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Economic Development Administration: Reauthorization Issues in the 112th Congress

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Summary

The primary focus of the Department of Commerce's Economic Development Administration (EDA) is to help regions experiencing long-term economic distress or sudden economic dislocation attract private-sector capital and create higher-skill, higher-wage jobs through investments in public infrastructure, the provision of technical assistance and research, and the development and implementation of Comprehensive Economic Development Strategies (CEDS). EDA was created with the passage of the Public Works and Economic Development Act (PWEDA) of 1965, P.L. 89-136 (79 Stat. 552, 42 U.S.C. § 3121.

The 112th Congress may consider legislation to reauthorize and amend PWEDA, whose statutory authority expired on September 30, 2008. As part of those deliberations, Congress may consider a number of changes in the structure of EDA assistance programs. At least one bill, S. 782, the Economic Development Revitalization Act, has been reported by a congressional committee. The Senate Committee on Environment and Public Works reported the bill on May 2, 2011. The bill includes several provisions intended to encourage regional and interagency cooperation, expand the role of regional Economic Development Districts, and modify the factors used to determine the federal share of EDA-funded projects and activities. The bill also includes proposals that would address a number of programmatic concerns raised by grant recipients, including provisions that would:

- grant eligible entities, including EDDs, administering revolving loan funds (RLF) greater flexibility in the management and conversion of RLF assets for other EDA-eligible activities; and
- change the current requirements governing the transfer of federal interest in EDA-financed construction projects in an effort to encourage local flexibility in the use of EDA funds.

The reauthorization of EDA and its programs will take place within the context of more prominent policy debates regarding efforts to reduce federal spending to address growing budget deficits and the national debt; concerns about the duplication, fragmentation, and effectiveness of federal economic development assistance; and efforts to support economic recovery and job creation following the worst economic recession since the Great Depression.

This report will discuss EDA reauthorization and appropriations-related issues.

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Introduction

The 112th Congress may consider legislation to fund, reauthorize, and amend the Public Works and Economic Development Act (PWEDA) of 1965, P.L. 89-136 (79 Stat. 552, 42 U.S.C. § 3121). It will do so within the context of the more prominent policy debates regarding efforts to reduce federal spending to address growing budget deficits and the national debt; concerns about the duplication, fragmentation, and effectiveness of federal economic development assistance; and efforts to support economic recovery and job creation following the worst economic recession since the Great Depression.

The PWEDA, whose statutory authority expired at the end of September 2008, authorized the creation of the Department of Commerce's Economic Development Administration (EDA). EDA's primary focus is to help regions experiencing long-term economic distress or sudden economic dislocation through grants in public infrastructure, the provision of technical assistance and research, and the development and implementation of comprehensive economic development strategies.

EDA funds are competitively awarded to states and local governments, colleges and universities, Economic Development Districts,[1] multi-jurisdictional planning organizations established by the states, and nonprofit organizations created under applicable state statutes. EDA assistance programs include the following grants.

- Public Works grants are used to finance infrastructure-related activities that support job creation, including, but not limited to, water and sewer facilities, industrial parks and business centers, broadband facilities, port and rail improvements, and business incubator facilities.
- Economic Adjustment Assistance (EAA) grants are used to fund strategic planning and implementation activities, including the same activities eligible under Public Works grants. Assistance may also be used to capitalize Revolving

[1] An Economic Development District (EDD) is defined in 13 C.F.R. § 300.3 as follows: "Economic Development District or District or EDD means any Region in the United States designated by EDA as an Economic Development District under § 304.1 of this chapter (or such regulation as was previously in effect before the effective date of this section) and also includes any economic development district designated as such under section 403 of PWEDA, as in effect on February 10, 1999." EDDs are designated in 13 C.F.R. § 304.1 as follows: "Designation of Economic Development Districts: Regional eligibility. Upon the request of a District Organization (as defined in §304.2), EDA may designate a Region as an Economic Development District if such Region: (a) Contains at least one (1) geographic area that is subject to the economic distress criteria set forth in §301.3(a)(1) of this chapter and is identified in an approved CEDS [Comprehensive Economic Development Strategy]; (b) Is of sufficient size or population and contains sufficient resources to foster economic development on a scale involving more than a single geographic area subject to the economic distress criteria set forth in §301.3(a)(1) of this chapter; (c) Has an EDA-approved CEDS that (1) Meets the requirements under §303.7 of this chapter; (2) Contains a specific program for intra-District cooperation, self-help, and public investment; and (3) Is approved by each affected State and by the Assistant Secretary; (d) Obtains commitments from at least a majority of the counties or other areas within the proposed District, as determined by EDA, to support the economic development activities of the District; and (e) Obtains the concurrence with the designation request from the State (or States) in which the proposed District will be wholly or partially located." Finally, economic distress is defined in 13 C.F.R. § 301.3(a)(1) as follows: "(i) An unemployment rate that is, for the most recent twenty-four (24) month period for which data are available, at least one (1) percentage point greater than the national average unemployment rate; (ii) Per-capita income that is, for the most recent period for which data are available, eighty (80) percent or less of the national average per-capita income; or (iii) A Special Need, as determined by EDA."

Loan Funds (RLFs) targeted to assist businesses in areas experiencing sudden economic dislocation.

