

110TH CONGRESS
1ST SESSION

H. R. 3896

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.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 18, 2007

Ms. DELAURO (for herself, Mr. WEINER, Mr. ISRAEL, Mr. HARE, and Mr. WELCH of Vermont) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Financial Services and Ways and Means, 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 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 2007”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The underground steam pipe explosion in
4 New York, New York on July 18, 2007, and the
5 Interstate Route 35W Mississippi River Bridge col-
6 lapse in Minneapolis, Minnesota, on August 1, 2007,
7 are both indicative of the major shortcomings in the
8 national infrastructure.

9 (2) According to the American Society of Civil
10 Engineers, the condition of our nation's roads,
11 bridges, drinking water systems, and other public
12 works are facing a shortfall of \$1,600,000,000,000
13 investment to bring conditions to acceptable levels.

14 (3) According to the American Association of
15 State Highway and Transportation Officials, high-
16 way vehicle miles traveled in the United States,
17 which reached 3,000,000,000,000 in 2006, is ex-
18 pected to grow by 2.07 percent per year through
19 2022 and may exceed 7,000,000,000,000 vehicle
20 miles by 2055.

21 (4) According to the American Public Transit
22 Association, From 1995 through 2005, public trans-
23 portation ridership increased by 25 percent, a
24 growth rate higher than the 11 percent increase in
25 the United States population and higher than the 22

1 percent growth in use of the nation's highways over
2 the same period.

3 (5) Airport capacity had increased only 1 per-
4 cent from 1991 to 2001, yet air traffic had in-
5 creased 35 percent during that same time period.

6 (6) As of 2006, 25.8 percent of the nation's
7 bridges (154,101) were structurally deficient or
8 functionally obsolete.

9 (7) According to recent estimates by the Envi-
10 ronmental Protection Agency, as much as
11 \$390,000,000,000 will be needed over the next 2
12 decades to rebuild, repair, and upgrade the Nation's
13 wastewater treatment plants.

14 (8) According to the Texas Transportation In-
15 stitute, traffic congestion continues to worsen in
16 American cities of all sizes, creating a
17 \$78,000,000,000 annual drain on the United States
18 economy in lost productivity and wasted fuel.

19 (9) Every billion dollars of Federal highway in-
20 vestment generates 47,500 jobs; and, for every bil-
21 lion dollars in transit investment, job generation is
22 virtually the same as for highway investment.

23 (10) 11,300,000 million Americans—one in
24 11—are employed in transportation occupations.

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

8 (12) 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 (13) The private capital markets, including the
19 trillions in capital held by institutional investors
20 (such as pension funds), have a growing interest in
21 public-private infrastructure investment opportuni-
22 ties that can produce competitive risk-adjusted rates
23 of return.

24 **SEC. 3. PURPOSES.**

25 The purposes of this Act are as follows:

1 (1) To establish the National Infrastructure
2 Development Corporation for the purpose of making
3 new sources of financing available for the develop-
4 ment of infrastructure facilities, and to facilitate the
5 use and issuance of public benefit bonds.

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

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

16 **SEC. 4. DEFINITIONS.**

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

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

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

1 (A) preconstruction planning, feasibility re-
2 view, permitting and design work and other
3 preconstruction activities;

4 (B) construction, reconstruction, rehabili-
5 tation, replacement, or expansion; and

6 (C) operation and maintenance.

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

10 (4) INFRASTRUCTURE FACILITY.—The term
11 “infrastructure facility” means a road, highway,
12 bridge, tunnel, airport, mass transportation vehicle
13 or system, passenger or freight rail vehicle or sys-
14 tem, intermodal transportation facility, waterway,
15 commercial port, drinking or waste water treatment
16 facility, solid waste disposal facility, pollution control
17 system, hazardous waste facility, federally des-
18 ignated national information highway facility, school,
19 and any ancillary facility which forms a part of any
20 such facility or is reasonably related to such facility,
21 whether owned, leased or operated by a public entity
22 or a private entity or by a combination of such enti-
23 ties, and the financing or refinancing of the develop-
24 ment of which is, or will be, supported in whole or

1 in part by user fees or other dedicated revenue
2 sources.

3 (5) INSURANCE CORPORATION.—The term “In-
4 surance Corporation” means the National Infra-
5 structure Insurance Corporation established pursu-
6 ant to section 5(b).

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

9 (7) PENSION PLAN.—The term “pension plan”
10 means a pension plan as defined in section 3(2) of
11 the Employee Retirement Income Security Act of
12 1974 (29 U.S.C. 1001 et seq.), including any public
13 pension plan.

14 (8) PUBLIC BENEFIT BOND.—The term “public
15 benefit bond” means a bond or other indebtedness
16 meeting the requirements of section 72(x) of the In-
17 ternal Revenue Code of 1986.

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

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

22 (i) pursuant to requirements estab-
23 lished in one or more contracts between
24 such entity and a State or an instrumen-
25 tality of a State; or

1 (ii) the activities of which with respect
2 to such facility are subject to regulation by
3 a State or any instrumentality of a State;
4 and

5 (B) which owns, leases, or operates, or will
6 own, lease, or operate, such infrastructure facil-
7 ity in whole or in part, and at least one of the
8 participants in such entity is a nongovern-
9 mental entity.

10 (10) REVOLVING FUND.—The term “revolving
11 fund” means a fund or program established by a
12 State or a political subdivision or instrumentality of
13 a State, the principal activity of which is to make
14 loans, commitments, or other financial accommoda-
15 tion available for the development of one or more
16 categories of infrastructure facilities.

17 (11) SECRETARY.—The term “Secretary”
18 means the Secretary of the Treasury or the designee
19 of the Secretary.

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

1 (13) TRANSITION DATE.—The term “transition
2 date” means the date on which the voting common
3 stock of the Corporation owned by the Secretary is
4 fully repurchased or converted in accordance with
5 section 13 and the transition of the Corporation to
6 a government-sponsored enterprise in accordance
7 with such section is completed.

8 **SEC. 5. ESTABLISHMENT OF NIC.**

9 (a) ESTABLISHMENT OF NATIONAL INFRASTRUC-
10 TURE DEVELOPMENT CORPORATION.—The National In-
11 frastructure Development Corporation is established as a
12 wholly owned Government corporation subject to chapter
13 91 of title 31, United States Code (commonly known as
14 the “Government Corporation Control Act”), except as
15 otherwise provided in this Act.

16 (b) ESTABLISHMENT OF NATIONAL INFRASTRUC-
17 TURE INSURANCE CORPORATION.—The National Infra-
18 structure Insurance Corporation is hereby established as
19 a subsidiary of the Corporation and as a wholly owned
20 Government corporation subject to chapter 91 of title 31,
21 United States Code, except as otherwise provided in this
22 Act.

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

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

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

5 (1) To make senior and subordinated loans and
6 purchase senior and subordinated debt securities
7 (both taxable and tax exempt) and equity securities,
8 and enter into a binding commitment to make any
9 such loan or purchase any such security, on such
10 terms as the Corporation may determine, in the Cor-
11 poration's discretion, to be appropriate, the proceeds
12 of which are to be used to finance or refinance the
13 development of one or more infrastructure facilities,
14 and subject to the provisions of subsection (b)(8),
15 provide preconstruction phase assistance in accord-
16 ance with section 8(f).

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

1 (3) To make the determinations with respect to
2 public benefit bonds pursuant to section 72(x) of the
3 Internal Revenue Code of 1986.

