ment strategic plan developed under section 508.[1]

(Added Pub. L. 112–141, div. E, title III, § 53005(a), July 6, 2012, 126 Stat. 902; amended Pub. L. 114–94, div. A, title VI, § 6008, Dec. 4, 2015, 129 Stat. 1567.)

REFERENCES IN TEXT

Section 12(d) of the National Technology Transfer and Advancement Act of 1995, referred to in subsec. (a)(1), is section 12(d) of Pub. L. 104–113, Mar. 7, 1996, 110 Stat. 783, which is set out as a note under section 272 of Title 15, Commerce and Trade.

Section 508, referred to in subsec. (d)(2), was repealed by Pub. L. 114–94, div. A, title VI, § 6019(d)(1)(A), Dec. 4, 2015, 129 Stat. 1581, effective Oct. 1, 2015.

AMENDMENTS

2015—Subsec. (a)(3). Pub. L. 114–94 substituted ''memberships include representatives of'' for ''memberships are comprised of, and represent,''.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§ 518. Vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment

(a) IN GENERAL.—Not later than July 6, 2016, the Secretary shall make available to the public on a Department of Transportation website a report that—

(1) assesses the status of dedicated short-range communications technology and applications developed through research and development;

(2) analyzes the known and potential gaps in short-range communications technology and applications;

(3) defines a recommended implementation path for dedicated short-range communications technology and applications that—

(A) is based on the assessment described in paragraph (1); and

(B) takes into account the analysis described in paragraph (2);

(4) includes guidance on the relationship of the proposed deployment of dedicated short-range communications to the National ITS Architecture and ITS Standards; and

(5) ensures competition by not preferencing the use of any particular frequency for vehicle to infrastructure operations.

(b) REPORT REVIEW.—The Secretary shall enter into agreements with the National Research Council and an independent third party with subject matter expertise for the review of the report described in subsection (a).

(Added Pub. L. 112–141, div. E, title III, § 53006(a), July 6, 2012, 126 Stat. 904; amended Pub. L. 114–94, div. A, title VI, § 6009, Dec. 4, 2015, 129 Stat. 1567.)

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–94, in introductory provisions, substituted ''Not later than July 6, 2016, the Secretary shall make available to the public on a Department of Transportation website a report'' for ''Not later than 3 years after the date of enactment of this section, the Secretary shall submit to the Committees on Commerce, Science, and Transportation and Environment and Public Works of the Senate and the Committees on Transportation and Infrastructure, Energy and Commerce, and Science, Space, and Technology of the House of Representatives''.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

§ 519. Infrastructure development

Funds made available to carry out this chapter for operational tests of intelligent transportation systems—

(1) shall be used primarily for the development of intelligent transportation system infrastructure, equipment, and systems; and

(2) to the maximum extent practicable, shall not be used for the construction of physical surface transportation infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

(Added Pub. L. 114–94, div. A, title VI, § 6010(a), Dec. 4, 2015, 129 Stat. 1567.)

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

CHAPTER 6—INFRASTRUCTURE FINANCE

CODIFICATION

This chapter, consisting of sections 601 to 610 of this title, was previously set out as subchapter II, consisting of sections 181 to 190, of chapter 1 of this title.

§ 601. Generally applicable provisions

(a) DEFINITIONS.—The following definitions apply to sections 601 through 609:

(1) CONTINGENT COMMITMENT.—The term ''contingent commitment'' means a commit-

[1] See References in Text note below.

ment to obligate an amount from future available budget authority that is—

(A) contingent on those funds being made available in law at a future date; and

(B) not an obligation of the Federal Government.

(2) ELIGIBLE PROJECT COSTS.—The term ''eligible project costs'' means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land relating to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment;

(C) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction; and

(D) capitalizing a rural projects fund.

(3) FEDERAL CREDIT INSTRUMENT.—The term ''Federal credit instrument'' means a secured loan, loan guarantee, or line of credit authorized to be made available under the TIFIA program with respect to a project.

(4) INVESTMENT-GRADE RATING.—The term ''investment-grade rating'' means a rating of BBB minus, Baa3, bbb minus, BBB (low), or higher assigned by a rating agency to project obligations.

(5) LENDER.—The term ''lender'' means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

(6) LETTER OF INTEREST.—The term ''letter of interest'' means a letter submitted by a potential applicant prior to an application for credit assistance in a format prescribed by the Secretary on the website of the TIFIA program that—

(A) describes the project and the location, purpose, and cost of the project;

(B) outlines the proposed financial plan, including the requested credit assistance and the proposed obligor;

(C) provides a status of environmental review; and

(D) provides information regarding satisfaction of other eligibility requirements of the TIFIA program.

