

**LAW**

**ON PUBLIC INVESTMENT**

*Pursuant to the Constitution of the Socialist Republic of Vietnam;*

*The National Assembly hereby promulgates the Law on Public Investment.*

**Chapter I**

**GENERAL PROVISIONS**

**Article 1. Governing scope**

This Law provides for the management and use of the capital budget for public investment; the state management of public investment; the right, obligation and responsibility of agencies, organizations and individuals involved in public investment activities.

**Article 2. Applicable entities**

This Law is applied to agencies, organizations and individuals participating or getting involved in public investment activities as well as the management and use of the capital budget for public investment.

**Article 3. Application of the Law on Public Investment, International Treaties and Agreements**

1. The management and use of the capital budget for public investment and public investment activities must abide by the provisions of this Law and other relevant laws.
2. If the International Treaties to which the Socialist Republic of Vietnam is a signatory set out regulations other than those specified in this Laws, the regulations of the International Treaties shall prevail.
3. The overseas development of public investment programs and projects must comply with regulations set out in International Treaties to which the Socialist Republic of Vietnam is a signatory as well as International Agreement between Vietnam and foreign partners.

#### **Article 4. Interpretation of terms**

In this Law, used terms shall be construed as follows:

1. *Report on investment intentions* means an explanatory material for preliminary study contents about the significance, feasibility and efficiency of public investment programs, Group-B and Group-C projects, which serves as a basis for competent authorities to decide on the investment policies.
2. *Pre-feasibility study report* means an explanatory material for preliminary study contents about the significance, feasibility and efficiency of national important projects and Group-A projects, which serves as a basis for competent authorities to decide on the investment policies.
3. *Feasibility study report* means an explanatory material for study contents about the significance, feasibility and efficiency of public investment programs and projects, which serves as a basis for the investment decision made by competent authorities.
4. *Ministry, agency and local authority* means regulatory bodies designated by the Prime Minister to develop and implement public investment plans, including:
  - a) The Communist Party Committee of political institutions, the Supreme People's Procuracy, the Supreme People's Court, the State Audit, the President's Office, the National Assembly's Office, Ministries, ministerial-level authorities, Governmental agencies (hereinafter referred to as Ministry and central governing body);
  - b) The People's Committee of centrally-affiliated cities and provinces (hereinafter referred to as provincial People's Committee);
  - c) The Communist Party Committee of the Vietnam Fatherland Front and socio-political organizations;
  - d) Other agencies or organizations assigned to public investment plans.
5. *Program leader* means an organization or institution assigned to lead the management of public investment programs.
6. *Investor* means an organization or institution assigned to public investment projects.
7. *Public investment program* means a combination of objectives, tasks and measures which aim for socio-economic development targets.
8. *Target program* means the program for public investment activities in order to achieve one or several target(s) in each sector or several regions or territories over a specific period.
9. *National target program* means the program for public investment activities in order to

achieve socio-economic development targets throughout the country over a specific period.

10. *Governing body* means Ministry, agency and local authority prescribed in Clause 4 of this Article and program or project management units who are affiliated to political institutions and the National Assembly.

11. *Professional agency in charge of public investment management* means a competent agency for public investment management, affiliated to the Ministry of Planning and Investment; an agency assigned to manage public investment activities, affiliated to Ministries, the Communist Party Committee, Vietnamese Fatherland Front, socio-political organizations and others assigned to develop and implement public investment plans; the Department of Planning and Investment; competent divisions and subdivisions for public investment management, affiliated to the People's Committee of a district or commune.

12. *State management of public investment activities* includes the Government, the Ministry of Planning and Investment and People's Committees at all administrative levels.

13. *Public investment project* means an investment project entirely or partially funded by the capital budget for public investment.

14. *Emergency project* means an investment project subject to the decision made by competent authorities, which is aimed at timely overcoming the aftermaths of natural disasters and other unexpected circumstances.

15. *Public investment* means the Government's program and project on socio-economic infrastructural construction and socio-economic development.

16. *Investment in the form of public-private partnerships* means the investment contract between competent State agencies and investors or project management enterprises in order to execute, manage and operate infrastructural and public utility development projects.

17. *Public investment activity* is composed of the formulation, evaluation and decision of investment policies or intentions; design, appraisal and decision of public investment programs and projects; formulation, evaluation, approval, assignment, development and execution of public investment plans; management and use of the budget capital for public investment; monitoring, supervision, evaluation, examination, inspection of public investment plans, programs and projects.

18. *Public investment plan* means a combination of targets; orientation and listing of public investment programs and projects; balance of the budget capital for public investment; plans of budget allotment; and approaches to resource mobilization and project execution.

19. *Outstanding debts arising from infrastructural construction* means the value of accepted workloads described in the public investment plan and approved by competent authorities but the budget has not been allotted to pay for the execution of these workloads yet.

20. *Decentralization of state management of public investment* means the determination of rights and responsibilities of competent agencies, organizations, and individuals involved in public investment activities.

21. *Budget capital for public investment* stipulated in this Law includes funds derived from the State budget, government bonds, local government bonds, official development assistance (briefly called ODA), overseas concessional loans, government credits for investment and development purposes, retained revenues of the state budget that have not been recorded in the state budget balance and other loans secured by the local budget for public investment purposes.

#### **Article 5. Investment in public sectors**

1. Investment in socio-economic infrastructure programs and projects.
2. Investment in ancillary facilities for regulatory agencies, public service providers, political institutions and socio-political organizations.
3. Investment and assistance in public product and service supply activities.
4. Governmental investment in projects to be executed in the form of a public-private partnership.

#### **Article 6. Classification of public investment projects**

1. Depending on the nature of public investment projects, they are classified into the followings:
  - a) Construction projects such as new construction, renovation, upgradation and expansion of existing investment and construction projects, including the procurement of assets, devices and equipment;
  - b) Non-construction projects such as asset procurement; receipt of the disposition of land use right; purchase, repair and upgradation of equipment and machinery; and other projects that are not subject to regulations specified at Point a of this Clause.
2. Depending on the significance and size of public investment projects, they are classified into national important projects; Group-A, Group-B and Group-C projects which conform to the criteria regulated in Article 7, 8, 9 and 10 of this Law.

#### **Article 7. Criteria for classifying national important projects**

National important projects are independent investment projects or a cluster of closely combined projects which meet one of the following criteria:

1. Using a sum of above VND 10,000 billion as the budget capital for public investment;
2. Creating or facing the possibility of creating substantial impacts on the environment,

including:

a) Nuclear power plants;

b) Use of a land parcel that requires the conversion of land use purpose such as a national park; a wildlife sanctuary; a protected landscape area; a forest covering an area of above 50 hectares that serves the purpose of scientific research and experiment; a protection forest covering an area of above 500 hectares which is aimed at barricading windflow, sand, wind wave and encroaching on the sea as well as protecting the environment; a production forest covering an area of above 1,000 hectares;

3. Utilizing a land parcel, covering an area of 500 hectares, which requires the conversion of land use purpose from the land parcel used for wet rice agriculture with more than two crops;

4. Migrating and resettling more than 20,000 residents at mountainous regions and more than 50,000 residents at other regions;

5. Other projects that require the application of special regulations and policies, which are subject to the National Assembly's decisions.

#### **Article 8. Classification criteria for Group-A projects**

Except for national important projects stipulated in Article 7 of this Law, projects that meet one of following criteria are classified as Group-A projects:

1. Regardless of the total investment, such projects are classified according to following criteria:

a) Projects located in the vicinity of special national sites;

b) Projects located at extremely important areas in terms of national defence and security according to legal regulations on national defence and security;

c) National defense and security projects that are characterized as the state secrets;

d) Hazardous substance and explosive manufacturing projects;

dd) Infrastructural construction projects for industrial, processing and exporting zones;

2. Projects financed by the total investment amount of more than VND 2,300 billion and classified by the following sectors:

a) Traffic infrastructure, including wharfs at the sea or river, airport, railroads and national highways;

b) Power generation industry;

- c) Oil and gas extraction;
- d) Chemical, fertilizer and cement;
- dd) Mechanical engineering and metallurgy;
- e) Mineral extraction and processing;
- g) Residential construction;

3. Projects financed by the total investment amount of more than VND 1,500 billion and classified by the following sectors:

- a) Traffic infrastructure, exclusive of those regulated at Point a Clause 2 of this Article;
- b) Irrigation;
- c) Water supply and drainage and technical infrastructure;
- d) Electrical engineering;
- dd) Communication and electronic device manufacturing;
- e) Pharmaceutical chemistry;
- g) Material production, exclusive of those regulated at Point d Clause 2 of this Article;
- h) Mechanical construction, exclusive of those regulated at Point d Clause 2 of this Article;
- i) Post and telecommunications;

4. Projects financed by the total investment amount of more than VND 2,300 billion and classified by the following sectors:

- a) Agriculture, forestry and aquaculture;
- b) National park and wildlife sanctuary;
- c) Technical infrastructure for new urban zones;
- d) Industrial sector, exclusive of industrial projects regulated in Clause 1, 2 and 3 of this Article;

5. Projects financed by the total investment amount of above VND 800 billion and classified by the following sectors:

- a) Health care, culture and education;
- b) Scientific research, information science, radio and television broadcasting;
- c) Treasure;
- d) Tourism and sport;
- dd) Civil construction, exclusive of residential development projects regulated at Point g Clause 2 of this Article.

#### **Article 9. Classification criteria for Group-B projects**

1. Projects classified by the sectors stipulated in Clause 2 Article 8 of this Law and financed by the total investment amount ranging from VND 120 billion to below VND 2,300 billion.
2. Projects classified by the sectors stipulated in Clause 3 Article 8 of this Law and financed by the total investment amount ranging from VND 80 billion to below VND 1,500 billion.
3. Projects classified by the sectors stipulated in Clause 4 Article 8 of this Law and financed by the total investment amount ranging from VND 60 billion to below VND 1,000 billion.
4. Projects classified by the sectors stipulated in Clause 5 Article 8 of this Law and financed by the total investment amount ranging from VND 5 billion to below VND 800 billion.

#### **Article 10. Classification criteria for Group-C projects**

1. Projects classified by the sectors stipulated in Clause 2 Article 8 of this Law and financed by the total investment amount of below VND 120 billion.
2. Projects classified by the sectors stipulated in Clause 3 Article 8 of this Law and financed by the total investment amount of below VND 80 billion.
3. Projects classified by the sectors stipulated in Clause 4 Article 8 of this Law and financed by the total investment amount of below VND 60 billion.
4. Projects classified by the sectors stipulated in Clause 5 Article 8 of this Law and financed by the total investment amount of below VND 45 billion.

#### **Article 11. Adjustment to classification criteria for public investment projects**

1. The National Assembly decides on any adjustment to classification criteria for national important projects as prescribed in Article 7 of this Law.
2. The Government must submit the Standing Committee of the National Assembly to decide on any adjustment to classification criteria for public investment projects as prescribed in Article 8,

9 and 10 of this Law and report the National Assembly in the next plenum.

3. Adjusting classification criteria for public-sector projects stipulated in Clause 1 and 2 of this Article is required if there is a wide fluctuation in price indices or major changes in the decentralization of public investment management concerning classification criteria for public investment project or other key elements affecting classification criteria for public investment projects.

