the infrastructure project for which such assistance is being sought—

(1) is not for the refinancing of an existing infrastructure project; and
(2) meets—

(A) any pertinent requirements set forth in this Act;

(B) any criteria established by the Board of Directors or chief executive officer in accordance with this Act; and

(C) the definition of a transportation infrastructure project, water infrastructure project, or energy infrastructure project.

(b) CONSIDERATIONS.—The criteria established by the Board of Directors pursuant to this Act shall provide adequate consideration of—

(1) the economic, financial, technical, environmental, and public benefits and costs of each infrastructure project under consideration for financial assistance under this Act, prioritizing infrastructure projects that—

(A) contribute to regional or national economic growth;

(B) offer value for money to taxpayers;

(C) demonstrate a clear public benefit;

(D) lead to job creation; and

(E) mitigate environmental concerns;
(2) the means by which development of the infrastructure project under consideration is being financed, including—

(A) the terms, conditions, and structure of the proposed financing;

(B) the credit worthiness and standing of the project sponsors, providers of equity, and cofinanciers;

(C) the financial assumptions and projections on which the infrastructure project is based; and

(D) whether there is sufficient State or municipal political support for the successful completion of the infrastructure project;

(3) the likelihood that the provision of assistance by AIFA will cause such development to proceed more promptly and with lower costs for financing than would be the case without such assistance;

(4) the extent to which the provision of assistance by AIFA maximizes the level of private investment in the infrastructure project or supports a public-private partnership, while providing a significant public benefit;
(5) the extent to which the provision of assistance by AIFA can mobilize the participation of other financing partners in the infrastructure project;

(6) the technical and operational viability of the infrastructure project;

(7) the proportion of financial assistance from AIFA;

(8) the geographic location of the project in an effort to have geographic diversity of projects funded by AIFA;

(9) the size of the project and its impact on the resources of AIFA; and

(10) the infrastructure sector of the project, in an effort to have projects from more than one sector funded by AIFA.

(e) Application.—

(1) In General.—Any eligible entity seeking assistance from AIFA under this Act for an eligible infrastructure project shall submit an application to AIFA at such time, in such manner, and containing such information as the Board of Directors or the chief executive officer may require.

(2) Review of Applications.—AIFA shall review applications for assistance under this Act on an ongoing basis. The chief executive officer, working
with the senior management, shall prepare eligible
infrastructure projects for review and approval by
the Board of Directors.

(3) Dedicated revenue sources.—The Fed-
eral credit instrument shall be repayable, in whole or
in part, from tolls, user fees, or other dedicated rev-
eneue sources that also secure the infrastructure
project obligations.

(d) Eligible infrastructure project costs.—

(1) In general.—Except as provided in para-
graph (2), to be eligible for assistance under this
Act, an infrastructure project shall have project
costs that are reasonably anticipated to equal or ex-
ceed $100,000,000.

(2) Rural infrastructure projects.—To
be eligible for assistance under this Act a rural in-
frastucture project shall have project costs that are
reasonably anticipated to equal or exceed
$25,000,000.

(e) Loan eligibility and maximum amounts.—

(1) In general.—The amount of a direct loan
or loan guarantee under this Act shall not exceed
the lesser of 50 percent of the reasonably anticipated
eligible infrastructure project costs or, if the direct
loan or loan guarantee does not receive an invest-
ment grade rating, the amount of the senior project obligations.

(2) Maximum Annual Loan and Loan Guarantee Volume.—The aggregate amount of direct loans and loan guarantees made by AIFA in any single fiscal year may not exceed—

(A) during the first 2 fiscal years of the operations of AIFA, $10,000,000,000;

(B) during fiscal years 3 through 9 of the operations of AIFA, $20,000,000,000; or

(C) during any fiscal year thereafter, $50,000,000,000.

(f) State and Local Permits Required.—The provision of assistance by the Board of Directors pursuant to this Act shall not be deemed to relieve any recipient of such assistance, or the related infrastructure project, of any obligation to obtain required State and local permits and approvals.

SEC. 202. Loan Terms and Repayment.

(a) In General.—A direct loan or loan guarantee under this Act with respect to an eligible infrastructure project shall be on such terms, subject to such conditions, and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the chief executive officer determines appropriate.
(b) TERMS.—A direct loan or loan guarantee under this Act—

(1) shall—

(A) be payable, in whole or in part, from tolls, user fees, or other dedicated revenue sources that also secure the senior project obligations (such as availability payments and dedicated State or local revenues); and

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

(2) may have a lien on revenues described in paragraph (1), subject to any lien securing project obligations.

(c) BASE INTEREST RATE.—The base interest rate on a direct loan under this Act shall be not less than the yield on United States Treasury obligations of a similar maturity to the maturity of the direct loan on the date of execution of the loan agreement.

(d) RISK ASSESSMENT.—Before entering into an agreement for assistance under this Act, the chief executive officer, in consultation with the Director of the Office of Management and Budget and each rating agency providing a preliminary rating opinion letter under this section, shall determine an appropriate Federal credit subsidy
amount for each direct loan and loan guarantee, taking
into account such letter, as well as any comparable market
rates available for such a loan or loan guarantee, should
any exist.

