

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5120

To facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 1994

Ms. DELAURO (for herself and Mr. GEPHARDT) introduced the following bill; which was referred jointly to the Committees on Banking, Finance and Urban Affairs, Ways and Means, and Public Works and Transportation

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## A BILL

To facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, 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 “National Infrastruc-  
5        ture Development Act of 1994”.

6        **SEC. 2. FINDINGS.**

7        The Congress hereby finds the following:

1           (1) As expressed in Executive Order No. 12893  
2 of January 26, 1994, which sets out guiding prin-  
3 ciples for Federal infrastructure investments, a well  
4 functioning infrastructure is vital to sustained eco-  
5 nomic growth, to the quality of life of our commu-  
6 nities, and to the protection of our environment and  
7 natural resources.

8           (2) Although grant programs of the Federal  
9 Government must continue to play a central role in  
10 financing the infrastructure needs of the Nation,  
11 current and foreseeable demands on existing Fed-  
12 eral, State, and local funding for infrastructure ex-  
13 pansion and replacement exceed the resources to  
14 support these programs by margins wide enough to  
15 prompt serious concerns about the Nation's ability  
16 to sustain long-term economic development, produc-  
17 tivity, and international competitiveness.

18           (3) Increased investments by public and private  
19 capital in infrastructure facilities the financing for  
20 which can be based on the revenue generated by  
21 such facilities and by other dedicated revenue  
22 sources would assist the Nation in marshalling the  
23 resources necessary to meet existing and projected  
24 infrastructure funding demands.

1           (4) The private capital markets, including the  
2           more than \$4,500,000,000,000 dollars in capital  
3           held by institutional investors such as pension funds,  
4           have a growing interest in public-private infrastruc-  
5           ture investment opportunities that can produce com-  
6           petitive risk-adjusted rates of return.

7           (5) Federal leadership is necessary to expedi-  
8           tiously develop these new infrastructure investment  
9           mechanisms.

10          (6) Such leadership can best be accomplished  
11          by the establishment of a self-supporting national  
12          entity designed to lead the way in promoting appro-  
13          priate public-private infrastructure partnerships and  
14          by the creation of a public benefit bond designed to  
15          facilitate investment by pension plans in infrastruc-  
16          ture development.

17          (7) Such a national entity will provide for sig-  
18          nificant and sustained job growth in critical sectors  
19          of the Nation's economy as it helps address unmet  
20          infrastructure needs by leveraging limited Federal  
21          resources with private capital.

22 **SEC. 3. PURPOSES.**

23          The purposes of this Act are as follows:

24                 (1) To establish the National Infrastructure  
25          Development Corporation for the purpose of making

1 new sources of financing available for the develop-  
2 ment of infrastructure facilities, and to facilitate the  
3 use and issuance of public benefit bonds.

4 (2) To establish a subsidiary of the Corpora-  
5 tion, the National Infrastructure Insurance Corpora-  
6 tion, to issue insurance, reinsurance and related un-  
7 dertakings in respect of the issuance of obligations  
8 related to the development of infrastructure facili-  
9 ties.

10 (3) To establish a category of financial instru-  
11 ment to be known as “public benefit bonds” de-  
12 signed to help facilitate pension plan investment in  
13 the development of infrastructure facilities.

14 **SEC. 4. DEFINITIONS.**

15 The following definitions shall apply for purposes of  
16 this Act unless the context requires otherwise:

17 (1) CORPORATION.—The term “Corporation”  
18 means the National Infrastructure Development  
19 Corporation established under section 5(a).

20 (2) DEVELOPMENT.—The terms “development”  
21 and “develop” mean, with respect to an infrastruc-  
22 ture facility, any—

23 (A) preconstruction planning, feasibility re-  
24 view, permitting and design work and other  
25 preconstruction activities;

1 (B) construction, reconstruction, rehabili-  
2 tation, replacement, or expansion; and

3 (C) operation and maintenance.

4 (3) ENTITY.—The term “entity” means an in-  
5 dividual, corporation, partnership, joint venture,  
6 trust or governmental entity or instrumentality.

7 (4) INFRASTRUCTURE FACILITY.—The term  
8 “infrastructure facility” means a road, highway,  
9 bridge, tunnel, airport, mass transportation vehicle  
10 or system, passenger rail vehicle or system, inter-  
11 modal transportation facility, waterway, commercial  
12 port, drinking or waste water treatment facility,  
13 solid waste disposal facility, pollution control system,  
14 hazardous waste facility, federally designated na-  
15 tional information highway facility, and any ancillary  
16 facility which forms a part of any such facility or is  
17 reasonably related to such facility, whether owned,  
18 leased or operated by a public entity or a private en-  
19 tity or by a combination of such entities, and the fi-  
20 nancing or refinancing of the development of which  
21 is, or will be, supported in whole or in part by user  
22 fees or other dedicated revenue sources.

23 (5) INSURANCE CORPORATION.—The term “In-  
24 surance Corporation” means the National Infra-

1 structure Insurance Corporation established pursu-  
2 ant to section 5(b).

3 (6) NIC.—The term “NIC” means the Cor-  
4 poration and all subsidiaries of the Corporation.

5 (7) PENSION PLAN.—The term “pension plan”  
6 means a pension plan as defined in section 3(2) of  
7 the Employee Retirement Income Security Act of  
8 1974, including any public pension plan.

9 (8) PUBLIC BENEFIT BOND.—The term “public  
10 benefit bond” means a bond or other indebtedness  
11 meeting the requirements of section 72(w) of the In-  
12 ternal Revenue Code of 1986.

13 (9) PUBLIC-PRIVATE PARTNERSHIP.—The term  
14 “public-private partnership” means any entity—

15 (A) which is undertaking the development  
16 of all or part of any infrastructure facility—

17 (i) pursuant to requirements estab-  
18 lished in 1 or more contracts between such  
19 entity and a State or an instrumentality of  
20 a State; or

21 (ii) the activities of which with respect  
22 to such facility are subject to regulation by  
23 a State or any instrumentality of a State;  
24 and

1 (B) which owns, leases, or operates, or will  
2 own, lease, or operate, such infrastructure facil-  
3 ity in whole or in part, and at least 1 of the  
4 participants in such entity is a nongovern-  
5 mental entity.

6 (10) REVOLVING FUND.—The term “revolving  
7 fund” means a fund or program established by a  
8 State or a political subdivision or instrumentality of  
9 a State, the principal activity of which is to make  
10 loans, commitments, or other financial accommoda-  
11 tion available for the development of 1 or more cat-  
12 egories of infrastructure facilities.

13 (11) SECRETARY.—The term “Secretary”  
14 means the Secretary of the Treasury or the designee  
15 of the Secretary.

16 (12) STATE.—The term “State” includes the  
17 District of Columbia, Puerto Rico, Guam, American  
18 Samoa, the Trust Territories of the Pacific Islands,  
19 the Virgin Islands, the Northern Mariana Islands,  
20 and any territory of the United States.

21 (13) TRANSITION DATE.—The term “transition  
22 date” means the date on which the voting common  
23 stock of the Corporation owned by the Secretary is  
24 fully repurchased or converted in accordance with  
25 section 13 and the transition of the Corporation to

1 a government-sponsored enterprise in accordance  
2 with such section is completed.

3 **SEC. 5. ESTABLISHMENT OF NIC.**

4 (a) ESTABLISHMENT OF NATIONAL INFRASTRUC-  
5 TURE DEVELOPMENT CORPORATION.—The National In-  
6 frastructure Development Corporation is hereby estab-  
7 lished as a wholly owned Government corporation subject  
8 to chapter 91 of title 31 (commonly referred to as the Gov-  
9 ernment Corporation Control Act), except as otherwise  
10 provided in this Act.

11 (b) ESTABLISHMENT OF NATIONAL INFRASTRUC-  
12 TURE INSURANCE CORPORATION.—The National Infra-  
13 structure Insurance Corporation is hereby established as  
14 a subsidiary of the Corporation and as a wholly owned  
15 Government corporation subject to chapter 91 of title 31,  
16 except as otherwise provided in this Act.

17 (c) SELF-SUPPORTING ENTITIES.—The Corporation  
18 and the Insurance Corporation shall each conduct their  
19 respective businesses as self-supporting entities.

20 **SEC. 6. CORPORATION'S POWERS AND LIMITATIONS.**

21 (a) GENERAL POWERS.—In order to carry out the  
22 purposes of the Corporation as set forth in this Act, the  
23 Corporation shall have the following powers:

24 (1) To make senior and subordinated loans and  
25 purchase senior and subordinated debt securities



1 (both taxable and tax exempt) and equity securities,  
2 and enter into a binding commitment to make any  
3 such loan or purchase any such security, on such  
4 terms as the Corporation may determine, in the Cor-  
5 poration's discretion, to be appropriate, the proceeds  
6 of which are to be used to finance or refinance the  
7 development of 1 or more infrastructure facilities,  
8 and subject to the provisions of paragraph (8) of  
9 subsection (b), provide preconstruction phase assist-  
10 ance in accordance with section 8(f).