(7) LINE OF CREDIT.—The term ''line of credit'' means an agreement entered into by the Secretary with an obligor under section 604 to provide a direct loan at a future date upon the occurrence of certain events.

(8) LIMITED BUYDOWN.—The term ''limited buydown'' means, subject to the conditions described in section 603(b)(4)(C), a buydown of the interest rate by the obligor if the interest rate has increased between—

(A)(i) the date on which a project application acceptable to the Secretary is submitted; or

(ii) the date on which the Secretary entered into a master credit agreement; and

(B) the date on which the Secretary executes the Federal credit instrument.

(9) LOAN GUARANTEE.—The term ''loan guarantee'' means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(10) MASTER CREDIT AGREEMENT.—The term ''master credit agreement'' means a conditional agreement to extend credit assistance for a program of related projects secured by a common security pledge covered under section 602(b)(2)(A) or for a single project covered under section 602(b)(2)(B) that does not provide for a current obligation of Federal funds, and that would—

(A) make contingent commitments of 1 or more secured loans or other Federal credit instruments at future dates, subject to—

(i) the availability of future funds being made available to carry out the TIFIA program; and

(ii) the satisfaction of all of the conditions for the provision of credit assistance under the TIFIA program, including section 603(b)(1);

(B) establish the maximum amounts and general terms and conditions of the secured loans or other Federal credit instruments;

(C) identify the 1 or more dedicated non-Federal revenue sources that will secure the repayment of the secured loans or secured Federal credit instruments;

(D) provide for the obligation of funds for the secured loans or secured Federal credit instruments after all requirements have been met for the projects subject to the master credit agreement, including—

(i) completion of an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(ii) receiving an investment grade rating from a rating agency;

(iii) compliance with such other requirements as are specified under the TIFIA program, including sections 602(c) and 603(b)(1); and

(iv) the availability of funds to carry out the TIFIA program; and

(E) require that contingent commitments result in a financial close and obligation of credit assistance not later than 3 years after the date of entry into the master credit agreement, or release of the commitment, unless otherwise extended by the Secretary.

(11) OBLIGOR.—The term ''obligor'' means a party that—

(A) is primarily liable for payment of the principal of or interest on a Federal credit instrument; and

(B) may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(12) PROJECT.—The term ''project'' means—

(A) any surface transportation project eligible for Federal assistance under this title or chapter 53 of title 49;

(B) a project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible;

(C) a project for intercity passenger bus or rail facilities and vehicles, including facilities and vehicles owned by the National Railroad Passenger Corporation and components of magnetic levitation transportation systems;

(D) a project that—

(i) is a project—

(I) for a public freight rail facility or a private facility providing public benefit for highway users by way of direct freight interchange between highway and rail carriers;

(II) for an intermodal freight transfer facility;

(III) for a means of access to a facility described in subclause (I) or (II);

(IV) for a service improvement for a facility described in subclause (I) or (II) (including a capital investment for an intelligent transportation system); or

(V) that comprises a series of projects described in subclauses (I) through (IV) with the common objective of improving the flow of goods;

(ii) may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements;

(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port; and

(iv) is composed of related highway, surface transportation, transit, rail, or intermodal capital improvement projects eligible for assistance under this section in order to meet the eligible project cost threshold under section 602, by grouping related projects together for that purpose, subject to the condition that the credit assistance for the projects is secured by a common pledge;

(E) a project to improve or construct public infrastructure that is located within walking distance of, and accessible to, a fixed guideway transit facility, passenger rail station, intercity bus station, or intermodal facility, including a transportation, public utility, or capital project described in section 5302(3)(G)(v) of title 49, and related infrastructure; and

(F) the capitalization of a rural projects fund.

(13) PROJECT OBLIGATION.—The term ''project obligation'' means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

(14) RATING AGENCY.—The term ''rating agency'' means a credit rating agency registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization (as that term is defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))).

(15) RURAL INFRASTRUCTURE PROJECT.—The term ''rural infrastructure project'' means a surface transportation infrastructure project located in an area that is outside of an urbanized area with a population greater than 150,000 individuals, as determined by the Bureau of the Census.

(16) RURAL PROJECTS FUND.—The term ''rural projects fund'' means a fund—

(A) established by a State infrastructure bank in accordance with section 610(d)(4);

(B) capitalized with the proceeds of a secured loan made to the bank in accordance with sections 602 and 603; and

(C) for the purpose of making loans to sponsors of rural infrastructure projects in accordance with section 610.

(17) SECURED LOAN.—The term ''secured loan'' means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 603.

(18) STATE.—The term ''State'' has the meaning given the term in section 101.

(19) STATE INFRASTRUCTURE BANK.—The term ''State infrastructure bank'' means an infrastructure bank established under section 610.