- Planning grants are used for direct and indirect administrative expenses of Economic Development Districts (EDDs) and Indian tribes or other organizations charged with formulating and implementing Comprehensive Economic Development Strategies (CEDS) in EDA-designated distressed areas.
- Technical Assistance grants provide management and technical services, including conducting feasibility studies for projects located in distressed areas.
- Research and Evaluation grants support research into the practices, principles, and innovations that guide the effective formulation and implementation of economic development strategies.
- Trade Adjustment Assistance grants support technical assistance to firms and communities adversely affected by international trade, to help recipients develop and implement recovery strategies.
- Climate Change Mitigation grants are used to support projects that promote energy efficiency and curb greenhouse emissions in economically distressed communities.

The agency has six regional offices whose primary responsibility is to review requests for EDA funding by state, provide technical assistance, and administer EDA grants.[2]

Program Reauthorization Issues

As Congress debates legislation to reauthorize and appropriate funding for the programs of EDA, it may consider questions such as the following:

- Should grantees administering Revolving Loan Funds (RLFs) be granted greater flexibility in the management and conversion of RLF assets for other EDA-eligible activities?
- Should Congress modify the current federal-local cost share thresholds based on factors intended to measure relative need in order to provide additional assistance to the most distressed areas?
- Should Congress change the current requirements governing the transfer of federal interest in EDA-financed construction projects in an effort to encourage local flexibility in the use of EDA funds?
- Should Congress expand the role of the regional Economic Development Districts beyond the planning function of developing Comprehensive Economic Development Strategies?
- Should Congress mandate greater cooperation and coordination across federal agencies and with state and local governments and other entities involved in economic development?

[2] For a list of the six regional offices see http://www.eda.gov/AboutEDA/Regions.xml.

RLF Management Accountability and Asset Conversion

A grantee awarded an EAA grant—as part of its Comprehensive Economic Development Strategy (CEDS)—may use the assistance to capitalize an RLF. An RLF, which requires a matching contribution from the grantee, allows the grantee to award low-interest loans to businesses that can demonstrate that they are unable to obtain bank financing. Loan repayments by qualified businesses to an RLF are used to cover administrative costs of the program and to recapitalize the RLF in order to make additional loans. Local administrators of RLFs are required to operate the funds in perpetuity as long as there is a federal interest in assets of the RLF. However, RLFs may be terminated for cause by EDA. According to EDA, in FY2009, 458 recipient organizations administered 578 RLFs with total capital assets of $852 million.[3] This amount is approximately three times the size of the EDA total appropriation for FY2010 and represents a significant source of funding for the recipient organizations.

EDA's RLF program has not been without controversy, including issues of inadequate monitoring and reporting. In March 2007, the Department of Commerce's Office of Inspector General (OIG) released an audit report that was critical of EDA's administration of RLFs. The report noted the following:

> EDA (1) failed to ensure efficient capital utilization by RLF grantees, (2) did not ensure grantee compliance with critical reporting requirements, (3) does not have an adequate tracking and oversight system, and (4) does not utilize single audit reports to improve grantee monitoring.[4]

The report also noted that much of the RLF information available to EDA that would allow it to administer the program effectively was incomplete or inaccurate. The OIG recommended that EDA take the following actions:

- develop a plan of action to address the problems in the program;
- require EDA regional staff to provide written evaluations of appropriate capital utilization percentages for all RLFs with a capital base exceeding $4 million;
- develop policies and procedures that will promote a uniform approach to sequestering excess cash;
- consistently collect and evaluate grantee financial reports; and
- develop and implement a database and reporting requirements that will allow EDA to monitor RLF programs effectively.

On January 27, 2010, EDA published in the *Federal Register* final rules intended to address the unresolved issues discussed in the OIG report.[5] The revised regulations noted that EDA had

[3] U.S. Department of Commerce, Economic Development Administration, "About the RLF Program: How it Works," http://www.eda.gov/PDF/RLFWorks.pdf.

[4] U.S. Department of Commerce, Office of Inspector General, Economic Development Administration: Aggressive EDA Leadership and Oversight Needed to Correct Persistent Problems in RLF Program, Audit Report No. OA-18200-7-0001, Washington, DC, March 2007, http://www.oig.doc.gov/oig/reports/2007/EDA-OA-18200-03-2007.pdf.

[5] U.S. Department of Commerce, Economic Development Administration, "Revisions of EDA Regulations, Final Rule," 75 *Federal Register* 4259, January 27, 2010.

developed a web-based reporting system allowing grantees the option of uploading or manually entering data into the system. The agency also:

- revised its semi-annual reporting forms to allow it to monitor program performance more closely, including identifying RLFs with high loan default rates;
- identified specific violations of policies that would cause EDA to suspend or terminate an RLF program, in an effort to encourage grantees to comply with program reporting requirements; and
- required each grantee administering an RLF to hire an independent third party to conduct a compliance and loan quality review of its RLF every three years.

