113TH CONGRESS
2D SESSION

S. _____

To establish the American Infrastructure Fund, to provide bond guarantees and make loans to States, local governments, and infrastructure providers for investments in certain infrastructure projects, and to provide equity investments in such projects, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BENNET (for himself, Mr. BLUNT, Mr. WARNER, Ms. AYOTTE, Ms. LANDRIEU, Mr. KING, Mr. GRAHAM, Mr. COATS, Mr. HOEVEN, and Mr. BEGICH) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To establish the American Infrastructure Fund, to provide bond guarantees and make loans to States, local governments, and infrastructure providers for investments in certain infrastructure projects, and to provide equity investments in such projects, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Partnership to Build America Act of 2014''.

SEC. 2. AMERICAN INFRASTRUCTURE FUND.

(a) AMERICAN INFRASTRUCTURE FUND.—

(1) IN GENERAL.—There is established a wholly owned Government corporation—

(A) which shall be called the American Infrastructure Fund (referred to in this Act as the "AIF");

(B) which shall be headed by the Board of Trustees established under subsection (b);

(C) which may have separate subaccounts or subsidiaries for funds used to make loans, bond guarantees, and equity investments under this section;

(D) which shall be available to the AIF to pay for the costs of carrying out this section, including the compensation of the Board and other employees of the AIF; and

(E) the funds of which may be invested by the Board in such manner as the Board determines appropriate.

(2) DEPOSITS TO AIF.—All funds received from bond issuances, loan payments, bond guarantee fees, and any other funds received in carrying out this section shall be held by AIF.

(3) LIMITATIONS.—The charter of the AIF shall limit its activities to those activities described as the mission of the Board under subsection (b)(2).

(4) OVERSIGHT.—The AIF shall register with the Securities and Exchange Commission and the Chairman shall report to Congress annually as to whether the AIF is fulfilling the mission of the Board under subsection (b)(2).

(5) TREATMENT OF AIF.—

(A) ACCOUNTS.—Title 31, United States Code, is amended in each of sections 9107(c)(3) and 9108(d)(2)—

(i) by inserting ''the American Infrastructure Fund,'' after ''the Regional Banks for Cooperatives,''; and

(ii) by striking ''those banks'' and inserting ''those entities''.

(B) BONDS.—Section 149(b)(3)(A)(i) of the Internal Revenue Code of 1986 is amended by inserting ''American Infrastructure Fund,'' after ''Federal Home Loan Mortgage Corporation,''.

(b) BOARD OF TRUSTEES.—

(1) IN GENERAL.—There is established a Board of Trustees of the AIF (referred to in this sub-

section as the ''Board''), which shall be composed of 9 members who—

(A) have substantial experience in bond guarantees or municipal credit; and

(B) to the greatest extent practicable, have extensive experience working with municipal credit, risk management, and infrastructure finance.

(2) MISSION.—The mission of the Board is—

(A) to operate the AIF and its subsidiaries to be a low cost provider of bond guarantees, loans, and equity investments to State and local governments and infrastructure providers for urban and rural infrastructure projects that—

(i) provide a positive economic impact; and

(ii) meet such other standards as the Board may develop;

(B) to operate the AIF in a self-sustaining manner so as to allow the AIF to repay its infrastructure bonds when such bonds are due;

(C) to not have a profit motive, but to seek at all times to pursue its mission of providing low cost bond guarantees and loans while—

(i) covering its costs;

(ii) maintaining such reserves as may be needed; and

(iii) applying prudent underwriting standards;

(D) to only consider projects put forth by State and local governments and not to seek projects directly;

(E) to always make clear that no taxpayer money supports the AIF or ever will support the AIF; and

(F) to engage in no other activities other than those permitted under this section.

(3) MEMBERSHIP.—

(A) INITIAL MEMBERS.—

(i) APPOINTMENT.—Not later than 150 days after the date on which bonds are first issued under subsection (d), the President shall appoint, with the advice and consent of the Senate, as members of the Board—

(I) 2 individuals from a list of at least 5 individuals selected by the Speaker of the House of Representatives;

(II) 2 individuals from a list of at least 5 individuals selected by the Minority Leader of the House of Representatives;

(III) 2 individuals from a list of at least 5 individuals selected by the Majority Leader of the Senate;

(IV) 2 individuals from a list of at least 5 individuals selected by the Minority Leader of the Senate; and

(V) 1 individual selected at will by the President.