11 (2) To issue and sell debt securities and voting  
12 and nonvoting equity securities of the Corporation  
13 on such terms as the board of directors of the Cor-  
14 poration may determine, subject to the provisions of  
15 paragraphs (2), (3), and (4) of subsection (b), to be  
16 appropriate and to pay such dividends on any out-  
17 standing stock as the board of directors shall deter-  
18 mine from time to time.

19 (3) To make the determinations with respect to  
20 public benefit bonds pursuant to section 72(w) of  
21 the Internal Revenue Code of 1986.

22 (4) To make agreements and contracts with any  
23 entity in furtherance of the business of the Corpora-  
24 tion.

1           (5) To make use of the services, facilities, and  
2           property of any Federal agency or instrumentality,  
3           with the approval of such agency or instrumentality  
4           and on a reimbursable basis, in carrying out the  
5           purposes of this Act.

6           (6) To acquire, lease, pledge, exchange, and dis-  
7           pose of real and personal property and otherwise ex-  
8           ercise all the usual incidents of ownership of prop-  
9           erty to the extent the exercise of such powers are ap-  
10          propriate to and consistent with the purposes of the  
11          Corporation.

12          (7) To sue and be sued in the Corporation's  
13          corporate capacity in any court of competent juris-  
14          diction, except that no attachment, injunction, or  
15          similar process, mesne or final, may be issued  
16          against the property of the Corporation or against  
17          the Corporation with respect to such property.

18          (8) To indemnify the directors and officers of  
19          the Corporation for liabilities arising out of the ac-  
20          tions of the directors and officers in such capacity,  
21          in accordance with, and subject to the limitations  
22          contained in, the bylaws of the Corporation.

23          (9) To exercise all other lawful powers which  
24          are necessary or appropriate to carry out, and are  
25          consistent with, the purposes of the Corporation, in-

1 cluding the powers conferred upon a corporation by  
2 the District of Columbia Business Corporation Act.

3 (b) LIMITATIONS ON THE CORPORATION.—

4 (1) ACTIONS CONSISTENT WITH SELF-SUPPORT-  
5 ING ENTITY STATUS.—The Corporation shall con-  
6 duct its business in a manner consistent with the re-  
7 quirement of section 5(c).

8 (2) CONDITION ON DEBT ISSUANCE.—The Cor-  
9 poration shall not issue any debt security under sub-  
10 section (a)(2) unless, at the time of the issuance  
11 thereof, such security is rated by a nationally recog-  
12 nized statistical rating organization at 1 of the 3  
13 highest ratings of such organization.

14 (3) LIMITATION AND CONDITION ON ISSUANCE  
15 OF DEBT AND NONVOTING EQUITY SECURITIES.—

16 (A) IN GENERAL.—Before the transition  
17 date, the Corporation shall not issue any debt  
18 security or nonvoting equity security under sub-  
19 section (a)(2) without the prior consent of the  
20 Secretary.

21 (B) APPROVAL OF SECRETARY FOR DEBT  
22 SECURITY AFTER TRANSITION DATE.—On and  
23 after the transition date, the Corporation shall  
24 not issue any debt security under subsection

1 (a)(2) without the prior consent of the Sec-  
2 retary.

3 (4) CONDITION ON VOTING EQUITY ISSU-  
4 ANCE.—Before the transition date, the Corporation  
5 shall not issue any voting security to any entity  
6 other than the Secretary, and, on and after the tran-  
7 sition date, the issuance of any such security shall  
8 be subject to the provisions of section 13.

9 (5) SALE OF VOTING SECURITIES OF THE IN-  
10 SURANCE CORPORATION.—Before the transition  
11 date, voting securities of the Insurance Corporation  
12 purchased by the Corporation may not be sold or  
13 otherwise transferred by the Corporation.

14 (6) INVESTMENTS CONSISTENT WITH PURPOSES  
15 OF CORPORATION.—In order to achieve the Corpora-  
16 tion’s purpose of effectively leveraging limited Fed-  
17 eral resources with other public and private sources  
18 of capital, the Corporation shall seek to maintain a  
19 significant proportion of the Corporation’s infra-  
20 structure investments in—

21 (A) subordinated securities; and

22 (B) securities issued with respect to infra-  
23 structure facilities developed by public-private  
24 partnerships.

1           (7) COORDINATION WITH STATE AND LOCAL  
2 REGULATORY AUTHORITY.—The provision of finan-  
3 cial assistance by the Corporation pursuant to this  
4 Act shall not be construed as—

5                   (A) limiting the right of any State or local  
6 authority to approve or regulate rates of return  
7 on private equity invested in a project; or

8                   (B) otherwise superseding any State law or  
9 regulation applicable to a project.

10           (8) LIMITATION ON PRECONSTRUCTION ASSIST-  
11 ANCE.—The Corporation shall provide assistance in  
12 connection with the development of any infrastruc-  
13 ture facility during the facility’s preconstruction  
14 phase only in accordance with section 8(f).

15 **SEC. 7. INSURANCE CORPORATION’S POWERS AND LIMITA-**  
16 **TIONS.**

17           (a) GENERAL POWERS.—In order to carry out the  
18 purposes of the Insurance Corporation as set forth in this  
19 Act, the Insurance Corporation shall have the following  
20 powers:

21                   (1) To insure and reinsure bonds, debentures,  
22 notes, debt instruments, loans, and any interest in  
23 any such obligation or loan, the proceeds of which  
24 are to be used to finance or refinance the develop-  
25 ment of 1 or more infrastructure facilities.

1           (2) To insure leases of personal, real, or mixed  
2 property with respect to infrastructure facilities.

3           (3) To issue letters of credit and undertake  
4 such obligations and commitments as the Insurance  
5 Corporation deems necessary to carry out the pur-  
6 poses described in paragraphs (1) and (2).

7           (4) To issue and sell voting and nonvoting eq-  
8 uity securities on such terms as the board of direc-  
9 tors of the Insurance Corporation may determine,  
10 subject to the provisions of paragraphs (5) and (6)  
11 of subsection (b), to be appropriate and to pay divi-  
12 dends on any outstanding stock as the board of di-  
13 rectors of the Insurance Corporation shall determine  
14 from time to time.

15           (5) To make agreements and contracts with any  
16 entity in furtherance of the business of the Insur-  
17 ance Corporation.

18           (6) To make use of the services, facilities, and  
19 property of any Federal agency or instrumentality,  
20 with the approval of such agency or instrumentality  
21 and on a reimbursable basis, in carrying out the  
22 purposes of this Act.

23           (7) To acquire, lease, pledge, exchange, and dis-  
24 pose of real and personal property and otherwise ex-  
25 ercise all the usual incidents of ownership of prop-

1 erty to the extent the exercise of such powers are ap-  
2 appropriate to and consistent with the purposes of the  
3 Insurance Corporation.

4 (8) To sue and be sued in the Insurance Cor-  
5 poration's corporate capacity in any court of com-  
6 petent jurisdiction, except that no attachment, in-  
7 junction, or similar process, mesne or final, may be  
8 issued against the property of the Insurance Cor-  
9 poration or against the Insurance Corporation with  
10 respect to such property.

11 (9) To indemnify the directors and officers of  
12 the Insurance Corporation for liabilities arising out  
13 of the actions of the directors and officers in such  
14 capacity, in accordance with, and subject to the limi-  
15 tations contained in, the bylaws of the Insurance  
16 Corporation.

17 (10) To exercise all other lawful powers which  
18 are necessary or appropriate to carry out, and are  
19 consistent with, the purposes of the Insurance Cor-  
20 poration, including the powers conferred upon a cor-  
21 poration by the District of Columbia Business Cor-  
22 poration Act.

23 (b) LIMITATIONS ON THE INSURANCE CORPORA-  
24 TION.—

1           (1) ACTIONS CONSISTENT WITH SELF-SUPPORT-  
2           ING ENTITY STATUS.—The Insurance Corporation  
3           shall conduct its business in a manner consistent  
4           with the requirement of section 5(c).

5           (2) INSURANCE CORPORATION RATING RE-  
6           QUIREMENT.—The Insurance Corporation shall not  
7           issue any primary insurance or letter of credit with  
8           respect to 1 or more infrastructure facilities unless,  
9           at the time of such issuance, the Insurance Corpora-  
10          tion’s claims-paying ability is then rated by a nation-  
11          ally recognized statistical rating organization at the  
12          highest rating of such organization.

13          (3) LIMITATION ON REINSURANCE.—The Insur-  
14          ance Corporation may write reinsurance in respect  
15          of all or a portion of a primary insurance policy with  
16          respect to 1 or more infrastructure facilities issued  
17          by a bond insurer if the claims-paying ability of such  
18          insurer is rated, at the time of issuance of such rein-  
19          surance, by a nationally recognized statistical rating  
20          organization at the highest rating of such organiza-  
21          tion.