Although EDA has moved to address many of the management concerns identified in the OIG report, other issues may require congressional action. Of particular concern to local administrators of RLF programs is the permanent federal nature of RLFs, which they find too restrictive. Local administrators would like the flexibility of using RLFs to cover the costs of other EDA-eligible activities. This view was articulated during May 21, 2009, testimony before the Senate Committee on Environment and Public Works by a representative of the National Association of Development Organizations (NADO),[6] who complained that the permanent federal nature of RLFs inhibits local flexibility and requires RLF grantees to comply with "costly reporting and audit requirements."[7] The NADO representative recommended that the committee, when amending the PWEDA, consider provisions that would allow EDA-capitalized RLFs to relinquish their federal identity after initial funds have been loaned, repaid, and fully revolved. The economic development analyst argued that this would reduce EDA's management burden and allow local grantees greater flexibility in the use of funds than federal regulations currently allow.

It might be argued, however, that recent regulatory changes allow grantees more flexibility. For example, current regulations allow RLF administrators to use repayments to RLFs to cover the cost of administrative expenses, including a compliance audit that must be conducted every three years by a qualified independent third party. In addition, according to EDA, the new streamlined web-based reporting system eliminates duplication and will "reduce the average paperwork burden per RLF [semi-annual] report on the RLF recipient from 12 hours to 2.9 hours."[8]

Relative Needs Thresholds and Federal-Local Cost Share Requirements

Currently, the statute governing EDA assistance limits the federal contribution for an EDA-financed project to no more than 50% of a project's total cost when the project is located in an area whose unemployment rate for the latest 24-month period is at least one percentage point

[6] NADO is a national organization representing the interest of the nation's 525 regional development organizations. It provides advocacy, training, research, and education to and on behalf of its members; see http://www.nado.org/index.htm.

[7] U.S. Congress, Senate Committee on Environment and Public Works, *National Association of Development Organizations*, written statement of Leanne Mazer, Executive Director of the Tri-County Council for Western Maryland, 111th Cong., 1st sess., May 9, 2009, p. 3, http://www.nado.org/legaffair/mazereda.pdf.

[8] U.S. Department of Commerce, Economic Development Administration, "Revisions to the EDA Regulations," 73 *Federal Register* 62861, October 22, 2008.

above the national average or whose per-capita income for the latest 24-month period is not more than 80% of the national average.

Table 1. EDA Maximum Federal Match (Investment Rates) Based on Relative Needs of a Region as Measured by Criteria Established under 13 C.F.R. § 301.4

Projects located in regions in which	Maximum allowable federal investment rates (% of a project's cost)
(A) The 24-month unemployment rate is at least 225% of the national average; or	80
(B) The per-capita income is not more than 50% of the national average	80
(C) The 24-month unemployment rate is at least 200% of the national average; or	70
(D) The per-capita income is not more than 60% of the national average	70
(E) The 24-month unemployment rate is at least 175% of the national average; or	60
(F) The per-capita income is not more than 65% of the national average	60
(G) The 24-month unemployment rate is at least 1 percentage point greater than the national average; or	50
(H) The per-capita income is not more than 80% of the national average	50

Source: 13 C.F.R. § 301.4.

A community that successfully competes for EDA funds, having met the minimum unemployment and per-capita income thresholds for eligibility, is required to provide 50% of the cost of a project from non-EDA funds. For a community whose unemployment rate exceeds or whose per-capita income falls below the minimum eligibility thresholds for EDA assistance, EDA may provide additional (supplemental) grants to reduce the community's 50% cost-share obligation, resulting in an increase (of up to 30%) in the percentage of a project's cost covered by EDA. As directed by the statute, EDA has developed and established in regulations[9] a set of thresholds intended to measure an applicant's relative need for the purpose of identifying the maximum amount of a project's cost EDA will cover by awarding a supplemental grant. EDA's cost-share thresholds are based on the extent to which an applicant's unemployment rate or per-capita income exceeds the national average (see **Table 1**).

It might be argued that the thresholds for receiving a higher federal cost share are arbitrary and artificially high, with the result that few areas qualify for the maximum percentage of EDA supplemental assistance. For example, of the approximately 750 areas that received grants from EDA in FY2008, fewer than 100 counties were eligible for the 80% federal cost share. A provision included in S. 782 would establish in statute lower eligibility thresholds for EDA supplemental grants. The new thresholds would be a return to those in place before 2006, when EDA issued final rules governing assistance programs.

[9] 13 C.F.R. § 301.4.

In addition, for Indian tribes, presidentially declared disaster areas, and areas where the state or local governments have exhausted their taxing and borrowing powers, EDA may assume the total cost of a project (see **Table 2**).

Table 2. Federal Matching Fund Requirements for Special Projects

Projects	Maximum allowable investment rates (percentage)
Projects for Indian tribes	100
For presidentially declared disasters, Economic Adjustment Assistance sought under a supplemental appropriation within 18 months of the date of the disaster declaration	100
Projects of states or local governments that EDA has determined have exhausted their taxing and borrowing powers	100
Public works and economic adjustment assistance projects that have received performance awards	100
Projects located in an EDD that receive planning performance awards	100

Source: 13 C.F.R. § 301.4.

Federal Interest in Real Property Assets

Under current law, EDA retains an interest in property financed and constructed with EDA Public Works and Economic Adjustment Assistance funds for a period of at least 20 years after the initial date the EDA grant was awarded.[10] EDA may retain its interest in the property for the useful life of the property, which may extend beyond the 20-year minimum period.[11] If an EDA-financed property is to be sold prior to the expiration of its useful life, the recipient of EDA funds must repay EDA the full federal interest in the project, based on the current fair market value.[12]

Recipients of Public Works grants have been critical of the provisions governing the repayment of the federal interest in EDA-financed projects before the expiration of their useful life. In an effort to enhance local flexibility, EDA supports:

- changes in the law that would reduce the time horizon before EDA-financed assets could be sold; and
- changes in the method used to calculate the repayment of EDA interest upon resale.[13]

Provisions to reflect these recommendations were included in S. 782, The Economic Development Revitalization Act of 2011, and are discussed in the next section of this report.