(20) SUBSIDY AMOUNT.—The term ''subsidy amount'' means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument—

(A) calculated on a net present value basis; and

(B) excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(21) SUBSTANTIAL COMPLETION.—The term ''substantial completion'' means—

(A) the opening of a project to vehicular or passenger traffic; or

(B) a comparable event, as determined by the Secretary and specified in the credit agreement.

(22) TIFIA PROGRAM.—The term ''TIFIA program'' means the transportation infrastructure finance and innovation program of the Department established under sections 602 through 609.

(b) TREATMENT OF CHAPTER.—For purposes of this title, this chapter shall be treated as being part of chapter 1.

(Added Pub. L. 105–178, title I, § 1503(a), June 9, 1998, 112 Stat. 241, § 181; renumbered § 601 and

amended Pub. L. 109–59, title I, §§1601(a), 1602(b)(1), (5), (d), Aug. 10, 2005, 119 Stat. 1239, 1246, 1247; Pub. L. 109–291, §4(b)(6), Sept. 29, 2006, 120 Stat. 1338; Pub. L. 110–244, title I, §101(r), June 6, 2008, 122 Stat. 1577; Pub. L. 112–141, div. A, title II, §2002, July 6, 2012, 126 Stat. 607; Pub. L. 114–94, div. A, title II, §2001(a), Dec. 4, 2015, 129 Stat. 1439.)

REFERENCES IN TEXT

The Securities Act of 1933, referred to in subsec. (a)(5), is act May 27, 1933, ch. 38, title I, 48 Stat. 74, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Internal Revenue Code of 1986, referred to in subsec. (a)(5), is set out in Title 26, Internal Revenue Code.

The National Environmental Policy Act of 1969, referred to in subsec. (a)(10)(D)(i), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Federal Credit Reform Act of 1990, referred to in subsec. (a)(20)(B), is title V of Pub. L. 93–344, as added by Pub. L. 101–508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388–609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–94, §2001(a)(1), in introductory provisions, substituted ''The'' for ''In this chapter, the'' and inserted ''to sections 601 through 609'' after ''apply''.

Subsec. (a)(2)(D). Pub. L. 114–94, §2001(a)(2), added subpar. (D).

Subsec. (a)(3). Pub. L. 114–94, §2001(a)(3), substituted ''the TIFIA program'' for ''this chapter''.

Subsec. (a)(10). Pub. L. 114–94, §2001(a)(4)(A), inserted heading and introductory provisions and struck out former heading and introductory provisions. Prior to amendment, introductory provisions read as follows: ''The term 'master credit agreement' means an agreement to extend credit assistance for a program of projects secured by a common security pledge (which shall receive an investment grade rating from a rating agency), or for a single project covered under section 602(b)(2) that would—''.

Subsec. (a)(10)(A). Pub. L. 114–94, §2001(a)(4)(B), substituted ''subject to—'' for ''subject to the availability of future funds being made available to carry out this chapter;'' and added cls. (i) and (ii).

Subsec. (a)(10)(D)(ii). Pub. L. 114–94, §2001(a)(4)(C)(ii), added cl. (ii). Former cl. (ii) redesignated (iii).

Subsec. (a)(10)(D)(iii). Pub. L. 114–94, §2001(a)(4)(C)(i), (iii), redesignated cl. (ii) as (iii) and substituted ''under the TIFIA program, including sections 602(c) and 603(b)(1)'' for ''in section 602(c)''. Former cl. (iii) redesignated (iv).

Subsec. (a)(10)(D)(iv). Pub. L. 114–94, §2001(a)(4)(C)(i), (iv), redesignated cl. (iii) as (iv) and substituted ''the TIFIA program'' for ''this chapter''.

Subsec. (a)(12)(E), (F). Pub. L. 114–94, §2001(a)(5), added subpars. (E) and (F).

Subsec. (a)(15). Pub. L. 114–94, §2001(a)(6), substituted ''means a surface transportation infrastructure project located in an area that is outside of an urbanized area with a population greater than 150,000 individuals, as determined by the Bureau of the Census.'' for ''means a surface transportation infrastructure project located in any area other than a city with a population of more than 250,000 inhabitants within the city limits.''

Subsec. (a)(16) to (22). Pub. L. 114–94, §2001(a)(7)–(10), added pars. (16) and (19), redesignated former pars. (16), (17), (18), (19), and (20) as pars. (17), (18), (20), (21), and (22), respectively, and inserted ''established under sections 602 through 609'' after ''Department'' in par. (22).

2012—Pub. L. 112–141 amended section generally. Prior to amendment, section related to generally applicable provisions.