### **Article 12. Rules of public investment management**

1. Observe legal regulations on the management and use of the budget capital for public investment.
2. Conform to socio-economic development strategy, five-year socio-economic development plan, socio-economic development planning and sectoral development planning.
3. Exercise proper rights and responsibilities of State management agencies, organizations and individuals involved in the management and use of the budget capital for public investment.
4. Manage the use of the budget capital for public investment according to appropriate regulations on each capital source; ensure sufficiency, consistency, cost efficiency, effectiveness and capability of balancing all relevant resources for public investment activities; avoid any possible loss and mismanagement.
5. Ensure the public disclosure and transparency for public investment activities.
6. Encourage organizations and individuals to carry out direct investment or investment activities in the form of public-private partnership for socio-economic infrastructural and public utility development projects.

### **Article 13. Contents of public investment management**

1. Issue and follow legislative documents about public investment.
2. Design and implement the strategy, program, plan, planning, initiative and policy for public investment.
3. Keep track of and provide information about the management and use of the budget capital for public investment.
4. Evaluate the effectiveness of public investment activities; examine and inspect the compliance with legal regulations on public investment as well as plan or planning for public investment.
5. Handle any violation, settle complaints or denunciations from organizations and individuals involved in public investment activities.



6. Commend agencies, organizations, units and individuals that gain excellent achievements in public investment activities.

7. Enter into international cooperation on the public investment.

#### **Article 14. Public disclosure and transparency in public investment activities**

1. Contents that require the public disclosure and transparency in public investment activities are composed of:

a) Policies, laws and the introduction of such policies and laws on the management and use of the budget capital for public investment;

b) Principles, criteria and allotment of the budget capital for public investment activities;

c) Principles, criteria and bases for the determination of project portfolio in mid-term and annual public investment plan;

d) Planning, proposal and program for public investment activities at local areas where project sites are located; allotment of the budget capital for specific public investment programs, which depends much on each fiscal year, progress of execution and disbursement of project fund;

dd) Project portfolio throughout local areas where project sites are located, including size, total investment amount, schedule and construction site; evaluation report on common effects of such projects on local areas where project sites are located;

e) Mid-term or annual plan for the allotment of budget capital for public investment activities, depending on each capital source, including project portfolio and allocated amount of the budget capital for each project;

g) Report on the mobilization of resources and other funds for the implementation of public investment projects;

h) Analysis and report on achievements or outcomes of investment plans, programs and projects;

i) Report on the progress of project execution and disbursement of different project funds;

k) Analysis and report on the acceptance testing and evaluation of investment programs and projects.

2. Heads of related agencies, organizations and units must publicize the contents regarding public investment activities in accordance with legal regulations.

#### **Article 15. Expenses incurred from formulation, appraisal, supervision, monitoring, evaluation and inspection of public investment plans, programs and projects**

1. Expenses incurred from the formulation and appraisal of report on investment intentions for national target programs or public investment programs funded by allocated expenditures from the state budget granted to the agency and unit in charge of these tasks.
2. Expenses incurred from the formulation and appraisal of pre-feasibility study report and report on investment intentions, financed by the fund for the preparation of investment projects.
3. Expenses incurred from the formulation and appraisal of public investment plans funded by allocated expenditures or current expenditures from the state budget granted to the agency or unit in charge of these tasks.
4. Expenses incurred from the supervision, monitoring and evaluation of public investment plans, programs and projects funded by allocated expenditures or current expenditures from the state budget granted to the agency or unit in charge of these tasks.
5. Expenses incurred from the inspection of public investment plans, programs or projects funded by current expenditures allocated from the state budget to the agency or unit in charge of this task.
6. In respect of public investment programs and projects financed by ODA funds and overseas concessional loans, foreign donors are encouraged to provide financial support to cover these expenses as prescribed in this Article.

#### **Article 16. Prohibited public investment acts**

1. The decision on investment policies or intentions is not aligned with investment strategy, planning and proposal; is not made under the proper authority; fails to comply with processes or procedures regulated by laws; fails to get investment funds balanced.
2. The decision to approve investment programs and projects has been made prior to the decision on investment policies made by competent authorities or without compliance with investment policies approved by competent authorities. The decision to adjust total fund for investment programs or projects in contrast to legal regulations on public investment.
3. Any misuse or abuse of power or authority is aimed at committing appropriation, mercenary act and corruption in the management and use of the budget capital for public investment.
4. Program leader and investor enter into collusion with advisory organizations to obtain the decision on investment policies or intentions as well as approve investment programs and projects, which leads to any possible loss and mismanagement of state budget, assets and national resources; any harmful effect and infringement against individual and community's welfare or benefits.
5. Any illegal act of offering, accepting bribes or acting as a bribe broker is detected
6. Any illegal request for organization or individual's investment in proposed investment

programs and projects that have not been officialized by the decision on investment policies or approved or funded by allocated expenditures from the state budget has been made, which can cause outstanding debts incurred from infrastructural construction.

7. The budget capital for public investment is misused, mismanaged and exceeds required investment fund as stipulated by laws.

8. All information, documents and materials concerning the decision on investment policies, investment decision and implementation of investment programs or projects are falsified or misrepresented.

9. Deliberate acts of reporting and providing inaccurate and biased information are aimed at affecting the formulation, appraisal and decision of investment plans, programs and projects.

10. Deliberate acts of reporting and providing inaccurate and biased information are aimed at adversely affecting the supervision, monitoring, evaluation and inspection as well as handling of violations during the implementation of investment plans, programs and projects.

11. Deliberate acts of destruction, fraud, concealment or failure to retain a full amount of materials, records and documents regarding the decision on investment policies, investment decision and implementation of investment programs and projects are performed.

12. Obstruction of the detection of any violation against laws on public investment.

## **Chapter II**

### **INVESTMENT POLICY OR INTENTION AND DECISION ON PUBLIC INVESTMENT PROGRAM AND PROJECT**

#### **Section 1: FORMULATING, APPRAISING AND DECIDING ON INVESTMENT POLICY OR INTENTION**

##### **Article 17. Authority to decide on investment policies on public investment programs and projects**

1. The National Assembly has the authority to decide on investment policies on public investment programs and projects below:

a) National target program;

b) National important project.

2. The Government has the authority to decide on investment policies on target programs financed by funds derived from the State budget, government bonds, local authority bonds, ODA, overseas concessional loans, the government credit for investment and development

purposes, state budget revenues retained but not recorded in the state budget balance.

3. The Prime Minister has the authority to decide on investment policies on public investment programs and projects below:

a) Group-A projects;

b) Projects financed by funds derived from the state budget, managed by the Central Committee of the Vietnam Fatherland Front, socio-economic organizations and other competent agencies.

c) Emergency projects financed by the state budget;

d) Investment programs financed by funds derived from ODA and overseas concessional loans, exclusive of national target programs and target programs as stipulated in Clause 1 and Clause 2 of this Article;

dd) Projects financed by funds derived from ODA and overseas concessional loans as stipulated by the Government.

4. Heads of ministries and central agencies have the authority to decide on investment policies on the following projects:

a) Group-B and Group-C projects financed by investment funds derived from the State budget, government bonds, local authority bonds, ODA, overseas concessional loans, the government credit for investment and development purposes, state budget revenues which are retained but not recorded in the state budget balance under their authority, exclusive of those regulated at Point c Clause 3 of this Article;

b) Projects financed by funds derived from ODA and overseas concessional loans under their administration, exclusive of those regulated at Point dd Clause 3 of this Article.

5. The People's Councils at all administrative levels have the authority to decide on investment policies on public investment programs and projects below:

a) Investment program financed by local balanced fund allocated from the state budget and funds derived from local authority bond, state budget revenues under their control which are retained but not recorded in the state budget balance, which are all decided by the People's Council at all administrative levels, as well as other loans secured by the local budget to serve the public investment purpose;

b) Group-B projects and Group-C priority projects under their administration, exclusive of those regulated at Point dd Clause 3 of this Article. Group-C priority projects located in local areas shall be decided by provincial People's Councils in alignment with objectives, developmental orientation, financial competence and particular characteristics of these areas.

6. The People's Committee at all administrative levels has the authority to decide on investment

policies under their administration, exclusive of those regulated in Clause 1, 2, 3, 4 and 5 of this Article.

**Article 18. Requirements for the decision on investment policies on public investment programs and projects**

1. Conform to socio-economic development strategy, planning and proposal, approved by competent authorities.
2. Avoid overlapping public investment programs or projects that have been put into operation after the decision on investment policies or investment decision has been made.
3. Conform to the capability of balancing the budget capital for public investment and the capability of mobilizing other funds for any program or project that requires different financial sources.
4. Conform to the capability for applying for government loans and repaying government debts.
5. Ensure the efficiency in socio-economic development, national defense and security as well as sustainable development projects.
6. Prioritize any project that is carried out in the form of public-private partnership and has the high rate of return on investment.

**Article 19. Process and procedure for the decision on investment policies on national target programs and national important projects**

1. The agency that has been assigned to prepare investment programs and projects must be responsible to:
  - a) Assign their affiliates to compile reports on investment intentions on national target programs and pre-feasibility study reports for national important projects;
  - b) Assign a competent unit or establish a Council to appraise reports on investment intentions and pre-feasibility study reports;
  - c) Submit complete reports on investment intentions and pre-feasibility study reports to the Prime Minister.
2. The Prime Minister must establish the State Council for appraisal of public investment projects chaired by the Minister of Planning and Investment to appraise reports on investment intentions for national target programs as well as pre-feasibility study reports for national important projects.
3. The Government must submit their intentions in investing in national target programs and national important projects to the National Assembly for their consideration and decision on this

matter.

4. The National Assembly's regulatory bodies must investigate and verify all relevant documents about national target programs and national important projects, submitted by the Government.

5. The National Assembly shall consider and approve the Resolution on investment intentions for national target programs and national important projects. Contents of the Resolution enforced by the National Assembly must clearly specify objective, size, total investment, main developmental technology, site location, execution schedule, progress, solution and policy of above-mentioned programs or projects.

**Article 20. Dossier on the decision on investment intentions for national target programs and national important projects**

1. The Government's statement.

2. Report on investment intentions for national target programs and pre-feasibility study report for national important projects.

3. Appraisal report prepared by the State Council for appraisal of public investment programs and projects.

4. Other relevant documents.

**Article 21. Regulated processes and contents of the inspection and verification of investment intentions for national target programs and national important projects**

1. Processes of investigation and verification tasks are regulated as follows:

a) No later than 60 days ahead of the opening day of the National Assembly's plenum, the Government shall send a dossier on the decision on investment intentions for national target programs and national important projects to the National Assembly's agency in charge of investigation and verification tasks.

b) The assigned agency mainly in charge of investigation and verification tasks shall request the Government and relevant entities to report issues regarding contents of national target programs and national important projects; arrange working sessions with responsible parties to deal with issues regarding contents of national target programs and national important projects;

c) Entities subject to investigation and verification are requested to provide an adequate amount of supportive information and materials.