22          (4) LIMITATION ON INSURANCE AND OTHER AC-  
23          TIVITIES.—The Insurance Corporation may issue  
24          primary insurance or a letter of credit with respect  
25          to 1 or more infrastructure facilities, except that not



1 less than 75 percent of the principal amount of all  
2 obligations so insured or subject of a letter of credit  
3 shall be obligations which are, or based on a pub-  
4 lished or indicative rating would be, without such in-  
5 surance or letter of credit, rated by a nationally rec-  
6 ognized statistical rating organization in the fourth  
7 or fifth rating categories of such organization (BBB  
8 and BB; Baa and Ba, or their equivalents).

9 (5) PRIOR CONSENT OF SECRETARY.—Before  
10 the transition date, the Insurance Corporation shall  
11 not issue any nonvoting equity security under sub-  
12 section (a)(4) without the prior consent of the Sec-  
13 retary.

14 (6) CONDITION ON VOTING EQUITY ISSU-  
15 ANCE.—Before the transition date, the Insurance  
16 Corporation shall not issue any voting security to  
17 any entity other than the Corporation.

18 (7) COORDINATION WITH STATE AND LOCAL  
19 REGULATORY AUTHORITY.—The provision of finan-  
20 cial assistance by the Insurance Corporation pursu-  
21 ant to this Act shall not be construed as—

22 (A) limiting the right of any State or local  
23 authority to approve or regulate rates of return  
24 on private equity invested in a project; or

1 (B) otherwise superseding any State law or  
2 regulation applicable to a project.

3 **SEC. 8. ELIGIBILITY CRITERIA FOR ASSISTANCE FROM THE**  
4 **CORPORATION AND THE INSURANCE COR-**  
5 **PORATION.**

6 (a) GENERAL.—No financial assistance shall be avail-  
7 able under this Act from the Corporation or the Insurance  
8 Corporation unless the applicant for such assistance has  
9 demonstrated to the satisfaction of the Corporation or the  
10 Insurance Corporation, as the case may be, that the  
11 project for which such assistance is being sought meets—

12 (1) the requirements of this Act; and

13 (2) any criteria established in accordance with  
14 this Act by the board of directors of the Corporation  
15 or the Insurance Corporation, as the case may be.

16 (b) ESTABLISHMENT OF PROJECT CRITERIA.—

17 (1) IN GENERAL.—Consistent with the require-  
18 ments of subsections (c) and (d), the boards of di-  
19 rectors of the Corporation and the Insurance Cor-  
20 poration shall each establish—

21 (A) criteria for determining eligibility for  
22 financial assistance under this Act;

23 (B) disclosure and application procedures  
24 to be followed by States, revolving funds, and

1 other entities to nominate projects for assist-  
2 ance under this Act; and

3 (C) such other criteria as the board of di-  
4 rectors of the Corporation or the Insurance  
5 Corporation may consider to be appropriate for  
6 purposes of carrying out this Act.

7 (2) FACTORS TO BE TAKEN INTO ACCOUNT.—  
8 The criteria established pursuant to paragraph  
9 (1)(A) shall provide for the consideration of the fol-  
10 lowing factors in considering eligibility for financial  
11 assistance under this Act:

12 (A) The extent to which provision of assist-  
13 ance by the Corporation or the Insurance Cor-  
14 poration will further the objectives for infra-  
15 structure investments established in Executive  
16 Order No. 12893 of January 26, 1994, includ-  
17 ing the stated objective of providing opportuni-  
18 ties for “innovative public-private initiatives”.

19 (B) The means by which development of  
20 the infrastructure facility under consideration is  
21 being financed, including—

22 (i) the terms and conditions and fi-  
23 nancial structure of the proposed financ-  
24 ing;

1 (ii) the financial assumptions and pro-  
2 jections on which the project is based; and

3 (iii) based on consideration of clauses  
4 (i) and (ii), whether the infrastructure fa-  
5 cility will have the capacity to be self-sup-  
6 porting.

7 (C) The likelihood that the provision of as-  
8 sistance by the Corporation or the Insurance  
9 Corporation will cause such development to pro-  
10 ceed more promptly and with lower costs for fi-  
11 nancing to the public and private entities en-  
12 gaged in developing such infrastructure facility  
13 than would be the case without such assistance.

14 (D) The extent to which the provision of  
15 assistance by the Corporation or the Insurance  
16 Corporation maximizes the level of private in-  
17 vestment in such infrastructure facility.

18 (3) LIMITATION ON CONDITIONS.—The Cor-  
19 poration and the Insurance Corporation shall not  
20 condition the approval of financial assistance for the  
21 development of any infrastructure facility on a re-  
22 quirement that a pension plan of a State or political  
23 subdivision of a State make an investment in such  
24 facility.

25 (c) SUBMISSION OF PROJECT PROPOSALS.—

1           (1) ACCEPTANCE OF PROPOSALS.—The Cor-  
2           poration and the Insurance Corporation shall accept,  
3           for consideration, project proposals relating to the  
4           development of infrastructure facilities submitted by  
5           a State, a revolving fund, or another entity, subject  
6           to subsection (d), which meet the requirements of  
7           subsection (b).

8           (2) LIST OF PROJECTS UNDER CONSIDERATION  
9           FOR ASSISTANCE.—Project proposals accepted pur-  
10          suant to paragraph (1) and approved in principle  
11          shall be placed on a list of projects being considered  
12          for financial assistance under this Act.

13          (3) ELIGIBILITY FOR PRECONSTRUCTION AS-  
14          SISTANCE.—Projects on the list established pursuant  
15          to paragraph (2) shall be eligible to apply for  
16          preconstruction assistance in accordance with sub-  
17          section (f).

18          (4) SUBSEQUENT APPROVALS.—Notwithstand-  
19          ing the receipt of any preconstruction assistance for  
20          any project, no additional financial assistance under  
21          this Act for such project may be provided without  
22          the specific approval by the Corporation or the In-  
23          surance Corporation, as the case may be, for such  
24          additional assistance.

1           (5) FEES.—A fee may be charged for the re-  
2 view of any project proposal in such amount as may  
3 be deemed appropriate by the Corporation or the In-  
4 surance Corporation to cover the cost of such review.

5 (d) STATE ELIGIBILITY.—

6           (1) IN GENERAL.—After the end of the 3-year  
7 period beginning on the date of the enactment of  
8 this Act, no financial assistance may be provided by  
9 the Corporation or the Insurance Corporation for  
10 the development of any infrastructure facility pro-  
11 posed for assistance by a State, or a revolving fund  
12 in a State, unless such State has in place—

13           (A) an evaluation process which is certified  
14 by the Secretary, in accordance with regulations  
15 which the Secretary shall prescribe before the  
16 end of the 6-month period beginning on such  
17 date of enactment, as being designed to ascer-  
18 tain the extent to which major work with re-  
19 spect to infrastructure facilities within the  
20 State can be financed by relying on any revenue  
21 reasonably obtainable from such facilities and  
22 other dedicated revenue sources; and

23           (B) a program which is certified by the  
24 Secretary, in accordance with regulations which  
25 the Secretary shall prescribe before the end of

1           such 6-month period, as being reasonably de-  
2           signed to promote the objective set forth in Ex-  
3           ecutive Order No. 12893 of January 26, 1994,  
4           of affording the opportunity for innovative pub-  
5           lic-private initiatives with respect to major  
6           work, consistent with the public interest.

7           (2) ACTIVITIES WITH NONSTATE ENTITIES.—  
8           After the end of the 3-year period beginning on the  
9           date of the enactment of this Act, the Corporation  
10          and the Insurance Corporation each may continue to  
11          undertake activities with respect to projects within a  
12          State relating to the development of infrastructure  
13          facilities which have been submitted by entities other  
14          than such State or a revolving fund in such State,  
15          including municipalities, regional authorities, and  
16          private-public partnerships, if the infrastructure fa-  
17          cilities meet the criteria for assistance established  
18          pursuant to subsection (b), and the State or States  
19          in which such facility or facilities are to be located  
20          have not met the conditions of subsection (d)(1).

21          (3) MAJOR WORK DEFINED.—For purposes of  
22          paragraph (1), the term “major work” means the  
23          construction of a new infrastructure facility, or the  
24          reconstruction, rehabilitation, replacement, or expan-

1 sion of an existing infrastructure facility, involving  
2 the expenditure of more than \$50,000,000.

3 (e) INITIAL TARGETING OF READY-TO-GO  
4 PROJECTS.—During the 3-year period beginning on the  
5 date of the enactment of this Act, the Corporation and  
6 the Insurance Corporation shall each seek to provide as-  
7 sistance to projects involving the development of infra-  
8 structure facilities which—

9 (1) the Corporation or the Insurance Corpora-  
10 tion, as the case may be, determines are ready to  
11 move forward promptly; and

12 (2) meet all other requirements of this Act.

