

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.

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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

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## 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

5 (b) **TABLE OF CONTENTS.**—The table of contents for  
 6 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 limita-  
 tions 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.

7 **SEC. 2. FINDINGS AND PURPOSE.**

8 (a) **FINDINGS.**—Congress finds that—

9 (1) infrastructure has always been a vital ele-  
 10 ment of the economic strength of the United States

1 and a key indicator of the international leadership of  
2 the United States;

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

8 (3) according to the World Economic Forum's  
9 Global Competitiveness Report, the United States  
10 fell to second place in 2009, and dropped to fourth  
11 place overall in 2010, however, in the "Quality of  
12 overall infrastructure" category of the same report,  
13 the United States ranked twenty-third in the world;

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

22 (5) according to a January 2009 report from  
23 the University of Massachusetts/Alliance for Amer-  
24 ican Manufacturing entitled "Employment, Produc-  
25 tivity and Growth," infrastructure investment is a

1 “highly effective engine of job creation” such that  
2 \$1,000,000,000 in new investment in infrastructure  
3 results in 18,000 total jobs;

4 (6) according to the American Society of Civil  
5 Engineers, the current condition of the infrastruc-  
6 ture in the United States earns a grade point aver-  
7 age of D, and an estimated \$2,200,000,000,000 in-  
8 vestment is needed over the next 5 years to bring  
9 American infrastructure up to adequate condition;

10 (7) according to the National Surface Trans-  
11 portation Policy and Revenue Study Commission,  
12 \$225,000,000,000 is needed annually from all  
13 sources for the next 50 years to upgrade the United  
14 States surface transportation system to a state of  
15 good repair and create a more advanced system;

16 (8) the current infrastructure financing mecha-  
17 nisms of the United States, both on the Federal and  
18 State level, will fail to meet current and foreseeable  
19 demands and will create large funding gaps;

20 (9) published reports state that there may not  
21 be enough demand for municipal bonds to maintain  
22 the same level of borrowing at the same rates, re-  
23 sulting in significantly decreased infrastructure in-  
24 vestment at the State and local level;

1           (10) current funding mechanisms are not read-  
2 ily scalable and do not—

3           (A) serve large in-State or cross jurisdic-  
4 tion infrastructure projects, projects of regional  
5 or national significance, or projects that cross  
6 sector silos;

7           (B) sufficiently catalyze private sector in-  
8 vestment; or

9           (C) ensure the optimal return on public re-  
10 sources;

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

22          (12) the capital markets, including pension  
23 funds, private equity funds, mutual funds, sovereign  
24 wealth funds, and other investors, have a growing  
25 interest in infrastructure investment and represent

1 hundreds of billions of dollars of potential invest-  
2 ment; and

3 (13) the establishment of a United States Gov-  
4 ernment-owned, independent, professionally managed  
5 institution that could provide credit support to quali-  
6 fied infrastructure projects of regional and national  
7 significance, making transparent merit-based invest-  
8 ment decisions based on the commercial viability of  
9 infrastructure projects, would catalyze the participa-  
10 tion of significant private investment capital.

11 (b) PURPOSE.—The purpose of this Act is to facili-  
12 tate investment in, and long-term financing of, economi-  
13 cally viable infrastructure projects of regional or national  
14 significance in a manner that both complements existing  
15 Federal, State, local, and private funding sources for these  
16 projects and introduces a merit-based system for financing  
17 such projects, in order to mobilize significant private sec-  
18 tor investment, create jobs, and ensure United States com-  
19 petitiveness through a self-sustaining institution that lim-  
20 its the need for ongoing Federal funding.

21 **SEC. 3. DEFINITIONS.**

22 For purposes of this Act, the following definitions  
23 shall apply:

1           (1) AIFA.—The term “AIFA” means the  
2 American Infrastructure Financing Authority estab-  
3 lished under this Act.

4           (2) BLIND TRUST.—The term “blind trust”  
5 means a trust in which the beneficiary has no knowl-  
6 edge of the specific holdings and no rights over how  
7 those holdings are managed by the fiduciary of the  
8 trust prior to the dissolution of the trust.

9           (3) BOARD OF DIRECTORS.—The term “Board  
10 of Directors” means Board of Directors of AIFA.

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

14           (5) CHIEF EXECUTIVE OFFICER.—The term  
15 “chief executive officer” means the chief executive  
16 officer of AIFA, appointed under section 103.

17           (6) COST.—The term “cost” has the same  
18 meaning as in section 502 of the Federal Credit Re-  
19 form Act of 1990 (2 U.S.C. 661a).

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

23           (8) ELIGIBLE ENTITY.—The term “eligible enti-  
24 ty” means an individual, corporation, partnership  
25 (including a public-private partnership), joint ven-

1       ture, trust, State, or other governmental entity, in-  
2       cluding a political subdivision or any other instru-  
3       mentality of a State, or a revolving fund.

4               (9) INFRASTRUCTURE PROJECT.—

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

10              (B) TRANSPORTATION INFRASTRUCTURE  
11       PROJECT.—The term “transportation infra-  
12       structure project” means the construction, al-  
13       teration, or repair, including the facilitation of  
14       intermodal transit, of the following subsectors:

15                   (i) Highway or road.

16                   (ii) Bridge.

17                   (iii) Mass transit.

18                   (iv) Inland waterways.

19                   (v) Commercial ports.

20                   (vi) Airports.

21                   (vii) Air traffic control systems.

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

24                   (ix) Freight rail systems.



1 (C) WATER INFRASTRUCTURE PROJECT.—

2 The term “water infrastructure project” means  
3 the construction, consolidation, alteration, or  
4 repair of the following subsectors:

5 (i) Water waste treatment facility.

6 (ii) Storm water management system.

7 (iii) Dam.

8 (iv) Solid waste disposal facility.

9 (v) Levee.

10 (vi) Open space management system.

11 (D) ENERGY INFRASTRUCTURE

12 PROJECT.—The term “energy infrastructure  
13 project” means the construction, alteration, or  
14 repair of the following subsectors:

15 (i) Pollution reduced energy genera-  
16 tion.

17 (ii) Transmission and distribution.