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10 42 U.S.C. § 3211(d)(2).

11 13 C.F.R. § 314.10.

12 If EDA assistance accounted for 50% of the cost of the project and the current fair market value of the property is $1 million when sold, the federal share of the proceeds from the sale is $500,000.

13 U.S. Department of Commerce, Economic Development Administration, *Top 5 Reasons Economic Development Administration (EDA) Should be Reauthorized for 5 Years*, http://www.eda.gov/PDF/EDAReauthorizationCollateralPiece.pdf.

Legislative Activity in the 112th Congress

On May 2, 2011, the Senate Committee on Environment and Public Works, reported S. 782, the Economic Development Revitalization Act of 2011. The bill would reauthorize and amend the Public Works and Economic Development Act (PWEDA) of 1965.[14] S. 782, discussed below, would addressed issues identified in the previous section of this report, including those relating to eligibility factors, federal cost shares, the use of RLFs, and the conversion of the federal interest in EDA projects.

S. 782, the Economic Development Revitalization Act of 2011

S. 782 was introduced on January 10, 2011, by Senator Boxer, Chair of the Senate Committee on Environment and Public Works, with the support of the Committee's ranking member, Senator Inhofe. The Senate Committee on Environment and Public Works considered, marked up, and approved, by voice vote, an amended version of the bill on April 14, 2011. The bill includes an amendment introduced by Senator Inhofe, and approved by voice vote, that would require the General Accountability Office (GAO) to identify and submit to the Committee within 90 days of passage of the act, other federal programs that duplicate EDA program activities. The bill was reported on May 2, 2011 (S.Rept. 112-15), and placed on the Senate calendar.

In general, the bill proposes some significant modifications to existing provisions of the PWEDA while including technical changes and minor modifications to other provisions. Most of the substantive changes to existing law proposed by the bill are intended to increase local flexibility in the use of EDA assistance. In addition to recognizing business incubators as a key strategy for developing high-skill, high-wage jobs, and fostering regional cooperation through the planning process, the bill proposes to:

- add outmigration and job losses in specific industry sectors (manufacturing and information technology) to the definition of economic distress;
- adjust the relative need measures used to calculate the federal-local cost share of EDA-financed projects;
- allow greater flexibility in the conversion and management of EAA financed RLFs;
- modify the rules governing the transfer or buyout of the federal interest in property financed with EDA Public Works or Economic Adjustment Assistance;
- target assistance to communities with the greatest need as measured by economic distressed;
- encourage regional and interagency cooperation in carrying out economic development strategies; and

[14] A similar bill, S. 2778, the Economic Revitalization Act of 2009, was introduced and reported for Senate consideration during the 111th Congress. On November 18, 2009, the Senate committee approved S. 2778 by voice vote, adopting an amendment on behalf of Senator Warner to "in-source"—or promote bringing information technology jobs from other countries to the United States. The bill, as amended, was reported on January 20, 2010 (S.Rept. 111-114), and placed on the Senate calendar. It was not considered by the full Senate.

- authorize $500 million in funding for each of the next five fiscal years for EDA activities, including an annual minimum allocation for planning assistance grants.

Economic Distress: Unemployment, Per-Capita Income, and Outmigration

In general, areas that have a 24-month unemployment rate that is at least one percentage point above the national average, or a per-capita income that is not more than 80% of the national average, might qualify to apply for EDA's competitively awarded public works or economic adjustment assistance grants. In addition, assistance under these two grant programs, EDA's largest sources of assistance to distressed areas, is also available to areas that EDA has determined have or is about to experience a "special need" arising from actual or threatened severe unemployment or economic dislocation.[15] Because of these broad parameters for eligibility, many counties may meet or exceed EDA's economic distress thresholds.[16] According to a study by Rutgers University,

> [c]hanges in the criteria for designating areas eligible for EDA assistance have increased the number of economically distressed areas over time [....] Unemployment adds little to the designation of economic distress; nearly 90 percent of qualifying counties qualify on the basis of income alone. Locations that qualify on the basis of unemployment are more likely to be urban areas; rural areas qualify on the basis of income.[17]

Figure 1 identifies all U.S. counties that currently qualify for EDA development assistance based on an unemployment rate at least one percentage point above the national average for the 24-month period from April 2009 to March 2011 (the latest period for which data is available) or per capita income of 80% or less than the national average.

[15] 42 U.S.C. § 3161.

[16] Meeting the economic distress requirements is not sufficient to receive an EDA grant. Areas that qualify as economically distressed must then apply for a competitive EDA grant. If they are successful, they may receive a minimum 50% federal cost share for the EDA project. As economic distress increases—measured by per-capita income and unemployment—areas may receive a 60%, 70%, or 80% federal cost share. This discussion specifically refers to the areas that qualify for the minimum 50% in federal cost share.