2008—Subsec. (a)(3). Pub. L. 110–244 inserted ''bbb minus, BBB (low),'' after ''Baa3,''.

2006—Subsec. (a)(10). Pub. L. 109–291, which directed amendment of section 181(11) of this title by substituting ''registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization, as that term is defined in section 3(a) of the Securities Exchange Act of 1934'' for ''identified by the Securities and Exchange Commission as a nationally recognized statistical rating organization'', was executed to subsec. (a)(10) of this section by making the substitution for ''identified by the Securities and Exchange Commission as a Nationally Recognized Statistical Rating Organization'' to reflect the probable intent of Congress and the amendment by Pub. L. 109–59. See 2005 Amendment notes below.

2005—Pub. L. 109–59, §1602(d), renumbered section 181 of this title as this section.

Pub. L. 109–59, §1602(b)(1), (5), substituted ''Generally applicable provisions'' for ''Definitions'' in section catchline, designated existing provisions as subsec. (a), inserted heading, substituted ''In this chapter'' for ''In this subchapter'' in introductory provisions, ''this chapter'' for ''this subchapter'' in par. (2), ''604'' for ''184'' in par. (5), ''603'' for ''183'' in par. (11), and added subsec. (b).

Par (3). Pub. L. 109–59, §1601(a)(1), struck out ''category'' after ''rating'' and ''offered into the capital markets'' after ''obligations''.

Par. (7). Pub. L. 109–59, §1601(a)(2), redesignated par. (8) as (7) and struck out heading and text of former par. (7). Text read as follows: ''The term 'local servicer' means—

''(A) a State infrastructure bank established under this title; or

''(B) a State or local government or any agency of a State or local government that is responsible for servicing a Federal credit instrument on behalf of the Secretary.''

Par. (8). Pub. L. 109–59, §1601(a)(2), (3), redesignated par. (9) as (8), substituted semicolon for period at end of subpar. (B), added subpar. (D), and struck out former subpar. (D) which read as follows: ''a project for publicly owned intermodal surface freight transfer facilities, other than seaports and airports, if the facilities are located on or adjacent to National Highway System routes or connections to the National Highway System.'' Former par. (8) redesignated (7).

Par. (9). Pub. L. 109–59, §1601(a)(2), redesignated par. (10) as (9). Former par. (9) redesignated (8).

Par. (10). Pub. L. 109–59, §1601(a)(2), (4), redesignated par. (11) as (10) and substituted ''credit'' for ''bond''. Former par. (10) redesignated (9).

Pars. (11) to (15). Pub. L. 109–59, §1601(a)(2), redesignated pars. (12) to (15) as (11) to (14), respectively. Former par. (11) redesignated (10).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

REGIONAL INFRASTRUCTURE ACCELERATOR DEMONSTRATION PROGRAM

Pub. L. 114–94, div. A, title I, §1441, Dec. 4, 2015, 129 Stat. 1435, provided that:

''(a) IN GENERAL.—The Secretary [of Transportation] shall establish a regional infrastructure demonstration program (referred to in this section as the 'program') to assist entities in developing improved infrastructure priorities and financing strategies for the accelerated development of a project that is eligible for funding under the TIFIA program under chapter 6 of title 23, United States Code.

''(b) DESIGNATION OF REGIONAL INFRASTRUCTURE ACCELERATORS.—In carrying out the program, the Secretary may designate regional infrastructure accelerators that will—

''(1) serve a defined geographic area; and

''(2) act as a resource in the geographic area to qualified entities in accordance with this section.

''(c) APPLICATION.—To be eligible for a designation under subsection (b), a proposed regional infrastructure accelerator shall submit to the Secretary a proposal at such time, in such manner, and containing such information as the Secretary may require.

''(d) CRITERIA.—In evaluating a proposal submitted under subsection (c), the Secretary shall consider—

''(1) the need for geographic diversity among regional infrastructure accelerators; and

''(2) the ability of the proposal to promote investment in covered infrastructure projects, which shall include a plan—

''(A) to evaluate and promote innovative financing methods for local projects, including the use of the TIFIA program under chapter 6 of title 23, United States Code;

''(B) to build capacity of State, local, and tribal governments to evaluate and structure projects involving the investment of private capital;

''(C) to provide technical assistance and information on best practices with respect to financing the projects;

''(D) to increase transparency with respect to infrastructure project analysis and using innovative financing for public infrastructure projects;

''(E) to deploy predevelopment capital programs designed to facilitate the creation of a pipeline of infrastructure projects available for investment;

''(F) to bundle smaller-scale and rural projects into larger proposals that may be more attractive for investment; and

''(G) to reduce transaction costs for public project sponsors.

