

112TH CONGRESS
2D SESSION

S. 3626

To provide financing assistance for qualified water infrastructure projects,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 13, 2012

Mr. MERKLEY introduced the following bill; which was read twice and referred
to the Committee on Environment and Public Works

A BILL

To provide financing assistance for qualified water
infrastructure projects, 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 “Water Infrastructure
5 Finance and Innovation Act of 2012”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) it is in the national interest to encourage
9 the timely and cost-effective rehabilitation and re-
10 placement of aging water and sewer infrastructure

1 and to support investments in innovative, cost-effective,
2 tive, and sustainable infrastructure approaches to
3 protect public health and clean water;

4 (2) the Environmental Protection Agency re-
5 ports that, in the 20-year period following the date
6 of enactment of this Act—

7 (A) \$334,800,000,000 is needed to invest
8 in infrastructure improvements to ensure the
9 provision of safe water; and

10 (B) \$298,100,000,000 is needed for pub-
11 licly owned wastewater systems-related infra-
12 structure;

13 (3) customer rates and local charges are and
14 will remain the primary means of paying for water
15 service and infrastructure in the United States;

16 (4) the municipal bond market and State re-
17 volving fund programs are the primary long-term
18 means for financing water infrastructure projects,
19 but upfront investment needs are too high to be met
20 with those traditional means alone;

21 (5) financing constraints make it particularly
22 difficult for State revolving funds to support large
23 water infrastructure projects of regional and na-
24 tional significance;

1 (6) the growing funding gap demonstrates the
2 need to invest in innovative and cost-effective ap-
3 proaches such as green infrastructure, water effi-
4 ciency, and source water protection to obtain the
5 greatest environmental and public health benefits
6 per dollar invested;

7 (7) this Act will substantially benefit the drink-
8 ing water and wastewater systems of the United
9 States by—

10 (A) addressing the gap in funding for
11 large, regionally and nationally significant
12 projects by making available direct loans and
13 loan guarantees to reduce borrowing costs and
14 accelerate water infrastructure investment;

15 (B) enhancing the capacity of State revolv-
16 ing fund programs to assist other projects; and

17 (C) promoting clean and safe water
18 through compliance with the Federal Water
19 Pollution Control Act (33 U.S.C. 1251 et seq.)
20 and the Safe Drinking Water Act (42 U.S.C.
21 300f et seq.);

22 (8) since the historical default rate on water
23 and sewer bonds is 0.04 percent, the risk of default
24 on Federal assistance provided under this Act is
25 minimal;

1 (9) keeping the risk of default on water and
2 sewer bonds low requires the alignment of infra-
3 structure investment with environmental sustain-
4 ability; and

5 (10) because loans, loan guarantees, and other
6 credit instruments only incur long-term costs if sub-
7 sidized or in the event of default, this Act can help
8 to meet the water infrastructure needs of the United
9 States at minimal long-term cost to the Federal
10 Government.

11 **SEC. 3. DEFINITIONS.**

12 In this Act:

13 (1) ADMINISTRATOR.—The term “Adminis-
14 trator” means the Administrator of the Environ-
15 mental Protection Agency.

16 (2) BORROWER.—The term “borrower” means
17 an eligible entity that owes payments of interest or
18 principal on a credit instrument.

19 (3) COMMUNITY WATER SYSTEM.—The term
20 “community water system” has the meaning given
21 the term in section 1401 of the Safe Drinking Water
22 Act (42 U.S.C. 300f).

23 (4) COST OF A DIRECT LOAN; COST OF A LOAN
24 GUARANTEE.—The terms “cost of a direct loan” and
25 “cost of a loan guarantee” mean the “cost of a di-

1 rect loan” and “cost of a loan guarantee”, respec-
2 tively, as those terms are used in section 502 of the
3 Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

4 (5) CREDIT INSTRUMENT.—The term “credit
5 instrument” means—

6 (A) a direct loan made under this Act; or

7 (B) a loan or other debt obligation that is
8 subject to a loan guarantee under this Act.

9 (6) DIRECT LOAN.—

10 (A) IN GENERAL.—The term “direct loan”
11 has the meaning given the term in section 502
12 of the Federal Credit Reform Act of 1990 (2
13 U.S.C. 661a).

14 (B) INCLUSIONS.—The term “direct loan”
15 includes the purchase of a bond by the Federal
16 Government.