[17] Robert Lake, Robin Leichenko, and Amy Glasmeier, et al., *EDA and U.S. Economic Distress: 1965-2000*, Rutgers University, New Brunswick, NJ, July 2004, p. 13, http://www.eda.gov/PDF/2004JulyEDAandU.S.EconomicDistressReport.pdf.

Figure 1. Counties (Shaded) with Unemployment Rates at Least One Percentage Point Above the National Average, March 2009- April 2011, or With Per Capita Income 80% or Less than the National Average

Economic distress was concentrated in the industrial Midwest, Southeast, upper Northeast Border, the West, Alaska, and Puerto Rico.

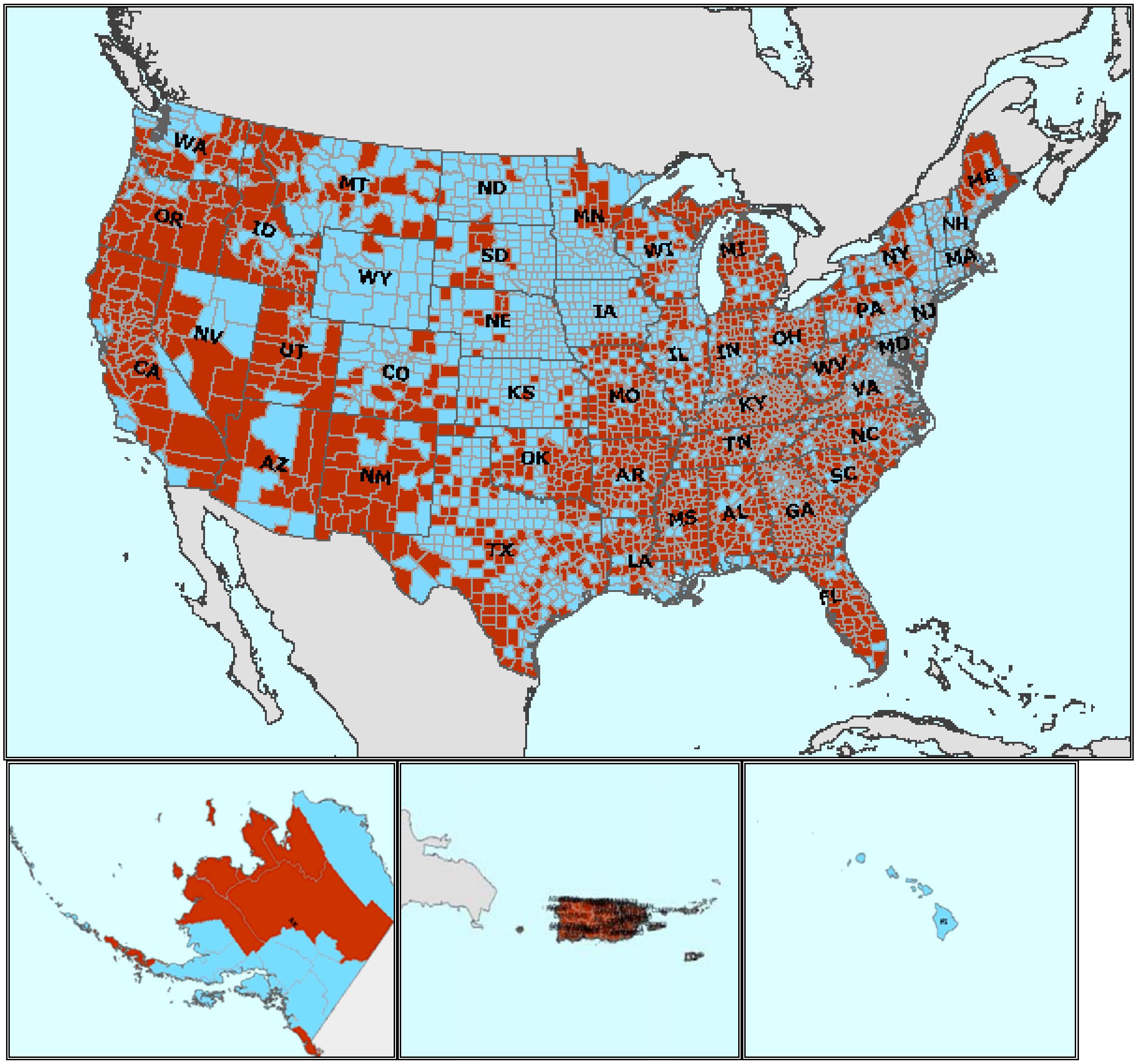

Figure Sources: 2009 Per Capita Income, Bureau of Economic Analysis; 24-Month Average Unemployment Rates, April 2009–March 2011, Bureau of Labor Statistics. The EDA map is updated quarterly. Last update 5/6/2011. Map available at http://hepgis.fhwa.dot.gov/hepgis_v2/GeneralInfo/Map.aspx.
Source: Bureau of Labor Statistics, http://www.bls.gov/lau/maps/twmcort.gif.

The bill, S. 782, includes a provision that would authorize EDA to extend Economic Adjustment Assistance (EAA) grants to communities affected by the loss of information technology, manufacturing, natural-resource based, agricultural, or service sector jobs to be used to assist affected communities reinvesting in and diversifying their economies. In addition to the loss of jobs in these sectors, communities may qualify for EAA grants if they are affected by international trade, fishery failure, disaster or emergencies, military base closures, realignments or Department of Energy or Department of Defense-related funding reductions.