13 (f) DEVELOPMENT RISK INSURANCE.—

14 (1) IN GENERAL.—Any project on the list es-  
15 tablished pursuant to subsection (c)(2) shall be eligi-  
16 ble to apply to the Corporation for development risk  
17 insurance in accordance with this subsection to in-  
18 sure against the risk of loss that would result if a  
19 project does not proceed within a specified time  
20 frame as the result of the failure to secure relevant  
21 permits or specified Federal, State, or local approv-  
22 als.

23 (2) TERMS AND SCOPE OF COVERAGE.—Devel-  
24 opment risk insurance provided under this sub-  
25 section shall—



1 (A) contain such limitations, deductibles,  
2 exclusions, and exceptions as the Corporation  
3 shall establish; and

4 (B) apply only to developmental costs in-  
5 curred after the date of the approval of the ap-  
6 plication for such insurance.

7 (3) MAXIMUM ON INSURANCE OF  
8 PRECONSTRUCTION RISK.—The Corporation shall  
9 not insure more than 50 percent of the  
10 preconstruction phase development risk of any  
11 project, as determined by the Corporation.

12 (4) ADDITIONAL CONDITIONS.—The Corpora-  
13 tion may impose such other conditions and require-  
14 ments in connection with any insurance provided  
15 under this subsection as the Corporation may deter-  
16 mine to be appropriate, including requirements for  
17 audits of costs and other matters.

18 (5) FEES FOR INSURANCE.—The Corporation  
19 may charge such fees and obtain such other com-  
20 pensation for providing insurance coverage under  
21 this subsection as the Corporation, in the Corpora-  
22 tion's discretion, shall determine to be appropriate.

23 (6) MAXIMUM EXPOSURE OF CORPORATION.—  
24 The total outstanding exposure of the Corporation  
25 with respect to insurance provided under this sub-

1 section may not exceed the amount which is equal to  
2 5 percent of the sum of the capital, surplus, and re-  
3 tained earnings of the Corporation, as measured at  
4 the time any such insurance is provided.

5 (g) DISCRETION OF CORPORATION AND INSURANCE  
6 CORPORATION.—Consistent with other provisions of this  
7 Act, any determination of the Corporation or the Insur-  
8 ance Corporation to provide assistance to any project, and  
9 the manner in which such assistance is provided, including  
10 the terms, conditions, fees and charges in respect thereof,  
11 shall be at the sole discretion of the Corporation or the  
12 Insurance Corporation, as the case may be.

13 (h) INDEPENDENT INVESTMENT COMMITTEE.—Any  
14 final decision to provide or not provide assistance under  
15 this Act by the Corporation or the Insurance Corporation  
16 with respect to any specific proposal shall be made by an  
17 investment committee, of the respective corporation, which  
18 shall be comprised of senior officers of the Corporation  
19 and the Insurance Corporation, as the case may be, ap-  
20 pointed to such committee by the respective board of direc-  
21 tors, which committees shall not have any nonofficer direc-  
22 tor members.

23 (i) STATE AND LOCAL PERMITS REQUIRED.—The  
24 provision of assistance by the Corporation or the Insur-  
25 ance Corporation in accordance with this section shall not

1 be deemed to relieve any recipient of assistance or the re-  
2 lated project of any obligation to obtain required State and  
3 local permits and approvals.

4 (j) ANNUAL REPORT.—A State, revolving fund, or  
5 other entity receiving assistance from the Corporation or  
6 the Insurance Corporation shall make annual reports to  
7 the Corporation or the Insurance Corporation, as the case  
8 may be, on the use of any such assistance, compliance with  
9 the criteria set forth in this section, and a disclosure of  
10 all entities with a development, ownership, or operational  
11 interest in a project assisted or proposed to be assisted  
12 pursuant to this Act.

13 **SEC. 9. CAPITALIZATION AND ORGANIZATION OF THE COR-**  
14 **PORATION AND THE INSURANCE CORPORA-**  
15 **TION.**

16 (a) CAPITALIZATION.—

17 (1) CAPITALIZATION OF THE CORPORATION.—

18 (A) VOTING COMMON STOCK.—Effective  
19 for any fiscal year only to such extent and in  
20 such amounts as are provided in advance in ap-  
21 propriation Acts, the Secretary shall subscribe  
22 for and purchase, in each of the 3 years follow-  
23 ing the date of enactment of this Act, voting  
24 common stock of the Corporation having an ag-  
25 gregate purchase price in each year of

1           \$1,000,000,000, except that no such purchase  
2           shall occur after the transition date.

3           (B) LIMITATION ON SALE OF SECURITIES  
4           BY SECRETARY.—Securities purchased by the  
5           Secretary may not be sold or otherwise trans-  
6           ferred by the Secretary unless such sale or  
7           transfer is effected pursuant to section 13 or is  
8           explicitly authorized by an Act of Congress.

9           (2) CAPITALIZATION OF THE INSURANCE COR-  
10          PORATION.—

11          (A) IN GENERAL.—The Corporation may  
12          subscribe for and purchase voting common  
13          stock of the Insurance Corporation in such  
14          amounts and at such times as the board of di-  
15          rectors of the Corporation shall from time to  
16          time consider appropriate.

17          (B) LIMITATION ON INVESTMENT BY COR-  
18          PORATION.—Not more than 25 percent of the  
19          capital, surplus, and retained earnings of the  
20          Corporation may be invested by the Corporation  
21          in the Insurance Corporation without the con-  
22          sent of the Secretary, measured at the time of  
23          any such investment.

24          (3) REPURCHASE OF OUTSTANDING OBLIGA-  
25          TIONS.—The Corporation and the Insurance Cor-

1       poration may purchase in the open market any of  
2       their respective outstanding obligations at any time  
3       and at any price.

4       (b) PLACE OF BUSINESS AND GOVERNING LAW.—

5             (1) CORPORATION.—

6                 (A) PRINCIPAL OFFICE.—The Corporation  
7                 shall maintain its principal office in the District  
8                 of Columbia, and shall be deemed, for purposes  
9                 of venue in civil actions, to be a resident of the  
10                District of Columbia.

11               (B) APPLICABILITY OF DISTRICT OF CO-  
12               LUMBIA BUSINESS CORPORATION ACT.—To the  
13               extent not inconsistent with this Act, the Cor-  
14               poration shall be subject to the District of Co-  
15               lumbia Business Corporation Act.

16             (2) INSURANCE CORPORATION.—

17               (A) PLACE OF BUSINESS.—The Insurance  
18               Corporation shall maintain its principal office  
19               in the District of Columbia, and shall be  
20               deemed, for purposes of venue in civil actions,  
21               to be a resident thereof.

22               (B) APPLICABILITY OF DISTRICT OF CO-  
23               LUMBIA BUSINESS CORPORATION ACT.—To the  
24               extent not inconsistent with this Act, the Insur-

1           ance Corporation shall be subject to the District  
2           of Columbia Business Corporation Act.

3           (3) APPLICABILITY OF STATE INSURANCE  
4           LAWS.—Before the transition date, the Corporation  
5           and the Insurance Corporation shall not be subject  
6           to the provisions of the law of any State or political  
7           subdivision of any State regulating the ownership or  
8           conduct of an insurance or surety business in any  
9           jurisdiction.

10          (4) EXEMPTION FROM TAXATION.—

11           (A) ON AND BEFORE TRANSITION DATE.—  
12           On and before the transition date, the Corpora-  
13           tion, the Insurance Corporation, and any other  
14           subsidiary of the Corporation, including the  
15           franchise, capital, reserves, surplus, securities  
16           holdings, and income of the Corporation, the  
17           Insurance Corporation, or any such subsidiary  
18           shall be exempt from taxation now or hereafter  
19           imposed by the United States, any State, or  
20           any county, municipality, or local taxing au-  
21           thority.

22           (B) AFTER TRANSITION DATE.—After the  
23           transition date, the Corporation, the Insurance  
24           Corporation, and any other subsidiary of the  
25           Corporation, including the franchise, capital, re-

1 serves, surplus, securities holdings, and income  
2 of the Corporation, the Insurance Corporation,  
3 or any such subsidiary shall be exempt from all  
4 taxation now or hereafter imposed by the  
5 United States, any State, or any county, mu-  
6 nicipality, or local taxing authority in any  
7 State, provided that the Corporation, the Insur-  
8 ance Corporation and any other subsidiary of  
9 the Corporation shall be subject to Federal in-  
10 come taxation.

11 **SEC. 10. MANAGEMENT OF THE CORPORATION.**

12 (a) BOARD OF DIRECTORS.—

13 (1) NUMBER AND APPOINTMENT.—Subject to  
14 the provisions of section 13, the Corporation shall  
15 have a board of directors consisting of 12 members,  
16 9 of whom shall be appointed by the President.

17 (2) REQUIRED EXPERTISE.—The President  
18 shall appoint individuals to the board of directors of  
19 the Corporation with a demonstrated experience and  
20 expertise in the general field of infrastructure  
21 project development, finance, or related disciplines.