2. Contents of investigation and verification tasks include:

a) Conformity to the accepted criteria for classifying national target programs and national

important projects;

b) Importance or significance of investing in public investment programs and projects;

c) Compliance with legal regulations;

d) Suitability for socio-economic development strategy, proposal and planning as well as sectoral development planning;

dd) Basic specifications of public investment programs and projects, including objective, size, investment method, coverage, site location, required land area, schedule, progress, main technology alternative, solution to environment protection, capital source, rate of return on investment, loan repayment capability or solvency.

e) Ensure the efficiency in socio-economic growth, national defense and security as well as sustainable development;

g) Assessment of conformity to the planning for the utilization of land parcels, natural resources, approaches to population migration, residential and agricultural resettlement for national important projects to be executed in the country;

h) Risk assessment of outward investment projects of national importance to be executed in foreign countries.

## **Article 22. Processes and procedures for the decision on investment intentions for public investment programs made by the Government**

1. Program leader is responsible to:

a) Assign their affiliates to compile the report on investment intentions;

b) Assign a competent unit or establish a Council to appraise the report on investment policies;

c) Submit the complete report on investment intentions to the Prime Minister.

2. The Prime Minister shall direct the establishment of an intersectoral Council or assign the Ministry of Planning and Investment to lead and cooperate with relevant agencies to appraise the report on investment intentions. If an intersectoral Council is founded, the Ministry of Planning and Investment shall direct and cooperate with the Ministry of Finance and relevant agencies to appraise investment portfolio and portfolio balancing capability.

3. Program leader must submit the complete report on investment intentions according to the appraisal result mentioned in Clause 2 of this Article to the Government.

4. The Government shall consider and decide on investment intentions for public investment programs, including objective, coverage, size, total investment, schedule, progress, solution and

policy.

**Article 23. Processes and procedures for the decision on investment intentions for Group-A projects**

1. Heads of central bodies and committee of Vietnam Fatherland Front, socio-political organizations and other entities must be responsible to:

- a) Assign their affiliates to conduct the pre-feasibility study report;
- b) Assign a competent unit or establish a Council to appraise the pre-feasibility study report, investment portfolio and portfolio balancing capability;
- c) Direct entities regulated at Point a of this Clause to submit the complete pre-feasibility study report to the Prime Minister.

2. The President of the provincial People's Committee is responsible to:

- a) Assign their competent agencies or the People's Committee of a district to prepare the pre-feasibility study report;
- b) Establish the Appraisal Council chaired by a Vice President of provincial People's Committee, joined by the Department of Planning and Investment that works as the Standing Committee of the Council and relevant entities that work as members of the Council in order to appraise pre-feasibility study report, investment portfolio and portfolio balancing capability;
- c) Direct relevant agencies regulated at Point a of this Clause to submit a complete pre-feasibility study report with reference to the appraisal result as prescribed at Point b of this Clause to provincial People's Committee;
- d) Before submitting the aforesaid report to the Prime Minister, call for advice from provincial People's Committee.

3. The Prime Minister decides to establish the intersectoral Council for the appraisal or assign the agency to lead the appraisal of pre-feasibility study report on the basis of the request of the Ministry of Planning and Investment.

4. The Ministry of Planning and Investment shall direct and cooperate with the Ministry of Finance to appraise investment portfolio and portfolio balancing capability for projects financed by funds derived from:

- a) Central budget, government bond, ODA fund and overseas concessional loans;
- b) State budget revenues that are retained but have yet to be recorded in the state budget balance, managed by Ministries or central governing bodies;



c) State budget revenues that are retained but have yet to be recorded in the state budget balance, managed by other entities according to legal regulations.

The appraisal result shall be sent to the intersectoral Council for the appraisal or the management agency of the appraisal by the Ministry of Planning and Investment as stipulated in Clause 3 of this Article.

5. The intersectoral Council or management agency of the appraisal as prescribed in Clause 3 of this Article shall send the abovementioned result to relevant agencies and local authorities to make the complete pre-feasibility study report for submission to the Prime Minister.

6. The Prime Minister shall issue the decision on investment intentions, comprising such information as objective, size, total investment, capital structure, site location, execution schedule and progress of programs or projects.

**Article 24. Processes and procedures for the decision on investment intentions for programs and projects financed by ODA fund and overseas concessional loans**

1. Given socio-economic development strategy and five-year socio-economic development plan, the Ministry of Planning and Investment shall direct and cooperate with the Ministry of Finance and relevant authorities as well as donors to outline cooperation directions and sectors prioritized to get access to ODA fund and overseas concessional loans.

2. Given cooperation directions, sectors prioritized to have access to ODA fund and overseas concessional loans, demands for capital mobilization, donor's funding requirements, the governing body must send the request for grants from donors and the proposal of public investment programs or projects to the Ministry of Planning and Investment.

3. With reference to the direction for international cooperation with foreign donors and sectors prioritized to have access to ODA fund and overseas concessional loans, the Ministry of Planning and Investment must direct and cooperate with the Ministry of Finance, relevant authorities and such donors to choose proper proposal of public investment programs or projects as well as notify the governing body to prepare pre-feasibility study report or report on investment intentions.

4. With regard to national target program and national important project, processes and procedures for deciding on investment intentions shall comply with regulations specified in Article 19, 20 and 21 of this Law.

5. With regard to public investment programs under the decision-making authority of the Government, processes and procedures for deciding on investment intentions must conform to regulations specified in Article 22 of this Law.

6. In respect of Group-A projects, processes and procedures for making the decision on investment intentions must conform to Article 23 of this Law.

7. In respect of other public investment programs or projects under the decision-making authority of the Prime Minister as prescribed at Point d and Point dd Clause 3 Article 17 of this Law, processes and procedures for making the decision on investment intentions must be observed as follows:

- a) The governing body shall send pre-feasibility study report or report on investment intentions to the Ministry of Planning and Investment;
- b) The Ministry of Planning and Investment shall lead the appraisal of pre-feasibility study report or report on investment intentions, investment portfolio and portfolio balancing capability for submission to the Prime Minister;
- c) The Prime Minister shall consider and decide on these investment intentions.

8. In respect of public investment programs or projects that are not under the decision-making authority of responsible entities as prescribed in Clause 1, 2 and 3 Article 17 of this Law, processes and procedures for making the decision on investment intentions must be observed as follows:

- a) The governing body shall seek advice from the Ministry of Planning and Investment, the Ministry of Finance and relevant agencies about investment intentions;
- b) The Ministry of Planning and Investment shall carry out the appraisal of investment portfolio and portfolio balancing capability;
- c) With reference to advice from relevant agencies and the appraisal result of investment portfolio and portfolio balancing capability from the Ministry of Planning and Investment, the governing body must perform the appraisal and decide on investment intentions.

**Article 25. Processes and procedures for the decision on investment intentions for Group-B and Group-C projects managed by the central committee of Vietnamese Fatherland Front and socio-political institutions and other relevant agencies or organizations**

1. Head of the central committee of Vietnam Fatherland Front, socio-political institutions and other relevant agencies or organizations must be responsible to:

- a) Assign their affiliates to compile the report on investment intentions;
- b) Assign a competent unit or establish a Council to appraise the report on investment intentions;
- c) Direct relevant agencies regulated at Point a of this Clause to submit the complete report on investment intentions to the Ministry of Planning and Investment.

2. The Ministry of Planning and Investment shall direct and cooperate with relevant agencies to perform the appraisal of the report on investment intentions, investment portfolio and portfolio

balancing capability.

3. The central committee of Vietnam Fatherland Front and socio-political institutions as well as other agencies or organizations must accomplish the report on investment intentions according to the appraisal result regulated in Clause 2 of this Article for submission to the Prime Minister.

4. The Prime Minister shall consider and decide on investment intentions, including objective, size, total investment, capital structure, site location, execution schedule and progress of programs or projects.

**Article 26. Processes and procedures for the decision on investment intentions for Group-B and Group-C projects financed by central budget, government bond and fund derived from state budget revenues that are retained for public investment but not recorded in the state budget balance from Ministries or centrally-governed regulatory bodies**

1. Ministers and Heads of central governing bodies are responsible to:

a) Assign their affiliates to compile the report on investment intentions;

b) Assign a competent unit or establish a Council to appraise the report on investment intentions;

c) Direct relevant agencies regulated at Point a of this Clause to submit the complete report on investment intentions to the Ministry of Planning and Investment.

2. The Ministry of Planning and Investment shall lead and cooperate with the Ministry of Finance to perform the appraisal of investment portfolio and portfolio balancing capability.

3. Given the appraisal result regulated in Clause 1 and Clause 2 of this Article, Ministers and Heads of central governing bodies shall issue the decision on investment intentions, enclosing proper information such as objective, size, total investment, capital structure, site location, execution schedule and progress of programs or projects.

**Article 27. Processes and procedures for the decision on investment intentions for Group-B and Group-C projects financed by central budget and government bond managed by local authorities**

1. The President of People's Committee at all administrative levels is responsible to:

a) Assign their competent departments or subordinate People's Committees to prepare the report on investment intentions;

b) Establish a Council to appraise the report on investment intentions, investment portfolio and portfolio balancing capability;

c) Direct relevant agencies regulated at Point a of this Clause to accomplish the report on

investment intentions.

2. In terms of Group-B projects and Group-C priority projects:

a) In terms of Group-B projects and Group-C priority projects managed by provincial People's Committee, the Department of Planning and Investment shall be assigned to perform the appraisal of investment portfolio and portfolio balancing capability before submitting the report on investment intentions to provincial People's Council to seek their consent.

After provincial People's Council has granted their consent, provincial People's Committee shall submit the report on investment intentions to the Ministry of Planning and Investment.

b) In terms of Group-B projects and Group-C priority projects managed by the People's Committee of a district and commune, the People's Council at the same administrative level shall be advised to seek their consent to the report on investment intentions.

After the People's Council at the same administrative level has granted their consent, district-level and communal People's Committee shall submit the report on investment intentions to the provincial People's Committee. The provincial People's Committee shall assign their Department of Planning and Investment to carry out the appraisal of investment portfolio and portfolio balancing capability before submitting the report on investment intentions to the Ministry of Planning and Investment;

c) The Ministry of Planning and Investment shall lead and cooperate with the Ministry of Finance to perform the appraisal of investment portfolio and portfolio balancing capability;

d) The provincial People's Committee shall direct the accomplishment of the report on investment intentions in compliance with the appraisal result from the Ministry of Planning and Investment;

dd) The People's Committee shall submit the decision on investment intentions, granted to the investment project, to the People's Council at the same administrative level, which comprises required information such as objective, size, total investment, capital structure, site location, execution schedule and progress.

3. 3) In terms of Group-C projects that are not governed by the regulations specified in Clause 2 of this Article:

a) With regard to investment projects managed by the provincial People's Committee, the Department of Planning and Investment shall be assigned to carry out the appraisal of investment portfolio and portfolio balancing capability before submitting the report on investment intentions to the Ministry of Planning and Investment;

b) With regard to investment projects managed by district-level or communal People's Committee, the President of district-level or communal People's Committee must send the report on investment intentions to the provincial People's Committee. The provincial People's

Committee shall assign the Department of Planning and Investment to carry out the appraisal of investment portfolio and portfolio balancing capability before submitting the report on investment intentions to the Ministry of Planning and Investment;

c) The Ministry of Planning and Investment shall lead and cooperate with the Ministry of Finance to perform the appraisal of investment portfolio and portfolio balancing capability;

d) The provincial People's Committee shall direct the accomplishment of the report on investment intentions in compliance with the appraisal result from the Ministry of Planning and Investment;

dd) The People's Committee at all administrative levels shall make the decision on investment intentions which comprises required information such as objective, size, total investment, capital structure, site location, execution schedule and progress.