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

7 (5) To make use of the services, facilities, and
8 property of any Federal agency or instrumentality,
9 with the approval of such agency or instrumentality
10 and on a reimbursable basis, in carrying out the
11 purposes of this Act.

12 (6) To acquire, lease, pledge, exchange, and dis-
13 pose of real and personal property and otherwise ex-
14 ercise all the usual incidents of ownership of prop-
15 erty to the extent the exercise of such powers are ap-
16 propriate to and consistent with the purposes of the
17 Corporation.

18 (7) To sue and be sued in the Corporation's
19 corporate capacity in any court of competent juris-
20 diction, except that no attachment, injunction, or
21 similar process, mesne or final, may be issued
22 against the property of the Corporation or against
23 the Corporation with respect to such property.

24 (8) To indemnify the directors and officers of
25 the Corporation for liabilities arising out of the ac-

1 tions of the directors and officers in such capacity,
2 in accordance with, and subject to the limitations
3 contained in, the bylaws of the Corporation.

4 (9) To exercise all other lawful powers which
5 are necessary or appropriate to carry out, and are
6 consistent with, the purposes of the Corporation, in-
7 cluding the powers conferred upon a corporation by
8 the District of Columbia Business Corporation Act
9 (sec. 29–101.01 et seq., D.C. Official Code).

10 (b) LIMITATIONS ON THE CORPORATION.—

11 (1) ACTIONS CONSISTENT WITH SELF-SUP-
12 PORTING ENTITY STATUS.—The Corporation shall
13 conduct its business in a manner consistent with the
14 requirement of section 5(c).

15 (2) CONDITION ON DEBT ISSUANCE.—The Cor-
16 poration shall not issue any debt security under sub-
17 section (a)(2) unless, at the time of the issuance
18 thereof, such security is rated by a nationally recog-
19 nized statistical rating organization at one of the 3
20 highest ratings of such organization.

21 (3) LIMITATION AND CONDITION ON ISSUANCE
22 OF DEBT AND NONVOTING EQUITY SECURITIES.—

23 (A) IN GENERAL.—Before the transition
24 date, the Corporation shall not issue any debt
25 security or nonvoting equity security under sub-

1 section (a)(2) without the prior consent of the
2 Secretary.

3 (B) APPROVAL OF SECRETARY FOR DEBT
4 SECURITY AFTER TRANSITION DATE.—On and
5 after the transition date, the Corporation shall
6 not issue any debt security under subsection
7 (a)(2) without the prior consent of the Sec-
8 retary.

9 (4) CONDITION ON VOTING EQUITY
10 ISSUANCE.—Before the transition date, the Corpora-
11 tion shall not issue any voting security to any entity
12 other than the Secretary, and, on and after the tran-
13 sition date, the issuance of any such security shall
14 be subject to the provisions of section 13.

15 (5) SALE OF VOTING SECURITIES OF THE IN-
16 SURANCE CORPORATION.—Before the transition
17 date, voting securities of the Insurance Corporation
18 purchased by the Corporation may not be sold or
19 otherwise transferred by the Corporation.

20 (6) INVESTMENTS CONSISTENT WITH PURPOSES
21 OF CORPORATION.—In order to achieve the Corpora-
22 tion's purpose of effectively leveraging limited Fed-
23 eral resources with other public and private sources
24 of capital, the Corporation shall seek to maintain a

1 significant proportion of the Corporation's infra-
2 structure investments in—

3 (A) subordinated securities; and

4 (B) securities issued with respect to infra-
5 structure facilities developed by public-private
6 partnerships.

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

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

14 (B) otherwise superseding any State law or
15 regulation applicable to a project.

16 (8) LIMITATION ON PRECONSTRUCTION ASSIST-
17 ANCE.—The Corporation shall provide assistance in
18 connection with the development of any infrastruc-
19 ture facility during the facility's preconstruction
20 phase only in accordance with section 8(f).

21 **SEC. 7. INSURANCE CORPORATION'S POWERS AND LIMITA-**
22 **TIONS.**

23 (a) GENERAL POWERS.—In order to carry out the
24 purposes of the Insurance Corporation as set forth in this

1 Act, the Insurance Corporation shall have the following
2 powers:

3 (1) To insure and reinsure bonds, debentures,
4 notes, debt instruments, loans, and any interest in
5 any such obligation or loan, the proceeds of which
6 are to be used to finance or refinance the develop-
7 ment of 1 or more infrastructure facilities.

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

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

14 (4) To issue and sell voting and nonvoting eq-
15 uity securities on such terms as the board of direc-
16 tors of the Insurance Corporation may determine,
17 subject to the provisions of paragraphs (5) and (6)
18 of subsection (b), to be appropriate and to pay divi-
19 dends on any outstanding stock as the board of di-
20 rectors of the Insurance Corporation shall determine
21 from time to time.

22 (5) To make agreements and contracts with any
23 entity in furtherance of the business of the Insur-
24 ance Corporation.

1 (6) 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 (7) 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 Insurance Corporation.

12 (8) To sue and be sued in the Insurance Cor-
13 poration's corporate capacity in any court of com-
14 petent jurisdiction, except that no attachment, in-
15 junction, or similar process, mesne or final, may be
16 issued against the property of the Insurance Cor-
17 poration or against the Insurance Corporation with
18 respect to such property.

19 (9) To indemnify the directors and officers of
20 the Insurance Corporation for liabilities arising out
21 of the actions of the directors and officers in such
22 capacity, in accordance with, and subject to the limi-
23 tations contained in, the bylaws of the Insurance
24 Corporation.

1 (10) To exercise all other lawful powers which
2 are necessary or appropriate to carry out, and are
3 consistent with, the purposes of the Insurance Cor-
4 poration, including the powers conferred upon a cor-
5 poration by the District of Columbia Business Cor-
6 poration Act (sec. 29–101.01 et seq., D.C. Official
7 Code).

8 (b) LIMITATIONS ON THE INSURANCE CORPORA-
9 TION.—

10 (1) ACTIONS CONSISTENT WITH SELF-SUP-
11 PORTING ENTITY STATUS.—The Insurance Corpora-
12 tion shall conduct its business in a manner con-
13 sistent with the requirement of section 5(c).

14 (2) INSURANCE CORPORATION RATING RE-
15 QUIREMENT.—The Insurance Corporation shall not
16 issue any primary insurance or letter of credit with
17 respect to one or more infrastructure facilities un-
18 less, at the time of such issuance, the Insurance
19 Corporation’s claims-paying ability is then rated by
20 a nationally recognized statistical rating organiza-
21 tion at the highest rating of such organization.

22 (3) LIMITATION ON REINSURANCE.—The Insur-
23 ance Corporation may write reinsurance in respect
24 of all or a portion of a primary insurance policy with
25 respect to one or more infrastructure facilities issued

1 by a bond insurer if the claims-paying ability of such
2 insurer is rated, at the time of issuance of such rein-
3 surance, by a nationally recognized statistical rating
4 organization at the highest rating of such organiza-
5 tion.

6 (4) LIMITATION ON INSURANCE AND OTHER AC-
7 TIVITIES.—The Insurance Corporation may issue
8 primary insurance or a letter of credit with respect
9 to one or more infrastructure facilities, except that
10 not less than 75 percent of the principal amount of
11 all obligations so insured or subject of a letter of
12 credit shall be obligations which are, or based on a
13 published or indicative rating would be, without such
14 insurance or letter of credit, rated by a nationally
15 recognized statistical rating organization in the
16 fourth or fifth rating categories of such organization
17 (BBB and BB; Baa and Ba, or their equivalents).