22 (3) ADDITIONAL SELECTION CRITERIA.—The  
23 President shall ensure that, of the nonofficer direc-  
24 tors appointed to the board of directors, a minimum

1 of 6 shall be selected from among representatives of  
2 the private sector, of which—

3 (A) 2 shall be representatives of organized  
4 labor; and

5 (B) 2 shall be individuals involved in the  
6 field of public-private infrastructure finance and  
7 related disciplines.

8 (4) CONSULTATION WITH THE NATIONAL GOV-  
9 ERNORS' CONFERENCE.—The President shall select  
10 2 of the nonofficer directors to be appointed to the  
11 board of directors after consulting with and consid-  
12 ering the recommendations of the National Gov-  
13 ernors' Conference.

14 (5) APPOINTMENT OF OFFICERS TO THE  
15 BOARD.—A majority of the nonofficer members of  
16 the board shall appoint the president of the Corpora-  
17 tion who shall serve on the board of directors. The  
18 president of the Corporation shall select 2 executive  
19 officers to be appointed to the board, subject to con-  
20 firmation by a majority of the board.

21 (6) TERMS.—

22 (A) PRESIDENTIAL APPOINTEES.—Each  
23 director appointed by the President shall be ap-  
24 pointed for a term of 4 years, except as pro-  
25 vided in subparagraph (B).



1 (B) INITIAL PRESIDENTIAL AP-  
2 POINTEES.—As designated by the President, of  
3 the directors first appointed by the President—

4 (i)  $\frac{1}{3}$  shall be appointed for a term of  
5 2 years;

6 (ii)  $\frac{1}{3}$  shall be appointed for a term  
7 of 3 years; and

8 (iii)  $\frac{1}{3}$  shall be appointed for a term  
9 of 4 years.

10 (C) OFFICER DIRECTORS.—Officer direc-  
11 tors of the Corporation shall serve for a period  
12 of 1 year or until they cease to be an officer of  
13 the Corporation.

14 (D) INTERIM APPOINTMENTS.—Any direc-  
15 tor appointed to fill a vacancy occurring before  
16 the expiration of the term for which the direc-  
17 tor's predecessor was appointed shall be ap-  
18 pointed only for the remainder of that term.

19 (E) CONTINUATION OF SERVICE.—A direc-  
20 tor may serve after the expiration of that direc-  
21 tor's term until a successor has taken office.

22 (7) VACANCIES.—A vacancy in the board of di-  
23 rectors shall be filled in the manner in which the  
24 original appointment was made.

25 (8) REAPPOINTMENT.—

1           (A) PRESIDENTIAL APPOINTEES.—Mem-  
2           bers of the board of directors appointed by the  
3           President may be reappointed by the President,  
4           consistent with the requirements of this section.

5           (B) OFFICER DIRECTORS.—The president  
6           of the Corporation shall be reappointed to the  
7           board by the nonofficer directors for so long as  
8           such individual continues to serve as president  
9           of the Corporation. Officer directors of the  
10          board selected by the president of the Corpora-  
11          tion may be reappointed by the president of the  
12          Corporation, consistent with the requirements  
13          of this section.

14         (9) REMOVAL.—

15           (A) PRESIDENTIAL APPOINTEES.—A direc-  
16           tor appointed by the President shall be subject  
17           to removal only for cause.

18           (B) OFFICER DIRECTORS.—Officer direc-  
19           tors of the Corporation shall be subject to re-  
20           moval from the board in the discretion of a ma-  
21           jority of the board, except that the president of  
22           the Corporation shall continue to serve on the  
23           board for so long as he or she serves as presi-  
24           dent of the Corporation.

1           (10) QUORUM.—7 directors shall constitute a  
2 quorum.

3           (11) CHAIRPERSON.—The chairperson of the  
4 board of directors shall be selected by a majority of  
5 the board from among the nonofficer directors of the  
6 board, and shall serve for a period of 1 year, or until  
7 a new chairperson is selected.

8           (12) STATUS AND COMPENSATION OF BOARD  
9 MEMBERS.—

10           (A) NONOFFICER DIRECTORS.—Members  
11 of the board of directors who are not officers of  
12 the Corporation shall serve on a part-time basis  
13 and shall receive a per diem, when engaged in  
14 the actual performance of Corporation business,  
15 plus reasonable reimbursement for travel, sub-  
16 sistence and other necessary expenses incurred  
17 in the performance of their duties.

18           (B) OFFICER DIRECTORS.—Members of  
19 the board of directors who are officers of the  
20 Corporation shall not be entitled to receive any  
21 salary or other compensation for services as a  
22 director of the Corporation, but may receive  
23 reasonable reimbursement for travel, subsist-  
24 ence and other necessary expenses incurred in

1 the performance of their duties as directors of  
2 the Corporation.

3 (13) CONFLICTS OF INTEREST.—

4 (A) IN GENERAL.—Nonofficer directors  
5 shall have no responsibility for, and shall not  
6 seek to influence, any decision of the independ-  
7 ent investment committee established pursuant  
8 to section 8(h)

9 (B) CONSULTATION.—Notwithstanding  
10 subparagraph (A), the investment committee  
11 may, in the committee’s discretion and on the  
12 committee’s own initiative, consult with the  
13 board of directors as the committee sees fit.

14 (C) LIMITATION ON CONSULTATION.—No  
15 nonofficer director of the Corporation who has,  
16 or is affiliated with a person who has, an inter-  
17 est in any project under consideration for as-  
18 sistance under this Act shall participate in any  
19 consultation under subparagraph (B) with re-  
20 spect to such project.

21 (14) MEETINGS.—The board of directors shall  
22 meet at any time pursuant to the call of the chair-  
23 person or a majority of the directors and as provided  
24 by the bylaws of the Corporation, but not less than  
25 once each calendar quarter.

1           (15) DUTIES.—In addition to any duties estab-  
2           lished under this Act and the bylaws of the Corpora-  
3           tion, the board of directors shall determine the gen-  
4           eral policies which shall govern the operations of the  
5           Corporation in accordance with this Act.

6           (16) DELEGATION OF AUTHORITY.—The board  
7           of directors may delegate duties and powers of the  
8           board to such committees of the board as the board  
9           may determine to be appropriate.

10          (b) OFFICERS OF THE CORPORATION.—

11           (1) PRESIDENT OF THE CORPORATION.—The  
12           president of the Corporation shall be the chief execu-  
13           tive officer of the Corporation, with such executive  
14           functions, powers, and duties as may be prescribed  
15           by this Act, the bylaws, or the board of directors.

16           (2) APPOINTMENT OF OFFICERS.—The presi-  
17           dent of the Corporation shall, with the approval of  
18           a majority of the board, appoint qualified individuals  
19           to such executive officer positions as may be pro-  
20           vided for in the bylaws of the Corporation, and shall  
21           define their duties. The president may appoint, re-  
22           move, fix the compensation of, and define the duties  
23           of other officers as provided in the bylaws.

24           (3) COMPENSATION.—The compensation of the  
25           president and the executive officers of the Corpora-

1       tion shall be determined by the board of directors of  
2       the Corporation, in the discretion of the board of di-  
3       rectors.

4           (4) CONFLICTS OF INTEREST.—Officers of the  
5       Corporation shall not participate in any review or  
6       decision affecting a project under consideration for  
7       assistance under this Act if such officer has, or is  
8       affiliated with a person who has, an interest in such  
9       project.

10          (5) REMOVAL.—Any executive officer of the  
11       Corporation may be removed in the discretion of a  
12       majority of the board of directors.

13 **SEC. 11. MANAGEMENT OF THE INSURANCE CORPORATION.**

14       (a) BOARD OF DIRECTORS.—

15           (1) NUMBER AND ELECTION.—Subject to the  
16       provisions of section 13, the Insurance Corporation  
17       shall have a board of directors consisting of 12  
18       members elected by the stockholders of the Insur-  
19       ance Corporation.

20           (2) INITIAL APPOINTMENT OF DIRECTORS.—  
21       The initial directors of the Insurance Corporation  
22       shall be appointed by the board of directors of the  
23       Corporation.

24           (3) REQUIRED EXPERTISE.—The board shall be  
25       comprised of individuals who have a demonstrated

1 expertise and experience in the field of credit en-  
2 hancement or insurance and related disciplines, a  
3 minimum of 9 of whom shall be selected from among  
4 representatives of the private sector.

5 (4) TERMS.—

6 (A) IN GENERAL.—Each director shall be  
7 elected or appointed for a term of 2 years, ex-  
8 cept as provided in subparagraph (B).

9 (B) INTERIM APPOINTMENTS.—Any direc-  
10 tor elected or appointed to fill a vacancy occur-  
11 ring before the expiration of the term for which  
12 the director's predecessor was appointed shall  
13 be elected or appointed only for the remainder  
14 of that term.

15 (C) CONTINUATION OF SERVICE.—A direc-  
16 tor may serve after the expiration of that direc-  
17 tor's term until a successor has taken office.