18 (iii) Storage.

19 (iv) Energy efficiency enhancements  
20 for buildings, including public and com-  
21 mercial buildings.

22 (E) BOARD AUTHORITY TO MODIFY SUB-

23 SECTORS.—The Board of Directors may make  
24 modifications, at the discretion of the Board, to  
25 the subsectors described in this paragraph by a

1           vote of not fewer than 5 of the voting members  
2           of the Board of Directors.

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

7           (11) LOAN GUARANTEE.—The term “loan guar-  
8           antee” has the same meaning as in section 502 of  
9           the Federal Credit Reform Act of 1990 (2 U.S.C.  
10          661a).

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

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

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

1 (B) which owns, leases, or operates or will  
2 own, lease, or operate, the project in whole or  
3 in part; and

4 (C) the participants in which include not  
5 fewer than 1 nongovernmental entity with sig-  
6 nificant investment and some control over the  
7 project or project vehicle.

8 (13) RURAL INFRASTRUCTURE PROJECT.—The  
9 term “rural infrastructure project” means an infra-  
10 structure project in a rural area, as that term is de-  
11 fined in section 343(a)(13)(A) of the Consolidated  
12 Farm and Rural Development Act (7 U.S.C.  
13 1991(a)(13)(A)).

14 (14) SECRETARY.—Unless the context other-  
15 wise requires, the term “Secretary” means the Sec-  
16 retary of the Treasury or the designee thereof.

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

24 (16) STATE.—The term “State” includes the  
25 District of Columbia, Puerto Rico, Guam, American

1 Samoa, the Virgin Islands, the Commonwealth of  
2 Northern Mariana Islands, and any other territory  
3 of the United States.

4 **TITLE I—AMERICAN INFRA-**  
5 **STRUCTURE FINANCING AU-**  
6 **THORITY**

7 **SEC. 101. ESTABLISHMENT AND GENERAL AUTHORITY OF**  
8 **AIFA.**

9 (a) ESTABLISHMENT OF AIFA.—The American In-  
10 frastructure Financing Authority is established as a whol-  
11 ly owned Government corporation.

12 (b) GENERAL AUTHORITY OF AIFA.—AIFA shall  
13 provide direct loans and loan guarantees to facilitate infra-  
14 structure projects that are both economically viable and  
15 of regional or national significance, and shall have such  
16 other authority, as provided in this Act.

17 (c) INCORPORATION.—

18 (1) IN GENERAL.—The Board of Directors first  
19 appointed shall be deemed the incorporator of AIFA,  
20 and the incorporation shall be held to have been ef-  
21 fected from the date of the first meeting of the  
22 Board of Directors.

23 (2) CORPORATE OFFICE.—AIFA shall—

24 (A) maintain an office in Washington, DC;  
25 and

1 (B) for purposes of venue in civil actions,  
2 be considered to be a resident of Washington,  
3 DC.

4 (d) RESPONSIBILITY OF THE SECRETARY.—The Sec-  
5 retary shall take such action as may be necessary to assist  
6 in implementing AIFA, and in carrying out the purpose  
7 of this Act.

8 (e) RULE OF CONSTRUCTION.—Chapter 91 of title  
9 31, United States Code, does not apply to AIFA, unless  
10 otherwise specifically provided in this Act.

11 **SEC. 102. VOTING MEMBERS OF THE BOARD OF DIREC-**  
12 **TORS.**

13 (a) VOTING MEMBERSHIP OF THE BOARD OF DIREC-  
14 TORS.—

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

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

23 (3) CONGRESSIONAL RECOMMENDATIONS.—Not  
24 later than 30 days after the date of enactment of  
25 this Act, the majority leader of the Senate, the mi-

1       nORITY leader of the Senate, the Speaker of the  
2       House of Representatives, and the minority leader of  
3       the House of Representatives shall each submit a  
4       recommendation to the President for appointment of  
5       a member of the Board of Directors, after consulta-  
6       tion with the appropriate committees of Congress.

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

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

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

13               (2) have significant demonstrated expertise in—

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

17                       (B) the financing, development, or oper-  
18                       ation of infrastructure projects.

19       (d) TERMS.—

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

23               (2) INITIAL STAGGERED TERMS.—Of the voting  
24       members first appointed to the Board of Directors—

1           (A) the initial Chairperson and 3 of the  
2           other voting members shall each be appointed  
3           for a term of 4 years; and

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

6           (3) DATE OF INITIAL NOMINATIONS.—The ini-  
7           tial nominations for the appointment of all voting  
8           members of the Board of Directors shall be made  
9           not later than 60 days after the date of enactment  
10          of this Act.

11          (4) BEGINNING OF TERM.—The term of each of  
12          the initial voting members appointed under this sec-  
13          tion shall commence immediately upon the date of  
14          appointment, except that, for purposes of calculating  
15          the term limits specified in this subsection, the ini-  
16          tial terms shall each be construed as beginning on  
17          January 22 of the year following the date of the ini-  
18          tial appointment.

19          (5) VACANCIES.—A vacancy in the position of  
20          a voting member of the Board of Directors shall be  
21          filled by the President, and a member appointed to  
22          fill a vacancy on the Board of Directors occurring  
23          before the expiration of the term for which the pred-  
24          ecessor was appointed shall be appointed only for  
25          the remainder of that term.

1 (e) MEETINGS.—

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

5 (A) open to the public; and

6 (B) preceded by reasonable public notice.

7 (2) FREQUENCY.—The Board of Directors shall  
8 meet not later than 60 days after the date on which  
9 all members of the Board of Directors are first ap-  
10 pointed, at least quarterly thereafter, and otherwise  
11 at the call of either the Chairperson or 5 voting  
12 members of the Board of Directors.

13 (3) EXCEPTION FOR CLOSED MEETINGS.—The  
14 voting members of the Board of Directors may, by  
15 majority vote, close a meeting to the public if, dur-  
16 ing the meeting to be closed, there is likely to be dis-  
17 closed proprietary or sensitive information regarding  
18 an infrastructure project under consideration for as-  
19 sistance under this Act. The Board of Directors  
20 shall prepare minutes of any meeting that is closed  
21 to the public, and shall make such minutes available  
22 as soon as practicable, not later than 1 year after  
23 the date of the closed meeting, with any necessary  
24 redactions to protect any proprietary or sensitive in-  
25 formation.