18 (5) PRIOR CONSENT OF SECRETARY.—Before
19 the transition date, the Insurance Corporation shall
20 not issue any nonvoting equity security under sub-
21 section (a)(4) without the prior consent of the Sec-
22 retary.

23 (6) CONDITION ON VOTING EQUITY
24 ISSUANCE.—Before the transition date, the Insur-

1 ance Corporation shall not issue any voting security
2 to any entity other than the Corporation.

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

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

10 (B) otherwise superseding any State law or
11 regulation applicable to a project.

12 **SEC. 8. ELIGIBILITY CRITERIA FOR ASSISTANCE FROM THE**
13 **CORPORATION AND THE INSURANCE COR-**
14 **PORATION.**

15 (a) GENERAL.—No financial assistance shall be avail-
16 able under this Act from the Corporation or the Insurance
17 Corporation unless the applicant for such assistance has
18 demonstrated to the satisfaction of the Corporation or the
19 Insurance Corporation, as the case may be, that the
20 project for which such assistance is being sought meets—

21 (1) the requirements of this Act; and

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

25 (b) ESTABLISHMENT OF PROJECT CRITERIA.—

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

5 (A) criteria for determining eligibility for
6 financial assistance under this Act;

7 (B) disclosure and application procedures
8 to be followed by States, revolving funds, and
9 other entities to nominate projects for assist-
10 ance under this Act; and

11 (C) such other criteria as the board of di-
12 rectors of the Corporation or the Insurance
13 Corporation may consider to be appropriate for
14 purposes of carrying out this Act.

15 (2) FACTORS TO BE TAKEN INTO ACCOUNT.—
16 The criteria established pursuant to paragraph
17 (1)(A) shall provide for the consideration of the fol-
18 lowing factors in considering eligibility for financial
19 assistance under this Act:

20 (A) The extent to which provision of assist-
21 ance by the Corporation or the Insurance Cor-
22 poration will further the objectives for infra-
23 structure investments established in Executive
24 Order No. 12893 of January 26, 1994, includ-

1 ing the stated objective of providing opportuni-
2 ties for “innovative public-private initiatives”.

3 (B) The means by which development of
4 the infrastructure facility under consideration is
5 being financed, including—

6 (i) the terms and conditions and fi-
7 nancial structure of the proposed financ-
8 ing;

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

11 (iii) based on consideration of clauses
12 (i) and (ii), whether the infrastructure fa-
13 cility will have the capacity to be self-sup-
14 porting.

15 (C) The likelihood that the provision of as-
16 sistance by the Corporation or the Insurance
17 Corporation will cause such development to pro-
18 ceed more promptly and with lower costs for fi-
19 nancing to the public and private entities en-
20 gaged in developing such infrastructure facility
21 than would be the case without such assistance.

22 (D) The extent to which the provision of
23 assistance by the Corporation or the Insurance
24 Corporation maximizes the level of private in-
25 vestment in such infrastructure facility.

1 (3) LIMITATION ON CONDITIONS.—The Cor-
2 poration and the Insurance Corporation shall not
3 condition the approval of financial assistance for the
4 development of any infrastructure facility on a re-
5 quirement that a pension plan of a State or political
6 subdivision of a State make an investment in such
7 facility.

8 (c) SUBMISSION OF PROJECT PROPOSALS.—

9 (1) ACCEPTANCE OF PROPOSALS.—The Cor-
10 poration and the Insurance Corporation shall accept,
11 for consideration, project proposals relating to the
12 development of infrastructure facilities submitted by
13 a State, a revolving fund, or another entity, subject
14 to subsection (d), which meet the requirements of
15 subsection (b).

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

21 (3) ELIGIBILITY FOR PRECONSTRUCTION AS-
22 SISTANCE.—Projects on the list established pursuant
23 to paragraph (2) shall be eligible to apply for
24 preconstruction assistance in accordance with sub-
25 section (f).

1 (4) SUBSEQUENT APPROVALS.—Notwith-
2 standing the receipt of any preconstruction assist-
3 ance for any project, no additional financial assist-
4 ance under this Act for such project may be pro-
5 vided without the specific approval by the Corpora-
6 tion or the Insurance Corporation, as the case may
7 be, for such additional assistance.

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

12 (d) STATE ELIGIBILITY.—

13 (1) IN GENERAL.—After the end of the 3-year
14 period beginning on the date of the enactment of
15 this Act, no financial assistance may be provided by
16 the Corporation or the Insurance Corporation for
17 the development of any infrastructure facility pro-
18 posed for assistance by a State, or a revolving fund
19 in a State, unless such State has in place—

20 (A) an evaluation process which is certified
21 by the Secretary, in accordance with regulations
22 which the Secretary shall prescribe before the
23 end of the 6-month period beginning on such
24 date of enactment, as being designed to ascer-
25 tain the extent to which major work with re-

1 spect to infrastructure facilities within the
2 State can be financed by relying on any revenue
3 reasonably obtainable from such facilities and
4 other dedicated revenue sources; and

5 (B) a program which is certified by the
6 Secretary, in accordance with regulations which
7 the Secretary shall prescribe before the end of
8 such 6-month period, as being reasonably de-
9 signed to promote the objective set forth in Ex-
10 ecutive Order No. 12893 of January 26, 1994,
11 of affording the opportunity for innovative pub-
12 lic-private initiatives with respect to major
13 work, consistent with the public interest.

14 (2) ACTIVITIES WITH NONSTATE ENTITIES.—

15 After the end of the 3-year period beginning on the
16 date of the enactment of this Act, the Corporation
17 and the Insurance Corporation each may continue to
18 undertake activities with respect to projects within a
19 State relating to the development of infrastructure
20 facilities which have been submitted by entities other
21 than such State or a revolving fund in such State,
22 including municipalities, regional authorities, and
23 private-public partnerships, if the infrastructure fa-
24 cilities meet the criteria for assistance established
25 pursuant to subsection (b), and the State or States

1 in which such facility or facilities are to be located
2 have not met the conditions of subsection (d)(1).

3 (3) MAJOR WORK DEFINED.—For purposes of
4 paragraph (1), the term “major work” means the
5 construction of a new infrastructure facility, or the
6 reconstruction, rehabilitation, replacement, or expansion
7 of an existing infrastructure facility, involving
8 the expenditure of more than \$10,000,000.

9 (e) INITIAL TARGETING OF READY-TO-GO
10 PROJECTS.—During the 3-year period beginning on the
11 date of the enactment of this Act, the Corporation and
12 the Insurance Corporation shall each seek to provide assistance
13 to projects involving the development of infrastructure
14 facilities which—

15 (1) the Corporation or the Insurance Corporation,
16 as the case may be, determines are ready to
17 move forward promptly; and

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

19 (f) DEVELOPMENT RISK INSURANCE.—

20 (1) IN GENERAL.—Any project on the list established
21 pursuant to subsection (c)(2) shall be eligible to apply
22 to the Corporation for development risk insurance in accordance
23 with this subsection to insure against the risk of loss that
24 would result if a project does not proceed within a specified
25 time

1 frame as the result of the failure to secure relevant
2 permits or specified Federal, State, or local approv-
3 als.