**Article 28. Processes and procedures for the decision on investment intentions for public investment programs totally financed by local balanced fund allocated from the state budget and funds derived from local government bond, state budget revenues that are retained but not recorded in the local budget balance as well as other loans secured by the local budget to serve the public investment purpose**

1. Program leader is responsible to:

a) Assign their affiliates to compile the report on investment intentions;

b) Assign a competent unit or establish a Council to appraise the report on investment intentions;

c) Submit the complete report on investment intentions to the People's Committee at the same administrative level.

2. The President of People's Committee at all administrative levels is responsible to:

a) With regard to provincially-managed investment programs, the President of the provincial People's Committee shall establish a Council for the appraisal as prescribed at Point b Clause 2 Article 23 of this Law or assign the Department of Planning and Investment to lead and cooperate with relevant agencies to perform the appraisal of the report on investment intentions, investment portfolio and portfolio balancing capability;

b) With regard to investment programs managed by district-level or communal authorities, the President of district-level or communal People's Committee must establish a Council for the appraisal of the report on investment intentions, investment portfolio and portfolio balancing capability.

3. Program leader must accomplish the report on investment intentions for public investment program for submission to the People's Committee at the same administrative level.

4. The People's Committee must submit the decision on investment intentions to the People's Council at the same administrative level.

5. Given the appraisal result regulated in Clause 2 of this Article, the People's Council at all administrative levels shall make a decision on investment intentions, enclosing required information such as objective, size, total investment, site location, execution schedule and progress of public investment programs or projects.

**Article 29. Processes and procedures for the decision on investment intentions for Group-B projects and Group-C priority projects financed by local balanced fund allocated from the state budget and funds derived from local government bond, state budget revenues that are retained but not recorded in the local budget balance as well as other loans secured by the local budget to serve the public investment purpose**

1. The agency that has been assigned to prepare the report on investment intentions must be responsible to:

a) Assign their affiliates to compile the report on investment intentions;

b) Assign a competent unit or establish a Council to appraise the report on investment intentions;

c) Submit the complete report on investment intentions to the People's Committee at the same administrative level.

2. With regard to investment projects financed by local balanced fund allocated from the state budget to the province and funds derived from revenues that are retained but not recorded in the provincial budget balance as well as other loans secured by the local budget to serve the public investment purpose:

a) The President of the provincial People's Committee shall establish a Council for the appraisal as prescribed at Point b Clause 2 Article 23 of this Law or assign the Department of Planning and Investment to lead and cooperate with relevant agencies to perform the appraisal of the report on investment intentions, investment portfolio and portfolio balancing capability;

With regard to investment projects managed by the local authorities at district and communal administrative levels, the People's Council at the same administrative level shall be advised by district-level or communal People's Committee to seek their consent to the report on investment intentions.

b) Given the appraisal result stipulated at Point a of this Clause, the assigned agency in charge of the preparation of the report on investment intentions shall send the complete report to provincial People's Committee which shall be then submitted to provincial People's Council to seek their consent to the decision on investment intentions, which encloses required information such as objective, size, total investment, site location and execution schedule.

3. With regard to investment projects financed by balanced budget at district and communal

administrative levels and fund derived from revenues of state budget that have been retained but not recorded in the local budget at district and communal administrative levels, the district-level or communal People's Committee must submit the report on investment intentions to the People's Council at the same administrative level, which encloses required information such as objective, size, total investment, site location and execution schedule.

**Article 30. Processes and procedures for the decision on investment intentions for Group-C projects financed by local balanced fund allocated from the state budget at provincial administrative level and funds derived from local government bond, state budget revenues that are retained but not recorded in the local budget balance at the provincial administrative level as well as other loans secured by the local budget to serve the public investment purpose**

1. The assigned agency in charge of the preparation of the report on investment intentions must be responsible to:

- a) Assign their affiliates to compile the report on investment intentions;
- b) Assign a competent unit or establish a Council to appraise the report on investment intentions;
- c) Submit the complete report on investment intentions to the provincial People's Committee.

2. The Department of Planning and Investment shall lead and cooperate with relevant agencies to perform the appraisal of the report on investment intentions, investment portfolio and portfolio balancing capability.

3. Given the appraisal result stipulated in Clause 2 of this Article, the assigned agency in charge of the preparation of the report on investment intentions must submit the complete report on investment intentions to provincial People's Committee.

4. The provincial People's Committee shall make a decision on investment intentions which encloses required information such as objective, size, total investment, site location, execution schedule and progress.

**Article 31. Processes and procedures for the decision on investment intentions for Group-C projects financed by local balanced fund allocated from the state budget at district or communal administrative levels and funds derived from revenues that are retained but not recorded in the local budget balance at district or communal administrative levels**

1. As regards investment projects financed by balanced fund allocated from local state budget at district administrative level and fund derived from revenues that have been retained but not recorded in local state budget at district administrative level:

- a) The President of district-level People's Committee must assign a competent agency or communal People's Committee to prepare the report on investment intentions and establish a Council for the appraisal of the report on investment intentions, investment portfolio and

portfolio balancing capability;

b) The assigned agency in charge of the report on investment intentions must submit the complete report to district-level People's Committee;

c) The People's Committee of a district must make a decision on investment intentions which encloses required information such as objective, size, total investment, capital structure, site location, execution schedule and progress.

2. In terms of investment projects financed by balanced fund allocated from local state budget at communal administrative level and fund derived from revenues that have been retained but not recorded in local state budget at communal administrative level:

a) The President of communal People's Committee must prepare the report on investment intentions and establish a Council for the appraisal of the report on investment intentions, investment portfolio and portfolio balancing capability;

b) The communal People's Committee must make a decision on investment intentions which encloses required information such as objective, size, total investment, capital structure, site location, execution schedule and progress.

**Article 32. Rules, processes and procedures for the decision on investment intentions for investment projects financed by government loan capital intended for investment and development**

1. The decision on investment intentions for projects financed by government loan capital intended for investment and development must be aimed at proper entities or sectors stipulated by legal regulations.

2. Processes and procedures for the decision on investment intentions:

a) With regard to national important project, processes and procedures for deciding on investment intentions must conform to regulations specified in Article 19, 20 and 21 of this Law;

b) With regard to Group-A projects, processes and procedures for making the decision on investment intentions must conform to Article 23 of this Law;

c) With regard to Group-B and Group-C projects managed by Ministries and central regulatory bodies, processes and procedures for making the decision on investment intentions must conform with Article 26 of this Law;

d) With regard to Group-B and Group-C managed by the central committee of Vietnamese Fatherland Front and socio-political institutions as well as other relevant agencies or organizations, processes and procedures for deciding on investment intentions must conform to Article 25 of this Law;



dd) With regard to Group-B and Group-C managed by provincial People's Committee, processes and procedures for deciding on investment intentions must conform to Article 29 and 30 of this Law.

**Article 33. Rules, processes and procedures for the decision on investment intentions for emergency projects and projects to be developed in the form of public-private partnership**

1. The decision on investment intentions for emergency projects is aimed at timely overcoming the aftermaths of natural disasters and other unexpected circumstances as well as ensuring the effective use of the budget capital for public investment, avoiding any possible loss and mismanagement.

2. The decision on investment intentions for projects to be developed in the form of public-private partnership must conform to the following rules:

a) Comply with regulated requirements set out in Article 18 of this Law;

b) Ensure the sound management of the budget capital for public investment;

c) Facilitate investors and project management enterprises to play their active role in managing and using their contributed capital during the project development and execution, which conforms with investment objectives and commitments to the Government.

3. Procedural steps and contents of the decision on investment intentions for emergency projects and investment projects to be developed or executed in the form of public-private partnerships:

a) With regard to national important project, procedural steps and contents of the decision on investment intentions must conform to regulations specified in Article 19, 20 and 21 of this Law;

b) With regard to investment projects that are not subject to the regulations specified at Point a of this Clause, procedural steps and contents of the decision on investment intentions must conform to legal regulations.

**Article 34. Contents of the decision on investment intentions on public investment programs**

Major contents of the decision on investment intentions on public investment programs include:

1. Significance of investment programs in fulfilling objectives of socio-economic development strategy, planning and proposal;

2. Objective, coverage and size of an investment program;

3. Estimation of total investment and resource structuring for the program execution which enclose the list of projects or investment entities, the capability of balancing the budget capital

for public investment and mobilizing other capital sources and resources;

4. Proposed progress of program execution which must conform to practical conditions and the capability of mobilizing different resources according to the proper priority with the aim of ensuring the sufficient and effective investment;

5. Determination of expenses incurred from the execution of an investment program and operation costs upon completion of an investment program;

6. Initial analysis and evaluation of impacts on the environment and social issues as well as measurement of the socio-economic effectiveness;

7. Classification of subprojects according to legal regulations;

8. Approaches to the execution of investment programs or projects.

### **Article 35. Contents of pre-feasibility study report for national important projects and Group-A projects**

1. Contents of pre-feasibility study report for national important projects and Group-A construction projects must conform to legal regulations on construction activities.

2. Major contents of pre-feasibility study report for national important projects and Group-A non-construction projects are not the integral part must include:

a) Significance, requirement and evaluation of suitability of investment programs or projects for the investment planning and proposal;

b) Forecast of demands and supplies; proposed objectives, size and form of the public investment;

c) Site location, estimation of demands for land area and other resources;

d) Initial analysis and selection of technological application as well as capability of supplying raw materials, tools, machinery, equipment, energy, services and infrastructural facilities;

dd) Initial analysis and selection of investment plans and size of investment projects;

e) General plan for site clearance compensation, residential resettlement, environmental protection measures;

g) Initial analysis and evaluation of impacts on the environment and society;

h) Preliminary estimate of total investment, initiatives for capital mobilization and structuring;

i) Preliminary estimate of costs incurred from operation, maintenance activities and major

repairs;

k) Proposed progress of project execution and staging of investment projects;

l) Preliminary estimate of effectiveness in socio-economic development;

m) Determination of parts of projects or subprojects (if any);

n) Approaches to the execution of investment programs or projects.