''(e) ANNUAL REPORT.—Not less frequently than once each year, the Secretary shall submit to Congress a report that describes the findings and effectiveness of the program.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program $12,000,000, of which the Secretary shall use—

''(1) $11,750,000 for initial grants to regional infrastructure accelerators under subsection (b); and

''(2) $250,000 for administrative costs of carrying out the program.''

CONGRESSIONAL FINDINGS

Pub. L. 105–178, title I, §1502, June 9, 1998, 112 Stat. 241, provided that: ''Congress finds that—

''(1) a well-developed system of transportation infrastructure is critical to the economic well-being, health, and welfare of the people of the United States;

''(2) traditional public funding techniques such as grant programs are unable to keep pace with the infrastructure investment needs of the United States because of budgetary constraints at the Federal, State, and local levels of government;

''(3) major transportation infrastructure facilities that address critical national needs, such as intermodal facilities, border crossings, and multistate trade corridors, are of a scale that exceeds the capacity of Federal and State assistance programs in effect on the date of enactment of this Act [June 9, 1998];

''(4) new investment capital can be attracted to infrastructure projects that are capable of generating their own revenue streams through user charges or other dedicated funding sources; and

''(5) a Federal credit program for projects of national significance can complement existing funding resources by filling market gaps, thereby leveraging substantial private co-investment.''

STATE INFRASTRUCTURE BANK PILOT PROGRAMS

Pub. L. 105–178, title I, §1511, June 9, 1998, 112 Stat. 251, as amended by Pub. L. 107–117, div. B, §1108, Jan. 10, 2002, 115 Stat. 2332, provided that:

''(a) DEFINITIONS.—In this section:

''(1) OTHER ASSISTANCE.—The term 'other assistance' includes any use of funds in an infrastructure bank—

''(A) to provide credit enhancements;

''(B) to serve as a capital reserve for bond or debt instrument financing;

''(C) to subsidize interest rates;

''(D) to ensure the issuance of letters of credit and credit instruments;

''(E) to finance purchase and lease agreements with respect to transit projects;

''(F) to provide bond or debt financing instrument security; and

''(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which the assistance is being provided.

''(2) STATE.—The term 'State' has the meaning given the term under section 401 of title 23, United States Code.

''(b) COOPERATIVE AGREEMENTS.—

''(1) IN GENERAL.—

''(A) PURPOSE OF AGREEMENTS.—Subject to this section, the Secretary may enter into cooperative agreements with the States of California, Florida, Missouri, and [sic] Rhode Island, and Texas for the establishment of State infrastructure banks and multistate infrastructure banks for making loans and providing other assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section, provided that Texas may not compete for funds previously allocated or appropriated to any other State.

''(B) CONTENTS OF AGREEMENTS.—Each cooperative agreement shall specify procedures and guidelines for establishing, operating, and providing assistance from the infrastructure bank.

''(2) INTERSTATE COMPACTS.—If 2 or more States enter into a cooperative agreement under paragraph (1) with the Secretary for the establishment of a multistate infrastructure bank, Congress grants consent to those States to enter into an interstate compact establishing the bank in accordance with this section.

''(c) FUNDING.—

''(1) CONTRIBUTION.—Notwithstanding any other provision of law, the Secretary may allow, subject to subsection (h)(1), a State that enters into a cooperative agreement under this section to contribute to the infrastructure bank established by the State not to exceed—

''(A)(i) the total amount of funds apportioned to the State under each of [former] paragraphs (1), (3), and (4) of section 104(b) and [former] section 144 of title 23, United States Code, excluding funds set aside under paragraphs (1) and (2) of [former] section 133(d) of such title; and

''(ii) the total amount of funds allocated to the State under [former] section 105 of such title;

''(B) the total amount of funds made available to the State or other Federal transit grant recipient for capital projects (as defined in section 5302 of title 49, United States Code) under sections 5307, 5309, and 5311 of such title; and

''(C) the total amount of funds made available to the State under subtitle V of title 49, United States Code.

''(2) CAPITALIZATION GRANT.—For the purposes of this section, Federal funds contributed to the infrastructure bank under this subsection shall constitute a capitalization grant for the infrastructure bank.

''(3) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds that are apportioned or allocated to a State under [former] section 104(b)(3) of title 23, United States Code, and attributed to urbanized areas of a State with a population of over 200,000 individuals under [former] section 133(d)(2) of such title may be used to provide assistance from an infrastructure bank under this section with respect to a project only if the metropolitan planning organization designated for the area concurs, in writing, with the provision of the assistance.

''(d) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—

''(1) IN GENERAL.—An infrastructure bank established under this section may make loans or provide other assistance to a public or private entity in an amount equal to all or part of the cost of carrying out a project eligible for assistance under this section.