17 (7) ELIGIBLE ENTITY.—

18 (A) IN GENERAL.—The term “eligible enti-
19 ty” means—

20 (i) an entity (other than a State or
21 local agency with jurisdiction over high-
22 ways or roads) that owns or operates a
23 treatment works that serves the general
24 public, including a municipal or regional

1 separate storm sewer system management
2 agency;

3 (ii) an entity that owns or operates a
4 community water system;

5 (iii) 1 or more entities described in
6 clauses (i) and (ii) that are cooperating on
7 an eligible project;

8 (iv) for an eligible project described in
9 paragraph (8)(B), a State infrastructure
10 financing authority;

11 (v) any entity eligible to receive a loan
12 or loan guarantee under a State water pol-
13 lution control revolving fund established
14 under title VI of the Federal Water Pollu-
15 tion Control Act (33 U.S.C. 1381 et seq.);
16 and

17 (vi) any entity eligible to receive a
18 loan or loan guarantee under a State
19 drinking water revolving loan fund estab-
20 lished under section 1452 of the Safe
21 Drinking Water Act (42 U.S.C. 300j–12).

22 (B) INCLUSIONS.—The term “eligible enti-
23 ty” includes a public-private partnership, except
24 that only the public entity-owned or investor-
25 owned utility shall receive assistance under this

1 Act, not the private financing or development
2 partner.

3 (8) ELIGIBLE PROJECT.—The term “eligible
4 project” means—

5 (A) a capital project—

6 (i) to construct, replace, or rehabili-
7 tate a treatment works or a community
8 water system;

9 (ii) to reduce the energy consumption
10 needs of a treatment works or a commu-
11 nity water system, including the implemen-
12 tation of energy efficient or renewable gen-
13 eration technologies;

14 (iii) to increase water efficiency, re-
15 duce the demand for water, or reduce the
16 demand for treatment works or community
17 water system capacity;

18 (iv) to manage or control stormwater;

19 (v) to reuse municipal wastewater or
20 stormwater;

21 (vi) for the consolidation of 2 or more
22 treatment works or community water sys-
23 tems;

1 (vii) to increase drinking water source
2 protection for surface and groundwater
3 sources;

4 (viii) for construction activities involv-
5 ing—

6 (I) the repair, replacement, or
7 upgrading of a treatment works or
8 sewage collection system in a commu-
9 nity that exists on the date of enact-
10 ment of this Act to address an ad-
11 verse environmental condition existing
12 on that date of enactment;

13 (II) the construction of an ad-
14 vanced decentralized wastewater treat-
15 ment system, including planning, de-
16 sign, associated preconstruction plan-
17 ning activities (as defined in section
18 212 of the Federal Water Pollution
19 Control Act (33 U.S.C. 1292)); and

20 (III) implementation measures to
21 control, manage, reduce, treat, infil-
22 trate, or reuse municipal stormwater,
23 the primary purpose of which is the
24 protection, preservation, or enhance-
25 ment of water quality to support pub-

1 lic purposes (including decentralized
2 or distributed stormwater controls,
3 low-impact development technologies
4 and nonstructural approaches, stream
5 buffers, and wetlands restoration and
6 enhancement, the procurement and
7 use of equipment to support minimum
8 measures, such as street sweeping and
9 storm drain system cleaning, and ac-
10 quisition of other land and interests in
11 land to meet the needs of existing de-
12 velopment that are necessary for those
13 activities and measures);

14 (ix) to implement a management pro-
15 gram established under section 319 of the
16 Federal Water Pollution Control Act (33
17 U.S.C. 1329);

18 (x) to develop and implement a con-
19 servation and management plan under sec-
20 tion 320 of the Federal Water Pollution
21 Control Act (33 U.S.C. 1330);

22 (xi) to increase the security of waste-
23 water treatment works or a community
24 water system (excluding any expenditure
25 for operations or maintenance);

1 (xii) to carry out water conservation
2 or efficiency projects, the primary purpose
3 of which is the protection, preservation, or
4 enhancement of water quality to support
5 public purposes;

6 (xiii) to implement measures to inte-
7 grate water resource management planning
8 and implementation;

9 (xiv) to carry out water, rainwater,
10 and wastewater reuse, reclamation, recy-
11 cling, and rainwater harvesting projects,
12 the primary purpose of which is the protec-
13 tion, preservation, or enhancement of
14 water quality to support public purposes;
15 and

16 (xv) for capital costs associated with
17 monitoring equipment for combined or san-
18 itary sewer overflows;

19 (B) a non-capital project that is—

20 (i) associated with a capital project;
21 and

22 (ii) the aim of which is to promote the
23 use of environmentally sustainable proj-
24 ects, including utility-backed stormwater
25 and water efficiency retrofit programs; and

1 (C) 2 or more projects described in sub-
2 paragraph (A) that are combined to receive a
3 single direct loan or loan guarantee.