1           (4) QUORUM.—For purposes of meetings of the  
2           Board of Directors, 5 voting members of the Board  
3           of Directors shall constitute a quorum.

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

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

18          **SEC. 103. CHIEF EXECUTIVE OFFICER OF AIFA.**

19          (a) IN GENERAL.—The chief executive officer of  
20          AIFA shall be a nonvoting member of the Board of Direc-  
21          tors, who shall be responsible for all activities of AIFA,  
22          and shall support the Board of Directors as set forth in  
23          this Act and as the Board of Directors deems necessary  
24          or appropriate.

1 (b) APPOINTMENT AND TENURE OF THE CHIEF EX-  
2 ECUTIVE OFFICER.—

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

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

8 (3) VACANCIES.—Any vacancy in the office of  
9 the chief executive officer shall be filled by the Presi-  
10 dent, and the person appointed to fill a vacancy in  
11 that position occurring before the expiration of the  
12 term for which the predecessor was appointed shall  
13 be appointed only for the remainder of that term.

14 (c) QUALIFICATIONS.—The chief executive officer—

15 (1) shall have significant expertise in manage-  
16 ment and administration of a financial institution,  
17 or significant expertise in the financing and develop-  
18 ment of infrastructure projects; and

19 (2) may not—

20 (A) hold any other public office;

21 (B) have any financial interest in an infra-  
22 structure project then being considered by the  
23 Board of Directors, unless that interest is  
24 placed in a blind trust; or

1           (C) have any financial interest in an in-  
2           vestment institution or its affiliates or any  
3           other entity seeking or likely to seek financial  
4           assistance for any infrastructure project from  
5           AIFA, unless any such interest is placed in a  
6           blind trust for the tenure of the service of the  
7           chief executive officer plus 2 additional years.

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

12               (1) responsibility for the development and im-  
13               plementation of the strategy of AIFA, including—

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

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

20                       (C) the development, revision, and submis-  
21                       sion to the Board of Directors of internal poli-  
22                       cies; and

23               (2) responsibility for the management and over-  
24               sight of the daily activities, decisions, operations,  
25               and personnel of AIFA, including—

1           (A) the appointment of senior manage-  
2           ment, subject to approval by the voting mem-  
3           bers of the Board of Directors, and the hiring  
4           and termination of all other AIFA personnel;

5           (B) requesting the detail, on a reimburs-  
6           able basis, of personnel from any Federal agen-  
7           cy having specific expertise not available from  
8           within AIFA, following which request the head  
9           of the Federal agency may detail, on a reim-  
10          bursable basis, any personnel of such agency  
11          reasonably requested by the chief executive offi-  
12          cer;

13          (C) assessing and recommending in the  
14          first instance, for ultimate approval or dis-  
15          approval by the Board of Directors, compensa-  
16          tion and adjustments to compensation of senior  
17          management and other personnel of AIFA as  
18          may be necessary for carrying out the functions  
19          of AIFA;

20          (D) ensuring, in conjunction with the gen-  
21          eral counsel of AIFA, that all activities of  
22          AIFA are carried out in compliance with appli-  
23          cable law;

24          (E) overseeing the involvement of AIFA in  
25          all projects, including—

1 (i) developing eligible projects for  
2 AIFA financial assistance;

3 (ii) determining the terms and condi-  
4 tions of all financial assistance packages;

5 (iii) monitoring all infrastructure  
6 projects assisted by AIFA, including re-  
7 sponsibility for ensuring that the proceeds  
8 of any loan made, guaranteed, or partici-  
9 pated in are used only for the purposes for  
10 which the loan or guarantee was made;

11 (iv) preparing and submitting for ap-  
12 proval by the Board of Directors the docu-  
13 ments required under paragraph (1); and

14 (v) ensuring the implementation of de-  
15 cisions of the Board of Directors; and

16 (F) such other activities as may be nec-  
17 essary or appropriate in carrying out this Act.

18 (e) COMPENSATION.—

19 (1) IN GENERAL.—Any compensation assess-  
20 ment or recommendation by the chief executive offi-  
21 cer under this section shall be without regard to the  
22 provisions of chapter 51 or subchapter III of chapter  
23 53 of title 5, United States Code.

24 (2) CONSIDERATIONS.—The compensation as-  
25 sessment or recommendation required under this

1 subsection shall take into account merit principles,  
2 where applicable, as well as the education, experi-  
3 ence, level of responsibility, geographic differences,  
4 and retention and recruitment needs in determining  
5 compensation of personnel.

6 **SEC. 104. POWERS AND DUTIES OF THE BOARD OF DIREC-**  
7 **TORS.**

8 The Board of Directors shall—

9 (1) as soon as is practicable after the date on  
10 which all members are appointed, approve or dis-  
11 approve senior management appointed by the chief  
12 executive officer;

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

15 (A) develop and approve the bylaws of  
16 AIFA, including bylaws for the regulation of  
17 the affairs and conduct of the business of  
18 AIFA, consistent with the purpose, goals, objec-  
19 tives, and policies set forth in this Act;

20 (B) establish subcommittees, including an  
21 audit committee that is composed solely of  
22 members of the Board of Directors who are  
23 independent of the senior management of  
24 AIFA;

1 (C) develop and approve, in consultation  
2 with senior management, a conflict-of-interest  
3 policy for the Board of Directors and for senior  
4 management;

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

8 (i) policies regarding the loan applica-  
9 tion and approval process, including—

10 (I) disclosure and application  
11 procedures to be followed by entities  
12 in the course of nominating infra-  
13 structure projects for assistance under  
14 this Act;

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

17 (III) specific criteria for deter-  
18 mining eligibility for project selection,  
19 consistent with title II; and

20 (IV) standardized terms and con-  
21 ditions, fee schedules, or legal require-  
22 ments of a contract or program, so as  
23 to carry out this Act; and

24 (ii) operational guidelines; and

1           (E) approve or disapprove a 1-year busi-  
2           ness plan and budget for AIFA;