(e) CREDIT FEE.—With respect to each agreement
for assistance under this Act, the chief executive officer
shall charge a credit fee to the recipient of such assistance
to pay for, over time, all or a portion of the Federal credit
subsidy determined under subsection (d), with the remain-
der paid by the account established for AIFA. In the case
of a direct loan, such credit fee shall be in addition to
the base interest rate established under subsection (c).

(f) MATURITY DATE.—The final maturity date of a
direct loan or loan guaranteed by AIFA under this Act
shall be not later than 35 years after the date of substan-
tial completion of the infrastructure project, as determined
by the chief executive officer.

(g) PRELIMINARY RATING OPINION LETTER.—

(1) IN GENERAL.—The chief executive officer
shall require each applicant for assistance under this
Act to provide a preliminary rating opinion letter
from at least 1 ratings agency, indicating that the
senior obligations of the infrastructure project,
which may be the Federal credit instrument, have
the potential to achieve an investment-grade rating.
(2) Rural Infrastructure Projects.—With respect to a rural infrastructure project, a rating agency opinion letter described in paragraph (1) shall not be required, except that the loan or loan guarantee shall receive an internal rating score, using methods similar to the ratings agencies generated by AIFA, measuring the proposed direct loan or loan guarantee against comparable direct loans or loan guarantees of similar credit quality in a similar sector.

(h) Investment-Grade Rating Requirement.—

(1) Loans and Loan Guarantees.—The execution of a direct loan or loan guarantee under this Act shall be contingent on the senior obligations of the infrastructure project receiving an investment-grade rating.

(2) Rating of AIFA Overall Portfolio.—The average rating of the overall portfolio of AIFA shall be not less than investment grade after 5 years of operation.

(i) Terms and Repayment of Direct Loans.—

(1) Schedule.—The chief executive officer shall establish a repayment schedule for each direct loan under this Act, based on the projected cash
flow from infrastructure project revenues and other repayment sources.

(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a direct loan under this Act shall commence not later than 5 years after the date of substantial completion of the infrastructure project, as determined by the chief executive officer of AIFA.

(3) DEFERRED PAYMENTS OF DIRECT LOANS.—

(A) AUTHORIZATION.—If, at any time after the date of substantial completion of an infrastructure project assisted under this Act, the infrastructure project is unable to generate sufficient revenues to pay the scheduled loan repayments of principal and interest on the direct loan under this Act, the chief executive officer may allow the obligor to add unpaid principal and interest to the outstanding balance of the direct loan, if the result would benefit the taxpayer.

(B) INTEREST.—Any payment deferred under subparagraph (A) shall—
(i) continue to accrue interest, in accordance with the terms of the obligation, 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 infrastructure project meeting criteria established by the Board of Directors.

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

(4) PREPAYMENT OF DIRECT LOANS.—

(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the infrastructure project obligations and direct loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations under this Act may be applied annually to prepay the direct loan, without penalty.
(B) USE OF PROCEEDS OF REFINANCING.—A direct loan under this Act may be prepaid at any time, without penalty, from the proceeds of refinancing from non-Federal funding sources.

(5) SALE OF DIRECT LOANS.—

(A) IN GENERAL.—As soon as is practicable after substantial completion of an infrastructure project assisted under this Act, and after notifying the obligor, the chief executive officer may sell to another entity, or reoffer into the capital markets, a direct loan for the infrastructure project, if the chief executive officer determines that the sale or reoffering can be made on favorable terms for the taxpayer.

(B) CONSENT OF OBLIGOR.—In making a sale or reoffering under subparagraph (A), the chief executive officer may not change the original terms and conditions of the direct loan, without the written consent of the obligor.

(j) LOAN GUARANTEES.—

(1) TERMS.—The terms of a loan guaranteed by AIFA under this Act shall be consistent with the terms set forth in this section for a direct loan, except that the rate on the guaranteed loan and any
payment, pre-payment, or refinancing features shall
be negotiated between the obligor and the lender,
with the consent of the chief executive officer.

(2) GUARANTEED LENDER.—A guaranteed
lender shall be limited to those lenders meeting the
definition of that term in section 601(a) of title 23,
United States Code.

(k) COMPLIANCE WITH FCRA.—

(1) IN GENERAL.—Except as provided in para-

graph (2), direct loans and loan guarantees author-
ized by this Act shall be subject to the provisions of
the Federal Credit Reform Act of 1990 (2 U.S.C.
661 et seq.).

(2) EXCEPTION.—Section 504(b) of the Federal
Credit Reform Act of 1990 (2 U.S.C. 661c(b)) shall
not apply to a loan or loan guarantee under this
Act.

SEC. 203. COMPLIANCE AND ENFORCEMENT.

(a) CREDIT AGREEMENT.—Notwithstanding any
other provision of law, each eligible entity that receives
assistance under this Act from AIFA shall enter into a
credit agreement that requires such entity to comply with
all applicable policies and procedures of AIFA, in addition
to all other provisions of the loan agreement.
(b) AIFA Authority on Noncompliance.—In any case in which a recipient of assistance under this Act is materially out of compliance with the loan agreement, or any applicable policy or procedure of AIFA, the Board of Directors may take action to cancel unutilized loan amounts, or to accelerate the repayment terms of any outstanding obligation.