### **Article 36. Contents of the report on investment intentions for Group-B and Group-C investment projects**

Major contents of the report on investment intentions for Group-B and Group-C investment projects include:

1. The significance and requirements as well as evaluation of the suitability of investment projects for investment planning and proposal;

2. Objectives, size, site location and coverage of investment projects;

3. Estimate of total investment, capital structure, the balancing capability of public investment portfolio, mobilization of different funds and resources for the project execution;

4. Proposed schedule of investment project execution in conformity with practical conditions and capability of resource mobilization in a proper order of priority, which ensures sufficient and effective investment;

5. Preliminary estimate of relevant costs incurred from the project execution and operating costs incurred upon completion of an investment project;

6. Analysis and preliminary evaluation of environmental and social impacts; preliminary assessment on the effectiveness of an investment project in terms of the socio-economic aspect;

7. Subordinate projects or subprojects (if any);

8. Approaches to the execution of investment programs or projects.

### **Article 37. Application documents, contents and schedule of project appraisal and decision on investment intentions for public investment programs and projects**

Article 37. Application documents, contents and schedule of project appraisal, decision on investment intentions, investment portfolio evaluation and portfolio balancing capability for public investment programs and projects must conform to legal regulations.

### **Article 38. Decentralization of investment portfolio appraisal and portfolio balancing**

## **capability for public investment programs and projects**

1. The Ministry of Planning and Investment shall take the leading role in performing the appraisal of investment portfolio and portfolio balancing capability for:

- a) National target program;
- b) Target program subject to the Government's decision on investment intentions;
- c) National important project;
- d) Investment projects financed by central budget and government bond;
- dd) Projects financed by ODA fund and overseas concessional loans;
- e) Investment projects managed by central bodies and central committee of Vietnam Fatherland Front, socio-political institutions, other agencies and organizations, financed by government loans on investment and development activities and retained revenues of the state budget that have not been recorded in the state budget balance;
- g) Investment projects financed by other funds according to legal regulations.

2. Before sending all relevant documents to the Ministry of Planning and Investment as prescribed in Clause 1 of this Article, Heads of central bodies and central committee of Vietnam Fatherland Front, socio-political institutions, other agencies and organizations must assign an investment management agency to perform preliminary assessment on investment portfolio and portfolio balancing capability for public investment programs and projects.

3. The President of the provincial People's Committee shall assign the Department of Planning and Investment to direct and cooperate with related agencies to perform the appraisal of investment portfolio and portfolio balancing capability for the following programs or projects under their jurisdiction:

- a) Investment program or project financed by the central budget, government bond, ODA fund and overseas concessional loans before provincial People's Committee sends all relevant documents to the Ministry of Planning and Investment;
- b) Investment program or project financed by provincial balanced fund allocated from the state budget and funds derived from retained revenues of the state budget that have not been recorded in the provincial budget balance as well as other loans secured by the local budget to serve the public investment purpose;
- c) Investment project financed by government loans on investment and development activities.

4. The President of district-level or communal People's Committee shall be assigned to appraise investment portfolio and portfolio balancing capability for following investment programs or

projects under their jurisdiction:

- a) Investment program or project financed by local balanced fund allocated from the state budget to a district or commune and funds derived from retained revenues of the state budget that have not been recorded in the local budget balance as well as other loans secured by the local budget to serve the public investment purpose;
- b) Before sending all relevant documents regarding public investment activities, an assessment on the central budget, government bond, ODA fund and overseas concessional loans as well as provincial balanced funds allocated from the state budget, local government bond must be carried out;
- c) Investment project financed by government loans on investment and development activities.

## **Section 2: DESIGN, APPRAISAL AND INVESTMENT DECISION FOR PUBLIC INVESTMENT PROGRAM OR PROJECT**

### **Article 39. Authority to make the decision on investment program or project**

1. The Prime Minister shall have the authority to decide on following projects or programs:

- a) National target program and national important projects approved by the National Assembly;
- b) Target program subject to the Government's decision on investment intentions;
- c) Investment programs and projects financed by ODA fund and overseas concessional loans on security, national defence, religion and other programs or projects regulated by the Government.

2. Heads of central bodies and central committee of Vietnam Fatherland Front, socio-political institutions and other agencies or organizations are granted the authority to decide on:

- a) Group-A, Group-B and Group-C investment projects financed by the state budget, government bond and fund derived from government loans on investment and development activities as well as state budget revenues that are retained for public investment but not recorded in the state budget balance;
- b) Group-A, Group-B and Group-C investment projects financed by ODA funds and funds derived from overseas concessional funds under their jurisdiction, exclusive of those regulated at Point Circular Clause 1 of this Article;
- c) After decentralization or authorization, these entities have the authority to decide on Group-B and Group-C investment projects proposed by their subordinate agencies as stipulated at Point a and Point b of this Clause.

3. The President of the provincial People's Committee has the authority to decide on:

a) Investment program entirely financed by provincial balanced fund allocated from the state budget and funds derived from government loans on investment and development activities, local government bonds or retained revenues of the state budget that have not been recorded in the provincial budget balance as well as other loans secured by the local budget to serve the public investment purpose;

b) Group-A, Group-B and Group-C projects investment projects under provincial administration, exclusive of those regulated at Point c Clause 1 of this Article;

c) After decentralization or authorization, (s)he has the authority to decide on Group-B and Group-C investment projects proposed by subordinate agencies as stipulated at Point b of this Clause.

4. The President of the People's Committee of a district or commune has the authority to decide on:

a) Investment program totally financed by balanced budget at district and communal administrative levels and fund derived from revenues of the state budget that have been retained but not recorded in the local budget at district and communal administrative levels, which is under the decision-making authority of the People's Council of a district or commune;

b) Group-B and Group-C investment projects financed by local balanced fund allocated from the state budget at district or communal administrative levels and funds derived from revenues of the state budget that are retained but not recorded in the local budget balance at district or communal administrative levels;

c) The President of People's Committee of a district shall have the authority to assign and designate subordinate agencies to decide on investment projects as prescribed at Point b of this Clause.

#### **Article 40. Bases for formulation, appraisal and decision for public investment program or project**

1. Socio-economic development strategy and plan.

2. Socio-economic and sectoral development planning.

3. Significance of public investment program and project.

4. Objective of public investment program or project.

5. Investment intention decided by competent authorities.

6. Capability of mobilizing and balancing investment portfolio and other funds for investment program or project.

**Article 41. Procedural steps of formulation, appraisal and decision for national target program**

1. Based on the investment intention decided by the National Assembly, Program leader must submit feasibility study report to the Prime Minister.
2. The Prime Minister shall found the State Council for the appraisal of public investment program chaired by the Minister of Planning and Investment.
3. The State Council must perform the appraisal of contents as regulated in Clause 1 Article 47 and Clause 2 Article 48 of this Law.
4. Given the appraisal result of the State Council, Program leader must send feasibility study report and draft decision on investment program to the State Council for submission to the Prime Minister.
5. The Prime Minister shall consider and make the final decision.

**Article 42. Procedural steps of formulation, appraisal and decision for public investment program under the Prime Minister's authority to decide on investment intentions**

1. Based on the investment intention decided by the Prime Minister, Program leader must formulate and appraise the investment program for submission to the Prime Minister as prescribed by laws.
2. The Ministry of Planning and Investment must appraise all relevant contents regulated in Clause 1 Article 47 and Clause 2 Article 48 of this Law.
3. Program leader must send feasibility study report and draft decision on investment program to the State Council for submission to the Prime Minister.
4. The Prime Minister shall consider and make the final decision.

**Article 43. Procedural steps of formulation, appraisal and decision for public investment program under the People Council's authority to decide on investment intentions**

1. Based on the investment intention decided by the People's Council, Program leader must formulate and appraise the investment program for submission to the People's Committee at the same administrative level as prescribed by laws.
2. The People's Committee shall perform the appraisal of contents regulated in Clause 1 Article 47 and Clause 2 Article 48 of this Law.
3. Program leader must accomplish a perfect program and draft investment decision for submission to the President of the People's Committee for consideration and decision.

## **Article 44. Procedural steps of formulation, appraisal and decision for public investment project**

1. In terms of national important project:

a) Based on the investment intention decided by the National Assembly, Program leader must send the feasibility study report for the investment project to the governing body for consideration and submission to the Prime Minister;

b) The Ministry of Planning and Investment shall report the Prime Minister to establish the State Council for the appraisal of investment projects;

c) The State Council must perform the appraisal of contents as regulated in Clause 2 and 3 of Article 47 and Clause 2 of Article 48 of this Law;

d) Given the appraisal result, investors must report a complete investment project to their governing agencies for their approval before sending it to the State Council for the appraisal;

dd) The State Council of the appraisal must submit all relevant documents regarding the investment project to the Prime Minister for consideration and decision on the investment project.

2. In terms of non-construction projects :

a) Given the investment intention decided by competent authorities, Program leader must make a complete feasibility study report for submission to competent authorities for their investment decision;

b) Heads of central bodies and central committee of Vietnam Fatherland Front, socio-political institutions and other agencies or organizations as well as the President of the People's Committee at all administrative levels must establish the Council for the appraisal or assign investment management agency to perform the appraisal of investment project;

c) The appraisal council or investment management agency shall assess contents regulated in Clause 2 Article 47 and Clause 2 Article 48 of this Law;

d) Competent authorities shall decide on the investment after investors complete their feasibility study reports with reference to the appraisal result regulated at Point C of this Clause.

3. Procedural steps of formulation, appraisal and decision for construction investment projects must abide by legal regulations on construction and other relevant laws, exclusive of national important projects.

4. Procedural steps and contents of formulation, appraisal and decision for investment projects to be developed and executed in the form of public-private partnership must abide by legal



regulations, exclusive of national important projects.

**Article 45. Procedural steps of formulation, appraisal and decision for investment program or project financed by ODA funds and overseas concessional loans**

1. After obtaining the decision on investment intentions, the governing body shall issue the decision on investment intentions and assign investors to cooperate with donors to submit complete feasibility study reports for investment programs or projects to competent authorities for their decision on investment program or project.

2. In respect of investment program or project under the Prime Minister's jurisdiction as prescribed at Point c Clause 1 Article 39 of this Law:

a) Procedural steps of formulation, appraisal and decision for national target program and national important project shall comply with regulations specified in Article 41 and Clause 1 Article 44 of this Law;

b) The Ministry of Planning and Investment shall appraise feasibility study report for other investment projects for submission to the Prime Minister for the consideration and decision.

3. Head of the governing body must be responsible to perform the appraisal and make investment decision for investment program or project under their decision-making authority.

4. In terms of investment project or program financed by ODA fund and overseas concessional loans subject to domestic financial mechanism in the form of on-lending, the formulation and appraisal of investment program or project shall comply with this Law; financial plans for investment program or project, investor's financial competence as prescribed in the law on public debt management and other relevant laws must be appraised as well.

5. The agency who is assigned to lead the appraisal must call for contributing opinions from relevant agencies, consider procedural steps and progress of program or project execution as well as seek advice from donors.

**Article 46. Adjustment to investment program or project**

1. Competent authorities who have the authority to decide on investment program as stipulated in Article 39 of this Law must carry out the adjustment to investment programs in case of:

a) Objectives and conditions of investment program execution have been changed in the socio-economic development strategy, planning and proposal;

b) Investment intentions of competent authorities have been changed or suspended;

c) Due to unexpected circumstances, investment objectives and contents and costs and schedule of program execution have been changed.