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

5           (A) monitoring and assessing the effective-  
6           ness of AIFA in achieving its strategic goals;

7           (B) periodically reviewing internal policies;

8           (C) reviewing and approving annual busi-  
9           ness plans, annual budgets, and long-term  
10          strategies submitted by the chief executive offi-  
11          cer;

12          (D) reviewing and approving annual re-  
13          ports submitted by the chief executive officer;

14          (E) engaging one or more external audi-  
15          tors, as set forth in this Act; and

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

18          (4) appoint and fix, by a vote of 5 of the 7 vot-  
19          ing members of the Board of Directors, and without  
20          regard to the provisions of chapter 51 or subchapter  
21          III of chapter 53 of title 5, United States Code, the  
22          compensation and adjustments to compensation of  
23          all AIFA personnel, provided that in appointing and  
24          fixing any compensation or adjustments to com-  
25          pensation under this paragraph, the Board shall—



1           (A) consult with, and seek to maintain  
2 comparability with, other comparable Federal  
3 personnel, as the Secretary may deem appro-  
4 priate;

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

7           (C) carry out such duties consistent with  
8 merit principles, where applicable, as well as the  
9 education, experience, level of responsibility, ge-  
10 ographic differences, and retention and recruit-  
11 ment needs in determining compensation of per-  
12 sonnel;

13           (5) establish such other criteria, requirements,  
14 or procedures as the Board of Directors may con-  
15 sider to be appropriate in carrying out this Act;

16           (6) serve as the primary liaison for AIFA in  
17 interactions with Congress, the Executive Branch,  
18 and State and local governments, and to represent  
19 the interests of AIFA in such interactions and oth-  
20 ers;

21           (7) approve by a vote of 5 of the 7 voting mem-  
22 bers of the Board of Directors any changes to the  
23 bylaws or internal policies of AIFA;

24           (8) have the authority and responsibility—

1 (A) to oversee entering into and carry out  
2 such contracts, leases, cooperative agreements,  
3 or other transactions as are necessary to carry  
4 out this Act with—

5 (i) any Federal department or agency;

6 (ii) any State, territory, or possession  
7 (or any political subdivision thereof, includ-  
8 ing State infrastructure banks) of the  
9 United States; and

10 (iii) any individual, public-private  
11 partnership, firm, association, or corpora-  
12 tion;

13 (B) to approve of the acquisition, lease,  
14 pledge, exchange, and disposal of real and per-  
15 sonal property by AIFA and otherwise approve  
16 the exercise by AIFA of all of the usual inci-  
17 dents of ownership of property, to the extent  
18 that the exercise of such powers is appropriate  
19 to and consistent with the purposes of AIFA;

20 (C) to determine the character of, and the  
21 necessity for, the obligations and expenditures  
22 of AIFA, and the manner in which the obliga-  
23 tions and expenditures will be incurred, allowed,  
24 and paid, subject to this Act and other Federal

1 law specifically applicable to wholly owned Fed-  
2 eral corporations;

3 (D) to execute, in accordance with applica-  
4 ble bylaws and regulations, appropriate instru-  
5 ments;

6 (E) to approve other forms of credit en-  
7 hancement that AIFA may provide to eligible  
8 projects, as long as the forms of credit enhance-  
9 ments are consistent with the purposes of this  
10 Act and terms set forth in title II;

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

14 (G) to sue or be sued in the corporate ca-  
15 pacity of AIFA in any court of competent juris-  
16 diction;

17 (H) to indemnify the members of the  
18 Board of Directors and officers of AIFA for  
19 any liabilities arising out of the actions of the  
20 members and officers in such capacity, in ac-  
21 cordance with, and subject to the limitations  
22 contained in this Act;

23 (I) to review all financial assistance pack-  
24 ages to all eligible infrastructure projects, as  
25 submitted by the chief executive officer and to

1 approve, postpone, or deny the same by major-  
2 ity vote;

3 (J) to review all restructuring proposals  
4 submitted by the chief executive officer, includ-  
5 ing assignation, pledging, or disposal of the in-  
6 terest of AIFA in a project, including payment  
7 or income from any interest owned or held by  
8 AIFA, and to approve, postpone, or deny the  
9 same by majority vote; and

10 (K) to enter into binding commitments, as  
11 specified in approved financial assistance pack-  
12 ages;

13 (9) delegate to the chief executive officer those  
14 duties that the Board of Directors deems appro-  
15 priate, to better carry out the powers and purposes  
16 of the Board of Directors under this section; and

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

19 **SEC. 105. SENIOR MANAGEMENT.**

20 (a) IN GENERAL.—Senior management shall support  
21 the chief executive officer in the discharge of the respon-  
22 sibilities of the chief executive officer.

23 (b) APPOINTMENT OF SENIOR MANAGEMENT.—The  
24 chief executive officer shall appoint such senior managers  
25 as are necessary to carry out the purpose of AIFA, as

1 approved by a majority vote of the voting members of the  
2 Board of Directors.

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

6 (d) REMOVAL OF SENIOR MANAGEMENT.—Any mem-  
7 ber of senior management may be removed, either by a  
8 majority of the voting members of the Board of Directors  
9 upon request by the chief executive officer, or otherwise  
10 by vote of not fewer than 5 voting members of the Board  
11 of Directors.

12 (e) SENIOR MANAGEMENT.—

13 (1) IN GENERAL.—Each member of senior  
14 management shall report directly to the chief execu-  
15 tive officer, other than the Chief Risk Officer, who  
16 shall report directly to the Board of Directors.

17 (2) DUTIES AND RESPONSIBILITIES.—

18 (A) CHIEF FINANCIAL OFFICER.—The  
19 Chief Financial Officer shall be responsible for  
20 all financial functions of AIFA, provided that,  
21 at the discretion of the Board of Directors, spe-  
22 cific functions of the Chief Financial Officer  
23 may be delegated externally.