SEC. 204. AUDITS; REPORTS TO THE PRESIDENT AND CONGRESS.

(a) Accounting.—The books of account of AIFA shall be maintained in accordance with generally accepted accounting principles, and shall be subject to an annual audit by independent public accountants of nationally recognized standing appointed by the Board of Directors.

(b) Reports.—

(1) Board of Directors.—Not later than 90 days after the last day of each fiscal year, the Board of Directors shall submit to the President and Congress a complete and detailed report with respect to the preceding fiscal year, setting forth—

(A) a summary of the operations of AIFA, for such fiscal year;

(B) a schedule of the obligations of AIFA and capital securities outstanding at the end of such fiscal year, with a statement of the
amounts issued and redeemed or paid during such fiscal year;

(C) the status of infrastructure projects receiving funding or other assistance pursuant to this Act during such fiscal year, including all nonperforming loans, and including disclosure of all entities with a development, ownership, or operational interest in such infrastructure projects;

(D) a description of the successes and challenges encountered in lending to rural communities, including the role of the Center for Excellence and the Office of Rural Assistance established under this Act; and

(E) an assessment of the risks of the portfolio of AIFA, prepared by an independent source.

(2) GAO.—Not later than 5 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct an evaluation of, and shall submit to Congress a report on, activities of AIFA for the fiscal years covered by the report that includes an assessment of the impact and benefits of each funded infrastructure project, including a review of how effectively each such infra-
structure project accomplished the goals prioritized by the infrastructure project criteria of AIFA.

(c) Books and Records.—

(1) In general.—AIFA shall maintain adequate books and records to support the financial transactions of AIFA, with a description of financial transactions and infrastructure projects receiving funding, and the amount of funding for each such project maintained on a publically accessible database.

(2) Audits by the Secretary and GAO.—

The books and records of AIFA shall at all times be open to inspection by the Secretary of the Treasury, the Special Inspector General, and the Comptroller General of the United States.

TITLE III—FUNDING OF AIFA

SEC. 301. FEES.

(a) In general.—The chief executive officer shall establish fees with respect to loans and loan guarantees under this Act that—

(1) are sufficient to cover all the administrative costs to the Federal Government for the operations of AIFA;

(2) may be in the form of an application or transaction fee, or interest rate adjustment; and
(3) may be based on the risk premium associated with the loan or loan guarantee, taking into consideration—

(A) the price of United States Treasury obligations of a similar maturity;

(B) prevailing market conditions;

(C) the ability of the infrastructure project to support the loan or loan guarantee; and

(D) the total amount of the loan or loan guarantee.

(b) Treasury Receipts.—AIFA shall annually deposit amounts of fees collected under this section that are not used for the expenses of AIFA as miscellaneous receipts with the Treasury.

SEC. 302. SELF-SUFFICIENCY OF AIFA.

The chief executive officer shall, to the extent possible, take actions consistent with this Act to make AIFA a self-sustaining entity, with administrative costs and Federal credit subsidy costs fully funded by fees and risk premiums on loans and loan guarantees.

SEC. 303. FUNDING.

There is authorized to be appropriated to AIFA to carry out this Act, to make direct loans and loan guarantees under this Act, not more than $10,000,000,000, to remain available until expended, of which amount, not
more than $25,000,000 for each of fiscal years 2012 through 2013, and not more than $50,000,000 for fiscal year 2014 may be used for administrative costs of AIFA. Such amount shall earn interest. Not more than 5 percent of such amount shall be used to offset subsidy costs associated with rural infrastructure projects.

SEC. 304. CONTRACT AUTHORITY.

Notwithstanding any other provision of law, approval by the Board of Directors of a Federal credit instrument that uses funds made available under this Act shall impose upon the United States a contractual obligation to fund the Federal credit investment.

TITLE IV—EXTENSION OF EXEMPTION FROM ALTERNATIVE MINIMUM TAX TREATMENT FOR CERTAIN TAX-EXEMPT BONDS

SEC. 401. EXTENSION OF EXEMPTION FROM ALTERNATIVE MINIMUM TAX TREATMENT FOR CERTAIN TAX-EXEMPT BONDS.

(a) IN GENERAL.—Clause (vi) of section 57(a)(5)(C) of the Internal Revenue Code of 1986 is amended—

(1) by striking “January 1, 2011” in subclause (I) and inserting “January 1, 2013”; and
(2) by striking “AND 2010” in the heading and inserting “, 2010, 2011, AND 2012”.

(b) ADJUSTED CURRENT EARNINGS.—Clause (iv) of section 56(g)(4)(B) of the Internal Revenue Code of 1986 is amended—

(1) by striking “January 1, 2011” in subclause (I) and inserting “January 1, 2013”; and

(2) by striking “AND 2010” in the heading and inserting “, 2010, 2011, AND 2012”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2010.