2. Competent authorities who make the decision on investment projects according to regulations specified in Article 39 of this Law must adjust the investment project in case of:

a) Due to unexpected circumstances, investment objectives and contents and costs and schedule of program execution have been changed.

b) Due to aftermaths of natural disasters and other unexpected circumstances that occur after the expiry date of investment project insurance;

c) Elements that help to bring about higher efficiency in terms of financial and socio-economic issues appear, which is generated from the adjustment to investment project and appraised by competent agencies;

d) Adjustment to investment planning can impact the investment project;

dd) Price index during the project execution is higher than that used to calculate the rate of price slippage in proportion to total investment decided by competent authorities.

3. Competent authorities are only entitled to adjust investment program and project after examination and assessment according to regulations set out in this Law.

4. Procedural steps and contents of formulation and appraisal of adjusted investment program or project shall adhere to legal regulations.

#### **Article 47. Contents of feasibility study reports on programs and projects**

1. A feasibility study report on the public investment program must include:

a) The necessary for investment;

b) Assessment of current conditions of sector and field conformable to the targets and within the scope of the program; emergency issues needing handled;

c) General and specific objectives, result and important targets in each stage;

d) Scale and scope of the program;

dd) The subprojects constituting the program that must be run in order to achieve the objectives of the program, order of priority and time for carrying out such projects;

e) The estimated total capital to run the program, capital allocation according to the objectives, subprojects and time for implementation; capital sources and plan for capital mobilization;

g) Proposed schedule and progress of program execution;

h) Methods of running the program; policies on the program; the probability of integration with

other programs;

i) Request for international cooperation (if any);

k) The implementation of the program;

l) Evaluation of socio-economic effectiveness of the program.

2. A feasibility study report on non-construction projects must include:

a) The necessary for investment;

b) Assessment of conformity with the socio-economic development planning, sectoral development planning;

c) Analysis and determination of objectives, mandates and output result of the project; analysis and selection of suitable scale; determination of investment stages; selection of investment methods;

d) Analysis of natural conditions, technical-economic conditions and selection of investment location;

dd) Analysis and selection of technical methods, technology, equipment;

e) Plan for management and use of the project;

g) Environmental impact assessment and environmental protection measures;

h) Plan for compensation, site clearance and relocation;

i) Proposed progress and timeline of project execution;

k) Total investment, capital sources and plan for capital mobilization;

l) The cost of operation, maintenance and repair in the stage of project execution;

m) Project management including determination of investor, selection of methods of management, relationship and responsibilities of the entities related to the execution of the project and management of the project execution;

n) Analysis of investment efficiency including effectiveness and impacts on society, economy, security and defence; recovery of capital (if any).

3. The feasibility study reports on construction projects must comply with the regulations of the law on construction and other relevant laws.

## **Article 48. Applications, contents and time for assessment of programs and projects**

1. An application for assessment of programs and projects includes:

- a) A written request for assessment of programs and projects;
- b) A feasibility study report on programs and projects;
- c) Relevant documents.

2. Contents and time for assessment of programs and projects must comply with the regulations of the Government.

## **Chapter III**

### **FORMULATION, ASSESSMENT, APPROVAL AND ASSIGNMENT OF PLANS FOR PUBLIC INVESTMENT**

#### **Section 1: GENERAL PROVISIONS**

#### **Article 49. Classification of plans for public investment**

1. The plans for public investment that are classified according to time limit include:

- a) Medium-term plans for public investment that are formulated for 05 years and conformable with the 5-year-plans for socio-economic development ;
- a) Annual plans that are used for implementing the medium-term plans, balancing annual capital budget for public investment and conformable with the targets of the annual plans for socio-economic development.

2. The plans for public investment that are classified according to decentralization include:

- c) National plans for public investment;
- b) Plans for public investment of Ministries and central authorities;
- b) Plans for public investment of local authorities.

3. The plans for public investment that are classified according capital sources include:

- a) Investment plans funded by central budget, including investment in sectors and fields of Ministries, central authorities, central authorities of Vietnamese Fatherland Front, socio-political organizations, and other organizations and the projects on public investment funded by central budget for Ministries, regulatory authorities and local authorities;

- b) Investment plans financed by local revenues from the State budget;
- c) Investment plans financed by revenues which are retained but not recorded in the State budget balance;
- d) Investment plans financed by funds derived from Government bonds;
- dd) Investment plan financed by loan capital from the State;
- e) Investment plans financed by funds derived from municipal bonds and other loan capital from the local budget;
- g) Investment plans financed by funds derived from ODA and overseas concessional loans.

#### **Article 50. Bases for formulation of annual and medium-term plans for public investment**

1. Bases for formulation of a medium-term plan for public investment are:

- a) The implementation of the 5-year-plan for socio-economic development and the medium-term plan for public investment in the previous stage and the result of such implementation;
- b) The socio-economic development strategy, the 5-year-plans for socio-economic development of Vietnam, sector, field and province; national debt strategy; priorities in the 5-year-investment plan of Vietnam, sector, field and province
- c) The approved sectoral development planning and other relevant plans;
- d) Requirements and prediction about the mobilization of the investment sources for construction of socio-economic infrastructure; ability to balance the capital from the State budget, capital from Government bonds, capital generated from revenues which are retained but not recorded in the State budget balance;
- dd) Prediction about the effects of the national and international issues on the development and mobilization of the investment capital sources;
- e) Policies to attract the investment capital from the economic sectors to construct the socio-economic infrastructure.

2. Bases for formulation of an annual plan for public investment are:

- a) The implementation of the plan for socio-economic development of Vietnam, sector, field and province and the result of such development; result of the implementation of the plan for public investment in the previous year;
- b) Annual plan for socio-economic development;

c) Medium-term plan for public investment; emergency tasks that are not specified in the medium-term plan for public investment;

d) Requirements and ability to balance the capital sources to construct the socio-economic infrastructure in the plan year.

#### **Article 51. Principles to formulate annual and medium-term plans for public investment**

1. Such plans must conform to the targets of the socio-economic development strategy, annual or 5-year-plans for socio-economic development of Vietnam, sectors, fields, provinces and approved planning.

2. Such plans must conform to the ability to balance the capital budget for public investment and attract the capital from other economic sectors; secure the government debt.

3. The allocation of capital budget for public investment must comply with the principles, criteria, limit in each stage, which is approved by the competent authorities.

4. The capital shall be preferably allocated to the sectors, fields and provinces according to the targets and orientation to the development in each stage.

5. The transparency, impartiality and equality must be ensured.

6. There must be consistent management of targets and policies; division in management of investment under the regulations of the law to give more autonomy to the Ministries, regulatory authorities and local authorities and enhance the investment effectiveness.

7. Each annual plan for public investment must conform to the approved medium-term plan for public investment.

#### **Article 52. Contents of a report on medium plan for public investment submitted to competent authorities for approval**

1. The implementation and result of the implementation of the investment plan in the previous stage.

2. Targets for socio-economic development; targets and orientation toward medium-term investment.

3. Ability to mobilize and balance capital, the budget estimate to achieve the targets and perform the tasks in the socio-economic development, sectors and fields in the medium term, including the capital used for preparing investment, running the project, reimbursing the advance and repaying the loan capital from the local budget.

4. Principles and criteria of allocation of capital of medium-term plan for public investment.

5. The order of priority, list of projects and the capital allocated to each project in the medium term which is conformable to the ability to balance the capital budget for public investment and the ability to mobilize the capital from other sources to achieve the targets, perform the tasks and follow the orientation towards 05-year-plan for socio-economic development.

6. Methods of implementation and estimated result.

**Article 53. Contents of a report on annual plan for public investment submitted to competent authorities for approval**

1. The implementation of the plan for public investment in the previous year.

2. Orientation towards public investment in the plan year.

3. Ability to mobilize and balance the capital sources in the plan year.

4. List of projects and the specific amount of capital allocated to each project that is conformable to the list of projects of the medium-term plan for public investment and the ability to balance the annual capital sources.

5. The methods of management, implementation and estimated result.

**Article 54. Principles to allocate capital of annual and medium-term plans for public investment to programs and projects**

1. The programs and projects that do not belong to public investment shall not be allocated capital in order to achieve the targets, orientation towards strategy and plan for socio-economic development and approved planning.

2. The capital allocation must comply with the principles, criteria and limit that are regulated by the competent authorities.

3. The capital budget for public investment shall be preferably allocated to finish and accelerate the process of the national programs and projects, major programs and projects that significantly affect the socio-economic development of Vietnam and authorities.

4. The capital shall be allocated according to the order of priority as follows:

a) The projects that are finished and used having insufficient capital; projects that shall be completed on schedule; reciprocal capital for the projects using ODA and overseas concessional loans; capital from the Stage engaged in the projects following the method of Public-Private Partnerships;

b) The projects that are transferred to be carried out according to the approved rate of progress;

c) New projects satisfying the requirements prescribed in Clause 5 this Article.

5. The capital shall be allocated to the new programs and projects must satisfy these requirements:

a) The programs and projects are necessary and eligible to be allocated capital in accordance with the regulations in Article 55 and Article 56 of this Law;

b) The capital has been allocated to repay the outstanding debts arising from infrastructural construction in accordance with the regulations in Clause 2 Article 106 of this Law;

c) Sufficient amount of capital shall be allocated to finish the programs and projects on schedule.

6. The Government shall decide the rate of the reserve capital in the medium-term plans for public investment to deal with the problems occurring during the implementation of the medium-term plans for public investment.

**Article 55. Requirements for programs and projects eligible for allocation of capital in medium-term plans for public investment**

1. The competent authorities have decided the investment policies.

2. The capital sources and ability to balance the capital to run the programs and projects must be specified.

3. The programs and projects must comply with the regulations of the law on principles and criteria of allocation of capital budget for public investment.

**Article 56. Requirements for programs and projects eligible for allocation of capital in annual term plans for public investment**

1. The programs and projects must be in the list of medium-term plans for public investment, except for the emergency projects prescribed in Clause 1 and Clause 3 Article 33 of this Law.

2. The programs and projects are approved by the competent authorities.

3. The International Agreement on ODA and concessional loans is concluded regarding the programs and projects using the ODA and overseas concessional loans.

4. The new projects shall be allocated capital after the procedures for investment are completed under the regulations of the Government.

**Article 57. Capital for investment preparation and implementation of projects in annual and medium-term plans for public investment**



1. The capital for investment preparation shall be used for:
  - a) establishing, assessing and deciding the investment policies on the projects;
  - a) establishing, assessing and deciding the investment in the projects.
2. The capital for implementation of projects shall be used for clearing site, producing technical design, producing construction design, making project estimate or the items of the projects and running the finished projects having insufficient capital, projects scheduled to be completed, projects in process and new projects.
3. The capital for investment preparation and implementation of projects shall be balanced under the regulations of the Government.