1 (B) CHIEF RISK OFFICER.—The Chief  
2 Risk Officer shall be responsible for all func-  
3 tions of AIFA relating to—

4 (i) the creation of financial, credit,  
5 and operational risk management guide-  
6 lines and policies;

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

11 (iii) the creation of conforming stand-  
12 ards for infrastructure finance agreements;

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

16 (v) risk management and mitigation  
17 actions, including by reporting such ac-  
18 tions, or recommendations of such actions  
19 to be taken, directly to the Board of Direc-  
20 tors.

21 (C) CHIEF COMPLIANCE OFFICER.—The  
22 Chief Compliance Officer shall be responsible  
23 for all functions of AIFA relating to internal  
24 audits, accounting safeguards, and the enforce-

1           ment of such safeguards and other applicable  
2 requirements.

3           (D) GENERAL COUNSEL.—The General  
4 Counsel shall be responsible for all functions of  
5 AIFA relating to legal matters and, in consulta-  
6 tion with the chief executive officer, shall be re-  
7 sponsible for ensuring that AIFA complies with  
8 all applicable law.

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

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

18           (i) all functions of AIFA relating to  
19 the development of project pipeline, finan-  
20 cial structuring of projects, credit analysis  
21 of infrastructure projects, selection of in-  
22 frastructure projects to be reviewed by the  
23 Board of Directors, preparation of infra-  
24 structure projects to be presented to the

1 Board of Directors, and set aside for rural  
2 infrastructure projects; and

3 (ii) the creation and management of—

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

9 (II) an Office of Rural Assistance  
10 to provide technical assistance in the  
11 development and financing of rural in-  
12 frastructure projects.

13 (f) CHANGES TO SENIOR MANAGEMENT.—The Board  
14 of Directors, in consultation with the chief executive offi-  
15 cer, may alter the structure of the senior management of  
16 AIFA at any time to better accomplish the goals, objec-  
17 tives, and purposes of AIFA, provided that the functions  
18 of the Chief Financial Officer set forth in subsection (e)  
19 remain separate from the functions of the Chief Risk Offi-  
20 cer set forth in subsection (e).

21 (g) CONFLICTS OF INTEREST.—No individual ap-  
22 pointed to senior management may—

23 (1) hold any other public office;

24 (2) have any financial interest in an infrastruc-  
25 ture project then being considered by the Board of



1 Directors, unless that interest is placed in a blind  
2 trust; or

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

11 **SEC. 106. SPECIAL INSPECTOR GENERAL FOR AIFA.**

12 (a) IN GENERAL.—During the first 5 operating years  
13 of AIFA, the Office of the Inspector General of the De-  
14 partment of the Treasury shall have responsibility for  
15 AIFA.

16 (b) OFFICE OF THE SPECIAL INSPECTOR GEN-  
17 ERAL.—Effective 5 years after the date of enactment of  
18 the commencement of the operations of AIFA, there is es-  
19 tablished the Office of the Special Inspector General for  
20 AIFA.

21 (c) APPOINTMENT OF INSPECTOR GENERAL; RE-  
22 MOVAL.—

23 (1) HEAD OF OFFICE.—The head of the Office  
24 of the Special Inspector General for AIFA shall be  
25 the Special Inspector General for AIFA (in this Act

1 referred to as the “Special Inspector General”), who  
2 shall be appointed by the President, by and with the  
3 advice and consent of the Senate.

4 (2) BASIS OF APPOINTMENT.—The appoint-  
5 ment of the Special Inspector General shall be made  
6 on the basis of integrity and demonstrated ability in  
7 accounting, auditing, financial analysis, law, man-  
8 agement analysis, public administration, or inves-  
9 tigations.

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

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

18 (5) RULE OF CONSTRUCTION.—For purposes of  
19 section 7324 of title 5, United States Code, the Spe-  
20 cial Inspector General shall not be considered an em-  
21 ployee who determines policies to be pursued by the  
22 United States in the nationwide administration of  
23 Federal law.

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

1 nual rate of basic pay for an Inspector General  
2 under section 3(e) of the Inspector General Act of  
3 1978 (5 U.S.C. App.).

4 (d) DUTIES.—

5 (1) IN GENERAL.—It shall be the duty of the  
6 Special Inspector General to conduct, supervise, and  
7 coordinate audits and investigations of the business  
8 activities of AIFA.

9 (2) OTHER SYSTEMS, PROCEDURES, AND CON-  
10 TROLS.—The Special Inspector General shall estab-  
11 lish, maintain, and oversee such systems, procedures,  
12 and controls as the Special Inspector General con-  
13 siders appropriate to discharge the duty under para-  
14 graph (1).

15 (3) ADDITIONAL DUTIES.—In addition to the  
16 duties specified in paragraphs (1) and (2), the In-  
17 spector General shall also have the duties and re-  
18 sponsibilities of inspectors general under the Inspec-  
19 tor General Act of 1978.

20 (e) POWERS AND AUTHORITIES.—

21 (1) IN GENERAL.—In carrying out the duties  
22 specified in subsection (c), the Special Inspector  
23 General shall have the authorities provided in section  
24 6 of the Inspector General Act of 1978.

1           (2) ADDITIONAL AUTHORITY.—The Special In-  
2           specter General shall carry out the duties specified  
3           in subsection (c)(1) in accordance with section  
4           4(b)(1) of the Inspector General Act of 1978.

5           (f) PERSONNEL, FACILITIES, AND OTHER RE-  
6           SOURCES.—

7           (1) ADDITIONAL OFFICERS.—

8                   (A) The Special Inspector General may se-  
9                   lect, appoint, and employ such officers and em-  
10                   ployees as may be necessary for carrying out  
11                   the duties of the Special Inspector General,  
12                   subject to the provisions of title 5, United  
13                   States Code, governing appointments in the  
14                   competitive service, and the provisions of chap-  
15                   ter 51 and subchapter III of chapter 53 of such  
16                   title, relating to classification and General  
17                   Schedule pay rates.

18                   (B) The Special Inspector General may ex-  
19                   ercise the authorities of subsections (b) through  
20                   (i) of section 3161 of title 5, United States  
21                   Code (without regard to subsection (a) of that  
22                   section).