4 (2) TERMS AND SCOPE OF COVERAGE.—Devel-
5 opment risk insurance provided under this sub-
6 section shall—

7 (A) contain such limitations, deductibles,
8 exclusions, and exceptions as the Corporation
9 shall establish; and

10 (B) apply only to developmental costs in-
11 curred after the date of the approval of the ap-
12 plication for such insurance.

13 (3) MAXIMUM ON INSURANCE OF
14 PRECONSTRUCTION RISK.—The Corporation shall
15 not insure more than 50 percent of the
16 preconstruction phase development risk of any
17 project, as determined by the Corporation.

18 (4) ADDITIONAL CONDITIONS.—The Corpora-
19 tion may impose such other conditions and require-
20 ments in connection with any insurance provided
21 under this subsection as the Corporation may deter-
22 mine to be appropriate, including requirements for
23 audits of costs and other matters.

24 (5) FEES FOR INSURANCE.—The Corporation
25 may charge such fees and obtain such other com-

1 pensation for providing insurance coverage under
2 this subsection as the Corporation, in the Corpora-
3 tion's discretion, shall determine to be appropriate.

4 (6) MAXIMUM EXPOSURE OF CORPORATION.—

5 The total outstanding exposure of the Corporation
6 with respect to insurance provided under this sub-
7 section may not exceed the amount which is equal to
8 5 percent of the sum of the capital, surplus, and re-
9 tained earnings of the Corporation, as measured at
10 the time any such insurance is provided.

11 (g) DISCRETION OF CORPORATION AND INSURANCE

12 CORPORATION.—Consistent with other provisions of this
13 Act, any determination of the Corporation or the Insur-
14 ance Corporation to provide assistance to any project, and
15 the manner in which such assistance is provided, including
16 the terms, conditions, fees and charges in respect thereof,
17 shall be at the sole discretion of the Corporation or the
18 Insurance Corporation, as the case may be.

19 (h) INDEPENDENT INVESTMENT COMMITTEE.—Any

20 final decision to provide or not provide assistance under
21 this Act by the Corporation or the Insurance Corporation
22 with respect to any specific proposal shall be made by an
23 investment committee, of the respective corporation, which
24 shall be comprised of senior officers of the Corporation
25 and the Insurance Corporation, as the case may be, ap-

1 pointed to such committee by the respective board of direc-
2 tors, which committees shall not have any nonofficer direc-
3 tor members.

4 (i) STATE AND LOCAL PERMITS REQUIRED.—The
5 provision of assistance by the Corporation or the Insur-
6 ance Corporation in accordance with this section shall not
7 be deemed to relieve any recipient of assistance or the re-
8 lated project of any obligation to obtain required State and
9 local permits and approvals.

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

19 (k) COOPERATION.—While the Corporation and In-
20 surance Corporation each has sole discretion, the Corpora-
21 tion and Insurance Corporation shall cooperate with State,
22 local, and regional officials.

1 **SEC. 9. CAPITALIZATION AND ORGANIZATION OF THE COR-**
2 **PORATION AND THE INSURANCE CORPORA-**
3 **TION.**

4 (a) CAPITALIZATION.—

5 (1) CAPITALIZATION OF THE CORPORATION.—

6 (A) VOTING COMMON STOCK.—Effective
7 for any fiscal year only to such extent and in
8 such amounts as are provided in advance in ap-
9 propriation Acts, the Secretary shall subscribe
10 for and purchase, in each of the 3 years fol-
11 lowing the date of enactment of this Act, voting
12 common stock of the Corporation having an ag-
13 gregate purchase price in each year of
14 \$3,000,000,000, except that no such purchase
15 shall occur after the transition date.

16 (B) LIMITATION ON SALE OF SECURITIES
17 BY SECRETARY.—Securities purchased by the
18 Secretary may not be sold or otherwise trans-
19 ferred by the Secretary unless such sale or
20 transfer is effected pursuant to section 13 or is
21 explicitly authorized by an Act of Congress.

22 (2) CAPITALIZATION OF THE INSURANCE COR-
23 PORATION.—

24 (A) IN GENERAL.—The Corporation may
25 subscribe for and purchase voting common
26 stock of the Insurance Corporation in such

1 amounts and at such times as the board of di-
2 rectors of the Corporation shall from time to
3 time consider appropriate.

4 (B) LIMITATION ON INVESTMENT BY COR-
5 PORATION.—Not more than 25 percent of the
6 capital, surplus, and retained earnings of the
7 Corporation may be invested by the Corporation
8 in the Insurance Corporation without the con-
9 sent of the Secretary, measured at the time of
10 any such investment.

11 (3) REPURCHASE OF OUTSTANDING OBLIGA-
12 TIONS.—The Corporation and the Insurance Cor-
13 poration may purchase in the open market any of
14 their respective outstanding obligations at any time
15 and at any price.

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

17 (1) CORPORATION.—

18 (A) PRINCIPAL OFFICE.—The Corporation
19 shall maintain its principal office in the District
20 of Columbia, and shall be deemed, for purposes
21 of venue in civil actions, to be a resident of the
22 District of Columbia.

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

1 poration shall be subject to the District of Co-
2 lumbia Business Corporation Act (sec. 29–
3 101.01 et seq., D.C. Official Code).

4 (2) INSURANCE CORPORATION.—

5 (A) PLACE OF BUSINESS.—The Insurance
6 Corporation shall maintain its principal office
7 in the District of Columbia, and shall be
8 deemed, for purposes of venue in civil actions,
9 to be a resident thereof.

10 (B) APPLICABILITY OF DISTRICT OF CO-
11 LUMBIA BUSINESS CORPORATION ACT.—To the
12 extent not inconsistent with this Act, the Insur-
13 ance Corporation shall be subject to the District
14 of Columbia Business Corporation Act.

15 (3) APPLICABILITY OF STATE INSURANCE
16 LAWS.—Before the transition date, the Corporation
17 and the Insurance Corporation shall not be subject
18 to the provisions of the law of any State or political
19 subdivision of any State regulating the ownership or
20 conduct of an insurance or surety business in any
21 jurisdiction.

22 (4) EXEMPTION FROM TAXATION.—

23 (A) ON AND BEFORE TRANSITION DATE.—
24 On and before the transition date, the Corpora-
25 tion, the Insurance Corporation, and any other

1 subsidiary of the Corporation, including the
2 franchise, capital, reserves, surplus, securities
3 holdings, and income of the Corporation, the
4 Insurance Corporation, or any such subsidiary
5 shall be exempt from taxation now or hereafter
6 imposed by the United States, any State, or
7 any county, municipality, or local taxing au-
8 thority.

9 (B) AFTER TRANSITION DATE.—After the
10 transition date, the Corporation, the Insurance
11 Corporation, and any other subsidiary of the
12 Corporation, including the franchise, capital, re-
13 serves, surplus, securities holdings, and income
14 of the Corporation, the Insurance Corporation,
15 or any such subsidiary shall be exempt from all
16 taxation now or hereafter imposed by the
17 United States, any State, or any county, mu-
18 nicipality, or local taxing authority in any
19 State, provided that the Corporation, the Insur-
20 ance Corporation and any other subsidiary of
21 the Corporation shall be subject to Federal in-
22 come taxation.

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

24 (a) BOARD OF DIRECTORS.—

1 (1) NUMBER AND APPOINTMENT.—Subject to
2 the provisions of section 13, the Corporation shall
3 have a board of directors consisting of 12 members,
4 9 of whom shall be appointed by the President.