(ii) SUBMISSION OF LISTS.—Each of the lists described in clause (i) shall be submitted to the President not later than 90 days after the date on which bonds are first issued under subsection (d). If any of such lists are submitted after the date required under this clause, the President may appoint the 2 members of the Board who were to be selected from such list at will.

(B) STAGGERED TERMS.—The members of the Board appointed pursuant to subparagraph (A)(i) shall serve staggered terms, with 2 each

of the initial members of the Board serving for terms of 5, 6, 7, and 8 years, respectively, and the initial Chair selected under subparagraph (D) serving for 9 years. The decision of which Board members, other than the Chair, serve for which initial terms shall be made by the members of the Board drawing lots.

(C) ADDITIONAL MEMBERS.—

(i) IN GENERAL.—Except as provided in subparagraph (A), if the term of a member of the Board expires or otherwise becomes vacant, the President shall appoint a replacement for such member, with the advice and consent of the Senate, from among a list of at least 5 individuals submitted by the Board.

(ii) TERM OF SERVICE.—

(I) IN GENERAL.—Each member of the Board appointed to replace a member whose term is expiring shall serve for a 7-year term.

(II) VACANCIES.—Any member of the Board appointed to fill a vacancy occurring before the expiration of the term to which that member's

predecessor was appointed shall be appointed only for the remainder of the term.

(D) CHAIR.—The members of the Board shall choose 1 member to serve as the Chair of the Board for a term of 7 years, except that the initial Chair shall serve for a term of 9 years, pursuant to subsection (B).

(E) CONTINUATION OF SERVICE.—Each member of the Board may continue to serve after the expiration of the term of office to which that member was appointed until a successor has been appointed.

(F) CONFLICTS OF INTEREST.—No member of the Board may have a financial interest in, or be employed by, a Qualified Infrastructure Project (''QIP'') related to assistance provided under this section or any entity that has purchased bonds under subsection (d). Owning municipal credit of any State or local government or owning the securities of a diversified company that engages in infrastructure activities, provided those activities constitute less than 20 percent of the company's revenues, or investing in broadly held investment funds shall

not be deemed to create a conflict of interest. The Board may issue regulations to define terms used under this subparagraph.

(4) COMPENSATION.—The members of the Board shall be compensated at an amount to be set by the Board, but under no circumstances may such compensation be higher than the rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(5) STAFF.—The Board shall employ and set compensation for such staff as the Board determines as is necessary to carry out the activities and mission of the AIF, and such staff may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53, United States Code, relating to classification and General Schedule pay rates.

(6) PROCEDURES.—The Board shall establish such procedures as are necessary to carry out this section.

(7) CORPORATE GOVERNANCE STANDARDS.—

(A) BOARD COMMITTEES GENERALLY.—The Board shall maintain all of the committees required to be maintained by the board of directors of an issuer listed on the New York Stock

Exchange as of the date of the enactment of this section.

(B) RISK MANAGEMENT COMMITTEE.—The Board shall maintain a risk management committee, which shall—

(i) employ additional staff who are certified by the Board as having significant and relevant experience in insurance underwriting and credit risk management; and

(ii) establish the risk management policies used by the Board.

(C) STANDARDS.—The Board shall, to the extent practicable, follow all standards with respect to corporate governance that are required to be followed by the board of directors of an issuer listed on the New York Stock Exchange as of the date of the enactment of this section.

(8) BIENNIAL REPORTS.—Not less frequently than once every 2 years, the Board shall produce a report that describes, of the materials, goods, and products that were used to construct, or to support the construction of, qualified infrastructure projects (as described in subsection (c)) and received financing from the American Infrastructure Fund within

the most recent 2 calendar years, the percentage of such materials, goods, and products that were created, sourced, or manufactured in the United States.

(c) INFRASTRUCTURE INVESTMENT.—

(1) ENTITIES ELIGIBLE FOR ASSISTANCE.—The AIF may provide assistance to State and local government entities, nonprofit infrastructure providers, private parties, and public-private partnerships (referred to in this section as ''eligible entities'') to help finance qualified infrastructure projects (referred to in this subsection as ''QIPs'').