4 (9) LOAN GUARANTEE.—The term “loan guar-
5 antee” has the meaning given the term in section
6 502 of the Federal Credit Reform Act of 1990 (2
7 U.S.C. 661a).

8 (10) STATE INFRASTRUCTURE FINANCING AU-
9 THORITY.—The term “State infrastructure financing
10 authority” means the State entity established or des-
11 ignated by the Governor of a State to receive a cap-
12 italization grant provided under, or to otherwise
13 carry out the requirements of, title VI of the Federal
14 Water Pollution Control Act (33 U.S.C. 1381 et
15 seq.) or section 1452 of the Safe Drinking Water
16 Act (42 U.S.C. 300j–12).

17 (11) TREATMENT WORKS.—The term “treat-
18 ment works” has the meaning given the term in sec-
19 tion 212 of Federal Water Pollution Control Act (33
20 U.S.C. 1292).

21 **SEC. 4. ESTABLISHMENT.**

22 The Administrator may make a direct loan, including
23 a subordinated loan, or a loan guarantee to an eligible en-
24 tity to carry out activities for an eligible project in accord-
25 ance with this Act.

1 **SEC. 5. APPLICATIONS.**

2 (a) IN GENERAL.—As a condition of receiving assist-
3 ance under this Act, an eligible entity shall submit to the
4 Administrator an application at such time, in such man-
5 ner, and containing such information as the Administrator
6 may require.

7 (b) COMBINED PROJECTS.—In the case of an eligible
8 project described in section 3(8)(C), the Administrator
9 shall require from the eligible entity a single application
10 for the group of projects.

11 **SEC. 6. USE OF ASSISTANCE.**

12 An eligible entity shall only use amounts received
13 under this Act for eligible projects—

14 (1) to carry out—

15 (A) development phase activities, including
16 planning, feasibility analysis, revenue fore-
17 casting, environmental review, permitting, and
18 other preconstruction engineering and design
19 work;

20 (B) construction, reconstruction, rehabili-
21 tation, and replacement activities necessary for
22 the project; and

23 (C) environmental mitigation and construc-
24 tion contingencies;

25 (2) to acquire real property (including interests
26 in real property) and equipment;

1 (3) to provide for any funding mechanisms nec-
2 essary to meet market or affordability requirements,
3 reasonably required reserve funds, capitalized inter-
4 est issuance expenses, and other carrying costs dur-
5 ing construction of the project; and

6 (4) to refinance interim construction financing,
7 long-term project obligations, or direct loans or loan
8 guarantees made under this Act.

9 **SEC. 7. SELECTION AMONG ELIGIBLE PROJECTS.**

10 (a) IN GENERAL.—The Administrator shall select eli-
11 gible projects to receive assistance under this Act based
12 on—

13 (1) the significance of the infrastructure needs
14 addressed by the project, including the economic, en-
15 vironmental, and public health benefits of the
16 project;

17 (2) the creditworthiness of the project under
18 consideration, including the terms, conditions, finan-
19 cial structure, and security features making up the
20 proposed financing, and the financial assumptions
21 upon which the project is based;

22 (3) the need for Federal assistance, including
23 the likelihood that the provision of assistance by the
24 Administrator under this Act will cause the project
25 to proceed more promptly and with lower costs for

1 financing than would be the case without the assist-
2 ance;

3 (4) the degree to which the project financing
4 plan includes public or private financing in addition
5 to assistance under this Act;

6 (5) the cost of the direct loan or loan guarantee
7 to the Federal Government for the project;

8 (6) the extent to which the project is nationally
9 or regionally significant;

10 (7) whether the project, to the maximum extent
11 practicable, incorporates environmentally sustainable
12 approaches, including conservation, efficiency, reuse,
13 source water protection, energy efficiency, green in-
14 frastructure, and other innovative techniques;

15 (8) whether the project is consistent with—

16 (A) the State priority system established
17 pursuant to section 603(g) of the Federal
18 Water Pollution Control Act (33 U.S.C.
19 1383(g)); and

20 (B) the types of projects described in sec-
21 tion 1452(b)(3) of the Safe Drinking Water Act
22 (42 U.S.C. 300j-12(b)(3)); and

23 (9) the priority system established under sub-
24 section (b).