18 (5) VACANCIES.—A vacancy in the board of di-  
19 rectors shall be filled in the manner in which the  
20 original appointment was made, except that the by-  
21 laws may provide for the appointment by the board  
22 of directors of a director to fill a vacancy occurring  
23 before the expiration of the term for which the direc-  
24 tor's predecessor was elected or appointed.

1           (6) QUORUM.—7 directors shall constitute a  
2 quorum.

3           (7) CHAIRPERSON.—

4           (A) ELECTION.—The chairperson of the  
5 board of directors shall be elected by the board  
6 of directors from among the directors on the  
7 board.

8           (B) TERM.—The term of office of the  
9 chairperson shall be 1 year or until a new chair-  
10 person is elected.

11          (8) STATUS AND COMPENSATION OF BOARD  
12 MEMBERS.—Members of the board of directors shall  
13 serve on a part-time basis and shall receive a per  
14 diem, when engaged in the actual performance of In-  
15 surance Corporation business, plus reasonable reim-  
16 bursement for travel, subsistence and other nec-  
17 essary expenses incurred in the performance of their  
18 duties.

19          (9) CONFLICTS OF INTEREST.—

20          (A) IN GENERAL.—Nonofficer directors  
21 shall have no responsibility for, and shall not  
22 seek to influence, any decision of the independ-  
23 ent investment committee established pursuant  
24 to section 8(h).



1           (B) CONSULTATION.—Notwithstanding  
2           subparagraph (A), the investment committee  
3           may, in the committee’s discretion and on the  
4           committee’s own initiative, consult with the  
5           board of directors as the committee sees fit.

6           (C) LIMITATION ON CONSULTATION.—No  
7           director who has, or is affiliated with any per-  
8           son who has, an interest in any project under  
9           consideration for assistance under this Act shall  
10          participate in any such consultation with re-  
11          spect to such project.

12          (10) MEETINGS.—The board of directors shall  
13          meet at any time pursuant to the call of the chair-  
14          person or a majority of the directors and as provided  
15          by the bylaws of the Insurance Corporation, but not  
16          less than once each calendar quarter.

17          (11) DUTIES.—In addition to any duties estab-  
18          lished under this Act or the bylaws of the Insurance  
19          Corporation, the board of directors shall determine  
20          the general policies which shall govern the oper-  
21          ations of the Insurance Corporation in accordance  
22          with this Act.

23          (12) DELEGATION OF AUTHORITY.—The board  
24          of directors may delegate duties and powers of the

1 board to such committees of the board as the board  
2 may determine to be appropriate.

3 (b) OFFICERS OF THE INSURANCE CORPORATION.—

4 (1) PRESIDENT OF THE INSURANCE CORPORA-  
5 TION.—There shall be a position of president of the  
6 Insurance Corporation who shall be the chief execu-  
7 tive officer of the Insurance Corporation, with such  
8 executive functions, powers, and duties as may be  
9 prescribed by the bylaws or by the board of direc-  
10 tors.

11 (2) APPOINTMENT OF OFFICERS.—The chair-  
12 person of the board of directors of the Insurance  
13 Corporation shall, with the approval of a majority of  
14 the board, appoint a qualified individual to the posi-  
15 tion of president of the Insurance Corporation. The  
16 president of the Insurance Corporation shall, with  
17 the approval of a majority of the board, appoint  
18 qualified individuals to such executive officer posi-  
19 tions as may be provided for in the bylaws of the In-  
20 surance Corporation, and shall define their duties.  
21 The president may appoint, remove, fix the com-  
22 pensation of, and define the duties of other officers  
23 as provided in the bylaws.

24 (3) COMPENSATION.—The compensation of the  
25 president and the executive officers of the Insurance

1 Corporation shall be determined by the board of di-  
2 rectors of the Insurance Corporation, in the discre-  
3 tion of the board of directors.

4 (4) CONFLICTS OF INTEREST.—Officers of the  
5 Insurance Corporation shall not participate in any  
6 review or decision affecting a project under consider-  
7 ation for assistance under this Act if such officer  
8 has, or is affiliated with a person who has, an inter-  
9 est in such project.

10 (5) REMOVAL.—Any executive officer of the In-  
11 surance Corporation may be removed in the discre-  
12 tion of a majority of the board of directors.

13 **SEC. 12. BOARD OF DIRECTOR MEETINGS OPEN TO PUBLIC.**

14 (a) GENERAL.—All meetings of the full board of di-  
15 rectors held to conduct the business of the Corporation  
16 or the Insurance Corporation shall be open to the public,  
17 and shall be preceded by reasonable notice.

18 (b) CLOSED MEETINGS.—Pursuant to such rules as  
19 the Corporation and the Insurance Corporation may es-  
20 tablish through their bylaws, the respective board of direc-  
21 tors may close a meeting of the board if at the meeting  
22 there is likely to be disclosed information which could ad-  
23 versely affect or lead to speculation relating to an infra-  
24 structure project under consideration for assistance under  
25 this Act, or in financial or securities or commodities mar-

1 kets or institutions, utilities, or real estate. The deter-  
2 mination to close any meeting of either board of directors  
3 shall be made in a meeting of such board, open to the  
4 public, and preceded by reasonable notice. The respective  
5 board of directors shall prepare minutes of any meeting  
6 which is closed to the public and make such minutes avail-  
7 able as soon as the considerations necessitating closing  
8 such meeting no longer apply.

9 **SEC. 13. TRANSITION TO GOVERNMENT-SPONSORED EN-**  
10 **TERPRISE.**

11 (a) GENERAL.—Within 5 years after the date of this  
12 Act, the Corporation shall prepare a strategic plan for the  
13 transition of NIC to a government-sponsored enterprise  
14 (as defined in section 3(8) of the Congressional Budget  
15 and Impoundment Control Act of 1974) and for the sale  
16 or transfer to investors other than the Federal Govern-  
17 ment, as set forth in subsection (b), of the voting securi-  
18 ties of the Corporation. The Corporation shall revise such  
19 transition plan as needed.

20 (b) PLAN; PENSION PLAN PARTICIPATION.—

21 (1) IN GENERAL.—The strategic plan shall in-  
22 clude consideration of alternative means for effecting  
23 such transition through a broad distribution to long-  
24 term investors, including by a public offering of  
25 stock or convertible stock or debt.

1           (2) PENSION PLAN PARTICIPATION.—The stra-  
2           tegic plan shall include provisions that specify that  
3           the initial purchasers of voting securities of the Cor-  
4           poration or of nonvoting securities which are con-  
5           vertible to such voting securities on the transition  
6           date (disregarding any underwriters of such securi-  
7           ties) shall be pension plans.

8           (c) MEANS OF TRANSFER.—

9           (1) IN GENERAL.—The strategic plan may call  
10          for a phased transfer of ownership or for complete  
11          transfer at a single point in time.

12          (2) RULES APPLICABLE IN THE CASE OF A  
13          PHASED TRANSITION.—If the plan calls for phased  
14          transfer of ownership—

15                (A) such transition shall be deemed to  
16                occur when 100 percent of the voting securities  
17                of the Corporation have been transferred to or  
18                are held by investors other than the Federal  
19                Government, and the investment of the Federal  
20                Government in the Corporation has been repaid  
21                or converted as provided in subsection (h);

22                (B) before the transition date, all equity  
23                securities of the Corporation held by investors  
24                other than the Federal Government (or any eq-

1           uity security into which any other security is  
2           convertible) shall be nonvoting securities; and

3           (C) on and after the transition date,  
4           nonvoting equity securities of the Corporation  
5           held by investors other than the Federal Gov-  
6           ernment (or into which other securities are con-  
7           vertible) may, in accordance with the terms of  
8           such securities, be converted or become convert-  
9           ible into voting securities.

10          (d) REQUIREMENT OF PRESIDENTIAL APPROVAL.—  
11        The Corporation may not implement the transition plan  
12        without the approval of the President, and shall seek  
13        reapproval if the plan is materially altered.

14          (e) NOTIFICATION OF CONGRESS.—

15           (1) IN GENERAL.—The Corporation shall notify  
16        the Congress of—

17           (A) the Corporation's intent to implement  
18        the transition plan; and

19           (B) any material alteration of a transition  
20        plan previously submitted to the Congress.

21           (2) REPORT.—Within 30 days of any notifica-  
22        tion of the Congress under paragraph (1), the  
23        Comptroller General of the United States shall sub-  
24        mit a report to Congress evaluating the extent to  
25        which—

1 (A) the transition plan (as then modified)  
2 would result in ongoing obligations (other than  
3 contemplated by subsection (h)) or undue cost  
4 to the Federal Government; and

5 (B) the cash proceeds (or projected range  
6 thereof) to be provided to the Federal Govern-  
7 ment, or the securities proposed to be received  
8 in exchange for the investment of the Federal  
9 Government in the Corporation or portion  
10 thereof, represents the full recoupment of such  
11 investment (after taking into account any divi-  
12 dends paid to the Federal Government).