**Article 58. Procedures for formulation and assessment of medium-term plans for public investment**

1. The Prime Minister shall promulgate the regulations on the formulation of the medium-term plan for public investment for the next stage including targets, orientation and assignment of the formulation of the medium-term plan for public investment according to the targets, orientation and the 05-year-plan for socio-economic development before the March 31 in the fourth year of the medium-term plan for public investment in the previous stage.
2. The Ministry of Planning and Investment shall provide instructions on targets, requirements, contents, deadline and process of the medium-term plan in the next stage for the Ministries, regulatory authorities and local authorities prior to May 15 in the fourth year in the previous stage.
3. According to the regulations promulgated by the Prime Minister and instructions provided by the Ministry of Planning and Investment, the Ministries, central authorities, central authorities of Vietnamese Fatherland Front, socio-political organizations and other organizations shall:
  - a) designate the regulatory authorities in charge of investment to provide instructions on the formulation of the medium-term plan for public investment;
  - b) designate the affiliated units to use capital budget for public investment to formulate the medium-term plan for public investment in the next stage within their competence and send a report to the superior authorities for consideration before September 15 in the fourth year of the medium-term plan for public investment in the previous stage and send the plan to the regulatory authorities in charge of investment before October 15 in the fourth year of the medium-term plan for public investment in the previous stage;
  - c) designate the regulatory authorities in charge of investment to assess the medium-term plan for public investment in the next stage before November 15 in the fourth year of the medium-term plan for public investment in the previous stage;

d) designate the regulatory authorities in charge of investment to formulate the medium-term plan for public investment, send it to the competent authorities for consideration and send it to the Ministry of Planning and Investment and the Ministry of Finance before December 31 in the fourth year of the medium-term plan for public investment in the previous stage.

4. According to the regulations promulgated by the Prime Minister and instructions provided by the Ministry of Planning and Investment and the People's Committees of provinces:

a) instruct the local authorities and units to formulate the medium-term plan for public investment in the next stage before June 15 in the fourth year of the medium-term plan for public investment in the previous stage.

b) designate the units using the capital budget for public investment to formulate and assess the medium-term plan for public investment in the previous stage within their competence, send a report to the superior authorities for consideration before September 15 in the fourth year of the medium-term plan for public investment in the previous stage and send the plan to the provincial Departments of Planning and Investment before October 15 in the fourth year of the medium-term plan for public investment in the previous stage;

c) conduct assessment or designate the provincial Departments of Planning and Investment to conduct assessment of the medium-term plans for public investment of provincial departments, divisions and units before November 15 in the fourth year of the medium-term plans for public investment in the previous stage;

d) designate the provincial Departments of Planning and Investment to formulate the provincial medium-term plans for public investment and send them to the People's Committees of provinces before November 30 in the fourth year of the medium-term plan for public investment in the previous stage;

dd) request the People's Councils of provinces to give opinions about the medium-term plans for public investment in the next stage including the specific list of projects using capital budget for public investment and allocated rate of each project;

e) complete the medium-term plan for public investment and send it to the Ministry of Planning and Investment and the Ministry of Finance before December 31 in the fourth year of the medium-term plan for public investment in the previous stage.

5. The People's Committees of districts shall conduct assessment or designate the regulatory authorities in charge of investment to assess their medium-term plans for public investment , request the People's Councils of districts to give opinions and send them to the People's Committees of provinces in accordance to the regulations in Clause 4 this Article.

6. The Ministry of Finance shall take charge and cooperate with the Ministry of Planning and Investment in making the Stage budget estimate in the next stage; determining the ability to mobilize the capital from Government bonds before January 31 in the fifth year of the medium-

term plan for public investment in the previous stage.

7. From February 01 to April 30 in the fifth year of the medium-term plans for public investment in the previous stage, the Ministry of Planning and Investment shall take charge of assessing such plans and the plan for capital allocation including:

a) Medium-term plans for public investment financed by funds derived from the State budget, Government bonds, loan capital from the State, ODA and overseas concessional loans, revenues which are retained but not recorded in the State budget balance of the Ministries, central authorities, central authorities of Vietnamese Fatherland Front, socio-political organizations and other organizations;

b) Medium-term plans for investment financed by funds derived from central budget, Government bonds, ODA and overseas concessional loans of the People's Committees of provinces.

8. After receiving the result of assessment conducted by the Ministry of Planning and Investment, the People's Committee of province shall:

a) designate the People's Committee of district to complete the its medium-term plan for public investment, request the People's Council of district to give opinions and send it to the People's Committee of province before May 31 in the fifth year of the medium-term plan for public investment in the previous stage;

b) designate the provincial Department of Planning and Investment to complete its medium-term plan for public investment, request the People's Committee of province to send it to People's Council of province before June 15 in the fifth year of the medium-term plan for public investment in the previous stage;

e) complete the medium-term plan for public investment in the next stage and send it to the Ministry of Planning and Investment and the Ministry of Finance before June 30 in the fifth year of the medium-term plan for public investment in the previous stage.

9. After receiving the assessment result of the Ministry of Planning and Investment, every Ministry, central authority, authority of Vietnamese Fatherland Front, socio-political organization and other organization shall complete the medium-term plan for public investment in the next stage and send it to the Ministry of Planning and Investment and the Ministry of Finance before June 30 in the fifth year of the medium-term plan for public investment in the previous stage.

10. The Ministry of Planning and Investment shall report the medium-term plans for public investment before July 31 in the fifth year of the medium-term plan for public investment in the previous stage.

**Article 59. Procedures for formulation and assessment of annual plans for public**

## **investment**

1. The Prime Minister shall provide regulations on the formulation of the plan for socio-economic development and state budget estimates in the next year including targets, orientation and assignment to formulate the plan for public investment in the next year before May 15 each year.
2. The Ministry of Planning and Investment shall provide instructions on the plan for socio-economic development, targets, requirements, contents, deadline and process of formulation of plan for public investment in the next year before June 15 each year.
3. Every Ministry, regulatory authority and local authority shall instruct their inferior units to formulate the plan for public investment in the next year before June 30 each year.
4. Every regulatory authority in charge of investment, the provincial Departments of Planning and Investment shall formulate, assess and summarize the plans for public investment for the next year within their competence and send a report to the People's Committees at the same level before July 20 each year.
5. The People's Committee shall request the People's Council at the same level to approve the draft of the plan for public investment for the next year including the list of projects and allocated rate for each project according to each capital source and send the approved draft of the plan to the inferior authority before July 25 each year.
6. Every Ministry, regulatory authority and local authority shall complete the plan for public investment for the next year and send it to the Ministry of Planning and Investment and the Ministry of Finance before July 31 each year.
7. The Ministry of Finance shall take charge and cooperate with the Ministry of Planning and Investment in estimating the receipts and expenditures using the State budget and investment from the State budget, and issuing Government bonds for the plan in the next year before August 15 each year.
8. The Ministry of Planning and Investment shall take charge of assessing the plan for public investment for the next year and plan to allocate capital including:
  - a) Capital from the State budget, capital from Government bonds, loan capital from the State, ODA and overseas concessional loans of the Ministries, regulatory authorities and local authorities;
  - b) Capital generated from revenues which are retained but not recorded in the state budget balance of the Ministries, central authorities, central authorities of Vietnamese Fatherland Front, socio-political organizations and other organizations.
9. After receiving the assessment result of the Ministry of Planning and Investment, every Ministry, regulatory authority and local authority shall complete the plan for public investment

for the next year and send it to the Ministry of Planning and Investment and the Ministry of Finance before September 10 each year.

10. The Ministry of Planning and Investment shall summarize the national plan for public investment for the next year and report that to the Government before September 20 each year.

11. The procedures for formulation and assessment of annual plans for public investment shall be administered by the authorities of districts under the regulations of the Government.

**Section 2: FORMULATION, ASSESSMENT, APPROVAL AND ASSIGNMENT OF INVESTMENT PLANS FINANCED BY FUNDS DERIVED FROM STATE BUDGET, GOVERNMENT BONDS, MUNICIPAL BONDS, REVENUES WHICH ARE RETAINED BUT NOT RECORDED IN STATE BUDGET BALANCE AND LOAN CAPITAL FROM LOCAL BUDGET**

**Article 60. Principles to make list of projects and plan for budget allocated to each project in annual and medium-term plan funded by State budget**

1. Comply with the regulations in Articles 54, 55, 56 and 57 of this Law.
2. Conform to the ability to balance the capital from the State budget in the annual and medium-term plan for public investment and the estimated ability to mobilize other capital sources regarding the projects using different capital sources.
3. Belong to the approved programs and tasks using development investment expenditures funded by the State budget.
4. Capital and ability to balance capital shall be assessed by competent authorities regarding the projects funded by the State budget that are not their jurisdiction.
5. Conform to the principles, criteria and allocation rate of development investment capital from the State budget in each period under the regulations of the Government.
6. Do not exceed the total capital of the approved programs and projects.

**Article 61. Principles to make list of projects and plan for budget allocated to each project in annual and medium-term investment plan using local revenues from the State budget**

1. Comply with the regulations in Articles 54, 55, 56, 57 and Clause 5, Clause 6 in Article 60 of this Law.
2. Conform to the revenues and expenditures from the local budget, annual and medium-term plan for public investment, the mobilization of other capital sources in case of projects using different capital sources.
3. Belong to the approved programs and tasks using development investment expenditures

funded by the local revenues from the State budget.

4. Capital and ability to balance capital shall be assessed by competent authorities regarding the projects funded by local budget that are not their jurisdiction.

**Article 62. Principles to make list of projects and plan for budget allocated to each project in annual and medium-term investment plan using capital generated from revenues which are retained but not recorded in the State budget balance.**

1. The compilation of the list of projects and plan for budget allocated to each project in annual and medium-term investment plan using capital generated from revenues which are retained but not recorded in the State budget balance must comply with the regulations in Article 60 of this Law.

2. The allocation and use of capital generated from revenues which are retained but not recorded in the State budget balance must conform to the targets prescribed in the Resolution of the National Assembly and regulations of the Government.

**Article 63. Principles to make list of projects and plan for budget allocated to each project in annual and medium-term investment plan financed by funds derived from municipal bonds and other loan capital from the local budget**

1. Comply with the regulations in Article 51 and Article 54 of this Law.

2. Conform to the mobilization of loan capital and other capital resources.

3. Ensure the balance of local budget to repay the capital from municipal bonds and other loan capital from the local budget according to the date of repayment.

4. Do not use the target transfers from the central budget and capital from Government bonds to repay the capital from municipal bonds and other loans from the local budget.

5. Do not use the local revenues from the State budget to pay the interest and fees for the capital from municipal bonds and other loan capital from the local budget, except for the interest and fees included in the approved total investment in each project.

6. The projects financed by funds derived from municipal bonds and other loan capital from the local budget must be included in the list of projects in the approved medium investment plan funded by the State budget. The capital allocated to the projects must not exceed the capital for the approved medium investment plan funded by the State budget.

7. The projects using other loan capital from the local budget must be included in the in the list of projects in the approved medium investment plan funded by the State budget. The capital allocated to the projects must not exceed the capital for the approved medium investment plan funded by the State budget.

**Article 64. Principles to make list of projects and plan for budget allocated to each project in annual and medium-term plan financed by funds derived from Government bonds**

1. Comply with the regulations in Articles 54, 55, 56 and 57 of this Law.
2. Conform to the mobilization of capital from Government bonds in the annual and medium-term plan for public investment.
3. Use the capital from Government bonds.
4. The capital sources and ability to balance the capital has been assessed by the competent authorities.
5. Conform to the principles, criteria and allocation rate of capital from Government bonds in each period under the regulations of the Government.
6. Do not exceed the total capital of the approved programs and projects.