5 (2) REQUIRED EXPERTISE.—The President
6 shall appoint individuals to the board of directors of
7 the Corporation with a demonstrated experience and
8 expertise in the general field of infrastructure
9 project development, finance, or related disciplines.

10 (3) ADDITIONAL SELECTION CRITERIA.—The
11 President shall ensure that, of the nonofficer direc-
12 tors appointed to the board of directors, a minimum
13 of 6 shall be selected from among representatives of
14 the private sector, of which—

15 (A) 2 shall be representatives of organized
16 labor; and

17 (B) 2 shall be individuals involved in the
18 field of public-private infrastructure finance and
19 related disciplines.

20 (4) CONSULTATION WITH THE NATIONAL GOV-
21 ERNORS' CONFERENCE.—The President shall select
22 2 of the nonofficer directors to be appointed to the
23 board of directors after consulting with and consid-
24 ering the recommendations of the National Gov-
25 ernors' Conference.

1 (5) APPOINTMENT OF OFFICERS TO THE
2 BOARD.—A majority of the nonofficer members of
3 the board shall appoint the president of the Corpora-
4 tion who shall serve on the board of directors. The
5 president of the Corporation shall select 2 executive
6 officers to be appointed to the board, subject to con-
7 firmation by a majority of the board.

8 (6) TERMS.—

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

13 (B) INITIAL PRESIDENTIAL AP-
14 POINTEES.—As designated by the President, of
15 the directors first appointed by the President—

16 (i) $\frac{1}{3}$ shall be appointed for a term of
17 2 years;

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

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

22 (C) OFFICER DIRECTORS.—Officer direc-
23 tors of the Corporation shall serve for a period
24 of one year or until they cease to be an officer
25 of the Corporation.

1 (D) INTERIM APPOINTMENTS.—Any direc-
2 tor appointed to fill a vacancy occurring before
3 the expiration of the term for which the direc-
4 tor's predecessor was appointed shall be ap-
5 pointed only for the remainder of that term.

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

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

12 (8) REAPPOINTMENT.—

13 (A) PRESIDENTIAL APPOINTEES.—Mem-
14 bers of the board of directors appointed by the
15 President may be reappointed by the President,
16 consistent with the requirements of this section.

17 (B) OFFICER DIRECTORS.—The president
18 of the Corporation shall be reappointed to the
19 board by the nonofficer directors for so long as
20 such individual continues to serve as president
21 of the Corporation. Officer directors of the
22 board selected by the president of the Corpora-
23 tion may be reappointed by the president of the
24 Corporation, consistent with the requirements
25 of this section.

1 (9) REMOVAL.—

2 (A) PRESIDENTIAL APPOINTEES.—A direc-
3 tor appointed by the President shall be subject
4 to removal only for cause.

5 (B) OFFICER DIRECTORS.—Officer direc-
6 tors of the Corporation shall be subject to re-
7 moval from the board in the discretion of a ma-
8 jority of the board, except that the president of
9 the Corporation shall continue to serve on the
10 board for so long as he or she serves as presi-
11 dent of the Corporation.

12 (10) QUORUM.—Seven directors shall constitute
13 a quorum.

14 (11) CHAIRPERSON.—The chairperson of the
15 board of directors shall be selected by a majority of
16 the board from among the nonofficer directors of the
17 board, and shall serve for a period of one year, or
18 until a new chairperson is selected.

19 (12) STATUS AND COMPENSATION OF BOARD
20 MEMBERS.—

21 (A) NONOFFICER DIRECTORS.—Members
22 of the board of directors who are not officers of
23 the Corporation shall serve on a part-time basis
24 and shall receive a per diem, when engaged in
25 the actual performance of Corporation business,

1 plus reasonable reimbursement for travel, sub-
2 sistence and other necessary expenses incurred
3 in the performance of their duties.

4 (B) OFFICER DIRECTORS.—Members of
5 the board of directors who are officers of the
6 Corporation shall not be entitled to receive any
7 salary or other compensation for services as a
8 director of the Corporation, but may receive
9 reasonable reimbursement for travel, subsist-
10 ence and other necessary expenses incurred in
11 the performance of their duties as directors of
12 the Corporation.

13 (13) CONFLICTS OF INTEREST.—

14 (A) IN GENERAL.—Nonofficer directors
15 shall have no responsibility for, and shall not
16 seek to influence, any decision of the inde-
17 pendent investment committee established pur-
18 suant to section 8(h).

19 (B) CONSULTATION.—Notwithstanding
20 subparagraph (A), the investment committee
21 may, in the committee's discretion and on the
22 committee's own initiative, consult with the
23 board of directors as the committee sees fit.

24 (C) LIMITATION ON CONSULTATION.—No
25 nonofficer director of the Corporation who has,

1 or is affiliated with a person who has, an inter-
2 est in any project under consideration for as-
3 sistance under this Act shall participate in any
4 consultation under subparagraph (B) with re-
5 spect to such project.

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

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

16 (16) DELEGATION OF AUTHORITY.—The board
17 of directors may delegate duties and powers of the
18 board to such committees of the board as the board
19 may determine to be appropriate.

20 (b) OFFICERS OF THE CORPORATION.—

21 (1) PRESIDENT OF THE CORPORATION.—The
22 president of the Corporation shall be the chief execu-
23 tive officer of the Corporation, with such executive
24 functions, powers, and duties as may be prescribed
25 by this Act, the bylaws, or the board of directors.

1 (2) APPOINTMENT OF OFFICERS.—The presi-
2 dent of the Corporation shall, with the approval of
3 a majority of the board, appoint qualified individuals
4 to such executive officer positions as may be pro-
5 vided for in the bylaws of the Corporation, and shall
6 define their duties. The president may appoint, re-
7 move, fix the compensation of, and define the duties
8 of other officers as provided in the bylaws.

9 (3) COMPENSATION.—The compensation of the
10 president and the executive officers of the Corpora-
11 tion shall be determined by the board of directors of
12 the Corporation, in the discretion of the board of di-
13 rectors.

14 (4) CONFLICTS OF INTEREST.—Officers of the
15 Corporation shall not participate in any review or
16 decision affecting a project under consideration for
17 assistance under this Act if such officer has, or is
18 affiliated with a person who has, an interest in such
19 project.

20 (5) REMOVAL.—Any executive officer of the
21 Corporation may be removed in the discretion of a
22 majority of the board of directors.

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

24 (a) BOARD OF DIRECTORS.—

1 (1) NUMBER AND ELECTION.—Subject to the
2 provisions of section 13, the Insurance Corporation
3 shall have a board of directors consisting of 12
4 members elected by the stockholders of the Insur-
5 ance Corporation.

6 (2) INITIAL APPOINTMENT OF DIRECTORS.—
7 The initial directors of the Insurance Corporation
8 shall be appointed by the board of directors of the
9 Corporation.

10 (3) REQUIRED EXPERTISE.—The board shall be
11 comprised of individuals who have a demonstrated
12 expertise and experience in the field of credit en-
13 hancement or insurance and related disciplines, a
14 minimum of 9 of whom shall be selected from among
15 representatives of the private sector.

16 (4) TERMS.—

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

20 (B) INTERIM APPOINTMENTS.—Any direc-
21 tor elected or appointed to fill a vacancy occur-
22 ring before the expiration of the term for which
23 the director's predecessor was appointed shall
24 be elected or appointed only for the remainder
25 of that term.