13 (f) CONGRESSIONAL REVIEW.—The Corporation may  
14 implement the plan not less than 60 days after notification  
15 of the Congress, if the approval of the President referred  
16 to in subsection (d) has been received.

17 (g) DEPOSIT OF PROCEEDS.—Any cash proceeds re-  
18 ceivable by the Federal Government pursuant to this sec-  
19 tion shall be deposited in the general fund of the Treasury.

20 (h) CONVERSION OF FEDERAL GOVERNMENT IN-  
21 VESTMENT.—Upon the implementation of the transition  
22 plan, the voting equity securities of the Corporation held  
23 by the Federal Government or, in the case of a phased  
24 transition, that portion of the voting equity securities  
25 which are subject to such phase shall be repurchased by

1 the Corporation or converted to long-term subordinated  
2 debt securities having a par amount not less than the  
3 amounts appropriated pursuant to section 19 and subject  
4 to such phase, or a combination thereof, as contemplated  
5 by such plan.

6 (i) BOARD OF DIRECTORS.—

7 (1) CORPORATION.—

8 (A) INITIAL BOARD.—Before the end of  
9 the 120-day period beginning on the transition  
10 date, a special meeting of the stockholders of  
11 the Corporation shall be held, at which all di-  
12 rectors of the Corporation shall be elected to  
13 serve a 1-year term or until any such director's  
14 successor has been elected.

15 (B) NOMINATION; SELECTION CRITERIA.—  
16 The candidates for election to the board of di-  
17 rectors under paragraph (1) shall be nominated  
18 by the existing board of directors and 4 of such  
19 candidates shall be nominated in accordance  
20 with the selection criteria set out in section  
21 10(a)(3).

22 (C) SUBSEQUENT BOARDS.—After the 1st  
23 election of a board of directors pursuant to sub-  
24 paragraph (A), the directors shall be elected  
25 and subject to removal by the stockholders of



1 the Corporation, as provided in the District of  
2 Columbia Business Corporation Act, except that  
3 the nomination of candidates for each election  
4 of the board of directors shall continue to re-  
5 flect the requirements of section 10(a)(3).

6 (2) INSURANCE CORPORATION.—

7 (A) INITIAL BOARD.—Promptly following  
8 the special meeting of the stockholders of the  
9 Corporation pursuant to paragraph (1), a spe-  
10 cial meeting of the stockholders of the Insur-  
11 ance Corporation shall be held, at which all di-  
12 rectors or the Insurance Corporation shall be  
13 elected to serve a 1-year term or until any such  
14 director's successor has been elected.

15 (B) SUBSEQUENT BOARDS.—After the 1st  
16 election of a board of directors pursuant to sub-  
17 paragraph (A), the directors shall be elected  
18 and subject to removal by the stockholders of  
19 the Insurance Corporation, as provided in the  
20 District of Columbia Business Corporation Act.

21 (j) TRANSMITTAL OF FINAL PLAN AFTER COMPLE-  
22 TION.—The Corporation shall transmit copies of the final  
23 strategic plan for transition to the President and the Con-  
24 gress upon completion of such transition.

1 **SEC. 14. STATUS AND APPLICABILITY OF CERTAIN FED-**  
2 **ERAL LAWS.**

3 (a) BEFORE THE TRANSITION DATE.—Before the  
4 transition date, the Corporation, the Insurance Corpora-  
5 tion, and any other subsidiary of the Corporation, shall—

6 (1) not be agencies of the United States; and

7 (2) comply with all Federal laws regulating the  
8 budgetary and auditing practices of a government  
9 corporation, except as otherwise provided in this Act.

10 (b) SUBSEQUENT TO THE TRANSITION DATE.—On  
11 and after the transition date, the Corporation, the Insur-  
12 ance Corporation, and any other subsidiary of the Cor-  
13 poration shall not be considered to be an agency, instru-  
14 mentality, or establishment of the United States Govern-  
15 ment or a government corporation or a government-con-  
16 trolled corporation, for purposes of any Federal law, ex-  
17 cept as otherwise provided in this Act.

18 (c) AUTHORIZED INVESTMENTS AND SECURITY.—All  
19 obligations issued by the Corporation shall be authorized  
20 investments for any person created under the laws of the  
21 United States or any State to the same extent that the  
22 person may hold or invest in obligations issued by or guar-  
23 anteed as to principal or interest by the United States or  
24 any agency or instrumentality of the United States.

25 (d) EFFECT OF AND EXEMPTIONS FROM OTHER  
26 LAWS.—

1           (1) EXEMPT SECURITIES.—All equity and debt  
2 securities and other obligations issued by the Cor-  
3 poration or the Insurance Corporation pursuant to  
4 this Act shall be deemed to be exempt securities  
5 within the meaning of laws administered by the Se-  
6 curities and Exchange Commission to the same ex-  
7 tent as securities which are direct obligations of, or  
8 obligations fully guaranteed as to principal or inter-  
9 est by, the United States.

10           (2) OPEN MARKET OPERATIONS AND STATE  
11 TAX EXEMPT STATUS.—The obligations of the Cor-  
12 poration shall be deemed to be obligations of the  
13 United States for the purposes of the provision des-  
14 ignated as (b)(2) of the 2nd undesignated paragraph  
15 of section 14 of the Federal Reserve Act and section  
16 3124 of title 31, United States Code.

17           (3) NO PRIORITY AS A FEDERAL CLAIM.—The  
18 priority established in favor of the United States by  
19 section 3713 of title 31, United States Code, shall  
20 not apply with respect to any indebtedness of the  
21 Corporation or the Insurance Corporation.

22           (e) FEDERAL RESERVE BANKS AS DEPOSITARIES,  
23 CUSTODIANS, AND FISCAL AGENTS.—The Federal reserve  
24 banks may act as depositaries for, or custodians or fiscal  
25 agents of, the Corporation and the Insurance Corporation.

1 (f) ACCESS TO BOOK-ENTRY SYSTEM.—The Sec-  
2 retary may authorize the Corporation and the Insurance  
3 Corporation to use the book-entry system of the Federal  
4 reserve system.

5 **SEC. 15. COMPLIANCE WITH DAVIS-BACON ACT.**

6 NIC shall take such action as may be necessary to  
7 ensure that projects assisted in whole or in part under  
8 the provisions of this Act shall incorporate a provision re-  
9 quiring in any contract relating to any construction, recon-  
10 struction, rehabilitation, replacement, or expansion of  
11 such project, that not less than the wages prevailing in  
12 the locality, as predetermined by the Secretary of Labor  
13 pursuant to the Act of March 3, 1931 (40 U.S.C. 276a;  
14 commonly referred to as the “Davis-Bacon Act”) shall be  
15 paid to all laborers and mechanics employed to perform  
16 such contracts.

17 **SEC. 16. OBLIGATIONS NOT FEDERALLY GUARANTEED;**  
18 **STATE LAWS.**

19 (a) STATUS OF SECURITIES.—

20 (1) NO FULL FAITH AND CREDIT OF THE  
21 U.S.—Obligations of the Corporation or the Insur-  
22 ance Corporation, and obligations insured by any  
23 such corporation shall not be obligations of, or guar-  
24 anteed as to principal or interest by, the United

1 States or any agency of the United States and the  
2 obligations shall so plainly state.

3 (2) FINANCING NOT TREATED AS U.S. GUARAN-  
4 TEE.—The provision of assistance of any kind or na-  
5 ture from NIC shall not be treated as a direct or in-  
6 direct guarantee of any payment of principal or in-  
7 terest on any security by the United States for pur-  
8 poses of section 149(b) of the Internal Revenue  
9 Code of 1986 or any other law.

10 (b) STATE LAWS.—The receipt by any entity of any  
11 assistance under this Act, directly or indirectly, and any  
12 financial assistance provided by any governmental entity  
13 in connection with such assistance under this Act shall be  
14 valid and lawful notwithstanding any State or local restric-  
15 tions regarding extensions of credit or other benefits to  
16 private persons or entities, or other similar restrictions.

17 **SEC. 17. AUDITS; REPORTS TO THE PRESIDENT AND THE**  
18 **CONGRESS.**

19 (a) ACCOUNTING.—The books of account of NIC  
20 shall be maintained in accordance with generally accepted  
21 accounting principles and shall be subject to an annual  
22 audit by independent public accountants of nationally rec-  
23 ognized standing.

24 (b) REPORTS.—NIC shall submit to the President  
25 and the Congress, within 90 days after the end of each

1 fiscal year, a complete and detailed report with respect  
2 to the preceding fiscal year, setting forth—

3 (1) a summary of NIC’s operations, for such  
4 preceding fiscal year;

5 (2) NIC’s financial statements and the opinion  
6 with respect thereto prepared by the independent  
7 public accountant reviewing such statements and a  
8 copy of any report made on an audit conducted  
9 under subsection (a) of this section;

10 (3) a schedule of NIC’s obligations and capital  
11 securities outstanding at the end of such fiscal year,  
12 with a statement of the amounts issued and re-  
13 deemed or paid during such fiscal year; and

14 (4) the status of projects receiving funding or  
15 other assistance pursuant to this Act, including dis-  
16 closure of all entities with a development, ownership,  
17 or operational interest in such projects.

