

117TH CONGRESS
1ST SESSION

H. R. 3722

To establish the 21st Century American Infrastructure Bank, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 2021

Mr. SEAN PATRICK MALONEY of New York introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish the 21st Century American Infrastructure Bank, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “21st Century Infra-
5 structure Bank Act”.

6 **SEC. 2. 21ST CENTURY AMERICAN INFRASTRUCTURE BANK.**

7 (a) ESTABLISHMENT.—There is hereby established a
8 wholly owned Government corporation to be known as the

1 “21st Century American Infrastructure Bank” (herein-
2 after referred to as the “Bank”), which shall provide fi-
3 nancial assistance for qualified infrastructure projects, in
4 accordance with the requirements of this section.

5 (b) BOARD OF TRUSTEES.—

6 (1) IN GENERAL.—The head of the Bank shall
7 be a board of trustees (hereinafter referred to as the
8 “Board”).

9 (2) APPOINTMENT.—The Board shall consist of
10 9 members who shall be appointed by the President,
11 by and with the advice and consent of the Senate,
12 and selected as follows:

13 (A) 2 individuals from a list of at least 5
14 individuals selected by the Speaker of the
15 House of Representatives.

16 (B) 2 individuals from a list of at least 5
17 individuals selected by the minority leader of
18 the House of Representatives.

19 (C) 2 individuals from a list of at least 5
20 individuals selected by the majority leader of
21 the Senate.

22 (D) 2 individuals from a list of at least 5
23 individuals selected by the minority leader of
24 the Senate.

1 (E) 1 individual selected at will by the
2 President.

3 (3) TERM.—

4 (A) IN GENERAL.—The members of the
5 Board shall serve for a 6-year term, and no
6 member may serve for more than 2 terms, but
7 a member may continue to serve after the expi-
8 ration of a term until the successor member
9 takes office.

10 (B) STAGGERED TERMS.—The members of
11 the Board shall serve staggered terms, with 1
12 of the initial members of the Board serving for
13 a term of 4 years and 2 each of the initial
14 members of the Board serving for terms of 5,
15 6, 7, and 8 years.

16 (C) VACANCIES.—A vacancy in a position
17 of a member of the Board shall be filled in the
18 same manner in which the original position was
19 filled.

20 (4) COMPENSATION.—The members of the
21 Board shall receive compensation at the rate of basic
22 pay payable for level IV of the Executive Schedule
23 under section 5315 of title 5, United States Code.

1 (5) CHAIR.—The members of the Board shall
2 select one member to serve as the Chair of the
3 Board.

4 (6) CORPORATE GOVERNANCE.—The Securities
5 and Exchange Commission shall issue corporate gov-
6 ernance standards with which the Board shall com-
7 ply, and such standards shall be as close as prac-
8 ticable to those standards required to be followed by
9 the board of directors of an issuer listed on the New
10 York Stock Exchange.

11 (7) CONFLICTS OF INTEREST.—A member of
12 the Board may not have a financial interest in—

13 (A) a qualified infrastructure project re-
14 ceiving financial assistance from the Bank; or

15 (B) an eligible infrastructure provider re-
16 ceiving financial assistance from the Bank, in-
17 cluding any municipal credit of a State, local,
18 or Tribal government receiving financial assist-
19 ance from the Bank.

20 (c) FINANCIAL ASSISTANCE.—

21 (1) IN GENERAL.—The Bank shall provide
22 loans and bond guarantees to eligible infrastructure
23 providers for qualified infrastructure projects and
24 make equity investments in qualified infrastructure
25 projects.

1 (2) APPLICATION.—A person wishing to receive
2 financial assistance from the Bank with respect to a
3 qualified infrastructure project shall submit an ap-
4 plication to the Bank in such form and containing
5 such information as the Board may require.

6 (3) PUBLIC TRANSPORTATION CAPITAL
7 PROJECT REQUIREMENTS.—Any person receiving fi-
8 nancial assistance from the Bank in connection with
9 a public transportation capital project (as such
10 terms are defined under section 5302 of title 49,
11 United States Code) shall, as a condition on the re-
12 ceipt of such financial assistance, comply with the
13 grant requirements applicable to grants made under
14 section 5309 of such title.