''(2) SUBORDINATION OF LOANS.—The amount of any loan or other assistance provided for the project may be subordinated to any other debt financing for the project.

''(3) INITIAL ASSISTANCE.—Initial assistance provided with respect to a project from Federal funds contributed to an infrastructure bank under this section shall not be made in the form of a grant.

''(e) QUALIFYING PROJECTS.—

''(1) IN GENERAL.—Subject to paragraph (2), funds in an infrastructure bank established under this section may be used only to provide assistance with respect to projects eligible for assistance under title 23, United States Code, for capital projects (as defined in section 5302 of title 49, United States Code), or for any other project related to surface transportation that the Secretary determines to be appropriate.

''(2) INTERSTATE FUNDS.—Funds contributed to an infrastructure bank from funds apportioned to a State under [former] section 104(b)(4) of title 23, United States Code, may be used only to provide assistance with respect to projects eligible for assistance under such paragraph.

''(3) RAIL PROGRAM FUNDS.—Funds contributed to an infrastructure bank from funds made available to a State under subtitle V of title 49, United States Code, shall be used in a manner consistent with any project description specified under the law making the funds available to the State.

''(f) INFRASTRUCTURE BANK REQUIREMENTS.—

''(1) IN GENERAL.—Subject to paragraph (2), in order to establish an infrastructure bank under this section, each State establishing such a bank shall—

''(A) contribute, at a minimum, to the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and contributed to the bank under subsection (c), except that if the State has a higher Federal share payable under section 120(b) of title 23, United States Code, the State shall be required to contribute only an amount commensurate with the higher Federal share;

''(B) ensure that the bank maintains on a continuing basis an investment grade rating on its debt issuances and its ability to pay claims under credit enhancement programs of the bank;

''(C) ensure that investment income generated by funds contributed to the bank will be—

''(i) credited to the bank;

''(ii) available for use in providing loans and other assistance to projects eligible for assistance from the bank; and

''(iii) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

''(D) ensure that any loan from the bank will bear interest at or below market rates, as determined by the State, to make the project that is the subject of the loan feasible;

''(E) ensure that repayment of the loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

''(F) ensure that the term for repaying any loan will not exceed the lesser of—

''(i) 35 years after the date of the first payment on the loan under subparagraph (E); or

''(ii) the useful life of the investment; and

''(G) require the bank to make a biennial report to the Secretary and to make such other reports as the Secretary may require in guidelines.

''(2) WAIVERS BY THE SECRETARY.—The Secretary may waive a requirement of any of subparagraphs (C) through (G) of paragraph (1) with respect to an infrastructure bank if the Secretary determines that the waiver is consistent with the objectives of this section.

''(g) LIMITATION ON REPAYMENTS.—Notwithstanding any other provision of law, the repayment of a loan or other assistance provided from an infrastructure bank under this section may not be credited toward the non-Federal share of the cost of any project.

''(h) SECRETARIAL REQUIREMENTS.—In administering this section, the Secretary shall—

''(1) ensure that Federal disbursements shall be at an annual rate of not more than 20 percent of the amount designated by the State for State infrastructure bank capitalization under subsection (c)(1), except that the Secretary may disburse funds to a State in an amount needed to finance a specific project; and

''(2) revise cooperative agreements entered into with States under section 350 of the National Highway System Designation Act of 1995 (Public Law 104–59 [set out below]) to comply with this section.

''(i) APPLICABILITY OF FEDERAL LAW.—

''(1) IN GENERAL.—The requirements of titles 23 and 49, United States Code, that would otherwise apply to funds made available under such title and projects assisted with those funds shall apply to—

''(A) funds made available under such title and contributed to an infrastructure bank established under this section, including the non-Federal contribution required under subsection (f); and

''(B) projects assisted by the bank through the use of the funds;

except to the extent that the Secretary determines that any requirement of such title (other than sections 113 and 114 of title 23 and section 5333 of title 49), is not consistent with the objectives of this section.

''(2) REPAYMENTS.—The requirements of titles 23 and 49, United States Code, shall apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall be considered to be Federal funds.

''(j) UNITED STATES NOT OBLIGATED.—

''(1) IN GENERAL.—The contribution of Federal funds to an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party. No third party shall have any right against the United States for payment solely by virtue of the contribution.

''(2) STATEMENT.—Any security or debt financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

''(k) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31, United States Code, shall not apply to funds contributed under this section.

''(*l*) PROGRAM ADMINISTRATION.—

''(1) IN GENERAL.—A State may expend not to exceed 2 percent of the Federal funds contributed to an

infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

''(2) NON-FEDERAL FUNDS.—The limitation described in paragraph (1) shall not apply to non-Federal funds.''