23           (2) RETENTION OF SERVICES.—The Special In-  
24           specter General may obtain services as authorized by  
25           section 3109 of title 5, United States Code, at daily

1 rates not to exceed the equivalent rate prescribed for  
2 grade GS-15 of the General Schedule by section  
3 5332 of such title.

4 (3) ABILITY TO CONTRACT FOR AUDITS, STUD-  
5 IES, AND OTHER SERVICES.—The Special Inspector  
6 General may enter into contracts and other arrange-  
7 ments for audits, studies, analyses, and other serv-  
8 ices with public agencies and with private persons,  
9 and make such payments as may be necessary to  
10 carry out the duties of the Special Inspector Gen-  
11 eral.

12 (4) REQUEST FOR INFORMATION.—

13 (A) IN GENERAL.—Upon request of the  
14 Special Inspector General for information or as-  
15 sistance from any department, agency, or other  
16 entity of the Federal Government, the head of  
17 such entity shall, insofar as is practicable and  
18 not in contravention of any existing law, furnish  
19 such information or assistance to the Special  
20 Inspector General, or an authorized designee.

21 (B) REFUSAL TO COMPLY.—Whenever in-  
22 formation or assistance requested by the Spe-  
23 cial Inspector General is, in the judgment of the  
24 Special Inspector General, unreasonably refused  
25 or not provided, the Special Inspector General

1           shall report the circumstances to the Secretary  
2           of the Treasury, without delay.

3           (g) REPORTS.—

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

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

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

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

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

22 **SEC. 107. OTHER PERSONNEL.**

23          Except as otherwise provided in the bylaws of AIFA,  
24          the chief executive officer, in consultation with the Board  
25          of Directors, shall appoint, remove, and define the duties

1 of such qualified personnel as are necessary to carry out  
 2 the powers, duties, and purpose of AIFA, other than sen-  
 3 ior management, who shall be appointed in accordance  
 4 with section 105.

5 **SEC. 108. COMPLIANCE.**

6 The provision of assistance by the Board of Directors  
 7 pursuant to this Act shall not be construed as superseding  
 8 any provision of State law or regulation otherwise applica-  
 9 ble to an infrastructure project.

10 **TITLE II—TERMS AND LIMITA-**  
 11 **TIONS ON DIRECT LOANS AND**  
 12 **LOAN GUARANTEES**

13 **SEC. 201. ELIGIBILITY CRITERIA FOR ASSISTANCE FROM**  
 14 **AIFA AND TERMS AND LIMITATIONS OF**  
 15 **LOANS.**

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

24 (1) is not for the refinancing of an existing in-  
 25 frastructure project; and

1 (2) meets—

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

4 (B) any criteria established by the Board  
5 of Directors or chief executive officer in accord-  
6 ance with this Act; and

7 (C) the definition of a transportation infra-  
8 structure project, water infrastructure project,  
9 or energy infrastructure project.

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

13 (1) the economic, financial, technical, environ-  
14 mental, and public benefits and costs of each infra-  
15 structure project under consideration for financial  
16 assistance under this Act, prioritizing infrastructure  
17 projects that—

18 (A) contribute to regional or national eco-  
19 nomic growth;

20 (B) offer value for money to taxpayers;

21 (C) demonstrate a clear public benefit;

22 (D) lead to job creation; and

23 (E) mitigate environmental concerns;



1           (2) the means by which development of the in-  
2        frastructure project under consideration is being fi-  
3        nanced, including—

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

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

9                   (C) the financial assumptions and projec-  
10       tions on which the infrastructure project is  
11       based; and

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

15       (3) the likelihood that the provision of assist-  
16       ance by AIFA will cause such development to pro-  
17       ceed more promptly and with lower costs for financ-  
18       ing than would be the case without such assistance;

19       (4) the extent to which the provision of assist-  
20       ance by AIFA maximizes the level of private invest-  
21       ment in the infrastructure project or supports a  
22       public-private partnership, while providing a signifi-  
23       cant public benefit;

1           (5) the extent to which the provision of assist-  
2           ance by AIFA can mobilize the participation of other  
3           financing partners in the infrastructure project;

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

6           (7) the proportion of financial assistance from  
7           AIFA;

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

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

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

16          (c) APPLICATION.—

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

23           (2) REVIEW OF APPLICATIONS.—AIFA shall re-  
24           view applications for assistance under this Act on an  
25           ongoing basis. The chief executive officer, working

1 with the senior management, shall prepare eligible  
2 infrastructure projects for review and approval by  
3 the Board of Directors.

4 (3) DEDICATED REVENUE SOURCES.—The Fed-  
5 eral credit instrument shall be repayable, in whole or  
6 in part, from tolls, user fees, or other dedicated rev-  
7 enue sources that also secure the infrastructure  
8 project obligations.

9 (d) ELIGIBLE INFRASTRUCTURE PROJECT COSTS.—

10 (1) IN GENERAL.—Except as provided in para-  
11 graph (2), to be eligible for assistance under this  
12 Act, an infrastructure project shall have project  
13 costs that are reasonably anticipated to equal or ex-  
14 ceed \$100,000,000.

15 (2) RURAL INFRASTRUCTURE PROJECTS.—To  
16 be eligible for assistance under this Act a rural in-  
17 frastructure project shall have project costs that are  
18 reasonably anticipated to equal or exceed  
19 \$25,000,000.

20 (e) LOAN ELIGIBILITY AND MAXIMUM AMOUNTS.—

21 (1) IN GENERAL.—The amount of a direct loan  
22 or loan guarantee under this Act shall not exceed  
23 the lesser of 50 percent of the reasonably anticipated  
24 eligible infrastructure project costs or, if the direct  
25 loan or loan guarantee does not receive an invest-

1       ment grade rating, the amount of the senior project  
2       obligations.

3               (2) MAXIMUM ANNUAL LOAN AND LOAN GUAR-  
4       ANTEE VOLUME.—The aggregate amount of direct  
5       loans and loan guarantees made by AIFA in any  
6       single fiscal year may not exceed—

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

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

11              (C) during any fiscal year thereafter,  
12      \$50,000,000,000.