1 (b) PRIORITY SYSTEM.—The Administrator shall es-
2 tablish a priority system that gives greater weight to an
3 application for an eligible project that includes—

4 (1) an inventory of the assets of the treatment
5 works or community water system, including a de-
6 scription of the condition of those assets;

7 (2) a schedule for replacement of the assets of
8 the treatment works or community water system;

9 (3) a financing plan that factors in all lifecycle
10 costs and describes the sources of revenue from rate-
11 payers, grants, bonds, loans, and other sources des-
12 ignated to meet those lifecycle costs;

13 (4) a description of any options for restruc-
14 turing the treatment works or community water sys-
15 tem;

16 (5) any new models or techniques, other than a
17 traditional wastewater model, to treat or minimize
18 sewage or urban stormwater discharges using—

19 (A) decentralized or distributed stormwater
20 controls;

21 (B) advanced decentralized wastewater
22 treatment;

23 (C) low-impact development technologies
24 and nonstructural approaches;

25 (D) stream buffers;

1 (E) wetland restoration and enhancement;

2 (F) actions to minimize the quantity of

3 and direct connections to impervious surfaces;

4 (G) soil and vegetation or other permeable

5 materials; or

6 (H) actions that increase efficient water

7 use, water conservation, or water or wastewater

8 reuse, including rainwater harvesting;

9 (6) to the maximum extent practicable, the use

10 of water efficiency and conservation techniques to

11 generate cost-effective sources of new water supply;

12 and

13 (7) a demonstration of consistency with State,

14 regional, and municipal watershed plans, water con-

15 servation and efficiency plans, or integrated water

16 resource management plans.

17 (c) SPECIAL RULE FOR COMBINED PROJECTS.—For

18 an eligible project described in section 3(8)(C), the Admin-

19 istrator shall consider only the criteria described in para-

20 graphs (1), (2), (3), and (5) of subsection (a).

21 (d) REASONABLE ASSURANCE OF PAYMENT.—The

22 Administrator may select an eligible project for assistance

23 only if the Administrator finds that there is a reasonable

24 assurance that all payments will be made on the credit

25 instrument.

1 **SEC. 8. CREDIT EVALUATION.**

2 (a) IN GENERAL.—The Administrator shall develop
3 and implement a credit evaluation process before pro-
4 viding any assistance under this Act.

5 (b) PRELIMINARY RATING OPINION LETTER.—For
6 purposes of determining creditworthiness under section
7 7(a)(2), the Administrator may—

8 (1) require an eligible entity to provide a pre-
9 liminary rating opinion letter from at least 1 rating
10 agency; or

11 (2) use an alternative (including an internal)
12 credit rating process.

13 (c) RULE FOR CERTAIN COMBINED PROJECTS.—For
14 an eligible project described in section 3(8)(C) for which
15 a State infrastructure financing authority is the eligible
16 entity, in addition to the creditworthiness consideration
17 under section 7(a)(2), the Administrator shall evaluate the
18 creditworthiness of each entity represented by the State
19 infrastructure financing authority that will be carrying out
20 any eligible project described in section 3(8)(A) that will
21 be a part of the eligible project.

22 **SEC. 9. TERMS AND CONDITIONS.**

23 (a) IN GENERAL.—Each direct loan and loan guar-
24 antee made under this Act shall be on such terms and
25 conditions and contain such covenants, representations,

1 warranties, and requirements (including requirements for
2 audits) as the Administrator may prescribe.

3 (b) INTEREST RATE.—

4 (1) IN GENERAL.—The interest rate applicable
5 to a direct loan shall be the rate that is set by ref-
6 erence to a benchmark interest rate on marketable
7 Treasury securities with a similar maturity to that
8 direct loan, as of the date of issuance of the direct
9 loan.

10 (2) HIGHER INTEREST RATES.—The Adminis-
11 trator may charge a higher interest rate on a direct
12 loan if the Administrator determines that the risk
13 profile of the eligible project indicates a higher inter-
14 est rate is necessary to protect the interests of the
15 United States.

16 (c) TERM OF LOAN.—The Administrator may provide
17 assistance under this Act only with respect to a credit in-
18 strument the final maturity date of which is not later than
19 35 years after the date on which funds are disbursed.

20 (d) SECURITY FEATURES.—The Administrator shall
21 require a borrower receiving assistance under this Act to
22 use a rate covenant, coverage requirement, or similar secu-
23 rity feature supporting the project obligations to ensure
24 repayment.