(2) FORMS OF ASSISTANCE.—The AIF may—

(A) provide bond guarantees to debt issued by eligible entities;

(B) make loans, including subordinated loans, to eligible entities; and

(C) make equity investments in QIPs.

(3) QUALIFIED INFRASTRUCTURE PROJECTS.—A project qualifies as a QIP under this section if—

(A) the project is sponsored by a State or local government;

(B) the infrastructure is, or will be, owned by a State or local government;

(C) the project involves the construction, maintenance, improvement, or repair of a trans-

portation, energy, water, communications, or educational facility; and

(D) the recipient of bond guarantees, loans, equity investments, or any other financing technique authorized under this Act provides written assurances prescribed by the AIF that the project will be performed in compliance with the requirements of all Federal laws that would otherwise apply to similar projects to which the United States is a party.

(4) APPLICATION FOR ASSISTANCE.—

(A) IN GENERAL.—A State or local government that wishes to receive a loan or bond guarantee under this section shall submit an application to the Board in such form and manner and containing such information as the Board may require.

(B) REQUIREMENT FOR PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—A private entity may only receive a bond guarantee, loan, or equity investment under this section if the State or local government for the jurisdiction in which the nonprofit infrastructure provider or private partner is located submits an application pursuant to subparagraph (A) on behalf of such non-

profit infrastructure provider or private partner.

(5) LIMITATIONS ON SINGLE STATE AWARDS.—

(A) ANNUAL LIMITATION.—The Board shall set an annual limit, as a percentage of total assistance provided under this section during a year, on the amount of assistance a single State (including local governments and other infrastructure providers within such State) may receive in assistance provided under this section.

(B) CUMULATIVE LIMITATION.—The Board shall set a limit, as a percentage of total assistance provided under this section outstanding at any one time, on the amount of assistance a single State (including local governments and other infrastructure providers within such State) may receive in assistance provided under this section.

(6) LOAN SPECIFICATIONS.—Loans made under this section shall have such maturity and carry such interest rate as the Board determines appropriate.

(7) BOND GUARANTEE.—The Board shall charge such fees for Bond guarantees made under this section as the Board determines appropriate.

(8) EQUITY INVESTMENTS.—With respect to a QIP, the amount of an equity investment made by the AIF in such QIP may not exceed 20 percent of the total cost of the QIP.

(9) PUBLIC-PRIVATE PARTNERSHIP REQUIREMENTS.—At least 35 percent of the assistance provided under this section shall be provided to QIPs for which at least 10 percent of the financing for such QIPs comes from private debt or equity.

(10) PROHIBITION ON PRINCIPAL FORGIVENESS.—With respect to a loan made under this section, the Board may not forgive any amount of principal on such loan.

(d) AMERICAN INFRASTRUCTURE BONDS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary, acting through the AIF, shall issue bonds, which shall be called ''American Infrastructure Bonds''. The proceeds from the American Infrastructure Bonds shall be deposited into the AIF.

(2) FORMS AND DENOMINATIONS; INTEREST.—American Infrastructure Bonds shall—

(A) be in such forms and denominations as determined by the Secretary, and shall have a 50-year maturity; and

(B) bear interest of 1 percent.

(3) NO FULL FAITH AND CREDIT.—Interest and principal payments paid to holders of American Infrastructure Bonds shall be paid from the AIF, to the extent funds are available, and shall not be backed by the full faith and credit of the United States.

(4) AMOUNT OF BONDS.—The aggregate face amount of the bonds issued under this subsection shall be $50,000,000,000.

(5) SALE OF AMERICAN INFRASTRUCTURE BONDS.—

(A) COMPETITIVE BIDDING PROCESS.—The Secretary shall sell $50,000,000,000 of American Infrastructure Bonds—

(i) through a competitive bidding process that encourages aggressive bidding;

(ii) with prospective purchasers bidding on how low of a multiplier they will accept (for purposes of subsection (b)(1) of section 966 of the Internal Revenue Code of 1986) when purchasing the American Infrastructure Bonds, for purposes of applying the foreign earnings exclusion described under that section; and

(iii) in a manner that ensures no entities participating in the bidding may collude or coordinate their bids.

(B) LIMITATION.—The multiplier described in subparagraph (A)(ii) may not be greater than 6.

(6) REIMBURSEMENT OF COSTS.—The Board shall repay the Secretary, from funds in the AIF, for the costs to the Secretary in carrying out this subsection.