The inclusion of additional factors for "economic distress" follows a pattern that has allowed more areas in the country to become eligible for EDA assistance over the years, even as funding for the agency has declined. When EDA was first authorized in the mid-1960s, only counties that had an income not more than 40% of the national income level were eligible. By 1998, this figure had increased to not more than 80% of the national income level (or an unemployment rate at least one percentage point higher than the 24-month unemployment rate for the nation, or a "special need"). According to the previously cited Rutgers University study,

> [t]he number of EDA's designated areas grew in response to both political and economic realities over the life of the agency, and particularly in the early 1970s. Areas of short-term unemployment were added between 1965 and 1971. New legislative mandates also expanded the types of counties that could be assisted. In 1970, 983 areas qualified for EDA assistance; by 1973, that number had nearly doubled to 1,818 areas [....] By 1998, approximately 90 percent of the counties in each year studied qualified.[18]

Adjustment of Federal Cost Share Contribution to EDA Projects

The statute governing EDA assistance limits the federal contribution to an eligible project or activity's cost and in most instance require a local matching share. S. 782 would adjust the federal-local cost share requirements for EDA projects based on unemployment and per-capita income levels.[19] The bill would restore the federal cost share rates in place before regulations promulgated in 2006. As established in program regulations, the federal share of a project's cost can run from 50% to 80%, based on where the area's long-term unemployment rate or per-capita income falls relative to the respective national average.[20] As **Table 3** shows, areas with 24-month unemployment rates 200% higher than the national average or those whose per-capita incomes are 50% of the national average would be subject to the 80% federal and 20% local matching fund requirement. Conversely, projects in areas with unemployment rates at least one percentage point above the national average or whose per-capita incomes are not more than 80% of the national average would continue to be (as at present) subject to a 50% federal–50% local match requirement.

S. 782 would include EDA cost-share rates in law (rather than in regulation) and would lower some of the unemployment and per-capita income thresholds currently in place. The bill would

[18] Robert Lake, Robin Leichenko, and Amy Glasmeier, et al., *EDA and U.S. Economic Distress: 1965-2000*, Rutgers University, New Brunswick, NJ, July 2004, p. 13, http://www.eda.gov/PDF/2004JulyEDAandU.S.EconomicDistressReport.pdf.

[19] U.S. Department of Commerce, Economic Development Administration, "13 CRR Chapter III, Economic Development Administration Reauthorization Act of 2004 Implementation, Regulatory Revision; Final Rule," 71 *Federal Register* 56657, September 27, 2006.

[20] 13 C.F.R. § 301.4.

establish several federal cost-share levels. Four of the levels would determine federal-local cost shares based on long-term unemployment or per-capita income data (See **Table 3**).

Table 3. EDA Federal Cost Shares in S. 782

24-Month average unemployment rate at least	Per-capita income does not exceed	Federal cost share
1 percentage point above national average	80% of national average	50%
150% of national average	70% of national average	60%
175% of national average	60% of national average	70%
200% of national average	50% of national average	80%

Source: Section 8 of S. 782.

Note: The bill includes a provision to allow, but not mandate, that EDA develop criteria that would permit EDA funds to be used to cover 80% of the federal cost share of a project in an area affected by severe outmigration, sudden and severe economic dislocation, or other economic circumstances.

Exceptions to the Cost Share Schedule

The bill includes exceptions to the cost share schedule outlined in **Table 3**. S. 782 includes language that would allow EDA to establish additional eligibility criteria for areas impacted by or experiencing outmigration or sudden and severe economic dislocation, or other condition; however, the federal share of EDA assistance awarded to projects in such areas could not exceed 80% of project cost.

> Additional Criteria- The Secretary may establish eligibility criteria in addition to the criteria described in this paragraph to address areas impacted by severe outmigration, sudden and severe economic dislocations, and other economic circumstances, on the condition that a Federal share established for such eligibility criteria shall not exceed 80 percent.... Section 503(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3193(a)) is amended by inserting "outmigration" after "regional unemployment." (S. 782)

Another provision would change current statutory language governing Indian tribes. S. 782 would allow EDA to cover between 75% to 100% of the total cost of the project, whereas currently EDA finances 100% of the project cost undertaken by Indian tribes. Also, for a federally declared disaster area, EDA could increase the federal share of a project's cost up to 100%. Other existing statutory language includes exceptions that allow EDA to cover 100% of a project or activity's cost if EDA determines the a state or local government lacks the taxing or borrowing capacity to cover its share of a project or activity's cost. The provision also applies to an eligible nonprofit entity that lack the borrowing capacity to cover its share of a project's cost.[21]

Administration and Conversion of EDA Revolving Loan Funds

S. 782 would grant administrators of RLFs the flexibility to convert the assets of RLFs to other uses. The bill identifies the methods and requirements for conversions, and the conditions under

[21] 42 U.S.C. § 3144.

which this could occur. Specifically, the recipient/administrator of an RLF would be allowed to seek EDA's permission to convert RLF assistance to other uses on the following grounds:

- the recipient has determined that RLF assistance is no longer needed to achieve the goals outlined in its comprehensive economic development strategy; or
- given the current economic development needs of the recipient, it could make better use of the RLF if it were allowed to carry out other activities eligible for EDA assistance.