1 (C) CONTINUATION OF SERVICE.—A direc-
2 tor may serve after the expiration of that direc-
3 tor’s term until a successor has taken office.

4 (5) VACANCIES.—A vacancy in the board of di-
5 rectors shall be filled in the manner in which the
6 original appointment was made, except that the by-
7 laws may provide for the appointment by the board
8 of directors of a director to fill a vacancy occurring
9 before the expiration of the term for which the direc-
10 tor’s predecessor was elected or appointed.

11 (6) QUORUM.—Seven directors shall constitute
12 a quorum.

13 (7) CHAIRPERSON.—

14 (A) ELECTION.—The chairperson of the
15 board of directors shall be elected by the board
16 of directors from among the directors on the
17 board.

18 (B) TERM.—The term of office of the
19 chairperson shall be one year or until a new
20 chairperson is elected.

21 (8) STATUS AND COMPENSATION OF BOARD
22 MEMBERS.—Members of the board of directors shall
23 serve on a part-time basis and shall receive a per
24 diem, when engaged in the actual performance of In-
25 surance Corporation business, plus reasonable reim-

1 bursement for travel, subsistence and other nec-
2 essary expenses incurred in the performance of their
3 duties.

4 (9) CONFLICTS OF INTEREST.—

5 (A) IN GENERAL.—Nonofficer directors
6 shall have no responsibility for, and shall not
7 seek to influence, any decision of the inde-
8 pendent investment committee established pur-
9 suant to section 8(h).

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

15 (C) LIMITATION ON CONSULTATION.—No
16 director who has, or is affiliated with any per-
17 son who has, an interest in any project under
18 consideration for assistance under this Act shall
19 participate in any such consultation with re-
20 spect to such project.

21 (10) 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 Insurance Corporation, but not
25 less than once each calendar quarter.

1 (11) DUTIES.—In addition to any duties estab-
2 lished under this Act or the bylaws of the Insurance
3 Corporation, the board of directors shall determine
4 the general policies which shall govern the oper-
5 ations of the Insurance Corporation in accordance
6 with this Act.

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

11 (b) OFFICERS OF THE INSURANCE CORPORATION.—

12 (1) PRESIDENT OF THE INSURANCE CORPORA-
13 TION.—There shall be a position of president of the
14 Insurance Corporation who shall be the chief execu-
15 tive officer of the Insurance Corporation, with such
16 executive functions, powers, and duties as may be
17 prescribed by the bylaws or by the board of direc-
18 tors.

19 (2) APPOINTMENT OF OFFICERS.—The chair-
20 person of the board of directors of the Insurance
21 Corporation shall, with the approval of a majority of
22 the board, appoint a qualified individual to the posi-
23 tion of president of the Insurance Corporation. The
24 president of the Insurance Corporation shall, with
25 the approval of a majority of the board, appoint

1 qualified individuals to such executive officer posi-
2 tions as may be provided for in the bylaws of the In-
3 surance Corporation, and shall define their duties.
4 The president may appoint, remove, fix the com-
5 pensation of, and define the duties of other officers
6 as provided in the bylaws.

7 (3) COMPENSATION.—The compensation of the
8 president and the executive officers of the Insurance
9 Corporation shall be determined by the board of di-
10 rectors of the Insurance Corporation, in the discre-
11 tion of the board of directors.

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

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

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

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

1 (b) CLOSED MEETINGS.—Pursuant to such rules as
2 the Corporation and the Insurance Corporation may es-
3 tablish through their bylaws, the respective board of direc-
4 tors may close a meeting of the board if at the meeting
5 there is likely to be disclosed information which could ad-
6 versely affect or lead to speculation relating to an infra-
7 structure project under consideration for assistance under
8 this Act, or in financial or securities or commodities mar-
9 kets or institutions, utilities, or real estate. The deter-
10 mination to close any meeting of either board of directors
11 shall be made in a meeting of such board, open to the
12 public, and preceded by reasonable notice. The respective
13 board of directors shall prepare minutes of any meeting
14 which is closed to the public and make such minutes avail-
15 able as soon as the considerations necessitating closing
16 such meeting no longer apply.

17 **SEC. 13. TRANSITION TO GOVERNMENT-SPONSORED EN-**
18 **TERPRISE.**

19 (a) GENERAL.—Within 5 years after the date of the
20 enactment of this Act, the Corporation shall prepare a
21 strategic plan for the transition of NIC to a government-
22 sponsored enterprise (as defined in section 3(8) of the
23 Congressional Budget and Impoundment Control Act of
24 1974 (2 U.S.C. 622(8)) and for the sale or transfer to
25 investors other than the Federal Government, as set forth

1 in subsection (b), of the voting securities of the Corpora-
2 tion. The Corporation shall revise such transition plan as
3 needed.

4 (b) PLAN; PENSION PLAN PARTICIPATION.—

5 (1) IN GENERAL.—The strategic plan shall in-
6 clude consideration of alternative means for effecting
7 such transition through a broad distribution to long-
8 term investors, including by a public offering of
9 stock or convertible stock or debt.

10 (2) PENSION PLAN PARTICIPATION.—The stra-
11 tegic plan shall include provisions that specify that
12 the initial purchasers of voting securities of the Cor-
13 poration or of nonvoting securities which are con-
14 vertible to such voting securities on the transition
15 date (disregarding any underwriters of such securi-
16 ties) shall be pension plans.

17 (c) MEANS OF TRANSFER.—

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

21 (2) RULES APPLICABLE IN THE CASE OF A
22 PHASED TRANSITION.—If the plan calls for phased
23 transfer of ownership—

24 (A) such transition shall be deemed to
25 occur when 100 percent of the voting securities

1 of the Corporation have been transferred to or
2 are held by investors other than the Federal
3 Government, and the investment of the Federal
4 Government in the Corporation has been repaid
5 or converted as provided in subsection (h);

6 (B) before the transition date, all equity
7 securities of the Corporation held by investors
8 other than the Federal Government (or any eq-
9 uity security into which any other security is
10 convertible) shall be nonvoting securities; and

11 (C) on and after the transition date, non-
12 voting equity securities of the Corporation held
13 by investors other than the Federal Government
14 (or into which other securities are convertible)
15 may, in accordance with the terms of such secu-
16 rities, be converted or become convertible into
17 voting securities.

18 (d) REQUIREMENT OF PRESIDENTIAL APPROVAL.—
19 The Corporation may not implement the transition plan
20 without the approval of the President, and shall seek re-
21 approval if the plan is materially altered.

22 (e) NOTIFICATION OF CONGRESS.—

23 (1) IN GENERAL.—The Corporation shall notify
24 the Congress of—

1 (A) the Corporation's intent to implement
2 the transition plan; and

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

5 (2) REPORT.—Within 30 days of any notifica-
6 tion of the Congress under paragraph (1), the
7 Comptroller General of the United States shall sub-
8 mit a report to Congress evaluating the extent to
9 which—

10 (A) the transition plan (as then modified)
11 would result in ongoing obligations (other than
12 contemplated by subsection (h)) or undue cost
13 to the Federal Government; and

14 (B) the cash proceeds (or projected range
15 thereof) to be provided to the Federal Govern-
16 ment, or the securities proposed to be received
17 in exchange for the investment of the Federal
18 Government in the Corporation or portion
19 thereof, represents the full recoupment of such
20 investment (after taking into account any divi-
21 dends paid to the Federal Government).