(e) ADDITIONAL BONDS.—

(1) IN GENERAL.—The Board may issue such other bonds as the Board determines appropriate, the proceeds from which shall be deposited into the AIF.

(2) NO FULL FAITH AND CREDIT.—Interest and principal payments paid to holders of bonds issued pursuant to paragraph (1) shall be paid from the AIF, to the extent funds are available, and shall not be backed by the full faith and credit of the United States.

(f) DEFINITIONS.—For purposes of this section:

(1) INFRASTRUCTURE PROVIDER.—The term ''infrastructure provider'' means an entity that seeks to finance a QIP.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(3) STATE.—The term ''State'' means each of the several States, the District of Columbia, any territory or possession of the United States, and each Federally recognized Indian tribe.

SEC. 3. FOREIGN EARNINGS EXCLUSION FOR PURCHASE OF INFRASTRUCTURE BONDS.

(a) IN GENERAL.—Subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 966. FOREIGN EARNINGS EXCLUSION FOR PURCHASE OF INFRASTRUCTURE BONDS.

''(a) EXCLUSION.—In the case of a corporation which is a United States shareholder and for which the election under this section is in effect for the taxable year, gross income does not include an amount equal to the qualified cash dividend amount.

''(b) QUALIFIED CASH DIVIDEND AMOUNT.—For purposes of this section, the term 'qualified cash dividend amount' means an amount of the cash dividends which are received during a taxable year by such shareholder from controlled foreign corporations equal to—

"(1) the multiplier determined under section 2(d)(5) of the Partnership to Build America Act of 2014 for such shareholder, multiplied by

"(2) the face amount of qualified infrastructure bonds acquired at its original issue (directly or through an underwriter) by such shareholder.

"(c) LIMITATIONS.—

"(1) IN GENERAL.—The amount of dividends taken into account under subsection (a) for a taxable year shall not exceed the lesser of—

"(A) the cash dividends received by the taxpayer for such taxable year, or

"(B) the amount shown on the applicable financial statement as earnings permanently reinvested outside the United States.

"(2) DIVIDENDS MUST BE EXTRAORDINARY.—The amount of dividends taken into account under subsection (a) shall not exceed the excess (if any) of—

"(A) the cash dividends received during the taxable year by such shareholder from controlled foreign corporations, over

"(B) the annual average for the base period years of the cash dividends received during

each base period year by such shareholder from controlled foreign corporations.

"(3) REDUCTION OF BENEFIT IF INCREASE IN RELATED PARTY INDEBTEDNESS.—The amount of dividends which would (but for this paragraph) be taken into account under subsection (a) shall be reduced by the excess (if any) of—

"(A) the amount of indebtedness of the controlled foreign corporation to any related person (as defined in section 954(d)(3)) as of the close of the taxable year for which the election under this section is in effect, over

"(B) the amount of indebtedness of the controlled foreign corporation to any related person (as so defined) as of the close of the preceding taxable year.

"(4) TREATMENT OF CONTROLLED FOREIGN CORPORATIONS.—All controlled foreign corporations with respect to which the taxpayer is a United States shareholder shall be treated as 1 controlled foreign corporation for purposes of this subsection. The Secretary may prescribe such regulations as may be necessary or appropriate to prevent the avoidance of the purposes of this subsection, including regulations providing that cash dividends shall

not be taken into account under subsection (a) to the extent such dividends are attributable to the direct or indirect transfer (including through the use of intervening entities or capital contributions) of cash or other property from a related person (as so defined) to a controlled foreign corporation.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED INFRASTRUCTURE BONDS.—The term 'qualified infrastructure bond' means a bond issued under section 2(d) of the Partnership to Build America Act of 2014.

"(2) APPLICABLE FINANCIAL STATEMENT.—The term 'applicable financial statement' means, with respect to a taxable year—

"(A) with respect to a United States shareholder which is required to file a financial statement with the Securities and Exchange Commission (or which is included in such a statement so filed by another person), the most recent audited annual financial statement (including the notes which form an integral part of such statement) of such shareholder (or which includes such shareholder)—

"(i) which was so filed for such taxable year, and

"(ii) which is certified as being prepared in accordance with generally accepted accounting principles, and

"(B) with respect to any other United States shareholder, the most recent audited financial statement (including the notes which form an integral part of such statement) of such shareholder (or which includes such shareholder)—

"(i) which is certified as being prepared in accordance with generally accepted accounting principles, and

"(ii) which is used for the purposes of a statement or report—

"(I) to creditors,

"(II) to shareholders, or

"(III) for any other substantial nontax purpose.