S. 782 would allow RLF conversions by one of two means. The administrator of an RLF would be allowed to sell the assets of the RLF to a third party and use the proceeds to carry out other PWEDA-eligible activities, or could retain repayments to the RLF in accordance with a strategic reuse plan rather than relend them.

The changes are sought as a means of helping underfunded EDDs, one of the primary administrators of RLFs, access additional resources to address budget shortfalls. In addition, the bill would allow EDA to set aside 2% of the amounts made available for RLFs to develop and maintain an automated tracking and monitoring system and would direct EDA to solicit input from the public, RLF grantees, national experts, and federal employees, to improve the administration of RLFs. This provision is consistent with recommendations included in the 2007 OIG report.[22]

RLF Brightfield Demonstration Projects

S. 782 includes a provision authorizing an appropriation of $5 million for each of the fiscal years 2011 through 2015 to be used to fund Brightfield Demonstration projects. This program was previously authorized by the EDA Reauthorization Act of 2004 (P.L. 108-373, 118 Stat. 1756), but funds were never appropriated. Under S. 782, EDA would allocate funds to projects that would redevelop brownfield sites to house new ventures for creating jobs through the advancement of renewable energy technologies, including solar, wind, and geothermal technologies.[23] In addition, the bill includes a provision that directs EDA to support economic development activities that enhance energy and water efficiencies and that would reduce the country's dependence on foreign oil.

Termination of Federal Interest in EDA-Financed Construction Projects

The bill would shorten the period during which EDA could hold a reversionary interest in property financed with EDA assistance from the current minimum 20 years to 10 years from the date the grant was awarded.[24] It would require EDA—before providing assistance for a

[22] U.S. Department of Commerce, Office of Inspector General, Economic Development Administration: Aggressive EDA Leadership and Oversight Needed to Correct Persistent Problems in RLF Program, Audit Report No. OA-18200-7-0001, Washington, DC, March 2007, pp. 14-15, http://www.oig.doc.gov/oig/reports/2007/EDA-OA-18200-03-2007.pdf.

[23] Brownfields are abandoned or underused industrial or commercial sites where future reuse is affected by real or perceived environmental contamination.

[24] Reversionary rights allow EDA to protect its interest in property acquired or improved with EDA funds. Currently, EDA's interest in the property is dissolved upon completion of the term of 20 years or the useful life of the property, which may extend beyond the minimum 20 years established by EDA.

construction project—to establish a time frame for the achievement of the project's economic development objectives. During that period, EDA would hold an undivided equitable reversionary interest in the property. S. 782 outlines the methods and conditions under which federal interest in a property could be terminated.

One provision of the bill would allow EDA to terminate the federal reversionary interest in a project if the recipient met its obligations and objectives within the time frame established when the project was first funded. Alternatively, a recipient could initiate a request that EDA terminate reversionary interest in a property.

- If this request is submitted during the 10-year period starting with date the assistance was initially provided, the recipient must repay EDA 100% of the fair market value of the prorated federal share of the project.[25]
- If the request is submitted after the initial 10-year period, a recipient must pay EDA the fair market value of the federal share of the project as if that value had been amortized over a period established for completion of the project, which might be more than 10 years, based on straight-line depreciation of the project over its estimated useful life.[26] Under this provision, the cost to the recipient of buying out the federal interest in the property would be discounted based on the remaining useful life of the EDA-assisted property.

S. 782 would establish 10 years as the minimum period an EDA-assisted property must be held without the EDA recipient being required to repay 100% of the federal interest in the property.

Support for Economic Development Districts

To support the planning and economic development activities of Economic Development Districts (EDDs), S. 782 would establish a minimum appropriation of $31 million or 12% of the amount appropriated for EDD activities for each of the fiscal years 2011 through FY2015. This amount would increase if EDA received appropriations equal to or greater than $291 million. In addition, S. 782 would strengthen the role of EDDs. The bill specifies that EDDs are to be involved in the full range of EDA-funded activities, including coordination of activities related to Comprehensive Economic Development Strategies (CEDS),[27] and implementation activities

[25] For example, if the initial project cost of a project was $100,000 and EDA's share of that cost was 50%, then EDA's prorated share would be $50,000. Five years later, if the fair market value of the property assisted by EDA was $10,000, EDA's share would be $5,000. This is the amount EDA would be due should the recipient wish to terminate EDA's interest in the property.

[26] For example, if the initial project cost of a project was $100,000 and EDA's share of that cost was 50%, then EDA's prorated share would be $50,000. Twelve years later, if the fair market value of the property assisted by EDA was $150,000. EDA's share would be $75,000. Under the proposed statute, this amount would be discounted based on the straight-line depreciation schedule (SL) calculated over the useful life (UL) of the property as established by EDA. For example, if the EDA-established useful life of the property is 20 years, the straight-line depreciation would be calculated as follows: SL = FMV/UL. EDA's share of the SL would be $3,750 for each of the 20 years of the UL of the property. Under this example, because the recipient is seeking to terminate the federal interest in the 12th year, the repayment (REPAY) to EDA would be calculated as follows: REPAY = FMV - (SL * 12). The repayment to EDA would be $30,000: REPAY = $75,000 – (3,750 * 12).