13      (f) STATE AND LOCAL PERMITS REQUIRED.—The  
14      provision of assistance by the Board of Directors pursuant  
15      to this Act shall not be deemed to relieve any recipient  
16      of such assistance, or the related infrastructure project,  
17      of any obligation to obtain required State and local per-  
18      mits and approvals.

19      **SEC. 202. LOAN TERMS AND REPAYMENT.**

20      (a) IN GENERAL.—A direct loan or loan guarantee  
21      under this Act with respect to an eligible infrastructure  
22      project shall be on such terms, subject to such conditions,  
23      and contain such covenants, representations, warranties,  
24      and requirements (including requirements for audits) as  
25      the chief executive officer determines appropriate.

1 (b) TERMS.—A direct loan or loan guarantee under  
2 this Act—

3 (1) shall—

4 (A) be payable, in whole or in part, from  
5 tolls, user fees, or other dedicated revenue  
6 sources that also secure the senior project obli-  
7 gations (such as availability payments and dedi-  
8 cated State or local revenues); and

9 (B) include a rate covenant, coverage re-  
10 quirement, or similar security feature sup-  
11 porting the project obligations; and

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

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

20 (d) RISK ASSESSMENT.—Before entering into an  
21 agreement for assistance under this Act, the chief execu-  
22 tive officer, in consultation with the Director of the Office  
23 of Management and Budget and each rating agency pro-  
24 viding a preliminary rating opinion letter under this sec-  
25 tion, shall determine an appropriate Federal credit subsidy

1 amount for each direct loan and loan guarantee, taking  
2 into account such letter, as well as any comparable market  
3 rates available for such a loan or loan guarantee, should  
4 any exist.

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

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

18 (g) PRELIMINARY RATING OPINION LETTER.—

19 (1) IN GENERAL.—The chief executive officer  
20 shall require each applicant for assistance under this  
21 Act to provide a preliminary rating opinion letter  
22 from at least 1 ratings agency, indicating that the  
23 senior obligations of the infrastructure project,  
24 which may be the Federal credit instrument, have  
25 the potential to achieve an investment-grade rating.

1           (2) RURAL INFRASTRUCTURE PROJECTS.—With  
2           respect to a rural infrastructure project, a rating  
3           agency opinion letter described in paragraph (1)  
4           shall not be required, except that the loan or loan  
5           guarantee shall receive an internal rating score,  
6           using methods similar to the ratings agencies gen-  
7           erated by AIFA, measuring the proposed direct loan  
8           or loan guarantee against comparable direct loans or  
9           loan guarantees of similar credit quality in a similar  
10          sector.

11          (h) INVESTMENT-GRADE RATING REQUIREMENT.—

12           (1) LOANS AND LOAN GUARANTEES.—The exe-  
13           cution of a direct loan or loan guarantee under this  
14           Act shall be contingent on the senior obligations of  
15           the infrastructure project receiving an investment-  
16           grade rating.

17           (2) RATING OF AIFA OVERALL PORTFOLIO.—

18           The average rating of the overall portfolio of AIFA  
19           shall be not less than investment grade after 5 years  
20           of operation.

21          (i) TERMS AND REPAYMENT OF DIRECT LOANS.—

22           (1) SCHEDULE.—The chief executive officer  
23           shall establish a repayment schedule for each direct  
24           loan under this Act, based on the projected cash

1 flow from infrastructure project revenues and other  
2 repayment sources.

3 (2) COMMENCEMENT.—Scheduled loan repay-  
4 ments of principal or interest on a direct loan under  
5 this Act shall commence not later than 5 years after  
6 the date of substantial completion of the infrastruc-  
7 ture project, as determined by the chief executive of-  
8 ficer of AIFA.

9 (3) DEFERRED PAYMENTS OF DIRECT  
10 LOANS.—

11 (A) AUTHORIZATION.—If, at any time  
12 after the date of substantial completion of an  
13 infrastructure project assisted under this Act,  
14 the infrastructure project is unable to generate  
15 sufficient revenues to pay the scheduled loan re-  
16 payments of principal and interest on the direct  
17 loan under this Act, the chief executive officer  
18 may allow the obligor to add unpaid principal  
19 and interest to the outstanding balance of the  
20 direct loan, if the result would benefit the tax-  
21 payer.

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



1 (i) continue to accrue interest, in ac-  
2 cordance with the terms of the obligation,  
3 until fully repaid; and

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

6 (C) CRITERIA.—

7 (i) IN GENERAL.—Any payment defere-  
8 ral under subparagraph (A) shall be con-  
9 tingent on the infrastructure project meet-  
10 ing criteria established by the Board of Di-  
11 rectors.

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

16 (4) PREPAYMENT OF DIRECT LOANS.—

17 (A) USE OF EXCESS REVENUES.—Any ex-  
18 cess revenues that remain after satisfying  
19 scheduled debt service requirements on the in-  
20 frastructure project obligations and direct loan  
21 and all deposit requirements under the terms of  
22 any trust agreement, bond resolution, or similar  
23 agreement securing project obligations under  
24 this Act may be applied annually to prepay the  
25 direct loan, without penalty.

1           (B) USE OF PROCEEDS OF REFI-  
2           NANCING.—A direct loan under this Act may be  
3           prepaid at any time, without penalty, from the  
4           proceeds of refinancing from non-Federal fund-  
5           ing sources.

6           (5) SALE OF DIRECT LOANS.—

7           (A) IN GENERAL.—As soon as is prac-  
8           ticable after substantial completion of an infra-  
9           structure project assisted under this Act, and  
10          after notifying the obligor, the chief executive  
11          officer may sell to another entity, or reoffer into  
12          the capital markets, a direct loan for the infra-  
13          structure project, if the chief executive officer  
14          determines that the sale or reoffering can be  
15          made on favorable terms for the taxpayer.

16          (B) CONSENT OF OBLIGOR.—In making a  
17          sale or reoffering under subparagraph (A), the  
18          chief executive officer may not change the origi-  
19          nal terms and conditions of the direct loan,  
20          without the written consent of the obligor.

21          (j) LOAN GUARANTEES.—

22          (1) TERMS.—The terms of a loan guaranteed  
23          by AIFA under this Act shall be consistent with the  
24          terms set forth in this section for a direct loan, ex-  
25          cept that the rate on the guaranteed loan and any

1 payment, pre-payment, or refinancing features shall  
2 be negotiated between the obligor and the lender,  
3 with the consent of the chief executive officer.

