U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

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October 7, 2011

MEMORANDUM

TO:	Members of the Subcommittee on Highways and Transit
FROM:	Subcommittee on Highways and Transit Staff
SUBJECT:	Hearing on "National Infrastructure Bank: More Bureaucracy & More Red Tape"

PURPOSE

The Subcommittee on Highways and Transit will meet on Wednesday, October 12, 2011, at 10:00 a.m., in Room 2167 of the Rayburn House Office Building to receive testimony related to the Administration's National Infrastructure Bank proposal that is part of the American Jobs Act of 2011 (H.R. 12). This hearing is part of the Subcommittee's effort to reauthorize federal surface transportation programs under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). These programs expired on September 30, 2009 but have been extended through March 31, 2012. The Subcommittee will hear from the Secretary of the Oklahoma Department of Transportation, a Senior Research Fellow from the Heritage Foundation, a Civil Engineer and Transportation Economist from the Independent Institute, a Partner from Nossaman, LLP, and the Director of Public Policy from the Progressive Policy Institute.

BACKGROUND

On September 8, 2011, President Obama transmitted to Congress the American Jobs Act of 2011. The President's plan includes a national infrastructure bank proposal, capitalized with $10 billion, to leverage private and public capital and to invest in a broad range of infrastructure projects of national and regional significance. The President's proposal is based on the legislation introduced by Senator John Kerry and Senator Kay Bailey Hutchison (S. 652). Senator John Rockefeller and Senator Frank Lautenberg (S. 936) have also introduced legislation to create a National Infrastructure Bank. Legislation introduced by Representative Rosa DeLauro (H.R. 402) would create an entity similar to a National Infrastructure Bank to issue public benefit bonds and finance infrastructure projects.

President Obama's proposal would create the American Infrastructure Financing Authority (AIFA) to provide direct loans and loan guarantees to eligible entities to facilitate infrastructure projects of regional or national significance. The AIFA would be run by a Board of Directors consisting of 7 voting members selected by the President and confirmed by the Senate. The majority leader of the Senate, the minority leader of the Senate, the Speaker of the House of Representatives and the minority leader of the House of Representatives would each recommend one person to the President to be nominated to the Board. The President would select the other three Board nominees on his own. Only four of the Board members could be from the same political party.

The AIFA would provide loans or loan guarantees to transportation infrastructure projects on highways, bridges, transit, airports, ports, inland waterways and rail systems (including high-speed rail); water infrastructure projects at wastewater treatment facilities, storm water management systems, solid waste disposal facilities, drinking water treatment facilities, dams and levees; and energy infrastructure projects for pollution reduced energy generation, transmission and distribution, storage, and energy efficiency enhancements for buildings (public and commercial). In the selection of projects, the Board of Director of AIFA would give consideration to the economic, financial, technical, environmental, public benefits and cost of each infrastructure project under consideration and would prioritize those projects based on contribution to regional or national economic growth, value for money to taxpayers, demonstration of a clear and significant public benefit, job creation, and environmental concerns.

Eligible entities would submit an application to AIFA to be considered for a loan or loan guarantee. To be eligible for selection by AIFA, most infrastructure project would have to equal or exceed $100 million in total costs. However, an infrastructure project in a rural area would only have to equal or exceed $25 million. The amount of a direct loan or loan guarantee issued by AIFA could not exceed 50 percent of the reasonably anticipated eligible infrastructure project costs.

The President's proposal is similar to the existing Transportation Infrastructure Finance and Innovation Act (TIFIA) program, which supplements traditional surface transportation funding and financing methods by providing federal credit assistance to multi-modal surface transportation projects of regional and national significance. The President's proposal is also similar to State Infrastructure Banks (SIBs). SIBs are revolving fund mechanisms that allow states to finance highway and transit projects through loans and credit enhancements by utilizing their federal-aid highway funds.

Transportation Infrastructure Finance and Innovation Act (TIFIA)

Enacted as part of the Transportation Equity Act for the 21st Century (TEA 21), the Transportation Infrastructure Finance and Innovation Act of 1998 established a federal credit program for eligible transportation projects of national or regional significance. The program's goal is to leverage federal funds by attracting substantial private and other non-federal co-investment in critical project-based improvements to the Nation's surface transportation system. TIFIA credit assistance provides improved access to capital markets, flexible repayment terms, and potentially more favorable interest rates than can be found in private capital markets for similar instruments.

Through TIFIA, the U.S. Department of Transportation (DOT) provides federal credit assistance to highway, transit, rail, and intermodal freight projects, including seaports. The amount of TIFIA assistance may not exceed 33 percent of total project costs. The program targets only large projects – generally those costing more than $50 million. Both public and private project sponsors may apply for TIFIA assistance, but all prospective borrowers must demonstrate that the proposed project is consistent with State and local transportation plans.

The TIFIA program offers three types of financial assistance: secured loans, loan guarantees, and standby lines of credit. Secured loans are direct federal loans to project sponsors. Loan guarantees provide full-faith-and-credit guarantees by the federal government to institutional investors that make loans for projects. Standby lines of credit represent secondary sources of funding in the form of contingent federal loans that, if needed, supplement project revenues during the first ten years of project operations. To fund TIFIA, SAFETEA-LU and the recent extension of SAFETEA-LU have provided $122 million in contract authority from the Highway Trust Fund for each of fiscal years 2005 through 2010 to pay the subsidy cost and administrative expenses of credit assistance.

According to the Federal Highway Administration (FHWA), TIFIA has provided $8.4 billion in credit assistance to 24 projects totaling over $31 billion in total investment. In FY 2011, 34 projects submitted letters of interest seeking $14 billion in TIFIA loans and in FY 2010, 39 projects submitted letters of interest seeking $12 billion in TIFIA loans. In both years the program had the capacity to issue approximately $1 billion in loans.

State Infrastructure Banks

A SIB is a revolving fund mechanism for financing a wide variety of highway and transit projects through loans and credit enhancement. SIBs are intended to complement the traditional federal-aid highway and transit programs by supporting certain projects with dedicated repayment streams that can be financed in whole or in part with loans, or that can benefit from the provision of credit enhancements. As loans are repaid or the financial exposure implied by a credit enhancement expires, the SIB initial capital is replenished and can be used to support a new cycle of projects.

Section 350 of the National Highway System Designation Act of 1995 (P.L. 104-59) (NHS Act) authorized DOT to establish the SIB Pilot Program. Specifically, DOT was authorized to select up to 10 states to participate in the initial pilot program and to enter into cooperative agreements with FHWA and/or the Federal Transit Administration (FTA) for the capitalization of SIBs with a portion of their federal-aid highway funds. The DOT and Related Agencies Appropriations Act, 1997 (P.L. 104-205) opened SIB participation to 38 states and the Commonwealth of Puerto Rico and appropriated $150 million in federal General Funds for SIB capitalization. Under this authority, 32 states and Puerto Rico established SIBs. SAFETEA-LU made the pilot program permanent and expanded it to allow all states and territories to capitalize SIBs with a portion of their apportioned highway formula funding.

According to FHWA, since the creation of the program in 1995, a total of $661 million in federal funds have been used to capitalize SIBs. $6.25 billion in loan agreements have been made over the 16 years since SIBs were authorized -- a 1: 9.45 ratio. Each dollar of federal funds used to capitalize SIBS, combined with state funds and bonds issued against these funds, has resulted in 9.45 times the credit assistance compared to the original federal capitalization.

WITNESS LIST

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