[27] CEDS are the primary planning document for regions designated as EDDs. The governing and administrative bodies of these organization are charged with developing and implementing these EDA approved strategic plans. EDA requires an area seeking EDA public works and economic adjustment assistance grants have an EDA-approved CEDS EDA provide eligible entities, including EDDs, grant assistance to develop the CEDs planning document and to defray (continued...)

involving states and federal agencies, as well as research and planning activities. The bill would require EDA promulgate regulations to ensure that EDDs arees given an opportunity to review and comment on proposed EDA-funded projects that might directly impact he region's economy.

Regional and Interagency Cooperation and Coordination

The legislation seeks to promote intergovernmental and interagency cooperation and coordination in the development and implementation of regional economic development activities. It would amend Section 3(8) of the PWEDA by recognizing three new regional commissions in addition to the four that are currently established. Newly proposed for inclusion are the Southeast Crescent Regional Commission, Northern Border Regional Commission, and Southwest Border Regional Commission.[28] Inclusion of these organizations would allow them to be eligible for EDA assistance, including technical assistance grants. In addition, the bill would amend Section 101 of the PWEDA to include university centers and EDDs as recipients of EDA technical assistance grants. These grants may be used to encourage the formation of public-private partnerships in support of regional economic development. Supporters of including regional commissions in EDA legislation argue that it promotes greater regional and federal cooperation. Detractors, however, might counter that overlap exists between the work of regional commissions and EDA, which could lead to duplication and dilution of EDA's programs.

The bill includes a provision that directs EDA and the Department of Labor to cooperate in support of economic and workforce development strategies and regional clusters. The provision also includes language encouraging EDA cooperation and coordination with other federal, state, local government, and consortia of local governments. In addition, in order to encourage regional coordination between two or more EDDs, the bill would allow EDA to increase the federal share of EDA of planning assistance grants or the of total amount of planning grant assistance. The bill would expand the type of activities eligible for research and technical assistance grants to include the creation of peer exchange programs intended to promote industry leading practices and innovations, including those related to regional initiatives of EDDs.

Duplication of Mission of Other Federal Programs

The bill includes a provision requiring the General Accountability Office (GAO) to submit to the Senate Committee on Environment and Public Works, within 90 days following the enactment of the bill, a list of other federal programs that may duplicate the programs administered by EDA, including programs administered by the Department of Housing and Urban Development, the Department of Agriculture, and the Small Business Administration. During testimony before the House Small Business Administration, a representative of GAO stated that the agency had identified 80 programs administered by the four agencies (HUD, SBA, DOC, and USDA) that may overlap or duplicate efforts.[29] Concerns about duplication and fragmentation among federal

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administrative cost.

[28] Federally chartered multi-state regional organizations currently included in the stature are the Appalachian Regional Commission (ARC), Delta Regional Authority, Denali Commission, and Northern Great Plains Regional Authority.

[29] U.S. Congress, House Small Business Committee, *Economic Development: Efficiency and Effectiveness of Fragmented Programs Are Unclear*, Statement of William B. Shear, Director of Financial Markets and Community Investment, General Accountability Office, 112th Cong., 1st sess., May 25, 2011, GAO-11-651T, p. 1.

assistance programs has become a growing concern as Congress has expressed the desire to reduce federal spending in an effort to address the federal budget deficits.

Multiyear Authorization for EDA

The bill would establish a multiyear funding level of appropriations for EDA. A total of $500 million would have been authorized for each fiscal year through FY2014. In addition, the legislation would authorize the use of technical assistance and research grants to support program evaluation and economic analysis that may be useful in assisting in the location of technology and manufacturing jobs in the United States or that may aid in understanding, preventing, alleviating, or mitigating conditions that contribute to unemployment or outmigration.

FY2012 Appropriations for EDA

The Administration has requested $324.9 million in FY2012 appropriations for EDA, including $40.6 million for salaries and expenses and $284.3 million for EDA programs. The amount requested for EDA programs is 15.8% ($38.8 million) more than the $245.5 million FY2011-enacted funding level.[30] The FY2012 request for EDA would provide funding for several programs, including:

- $96.0 million for 21st Century Innovation Infrastructure Program (proposed successor to the Public Works Program);
- $84.9 million for Economic Adjustment Assistance;
- $27.0 million for Partnership Planning Grants (successor to Planning Grants);
- $18.4 million for Technical Assistance;
- $1.5 million for Research and Evaluation;
- $16.5 million for Sustainable Economic Development (proposed successor to the Global Climate Change Mitigation Incentive Fund); and
- $40.0 million for Regional Innovation (Growth Zones).

The Administration did not request funding for the Trade Adjustment Assistance programs.

The Administration is also requesting $40.6 million or $2.7 million (7.1%) more for salaries and expenses than the $37.9 million appropriated for FY2011.[31]

[30] Department of Defense and Full-Year Continuing Appropriations Act, 2011, P.L. 112-10, Title III-Commerce, Justice, Science, and Related Agencies, Sec. 1302, appropriated $246 million; however, the act includes a mandatory 0.2% across-the board rescission for all discretionary programs, reducing the appropriation to $245.5 million.

[31] The $37.9 million in FY2011 for salaries and expenses reflect the 0.2% across-the-board rescission mandated by P.L. 112-10.

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