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

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

4 (h) CONVERSION OF FEDERAL GOVERNMENT IN-
5 VESTMENT.—Upon the implementation of the transition
6 plan, the voting equity securities of the Corporation held
7 by the Federal Government or, in the case of a phased
8 transition, that portion of the voting equity securities
9 which are subject to such phase shall be repurchased by
10 the Corporation or converted to long-term subordinated
11 debt securities having a par amount not less than the
12 amounts appropriated pursuant to section 19 and subject
13 to such phase, or a combination thereof, as contemplated
14 by such plan.

15 (i) BOARD OF DIRECTORS.—

16 (1) CORPORATION.—

17 (A) INITIAL BOARD.—Before the end of
18 the 120-day period beginning on the transition
19 date, a special meeting of the stockholders of
20 the Corporation shall be held, at which all di-
21 rectors of the Corporation shall be elected to
22 serve a one-year term or until any such direc-
23 tor's successor has been elected.

24 (B) NOMINATION; SELECTION CRITERIA.—

25 The candidates for election to the board of di-

1 rectors under paragraph (1) shall be nominated
2 by the existing board of directors and 4 of such
3 candidates shall be nominated in accordance
4 with the selection criteria set out in section
5 10(a)(3).

6 (C) SUBSEQUENT BOARDS.—After the 1st
7 election of a board of directors pursuant to sub-
8 paragraph (A), the directors shall be elected
9 and subject to removal by the stockholders of
10 the Corporation, as provided in the District of
11 Columbia Business Corporation Act, except that
12 the nomination of candidates for each election
13 of the board of directors shall continue to re-
14 flect the requirements of section 10(a)(3).

15 (2) INSURANCE CORPORATION.—

16 (A) INITIAL BOARD.—Promptly following
17 the special meeting of the stockholders of the
18 Corporation pursuant to paragraph (1), a spe-
19 cial meeting of the stockholders of the Insur-
20 ance Corporation shall be held, at which all di-
21 rectors or the Insurance Corporation shall be
22 elected to serve a one-year term or until any
23 such director's successor has been elected.

24 (B) SUBSEQUENT BOARDS.—After the first
25 election of a board of directors pursuant to sub-

1 paragraph (A), the directors shall be elected
2 and subject to removal by the stockholders of
3 the Insurance Corporation, as provided in the
4 District of Columbia Business Corporation Act
5 (sec. 29–101.01 et seq., D.C. Official Code).

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

10 **SEC. 14. STATUS AND APPLICABILITY OF CERTAIN FED-**
11 **ERAL LAWS.**

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

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

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

19 (b) SUBSEQUENT TO THE TRANSITION DATE.—On
20 and after the transition date, the Corporation, the Insur-
21 ance Corporation, and any other subsidiary of the Cor-
22 poration shall not be considered to be an agency, instru-
23 mentality, or establishment of the United States Govern-
24 ment or a government corporation or a government-con-

1 trolled corporation, for purposes of any Federal law, ex-
2 cept as otherwise provided in this Act.

3 (c) AUTHORIZED INVESTMENTS AND SECURITY.—All
4 obligations issued by the Corporation shall be authorized
5 investments for any person created under the laws of the
6 United States or any State to the same extent that the
7 person may hold or invest in obligations issued by or guar-
8 anteed as to principal or interest by the United States or
9 any agency or instrumentality of the United States.

10 (d) EFFECT OF AND EXEMPTIONS FROM OTHER
11 LAWS.—

12 (1) EXEMPT SECURITIES.—All equity and debt
13 securities and other obligations issued by the Cor-
14 poration or the Insurance Corporation pursuant to
15 this Act shall be deemed to be exempt securities
16 within the meaning of laws administered by the Se-
17 curities and Exchange Commission to the same ex-
18 tent as securities which are direct obligations of, or
19 obligations fully guaranteed as to principal or inter-
20 est by, the United States.

21 (2) OPEN MARKET OPERATIONS AND STATE
22 TAX EXEMPT STATUS.—The obligations of the Cor-
23 poration shall be deemed to be obligations of the
24 United States for the purposes of the provision des-
25 ignated as (b)(2) of the 2nd undesignated paragraph

1 of section 14 of the Federal Reserve Act and section
2 3124 of title 31, United States Code.

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

8 (e) FEDERAL RESERVE BANKS AS DEPOSITORIES,
9 CUSTODIANS, AND FISCAL AGENTS.—The Federal reserve
10 banks may act as depositories for, or custodians or fiscal
11 agents of, the Corporation and the Insurance Corporation.

12 (f) ACCESS TO BOOK-ENTRY SYSTEM.—The Sec-
13 retary may authorize the Corporation and the Insurance
14 Corporation to use the book-entry system of the Federal
15 reserve system.

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

17 NIC shall take such action as may be necessary to
18 ensure that projects assisted in whole or in part under
19 the provisions of this Act shall incorporate a provision re-
20 quiring in any contract relating to any construction, recon-
21 struction, rehabilitation, replacement, or expansion of
22 such project, that not less than the wages prevailing in
23 the locality, as predetermined by the Secretary of Labor
24 pursuant to section 3142 of title 40, United States Code
25 (commonly known as the “Davis-Bacon Act”), shall be

1 paid to all laborers and mechanics employed to perform
2 such contracts.

3 **SEC. 16. OBLIGATIONS NOT FEDERALLY GUARANTEED;**
4 **STATE LAWS.**

5 (a) STATUS OF SECURITIES.—

6 (1) NO FULL FAITH AND CREDIT OF THE
7 U.S.—Obligations of the Corporation or the Insur-
8 ance Corporation, and obligations insured by any
9 such corporation shall not be obligations of, or guar-
10 anteed as to principal or interest by, the United
11 States or any agency of the United States and the
12 obligations shall so plainly state.

13 (2) FINANCING NOT TREATED AS U.S. GUAR-
14 ANTEE.—The provision of assistance of any kind or
15 nature from NIC shall not be treated as a direct or
16 indirect guarantee of any payment of principal or in-
17 terest on any security by the United States for pur-
18 poses of section 149(b) of the Internal Revenue
19 Code of 1986 (26 U.S.C. 149(b)) or any other law.

20 (b) STATE LAWS.—The receipt by any entity of any
21 assistance under this Act, directly or indirectly, and any
22 financial assistance provided by any governmental entity
23 in connection with such assistance under this Act shall be
24 valid and lawful notwithstanding any State or local restric-

1 tions regarding extensions of credit or other benefits to
2 private persons or entities, or other similar restrictions.

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

5 (a) ACCOUNTING.—The books of account of NIC
6 shall be maintained in accordance with generally accepted
7 accounting principles and shall be subject to an annual
8 audit by independent public accountants of nationally rec-
9 ognized standing.

10 (b) REPORTS.—NIC shall submit to the President
11 and the Congress, within 90 days after the end of each
12 fiscal year, a complete and detailed report with respect
13 to the preceding fiscal year, setting forth—

14 (1) a summary of NIC's operations, for such
15 preceding fiscal year;

16 (2) NIC's financial statements and the opinion
17 with respect thereto prepared by the independent
18 public accountant reviewing such statements and a
19 copy of any report made on an audit conducted
20 under subsection (a) of this section;

21 (3) a schedule of NIC's obligations and capital
22 securities outstanding at the end of such fiscal year,
23 with a statement of the amounts issued and re-
24 deemed or paid during such fiscal year; and

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

5 (c) BOOKS AND RECORDS.—

6 (1) IN GENERAL.—NIC shall maintain adequate
7 books and records to support the financial trans-
8 actions of the Corporation, the Insurance Corpora-
9 tion, and subsidiaries of such corporations.