15 (4) LIMITATION ON FINANCIAL ASSISTANCE
16 FOR STATE-OWNED ENTERPRISES.—

17 (A) IN GENERAL.—Financial assistance
18 provided by the Bank may not be used in
19 awarding a contract or subcontract to an entity
20 that is owned or controlled by, is a subsidiary
21 of, or is otherwise related legally or financially
22 to a corporation based in a country that—

23 (i) is identified as a nonmarket econ-
24 omy country (as defined in section 771(18)
25 of the Tariff Act of 1930 (19 U.S.C.

1 1677(18))) as of the date of enactment of
2 this Act;

3 (ii) was identified by the United
4 States Trade Representative in the most
5 recent report required by section 182 of
6 the Trade Act of 1974 (19 U.S.C. 2242)
7 as a priority foreign country under sub-
8 section (a)(2) of that section; and

9 (iii) is subject to monitoring by the
10 Trade Representative under section 306 of
11 the Trade Act of 1974 (19 U.S.C. 2416).

12 (B) EXCEPTION.—For purposes of sub-
13 paragraph (A), the term “otherwise related le-
14 gally or financially” does not include a minority
15 relationship or investment.

16 (C) INTERNATIONAL AGREEMENTS.—This
17 paragraph shall be applied in a manner con-
18 sistent with the obligations of the United States
19 under international agreements.

20 (5) COMPLIANCE WITH DAVIS-BACON ACT.—All
21 laborers and mechanics employed by contractors and
22 subcontractors on qualified infrastructure projects
23 that receive financial assistance from the Bank shall
24 be paid wages at rates not less than those prevailing
25 on projects of a character similar in the locality as

1 determined by the Secretary of Labor in accordance
2 with subchapter IV of chapter 31 of part A of title
3 40, United States Code. With respect to the labor
4 standards specified in this section, the Secretary of
5 Labor shall have the authority and functions set
6 forth in Reorganization Plan Numbered 14 of 1950
7 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of
8 title 40, United States Code.

9 (6) USE OF IRON, STEEL, AND MANUFACTURED
10 GOODS IN INFRASTRUCTURE PROJECTS.—

11 (A) BUY AMERICA.—None of the financial
12 assistance provided by the Bank may be used
13 for a qualified infrastructure project unless all
14 of the iron, steel, and manufactured goods used
15 for the construction, alteration, maintenance or
16 repair of the project are produced in the United
17 States.

18 (B) EXCEPTION.—Subparagraph (A) shall
19 not apply in any case or category of cases in
20 which the Secretary of the Treasury finds
21 that—

22 (i) applying subparagraph (A) would
23 be inconsistent with the public interest;

24 (ii) iron, steel, and the relevant manu-
25 factured goods are not produced in the

1 United States in sufficient and reasonably
2 available quantities and of a satisfactory
3 quality; or

4 (iii) inclusion of iron, steel, and manu-
5 factured goods produced in the United
6 States will increase the cost of the overall
7 qualified infrastructure project by more
8 than 25 percent.

9 (C) PUBLICATION OF WAIVERS.—If the
10 Secretary of the Treasury determines that it is
11 necessary to waive the application of subpara-
12 graph (A) based on a finding under subpara-
13 graph (B), the Secretary shall publish in the
14 Federal Register a detailed written justification
15 as to why the provision is being waived.

16 (D) APPLICATION.—This paragraph shall
17 be applied in a manner consistent with the
18 United States obligations under international
19 agreements.

20 (E) CONSULTATIONS.—The Secretary of
21 the Treasury shall consult with the Board and
22 may consult with the Secretary of Transpor-
23 tation and other Federal Secretaries and Ad-
24 ministrators when applying this paragraph.

25 (d) RISK MANAGEMENT COMMITTEE.—

1 (1) IN GENERAL.—The Board shall establish a
2 Risk Management Committee to establish the risk
3 management policies to be used by the Bank.

4 (2) EMPLOYEES.—The Board shall appoint em-
5 ployees to the Risk Management Committee who the
6 Board has determined have significant and relevant
7 experience in insurance underwriting and credit risk
8 management.

9 (e) FUNDING.—

10 (1) INITIAL CAPITALIZATION.—Out of any
11 funds in the Treasury not otherwise appropriated,
12 there is appropriated to the Board \$50,000,000,000
13 as an initial capitalization to carry out this Act.

14 (2) BONDS.—

15 (A) IN GENERAL.—The Board is author-
16 ized to issue, under such terms and limitations
17 as the Board may establish by rule—

18 (i) general-purpose infrastructure
19 bonds, the proceeds of which shall be used
20 to carry out this Act; and

21 (ii) qualified infrastructure project-
22 specific infrastructure bonds, the proceeds
23 of which shall be used to provide financial
24 assistance to the applicable qualified infra-
25 structure project.