"(3) BASE PERIOD YEARS.—

"(A) IN GENERAL.—The base period years are the 3 taxable years—

"(i) which are among the 5 most recent preceding taxable years ending before the taxable year, and

"(ii) which are determined by disregarding—

"(I) 1 taxable year for which the amount described in subsection (c)(2)(B) is the largest, and

"(II) 1 taxable year for which such amount is the smallest.

"(B) SHORTER PERIOD.—If the taxpayer has fewer than 5 taxable years ending before the taxable year, then in lieu of applying subparagraph (A), the base period years shall include all the taxable years of the taxpayer ending before such taxable year.

"(C) MERGERS, ACQUISITIONS, ETC.—

"(i) IN GENERAL.—Rules similar to the rules of subparagraphs (A) and (B) of section 41(f)(3) shall apply for purposes of this paragraph.

"(ii) SPIN-OFFS, ETC.—If there is a distribution to which section 355 (or so much of section 356 as relates to section 355) applies during the 5-year period re-

ferred to in subparagraph (A)(i) and the controlled corporation (within the meaning of section 355) is a United States shareholder—

"(I) the controlled corporation shall be treated as being in existence during the period that the distributing corporation (within the meaning of section 355) is in existence, and

"(II) for purposes of applying subsection (c)(2) to the controlled corporation and the distributing corporation, amounts described in subsection (c)(2)(B) which are received or includable by the distributing corporation or controlled corporation (as the case may be) before the distribution referred to in subclause (I) from a controlled foreign corporation shall be allocated between such corporations in proportion to their respective interests as United States shareholders of such controlled foreign corporation immediately after such distribution.

"(iii) EXCEPTION.—Subclause (II) of clause (ii) shall not apply if neither the controlled corporation nor the distributing corporation is a United States shareholder of such controlled foreign corporation immediately after such distribution.

"(4) DIVIDEND.—The term 'dividend' shall not include amounts includable in gross income as a dividend under section 78, 367, or 1248. In the case of a liquidation under section 332 to which section 367(b) applies, the preceding sentence shall not apply to the extent the United States shareholder actually receives cash as part of the liquidation.

"(5) COORDINATION WITH DIVIDEND RECEIVED DEDUCTION.—No deduction shall be allowed under section 243 or 245 for any dividend which is excluded from income by subsection (a).

"(6) CONTROLLED GROUPS.—All United States shareholders which are members of an affiliated group filing a consolidated return under section 1501 shall be treated as one United States shareholder.

"(7) REPORTING.—The Secretary shall require by regulation or other guidance the reporting of

such information as the Secretary may require to carry out this section.

"(e) DENIAL OF FOREIGN TAX CREDIT; DENIAL OF CERTAIN EXPENSES.—

"(1) FOREIGN TAX CREDIT.—

"(A) IN GENERAL.—No credit shall be allowed under section 901 for any taxes paid or accrued (or treated as paid or accrued) with respect to the excluded portion of any dividend.

"(B) DENIAL OF DEDUCTION OF RELATED TAX.—No deduction shall be allowed under this chapter for any tax for which credit is not allowable by reason of the preceding sentence.

"(2) EXPENSES.—No deduction shall be allowed for expenses directly allocable to the excludable portion described in paragraph (1).

"(3) EXCLUDABLE PORTION.—For purposes of paragraph (1), unless the taxpayer otherwise specifies, the excludable portion of any dividend or other amount is the amount which bears the same ratio to the amount of such dividend or other amount as the amount excluded from income under subsection (a) for the taxable year bears to the amount described in subsection (c)(2)(A) for such year.

"(4) COORDINATION WITH SECTION 78.—Section 78 shall not apply to any tax which is not allowable as a credit under section 901 by reason of this subsection.

"(f) ELECTION TO HAVE SECTION APPLY.—A taxpayer may elect to have this section apply for any taxable year.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 of such Code is amended by adding at the end the following new item:

"966. Foreign earnings exclusion for purchase of infrastructure bonds.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends received for taxable years ending after the date of the enactment of this Act.