Pub. L. 104–59, title III, § 350, Nov. 28, 1995, 109 Stat. 618, provided that:

''(a) IN GENERAL.—

''(1) COOPERATIVE AGREEMENTS.—Subject to the provisions of this section, the Secretary [of Transportation] may enter into cooperative agreements with not to exceed 10 States for the establishment of State infrastructure banks and multistate infrastructure banks for making loans and providing other assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

''(2) INTERSTATE COMPACTS.—Congress grants consent to 2 or more of the States, entering into a cooperative agreement under paragraph (1) with the Secretary for the establishment of a multistate infrastructure bank, to enter into an interstate compact establishing such bank in accordance with this section.

''(b) FUNDING.—

''(1) SEPARATE ACCOUNTS.—An infrastructure bank established under this section shall maintain a separate highway account for Federal funds contributed to the bank under paragraph (2) and a separate transit account for Federal funds contributed to the bank under paragraph (3). No Federal funds contributed or credited to an account of an infrastructure bank established under this section may be commingled with Federal funds contributed or credited to any other account of such bank.

''(2) HIGHWAY ACCOUNT.—Notwithstanding any other provision of law, the Secretary may allow, subject to subsection (g)(1), a State entering into a cooperative agreement under this section to contribute not to exceed—

''(A) 10 percent of the funds apportioned to the State for each of fiscal years 1996 and 1997 under each of [former] sections 104(b)(1), 104(b)(3), 104(b)(5)(B), 144, and 160 of title 23, United States Code, and section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102–240, former 23 U.S.C. 104 note]; and

''(B) 10 percent of the funds allocated to the State for each of such fiscal years under each of [former] section 157 of such title and section 1013(c) of such Act [former 23 U.S.C. 157 note];

into the highway account of the infrastructure bank established by the State. Federal funds contributed to such account under this paragraph shall constitute for purposes of this section a capitalization grant for the highway account of the infrastructure bank.

''(3) TRANSIT ACCOUNT.—Notwithstanding any other provision of law, the Secretary may allow, subject to subsection (g)(1), a State entering into a cooperative agreement under this section, and any other Federal transit grant recipient, to contribute not to exceed 10 percent of the funds made available to the State or other Federal transit grant recipient in each of fiscal years 1996 and 1997 for capital projects under sections 5307, 5309, and 5311 of title 49, United States Code, into the transit account of the infrastructure bank established by the State. Federal funds contributed to such account under this paragraph shall constitute for purposes of this section a capitalization grant for the transit account of the infrastructure bank.

''(4) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds that are apportioned or allocated to a State under [former] section 104(b)(3) or 160 of title 23, United States Code, or under section 1013(c) or 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102–240, former 23 U.S.C. 157 note, former 104 note] and attributed to urbanized areas of a State with an urbanized population of over 200,000 under [former] section 133(d)(3) of such title may be used to provide assistance with respect to a project only if the metropolitan planning organization designated for such area concurs, in writing, with the provision of such assistance.

''(c) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—An infrastructure bank established under this section may make loans or provide other assistance to a public or private entity in an amount equal to all or part of the cost of carrying out a project eligible for assistance under this section. The amount of any loan or other assistance provided for such project may be subordinated to any other debt financing for the project. Initial assistance provided with respect to a project from Federal funds contributed to an infrastructure bank under this section may not be made in the form of a grant.

''(d) QUALIFYING PROJECTS.—Federal funds in the highway account of an infrastructure bank established under this section may be used only to provide assistance with respect to construction of Federal-aid highways. Federal funds in the transit account of such bank may be used only to provide assistance with respect to capital projects.

''(e) INFRASTRUCTURE BANK REQUIREMENTS.—In order to establish an infrastructure bank under this section, each State establishing the bank shall—

''(1) contribute, at a minimum, in each account of the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and contributed to the bank; except that if the contribution is into the highway account of the bank and the State has a lower non-Federal share under section 120(b) of title 23, United States Code, such percentage shall be adjusted by the Secretary to correspond with such lower non-Federal share;

''(2) ensure that the bank maintains on a continuing basis an investment grade rating on its debt issuances or has a sufficient level of bond or debt financing instrument insurance to maintain the viability of the bank;

''(3) ensure that investment income generated by funds contributed to an account of the bank will be—

''(A) credited to the account;

''(B) available for use in providing loans and other assistance to projects eligible for assistance from the account; and

''(C) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

''(4) provide that the repayment of a loan or other assistance from an account of the bank under this section shall be consistent with the repayment provisions of [former] section 129(a)(7) of title 23, United States Code, except to the extent the Secretary determines that such provisions are not consistent with this section;

''(5) ensure that any loan from the bank will bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible;

''(6) ensure that repayment of any loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

''(7) ensure that the term for repaying any loan will not exceed 30 years after the date of the first payment on the loan under paragraph (6); and

''(8) require the bank to make an annual report to the Secretary on its status no later than September 30, 1996, and September 30, 1997, and to make such other reports as the Secretary may require by guidelines.