25 (e) DIRECT LOAN REPAYMENTS.—

1 (1) SCHEDULE.—The Administrator shall es-
2 tablish a repayment schedule for each direct loan
3 under this Act based on the projected cash flow from
4 project repayment sources.

5 (2) COMMENCEMENT.—Scheduled repayments
6 of principal or interest on a direct loan made under
7 this Act shall commence not later than 5 years after
8 the date of substantial completion of the project, as
9 determined by the Administrator in a manner set
10 forth at the time the direct loan is made.

11 (3) DEFERRAL OF PAYMENTS.—

12 (A) IN GENERAL.—If the Administrator
13 determines that a borrower lacks the resources
14 to make scheduled payments on a direct loan
15 made under this Act based on circumstances
16 not foreseeable at the time the direct loan is
17 made, the Administrator may allow for the de-
18 ferral of the payments.

19 (B) INTERESTS.—Any payment deferred
20 under subparagraph (A) shall—

21 (i) continue to accrue interest until
22 fully repaid; and

23 (ii) be scheduled to be amortized over
24 the remaining term of the direct loan.

1 (C) CRITERIA.—Any payment deferral
2 under subparagraph (A) shall be contingent on
3 the project meeting criteria established by the
4 Administrator, which shall include standards
5 for reasonable assurance of repayment.

6 (4) PREPAYMENT.—Payments on the direct
7 loan may be made in advance with no penalty.

8 (f) SPECIAL RULES FOR LOAN GUARANTEES.—

9 (1) TERMS.—The terms of a credit instrument
10 that is the subject of a loan guarantee under this
11 Act shall be consistent with the terms set forth in
12 this Act for a direct loan, except that the interest
13 rate and any prepayment features on the credit in-
14 strument shall be negotiated between the borrower
15 and the lender, with the approval of the Adminis-
16 trator.

17 (2) INTEREST RATE.—The Administrator may
18 make a loan guarantee under this Act only if the
19 Administrator determines that the interest rate on
20 the credit instrument that is subject to the loan
21 guarantee is appropriate, taking into account the
22 prevailing rate of interest in the private sector for
23 similar obligations.

24 (3) ELIGIBLE LENDER.—The Administrator
25 may not make a loan guarantee under this Act un-

1 less the lender of the loan or purchaser of the debt
2 security that will be the subject of the loan guar-
3 antee is a non-Federal, qualified institutional buyer
4 (as defined in section 230.144A(a) of title 17, Code
5 of Federal Regulations (or successor regulation)), in-
6 cluding—

7 (A) a qualified retirement plan (as defined
8 in section 4974(c) of the Internal Revenue Code
9 of 1986) that is a non-Federal qualified institu-
10 tional buyer; and

11 (B) a governmental plan (as defined in
12 section 414(d) of the Internal Revenue Code of
13 1986) that is a non-Federal qualified institu-
14 tional buyer.

15 (4) ADEQUATE SERVICING PROVISIONS RE-
16 QUIRED.—No loan guarantee may be made under
17 this Act for a loan unless the Administrator deter-
18 mines that the lender with respect to the loan is re-
19 sponsible and that adequate servicing provisions
20 have been made for the loan that is the subject of
21 the loan guarantee that are reasonable and protect
22 the financial interest of the United States.

1 **SEC. 10. PROGRAM ADMINISTRATION.**

2 (a) IN GENERAL.—The Administrator shall establish
3 a uniform system to service each direct loan and loan
4 guarantee made under this Act.

5 (b) ASSISTANCE FROM EXPERT FIRMS.—The Ad-
6 ministrator may retain the services of expert firms, includ-
7 ing counsel, in the field of municipal and project finance
8 to assist in the underwriting and servicing of a direct loan
9 or loan guarantee made under this Act.

10 (c) FEES FOR ADMINISTRATIVE EXPENSES.—

11 (1) IN GENERAL.—In providing assistance
12 under this Act, the Administrator may—

13 (A) collect fees for administrative expenses,
14 including premiums for loan guarantees, at a
15 level that is sufficient to cover the costs of serv-
16 ices of expert firms and all or a portion of the
17 costs to the Federal Government of servicing
18 the direct loans and loan guarantees made
19 under this Act; and

20 (B) as provided in advance in appropria-
21 tions acts, use the amounts described in sub-
22 paragraph (A) to cover the expenses described
23 in that subparagraph.