18 (c) BOOKS AND RECORDS.—

19 (1) IN GENERAL.—NIC shall maintain adequate  
20 books and records to support the financial trans-  
21 actions of the Corporation, the Insurance Corpora-  
22 tion, and subsidiaries of such corporations.

23 (2) AUDITS BY THE SECRETARY AND GAO.—  
24 The books and records of NIC shall be maintained  
25 in accordance with recommended accounting prac-

1 tices and shall be open to inspection by the Sec-  
2 retary and the Comptroller General of the United  
3 States.

4 **SEC. 18. TAX TREATMENT OF DISTRIBUTIONS FROM QUALI-**  
5 **FIED RETIREMENT PLANS INVESTING IN**  
6 **PUBLIC BENEFIT BONDS.**

7 (a) IN GENERAL.—Section 72 of the Internal Reve-  
8 nue Code of 1986 (relating to annuities; certain proceeds  
9 of endowment and life insurance contracts) is amended by  
10 redesignating subsection (w) as subsection (x) and by in-  
11 serting after subsection (v) the following new subsection:

12 “(w) TREATMENT OF DISTRIBUTION FROM QUALI-  
13 FIED RETIREMENT PLANS INVESTING IN PUBLIC BENE-  
14 FIT BONDS.—

15 “(1) IN GENERAL.—In the case of any qualified  
16 retirement plan which receives directly or indirectly  
17 any interest on any public benefit bond (including  
18 any payments in respect thereof made by a surety  
19 or guarantor) for purposes of applying this section  
20 to any distribution from such plan, the distributee’s  
21 investment in the contract shall be treated as includ-  
22 ing such distributee’s allocable share of such interest  
23 under the terms of the qualified retirement plan,  
24 and any such distribution shall be treated as a dis-  
25 tribution described in subsection (e)(2)(B) in which

1 the distribution is allocable first to the investment in  
2 the contract attributable to such interest.

3 “(2) TREATMENT OF INSTALLMENTS.—In the  
4 case of a distribution to be made over more than one  
5 calendar year, the amount of public benefit bond in-  
6 terest to be taken into account with respect to a  
7 given calendar year shall be the aggregate amount of  
8 such interest allocable to the distributee as of the  
9 end of the prior calendar year. With respect to the  
10 final calendar year, the amount of public benefit  
11 bond interest to be taken into account shall include  
12 the amount of such interest received by the plan  
13 during such year that is allocable to the plan partici-  
14 pant with respect to whom the distribution is made.

15 “(3) PUBLIC BENEFIT BOND.—For purposes of  
16 this subsection, the term ‘public benefit bond’ means  
17 any obligation issued after the date of the enactment  
18 of this subsection if—

19 “(A) 95 percent or more of the net pro-  
20 ceeds of such obligation are used in connection  
21 with the financing or refinancing of 1 or more  
22 infrastructure facilities,

23 “(B) such obligation has received a pub-  
24 lished rating, and



1           “(C) the development of such infrastruc-  
2           ture facilities have been or will be undertaken  
3           by a governmental entity or public-private part-  
4           nership,  
5           as such terms are defined in section 4 of the Na-  
6           tional Infrastructure Development Act of 1994.

7           “(4) CERTIFICATION OF INFRASTRUCTURE FA-  
8           CILITIES.—An issuer of an obligation of which 95  
9           percent or more of the net proceeds are to be used  
10          in connection with the financing or refinancing of 1  
11          or more facilities may apply to the National Infra-  
12          structure Development Corporation, in accordance  
13          with such procedures as such corporation may estab-  
14          lish, for certification that any such facility is an in-  
15          frastructure facility (as defined in section 4 of the  
16          National Infrastructure Development Act of 1994).  
17          Certification by the Corporation shall create a pre-  
18          sumption of such status, but shall not be binding on  
19          the Secretary.

20          “(5) LEGEND REQUIRED.—No obligation shall  
21          be a public benefit bond for purposes of this sub-  
22          section unless it is designated as intended to be a  
23          public benefit bond on the date of issuance and  
24          bears a legend to such effect.

1           “(6) QUALIFIED RETIREMENT PLAN.—For pur-  
2           poses of this subsection, the term ‘qualified retire-  
3           ment plan’ means—

4                   “(A) a qualified retirement plan (as de-  
5                   fined in section 4974(c)), and

6                   “(B) an eligible deferred compensation  
7                   plan (as defined in section 457(b)).

8           “(7) TREATMENT OF DIVIDENDS FROM MUTUAL  
9           FUNDS.—

10                   “(A) IN GENERAL.—For purposes of this  
11                   subsection, in the case of any dividend (other  
12                   than a dividend described in section 854(a)) re-  
13                   ceived from a regulated investment company  
14                   which meets the requirements of section 852 for  
15                   the taxable year in which it paid the dividend—

16                           “(i) the entire amount of such divi-  
17                           dend shall be treated as interest on a pub-  
18                           lic benefit bond if the aggregate interest on  
19                           such bonds received by such company dur-  
20                           ing the taxable year equals or exceeds 75  
21                           percent of its gross income, or

22                           “(ii) if clause (i) does not apply, a  
23                           portion of such dividend shall be treated as  
24                           interest on a public benefit bond based on

1           the portion of the company's gross income  
2           which consists of such interest.

3           “(B) NOTICE TO SHAREHOLDERS.—The  
4           amount of any distribution by a regulated in-  
5           vestment company which may be taken into ac-  
6           count as interest on a public benefit bond for  
7           purposes of this section shall not exceed the  
8           amount so designated by the company in a writ-  
9           ten notice to its shareholders mailed not later  
10          than 45 days after the close of its taxable year.

11          “(C) GROSS INCOME.—For purposes of  
12          this section, the term ‘gross income’ does not  
13          include gain from the sale or other disposition  
14          of stock or securities.”.

15          (b) CONFORMING AMENDMENTS.—

16                (1) Subsection (w) of section 72 of the Internal  
17          Revenue Code of 1986 is amended by adding the fol-  
18          lowing new paragraph:

19                “(4) TREATMENT OF QUALIFYING PUBLIC BEN-  
20          EFIT BOND INTEREST.—For purposes of subsections  
21          (c)(1)(A) and (c)(2)(A), the total amount of public  
22          benefit bond interest described in subsection (w)  
23          with respect to a participant in a qualified retire-  
24          ment plan (determined without reference to the an-

1       nuity starting date) shall be treated as an invest-  
2       ment in the contract.”.

3       (c) EFFECTIVE DATE.—The amendment made this  
4       section shall apply to distributions after the date of the  
5       enactment of this Act.

6       **SEC. 19. AUTHORIZATIONS.**

7       (a) APPROPRIATIONS AUTHORIZED FOR ESTABLISH-  
8       MENT.—There are hereby authorized to be appropriated  
9       to the Secretary \$30,000,000 for the purpose of facilitat-  
10      ing the NIC’s initial operations.

11      (b) APPROPRIATIONS AUTHORIZED FOR CONDUCT OF  
12      BUSINESS OF NIC.—There are authorized to be appro-  
13      priated to the Secretary \$1,000,000,000 for each of the  
14      fiscal years 1995 through 1997 to make the capital con-  
15      tributions in accordance with section 9(a)(1)(A) for the  
16      purpose of carrying out this Act.

17      (c) ESTABLISHMENT OF NIC ACCOUNT.—Before the  
18      transition date, the funds appropriated under subsection  
19      (b) shall be deposited in an account to be established in  
20      the Treasury of the United States to be known as the  
21      “National Infrastructure Development Corporation Ac-  
22      count”, which shall be available to the Corporation, with-  
23      out need for further appropriation and without fiscal year  
24      limitation, for carrying out its purposes, functions and  
25      powers, including the investment and reinvestment of

1 these funds as permitted in this Act, and which shall not  
 2 be subject to apportionment under subchapter II of chap-  
 3 ter 15 of title 31. The Secretary of the Treasury, in con-  
 4 sultation with the board of directors of the Corporation,  
 5 shall invest amounts in the account in public debt securi-  
 6 ties with maturities suitable to the needs of the account  
 7 and bearing interest at rates determined by the Secretary,  
 8 taking into consideration current market yields on out-  
 9 standing marketable obligations of the United States of  
 10 comparable maturities.

11 **SEC. 20. PROHIBITION ON ADDITIONAL FEDERAL ASSIST-**  
 12 **ANCE.**

13 Except as otherwise specifically provided by sections  
 14 13 and 19, NIC shall receive no appropriations, loans, or  
 15 other financial assistance from the Federal Government.

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