''(f) LIMITATION ON REPAYMENTS.—Notwithstanding any other provision of law, the repayment of a loan or other assistance provided from an infrastructure bank under this section may not be credited towards the non-Federal share of the cost of any project.

''(g) SECRETARIAL REQUIREMENTS.—In administering this section, the Secretary shall—

''(1) ensure that Federal disbursements shall be at a rate consistent with historic rates for the Federal-aid highway program and the Federal transit program, respectively;

''(2) issue guidelines to ensure that all requirements of title 23, United States Code, or title 49, United States Code, that would otherwise apply to funds made available under such title and projects assisted with such funds apply to—

''(A) funds made available under such title and contributed to an infrastructure bank established under this section; and

''(B) projects assisted by the bank through the use of such funds;

except to the extent that the Secretary determines that any requirement of such title is not consistent with the objectives of this section; and

''(3) specify procedures and guidelines for establishing, operating, and providing assistance from the bank.

''(h) UNITED STATES NOT OBLIGATED.—The contribution of Federal funds into an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States for payment solely by virtue of the contribution. Any security or debt financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

''(i) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31, United States Code, shall not apply to funds contributed under this section.

''(j) PROGRAM ADMINISTRATION.—For each of fiscal years 1996 and 1997, a State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

''(k) SECRETARIAL REVIEW.—The Secretary shall review the financial condition of each infrastructure bank established under this section and transmit to Congress a report on the results of such review not later than March 1, 1997. In addition, the report shall contain—

''(1) an evaluation of the pilot program conducted under this section and the ability of such program to increase public investment and attract non-Federal capital; and

''(2) recommendations of the Secretary as to whether the program should be expanded or made a part of the Federal-aid highway and transit programs.

''(*l*) DEFINITIONS.—In this section, the following definitions apply:

''(1) CAPITAL PROJECT.—The term 'capital project' has the meaning such term has under section 5302 of title 49, United States Code.

''(2) CONSTRUCTION; FEDERAL-AID HIGHWAY.—The terms 'construction' and 'Federal-aid highway' have the meanings such terms have under section 101 of title 23, United States Code.

''(3) OTHER ASSISTANCE.—The term 'other assistance' includes any use of funds in an infrastructure bank—

''(A) to provide credit enhancements;

''(B) to serve as a capital reserve for bond or debt instrument financing;

''(C) to subsidize interest rates;

''(D) to ensure the issuance of letters of credit and credit instruments;

''(E) to finance purchase and lease agreements with respect to transit projects;

''(F) to provide bond or debt financing instrument security; and

''(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which such assistance is being provided.

''(4) STATE.—The term 'State' has the meaning such term has under section 101 of title 23, United States Code.''

§ 602. Determination of eligibility and project selection

(a) ELIGIBILITY.—

(1) IN GENERAL.—A project shall be eligible to receive credit assistance under the TIFIA program if—

(A) the entity proposing to carry out the project submits a letter of interest prior to submission of a formal application for the project; and

(B) the project meets the criteria described in this subsection.

(2) CREDITWORTHINESS.—

(A) IN GENERAL.—To be eligible for assistance under the TIFIA program, a project shall satisfy applicable creditworthiness standards, which, at a minimum, shall include—

(i) a rate covenant, if applicable;

(ii) adequate coverage requirements to ensure repayment;

(iii) an investment grade rating from at least 2 rating agencies on debt senior to the Federal credit instrument; and

(iv) a rating from at least 2 rating agencies on the Federal credit instrument, subject to the condition that, with respect to clause (iii), if the total amount of the senior debt and the Federal credit instrument is less than $75,000,000, 1 rating agency opinion for each of the senior debt and Federal credit instrument shall be sufficient.

(B) SENIOR DEBT.—Notwithstanding subparagraph (A), in a case in which the Federal credit instrument is the senior debt, the Federal credit instrument shall be required to receive an investment grade rating from at least 2 rating agencies, unless the credit instrument is for an amount less than $75,000,000, in which case 1 rating agency opinion shall be sufficient.

(3) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—A project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under the TIFIA program.

(4) APPLICATION.—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary shall submit a project application that is acceptable to the Secretary.

(5) ELIGIBLE PROJECT COST PARAMETERS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a project under the TIFIA program shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(i) $50,000,000; and

(ii) 33⅓ percent of the amount of Federal highway funds apportioned for the most recently completed fiscal year to the State in which the project is located.