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

8 (k) COMPLIANCE WITH FCRA.—

9 (1) IN GENERAL.—Except as provided in para-  
10 graph (2), direct loans and loan guarantees author-  
11 ized by this Act shall be subject to the provisions of  
12 the Federal Credit Reform Act of 1990 (2 U.S.C.  
13 661 et seq.).

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

18 **SEC. 203. COMPLIANCE AND ENFORCEMENT.**

19 (a) CREDIT AGREEMENT.—Notwithstanding any  
20 other provision of law, each eligible entity that receives  
21 assistance under this Act from AIFA shall enter into a  
22 credit agreement that requires such entity to comply with  
23 all applicable policies and procedures of AIFA, in addition  
24 to all other provisions of the loan agreement.

1 (b) AIFA AUTHORITY ON NONCOMPLIANCE.—In any  
2 case in which a recipient of assistance under this Act is  
3 materially out of compliance with the loan agreement, or  
4 any applicable policy or procedure of AIFA, the Board of  
5 Directors may take action to cancel unutilized loan  
6 amounts, or to accelerate the repayment terms of any out-  
7 standing obligation.

8 **SEC. 204. AUDITS; REPORTS TO THE PRESIDENT AND CON-**  
9 **GRESS.**

10 (a) ACCOUNTING.—The books of account of AIFA  
11 shall be maintained in accordance with generally accepted  
12 accounting principles, and shall be subject to an annual  
13 audit by independent public accountants of nationally rec-  
14 ognized standing appointed by the Board of Directors.

15 (b) REPORTS.—

16 (1) BOARD OF DIRECTORS.—Not later than 90  
17 days after the last day of each fiscal year, the Board  
18 of Directors shall submit to the President and Con-  
19 gress a complete and detailed report with respect to  
20 the preceding fiscal year, setting forth—

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

23 (B) a schedule of the obligations of AIFA  
24 and capital securities outstanding at the end of  
25 such fiscal year, with a statement of the

1 amounts issued and redeemed or paid during  
2 such fiscal year;

3 (C) the status of infrastructure projects re-  
4 ceiving funding or other assistance pursuant to  
5 this Act during such fiscal year, including all  
6 nonperforming loans, and including disclosure  
7 of all entities with a development, ownership, or  
8 operational interest in such infrastructure  
9 projects;

10 (D) a description of the successes and  
11 challenges encountered in lending to rural com-  
12 munities, including the role of the Center for  
13 Excellence and the Office of Rural Assistance  
14 established under this Act; and

15 (E) an assessment of the risks of the port-  
16 folio of AIFA, prepared by an independent  
17 source.

18 (2) GAO.—Not later than 5 years after the  
19 date of enactment of this Act, the Comptroller Gen-  
20 eral of the United States shall conduct an evaluation  
21 of, and shall submit to Congress a report on, activi-  
22 ties of AIFA for the fiscal years covered by the re-  
23 port that includes an assessment of the impact and  
24 benefits of each funded infrastructure project, in-  
25 cluding a review of how effectively each such infra-

1 structure project accomplished the goals prioritized  
2 by the infrastructure project criteria of AIFA.

3 (c) BOOKS AND RECORDS.—

4 (1) IN GENERAL.—AIFA shall maintain ade-  
5 quate books and records to support the financial  
6 transactions of AIFA, with a description of financial  
7 transactions and infrastructure projects receiving  
8 funding, and the amount of funding for each such  
9 project maintained on a publically accessible data-  
10 base.

11 (2) AUDITS BY THE SECRETARY AND GAO.—  
12 The books and records of AIFA shall at all times be  
13 open to inspection by the Secretary of the Treasury,  
14 the Special Inspector General, and the Comptroller  
15 General of the United States.

## 16 **TITLE III—FUNDING OF AIFA**

### 17 **SEC. 301. FEES.**

18 (a) IN GENERAL.—The chief executive officer shall  
19 establish fees with respect to loans and loan guarantees  
20 under this Act that—

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

24 (2) may be in the form of an application or  
25 transaction fee, or interest rate adjustment; and

1           (3) may be based on the risk premium associ-  
2           ated with the loan or loan guarantee, taking into  
3           consideration—

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

6                   (B) prevailing market conditions;

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

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

11          (b) **TREASURY RECEIPTS.**—AIFA shall annually de-  
12          posit amounts of fees collected under this section that are  
13          not used for the expenses of AIFA as miscellaneous re-  
14          ceipts with the Treasury.

15          **SEC. 302. SELF-SUFFICIENCY OF AIFA.**

16          The chief executive officer shall, to the extent pos-  
17          sible, take actions consistent with this Act to make AIFA  
18          a self-sustaining entity, with administrative costs and Fed-  
19          eral credit subsidy costs fully funded by fees and risk pre-  
20          miums on loans and loan guarantees.

21          **SEC. 303. FUNDING.**

22          There is authorized to be appropriated to AIFA to  
23          carry out this Act, to make direct loans and loan guaran-  
24          tees under this Act, not more than \$10,000,000,000, to  
25          remain available until expended, of which amount, not

1 more than \$25,000,000 for each of fiscal years 2012  
 2 through 2013, and not more than \$50,000,000 for fiscal  
 3 year 2014 may be used for administrative costs of AIFA.  
 4 Such amount shall earn interest. Not more than 5 percent  
 5 of such amount shall be used to offset subsidy costs associ-  
 6 ated with rural infrastructure projects.

7 **SEC. 304. CONTRACT AUTHORITY.**

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

13 **TITLE IV—EXTENSION OF EX-**  
 14 **EMPTION FROM ALTER-**  
 15 **NATIVE MINIMUM TAX TREAT-**  
 16 **MENT FOR CERTAIN TAX-EX-**  
 17 **EMPT BONDS**

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

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

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



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

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

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

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

10          (c) EFFECTIVE DATE.—The amendments made by  
11          this section shall apply to obligations issued after Decem-  
12          ber 31, 2010.

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