1 (B) LIMITATION ON USE OF PROCEEDS
2 FOR ADMINISTRATIVE EXPENSES.—Not more
3 than 1 percent of the proceeds from the
4 issuance of bonds described under subpara-
5 graph (A) may be used to pay for the adminis-
6 trative expenses of the Bank.

7 (C) EXEMPTION FROM LOCAL TAX-
8 ATION.—Bonds issued by the Bank, and the in-
9 terest on or credits with respect to such bonds,
10 shall not be subject to taxation by any State,
11 county, municipality, or local taxing authority.

12 (f) REPORTS AND STUDIES.—

13 (1) ANNUAL REPORT ON BANK ACTIVITIES.—
14 The Board shall issue an annual report to the appli-
15 cable congressional committees describing the activi-
16 ties of the Bank during the previous year, including
17 the evaluations of qualified infrastructure projects
18 and the financing assistance provided with respect to
19 such projects.

20 (2) REPORT ON DOMESTICALLY SOURCED MA-
21 TERIALS, GOODS, AND PRODUCTS.—Not less often
22 than every 2 years, the Board shall issue a report
23 to the applicable congressional committees that de-
24 scribes, of the materials, goods, and products that
25 were used to construct, or to support the construc-

1 tion of, qualified infrastructure projects receiving fi-
2 nancial assistance from the Bank within the most
3 recent 2 calendar years, the percentage of such ma-
4 terials, goods, and products that were created,
5 sourced, or manufactured in the United States.

6 (3) PUBLIC DATABASE OF FUNDED QUALIFIED
7 INFRASTRUCTURE PROJECTS.—The Board shall de-
8 velop, maintain, and update a publicly available
9 database containing descriptions of each qualified in-
10 frastructure project receiving financial assistance
11 from the Bank, including the amount and form of
12 financing.

13 (4) STUDY ON BANK EFFECTIVENESS.—

14 (A) STUDY.—The Board shall, every 2
15 years, carry out a study to evaluate the effec-
16 tiveness of the financial assistance provided by
17 the Bank.

18 (B) REPORT.—The Board shall issue a re-
19 port to the applicable congressional committees
20 containing all findings and determinations made
21 in carrying out the study required under sub-
22 paragraph (A).

23 (5) GAO STUDY.—

24 (A) STUDY.—After the end of the 5-year
25 period beginning on the date of enactment of

1 this Act, the Comptroller General of the United
2 States shall carry out a study to evaluate the
3 effectiveness of the financial assistance provided
4 by the Bank.

5 (B) REPORT.—The Comptroller General
6 shall issue a report to the applicable congress-
7 sional committees containing all findings and
8 determinations made in carrying out the study
9 required under subparagraph (A).

10 (g) DEFINITIONS.—In this section:

11 (1) APPLICABLE CONGRESSIONAL COMMIT-
12 TEES.—The term “applicable congressional commit-
13 tees” means the Committee on Transportation and
14 Infrastructure of the House of Representatives and
15 the Committee on Commerce, Science, and Trans-
16 portation of the Senate.

17 (2) BANK.—The term “Bank” means the 21st
18 Century American Infrastructure Bank.

19 (3) BOARD.—The term “Board” means the
20 board of trustees of the Bank.

21 (4) ELIGIBLE INFRASTRUCTURE PROVIDER.—
22 The term “eligible infrastructure provider” means a
23 State, local government, Tribal government, corpora-
24 tion, nonprofit entity, public-private partnership, or

1 any other person who is or will be carrying out a
2 qualified infrastructure project.

3 (5) FINANCIAL ASSISTANCE.—With respect to a
4 qualified infrastructure project, the term “financial
5 assistance” means any loan or bond guarantee pro-
6 vided under this section with respect to such project,
7 and any equity investment made under this section
8 in such project

9 (6) QUALIFIED INFRASTRUCTURE PROJECT.—
10 The term “qualified infrastructure project” means a
11 project—

12 (A) sponsored by—

13 (i) a State, local, or Tribal govern-
14 ment, or any political subdivision of such a
15 government (including a transit agency or
16 port authority); or

17 (ii) a group of entities described under
18 clause (i), including a metropolitan plan-
19 ning organization;

20 (B) that is or will be owned by an entity
21 described under subparagraph (A); and

22 (C) that involves the construction, mainte-
23 nance, improvement, or repair of a transpor-

1 tation, energy, water, communications, or edu-
2 cational facility.

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