24 (2) LEVEL OF FEES.—The Administrator shall
25 set the fees described in paragraph (1) at a level
26 that will minimize the cost to the Federal Govern-

1 ment and maximize the assistance that can be pro-
2 vided under this Act, while providing competitive
3 credit terms to eligible projects, in order to reduce
4 borrowing costs and accelerate water infrastructure
5 investment.

6 **SEC. 11. TECHNICAL ASSISTANCE.**

7 The Administrator may use amounts made available
8 to carry out this Act to provide technical assistance to ap-
9 plicants and prospective applicants in creating financing
10 packages that leverage a mix of public and private funding
11 sources.

12 **SEC. 12. RESTRICTIONS.**

13 (a) ASSISTANCE THRESHOLD.—The Administrator
14 may provide assistance under this Act only with respect
15 to a credit instrument in an amount of not less than
16 \$20,000,000.

17 (b) REFINANCING.—The Administrator shall make
18 available to eligible entities for refinancing activities de-
19 scribed in section 6(4) not more than 15 percent of the
20 total amounts made available to carry out this Act.

21 **SEC. 13. PREVAILING WAGES.**

22 (a) IN GENERAL.—Notwithstanding any other provi-
23 sion of law and in a manner consistent with other provi-
24 sions in this Act, all laborers and mechanics employed by
25 contractors and subcontractors on projects funded directly

1 by, or assisted in whole or in part by and through, the
2 Federal Government pursuant to this Act shall be paid
3 wages at rates not less than those prevailing on projects
4 of a character similar in the locality as determined by the
5 Secretary of Labor in accordance with subchapter IV of
6 chapter 31 of title 40, United States Code.

7 (b) ADMINISTRATION.—With respect to the labor
8 standards specified in this section, the Secretary of Labor
9 shall have the authority and functions set forth in Reorga-
10 nization Plan Numbered 14 of 1950 (64 Stat. 1267; 5
11 U.S.C. App.) and section 3145 of title 40, United States
12 Code.

13 **SEC. 14. USE OF AMERICAN IRON, STEEL, AND MANUFAC-**
14 **TURED GOODS.**

15 (a) IN GENERAL.—Except as provided in subsection
16 (b), none of the amounts made available under this Act
17 may be used for a project for the construction, alteration,
18 maintenance, or repair of a public building or public work
19 unless all of the iron, steel, and manufactured goods used
20 in the project are produced in the United States.

21 (b) EXCEPTION.—Subsection (a) shall not apply in
22 any case or category of cases in which the head of the
23 Federal department or agency involved finds that—

24 (1) applying subsection (a) would be incon-
25 sistent with the public interest;

1 (2) iron, steel, and the relevant manufactured
2 goods are not produced in the United States in suffi-
3 cient and reasonably available quantities and of a
4 satisfactory quality; or

5 (3) inclusion of iron, steel, and manufactured
6 goods produced in the United States will increase
7 the cost of the overall project by more than 25 per-
8 cent.

9 (c) PUBLIC NOTICE.—If the head of a Federal de-
10 partment or agency determines that it is necessary to
11 waive the application of subsection (a) based on a finding
12 under subsection (b), the head of the department or agen-
13 cy shall publish in the Federal Register a detailed written
14 justification as to why the provision is being waived.

15 (d) INTERNATIONAL AGREEMENTS.—This section
16 shall be applied in a manner consistent with United States
17 obligations under international agreements.

18 **SEC. 15. FUNDING.**

19 (a) AUTHORIZATION OF APPROPRIATIONS.—

20 (1) DIRECT LOANS AND LOAN GUARANTEES.—
21 There is authorized to be appropriated for the cost
22 of providing direct loans and loan guarantees under
23 this Act such sums as are necessary.

24 (2) ADMINISTRATIVE EXPENSES.—

1 (A) IN GENERAL.—There is authorized to
2 be appropriated for administrative expenses
3 under this Act an amount equal to the amount
4 of fees collected under section 10(c).

5 (B) ADDITIONAL AUTHORIZATION OF AP-
6 PROPRIATIONS.—In addition to amounts au-
7 thorized to be appropriated under subparagraph
8 (A), there are authorized to be appropriated for
9 administrative expenses under this Act such
10 sums as are necessary.

11 (b) PAYMENT OF SUBSIDY COST.—A borrower may
12 pay for the cost of a direct loan or loan guarantee under
13 this Act, along with the appropriate amount of related ad-
14 ministrative expenses, with payment the Administrator
15 may use, as provided in advance in appropriations Acts,
16 instead of using amounts authorized under subsection (a),
17 to make a direct loan or loan guarantee to the borrower.

○