10 (2) AUDITS BY THE SECRETARY AND GAO.—
11 The books and records of NIC shall be maintained
12 in accordance with recommended accounting prac-
13 tices and shall be open to inspection by the Sec-
14 retary and the Comptroller General of the United
15 States.

16 **SEC. 18. TAX TREATMENT OF DISTRIBUTIONS FROM QUALI-**
17 **FIED RETIREMENT PLANS INVESTING IN**
18 **PUBLIC BENEFIT BONDS.**

19 (a) IN GENERAL.—Section 72 of the Internal Rev-
20 enue Code of 1986 (relating to annuities; certain proceeds
21 of endowment and life insurance contracts) is amended by
22 redesignating subsection (x) as subsection (y) and by in-
23 serting after subsection (w) the following:

1 “(x) TREATMENT OF DISTRIBUTION FROM QUALI-
2 FIED RETIREMENT PLANS INVESTING IN PUBLIC BEN-
3 EFIT BONDS.—

4 “(1) IN GENERAL.—In the case of any qualified
5 retirement plan which receives directly or indirectly
6 any interest on any public benefit bond (including
7 any payments in respect thereof made by a surety
8 or guarantor) for purposes of applying this section
9 to any distribution from such plan, the distributee’s
10 investment in the contract shall be treated as includ-
11 ing such distributee’s allocable share of such interest
12 under the terms of the qualified retirement plan,
13 and any such distribution shall be treated as a dis-
14 tribution described in subsection (e)(2)(B) in which
15 the distribution is allocable first to the investment in
16 the contract attributable to such interest.

17 “(2) TREATMENT OF INSTALLMENTS.—In the
18 case of a distribution to be made over more than one
19 calendar year, the amount of public benefit bond in-
20 terest to be taken into account with respect to a
21 given calendar year shall be the aggregate amount of
22 such interest allocable to the distributee as of the
23 end of the prior calendar year. With respect to the
24 final calendar year, the amount of public benefit
25 bond interest to be taken into account shall include

1 the amount of such interest received by the plan
2 during such year that is allocable to the plan partici-
3 pant with respect to whom the distribution is made.

4 “(3) PUBLIC BENEFIT BOND.—For purposes of
5 this subsection, the term ‘public benefit bond’ means
6 any obligation issued after the date of the enactment
7 of this subsection if—

8 “(A) 95 percent or more of the net pro-
9 ceeds of such obligation are used in connection
10 with the financing or refinancing of one or
11 more infrastructure facilities,

12 “(B) such obligation has received a pub-
13 lished rating, and

14 “(C) the development of such infrastruc-
15 ture facilities have been or will be undertaken
16 by a governmental entity or public-private part-
17 nership,

18 as such terms are defined in section 4 of the Na-
19 tional Infrastructure Development Act of 2007.

20 “(4) CERTIFICATION OF INFRASTRUCTURE FA-
21 CILITIES.—An issuer of an obligation of which 95
22 percent or more of the net proceeds are to be used
23 in connection with the financing or refinancing of
24 one or more facilities may apply to the National In-
25 frastructure Development Corporation, in accordance

1 with such procedures as such corporation may estab-
2 lish, for certification that any such facility is an in-
3 frastructure facility (as defined in section 4 of the
4 National Infrastructure Development Act of 2007).
5 Certification by the Corporation shall create a pre-
6 sumption of such status, but shall not be binding on
7 the Secretary.

8 “(5) LEGEND REQUIRED.—No obligation shall
9 be a public benefit bond for purposes of this sub-
10 section unless it is designated as intended to be a
11 public benefit bond on the date of issuance and
12 bears a legend to such effect.

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

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

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

20 “(7) TREATMENT OF DIVIDENDS FROM MUTUAL
21 FUNDS.—

22 “(A) IN GENERAL.—For purposes of this
23 subsection, in the case of any dividend (other
24 than a dividend described in section 854(a)) re-
25 ceived from a regulated investment company

1 which meets the requirements of section 852 for
2 the taxable year in which it paid the dividend—

3 “(i) the entire amount of such divi-
4 dend shall be treated as interest on a pub-
5 lic benefit bond if the aggregate interest on
6 such bonds received by such company dur-
7 ing the taxable year equals or exceeds 75
8 percent of its gross income, or

9 “(ii) if clause (i) does not apply, a
10 portion of such dividend shall be treated as
11 interest on a public benefit bond based on
12 the portion of the company’s gross income
13 which consists of such interest.

14 “(B) NOTICE TO SHAREHOLDERS.—The
15 amount of any distribution by a regulated in-
16 vestment company which may be taken into ac-
17 count as interest on a public benefit bond for
18 purposes of this section shall not exceed the
19 amount so designated by the company in a writ-
20 ten notice to its shareholders mailed not later
21 than 45 days after the close of its taxable year.

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

1 (b) EFFECTIVE DATE.—The amendment made this
2 section shall apply to distributions after the date of the
3 enactment of this Act.

4 **SEC. 19. AUTHORIZATIONS.**

5 (a) APPROPRIATIONS AUTHORIZED FOR ESTABLISH-
6 MENT.—There is authorized to be appropriated to the Sec-
7 retary \$30,000,000 for the purpose of facilitating the
8 NIC’s initial operations.

9 (b) APPROPRIATIONS AUTHORIZED FOR CONDUCT OF
10 BUSINESS OF NIC.—There are authorized to be appro-
11 priated to the Secretary \$3,000,000,000 for each of the
12 fiscal years 2009 through 2012 to make the capital con-
13 tributions in accordance with section 9(a)(1)(A) for the
14 purpose of carrying out this Act.

15 (c) ESTABLISHMENT OF NIC ACCOUNT.—Before the
16 transition date, the funds appropriated under subsection
17 (b) shall be deposited in an account to be established in
18 the Treasury of the United States to be known as the
19 “National Infrastructure Development Corporation Ac-
20 count”, which shall be available to the Corporation, with-
21 out need for further appropriation and without fiscal year
22 limitation, for carrying out its purposes, functions and
23 powers, including the investment and reinvestment of
24 these funds as permitted in this Act, and which shall not
25 be subject to apportionment under subchapter II of chap-

1 ter 15 of title 31, United States Code. The Secretary of
2 the Treasury, in consultation with the board of directors
3 of the Corporation, shall invest amounts in the account
4 in public debt securities with maturities suitable to the
5 needs of the account and bearing interest at rates deter-
6 mined by the Secretary, taking into consideration current
7 market yields on outstanding marketable obligations of the
8 United States of comparable maturities.

9 **SEC. 20. PROHIBITION ON ADDITIONAL FEDERAL ASSIST-**
10 **ANCE.**

11 Except as otherwise specifically provided by sections
12 13 and 19, NIC shall receive no appropriations, loans, or
13 other financial assistance from the Federal Government.

14 **SEC. 21. LIMITATION ON EXERCISING OF POWERS.**

15 Neither the Corporation nor the Insurance Corpora-
16 tion may exercise a power granted to it under this Act
17 with respect to a project or activity involving a corporation
18 (other than the Corporation and the Insurance Corpora-
19 tion) unless the corporation is incorporated under the laws
20 of any State.

○