**Article 65. Submitting, approving and assigning medium-term investment plan financed by funds derived from State budget and Government bonds**

1. The Government shall submit the medium-term plan for public investment financed by funds derived from the State budget and Government bonds for the next stage before October 20 in the fifth year of the medium-term plan for public investment for the previous stage.
2. Before November 10 in the fifth year of the medium-term plan for public investment for the previous stage, the National Assembly shall decide the medium-term plan for public investment for the next stage, including:
  - a) Targets and orientation towards the medium-term investment financed by funds derived from the State budget and Government bonds;
  - b) Total investment funded by the State budget;
  - c) Total capital from Government bonds;
  - d) List of national target programs and projects of national importance;
  - dd) Solutions and policies to implement the medium-term plan for public investment.
3. The Prime Minister shall assign the medium-term plan for public investment financed by funds derived from the State budget and Government bonds to the Ministries, regulatory authorities and local authorities before December 10 in the fifth year of the medium-term plan for public investment for the previous stage.
4. The Ministry of Planning and Investment shall assign the medium-term plan for public

investment financed by funds derived from central budget and Government bonds to the Ministries, regulatory authorities and local authorities before December 31 in the fifth year of the medium-plan for public investment for the previous stage.

**Article 66. Submitting, approving and assigning annual investment plan financed by funds derived from State budget and Government bonds**

1. The Government shall submit the investment plan funded by the State budget for the next year before October 20 each year.
2. The National Assembly shall decide the investment plan funded by the State budget for the next year before November 20 each year.
3. The Government shall decide the total investment in the plan for public investment financed by funds derived from Government bonds for the next year according to the total capital from Government bonds that is decided by the National Assembly in the medium-term plan for public investment before November 20 each year.
4. The Prime Minister shall assign the plan for public investment funded by the State budget for the next year according to the total capital decided by the provided for the National Assembly to the Ministries, regulatory authorities and local authorities before November 30 each year.
5. The Prime Minister shall assign the list and total capital of the plan for public investment funded by the central budget and Government bonds for the next year to the Ministries, regulatory authorities and local authorities before December 15 each year.
6. The Ministry of Planning and Investment shall assign the list and investment for the next year funded by the central budget and Government bonds of each project to the Ministries, Regulatory authorities and local authorities before December 20 each year.
7. The Ministries, regulatory authorities and local authorities shall assign the investment plan financed by funds derived from central budget and Government bonds for the next year to the units before December 31 each year.

**Article 67. Submitting, approving and assigning medium-term plan for public investment financed by funds derived from local revenues from the State budget, municipal bonds, revenues which are retained but not recorded in the state budget balance and other loan capital from the local budget**

1. The People's Committee shall submit the medium-term plan for public investment to the People's Council at the same level before November 10 in the fifth year of the medium-term plan for public investment for the previous term. Such submitted plan must include the list of programs and projects and the capital allocated to each project according to each capital source provided for the medium-term plan for public investment.
2. The People's Councils of provinces shall decide the medium-term plan for public investment



including total capital for the medium-term plan for public investment and the amount of capital allocated to each project according to each capital source before December 20 in the fifth year of the medium-term plan for public investment for in the previous stage.

3. The People's Councils of districts shall decide the medium-term plan for public investment including total capital for the medium-term plan for public investment, the list and the amount of local revenues from the State budget and revenues which are retained but not recorded in the state budget balance allocated to each project before December 25 in the fifth year of the medium-term plan for public investment in the previous term.

4. The People's Committees shall assign the medium-term plan for public investment to the units before December 31 in the fifth year of the medium-term plan for public investment in the previous stage.

**Article 68. Submitting, approving and assigning annual plan for public investment financed by funds derived from local revenues from the State budget, municipal bonds, revenues which are retained but not recorded in state budget balance and other loan capital from local budget**

1. The People's Committee shall submit the investment plan for the next year including the list and the amount of capital allocated to each project according to each capital source to the People's Council at the same level before November 20 each year.

2. The People's Councils of provinces shall decide the investment plan for the next year including the list and amount of capital allocated to each project according to each project before December 10 each year.

3. The People's Councils of districts shall decide the investment plan for the next year including the list and the amount of local revenues from the State budget and capital generated from revenues which are retained but not recorded in the state budget balance allocated to each project before December 20 each year.

4. The People's Committees shall assign the investment plan to the units before December 31 each year.

**Section 3: FORMULATION, ASSESSMENT, APPROVAL AND ASSIGNMENT OF INVESTMENT PLANS USING LOAN CAPITAL FROM THE STATE, ODA AND OVERSEAS CONCESSIONAL LOANS**

**Article 69. Formulation, assessment, approval and assignment of investment plans using loan capital from the State**

1. Requirements for formulation of an investment plan using loan capital from the State are:

a) The project in the sector or field allowed to use the loan capital from the State must ensure the

recovery of capital, effectiveness and solvency;

b) The investor must use the loan capital for the right purposes; repay sufficient loan and interest on time according to the credit agreement; fulfill the commitments in the contract and comply with the regulations of the law.

The Government shall specify the sectors, fields and provide the capital rate for the projects using the loan capital from the State; specify the assessment of the financial plan, plan to repay the loan capital of each project.

2. The establishment and assessment of the annual and medium-term plans for investment using the loan capital from the State must comply with the regulations in Articles 50, 51, 52, 53, 55, 56, 58 and 59 of this Law.

3. A medium-term plan for investment using loan capital from the State shall be assigned as follows:

a) The Prime Minister shall assign the medium-term plan for investment using loan capital from the State of the next stage before December 10 in the fifth year of the medium-term plan for investment of the previous stage;

a) The Ministry of Planning and Investment shall assign the medium-term plan for investment using loan capital from the State of the next stage according to the sector, field and program before December 31 in the fifth year of the medium-term plan for investment of the previous stage;

4. An annual plan for investment using loan capital from the State shall be assigned as follows:

a) The Prime Minister shall assign the investment plan for the next year before December 15 each year;

b) The Ministry of Planning and Investment shall assign the investment plan for the next year according to sectors, fields and program before December 20 each year.

**Article 70. Principles to make annual and medium-term plans for public investment using ODA and overseas concessional loans**

1. Each annual and medium-term plan for public investment using ODA and overseas concessional loans must be made based on the plan to run the annual programs and projects that are approved by competent authorities and the rate of progress agreed with the foreign donors.

2. Each annual and medium-term plan using ODA and overseas concessional loans must satisfy these following requirements:

a) The contents must be specified according to each component; each primary activity of programs and projects; each sponsored capital and counterpart fund resource and other capital

resource; fundamental description and bases for determining each item;

b) The regulatory authority shall make and submit the plan for ODA, overseas concessional loans and counterpart fund according to the expenditures of programs and projects (if the programs and projects are funded by the investment funds and State budget;

c) If the programs and projects are governed by several units, each unit shall make a plan for the proportion of the project for which it is responsible. The managing authority shall summarize the master plan for the programs and projects;

d) The counterpart fund in the annual and medium-term plan for public investment shall be balanced in compliance with the agreement signed with the foreign donors and the actual annual disbursement of the programs and projects. Fund derives from ODA and overseas concessional loans shall be used as reciprocal capital of that is approved by the Prime Minister and foreign donors.

#### **Article 71. Formulating, assessing and approving investment plans funded ODA and overseas concessional loans**

1. The investment plans funded ODA and overseas concessional loans shall be formulated, assessed and approved in accordance with the regulations in Articles 50, 51, 52, 53, 55, 56, 58, 59 and 70 of this Law.

2. The overall plan and annual detailed plan for programs and projects shall be made as follows:

a) The overall investment plan shall be made for the whole duration of the implementation of programs and projects and include all of the components, items, resources and rate of progress;

b) The program leaders and investors shall cooperate with the donors in making, updating or inspecting the overall investment plan and submitting it to the governing body for consideration and approval according to the documents on the approved programs and projects an the International Agreement on ODA and overseas concessional loans within 45 days from the conclusion of the International Agreement on ODA and overseas concessional loans.

c) With regard to the programs and projects composed of several components, the investment plan for programs and projects shall include the overall plan and detailed plan for each component. The Head of the governing body in charge of programs and projects shall approve the general plan for programs and projects; the Head of governing body in charge of plans for components shall approve such plans;

d) The governing body shall send the Decision on approval enclosed with the investment plan for programs and projects to the Ministry of Planning and Investment, relevant authorities and donors to facilitate the supervision, assessment and implementation of programs and projects within 10 days from the approval for the investment plan for programs and projects.

3. Each plan funded ODA and overseas concessional loans shall be submitted, approved and

assigned as follows:

a) The plan funded by ODA and overseas concessional loans included in the State budget shall be submitted, approved and assigned in accordance with the regulations in Article 65 and 66 of this Law;

a) The plan funded by ODA and overseas concessional loans that are applied the domestic financial mechanism shall be submitted, approved and assigned following the method of on-lend in accordance with the regulations in Article 69 of this Law.

## **Chapter IV**

### **IMPLEMENTATION, SUPERVISION, INSPECTION AND ASSESSMENT OF PLANS FOR PUBLIC INVESTMENT**

#### **Section 1: IMPLEMENTATION OF PLANS FOR PUBLIC INVESTMENT**

##### **Article 72. Operation of plans for public investment**

1. Pursuant to the Resolution of the National Assembly on the annual and medium-term plans for public investment, the Government shall provide instructions on the implementation.

2. Pursuant to the Resolution of the National Assembly, Decision to assign the plans of the competent authorities, Resolution of the People's Councils on the annual and medium-term plans for public investment, the Ministries, regulatory authorities, local authorities, the People's Committees of districts and the units using the capital budget for public investment shall give instructions on the operation of the plans for public investment using the capital under their management.

3. The Prime Minister shall administer and integrate the capital sources to implement the programs financed by funds derived from the State budget, the Government bonds of the Ministries, regulatory authorities, local authorities and units using the capital budget for public investment provided that the targets of the programs and projects shall not be changed.

4. The Presidents of the People's Committees of provinces shall administer and integrate the capital sources to run the programs and projects financed by the funds derived from local revenues from the State budget, municipal bonds, capital generated from provincial revenues which are retained but not recorded in the state budget balance and other loan capital from the local budget provided that the targets for the programs and projects shall not be changed.

##### **Article 73. Compliance with plans for public investment**

1. The Ministries, regulatory authorities, local authorities and the People's Committees of districts shall:

a) Announce or assign the plans for public investment to the units using the capital budget for

public investment;

b) Report the assignment to the plans for public investment to the competent authorities.

2. The units using the capital budget for public investment shall report the implementation of the plans to the competent authorities under the regulations of the Government.

3. The Ministry of Planning and Investment and professional agency in charge of public investment management shall conduct inspection to ensure the assignment and compliance with the plans for public investment according to the Decision of the competent authorities.

#### **Article 74. Implementation of plans for public investment**

1. The Ministries, regulatory authorities, local authorities, the People's Committees of districts and units using the capital budget for public investment shall:

a) Implement the plans for public investment according to the targets approved by the competent authorities;

b) Carry out the projects on schedule according to the capital plans approved by the competent authorities;

c) Make the plans for auction and appointment of contractors regarding the contracts of the projects that are allocated capital according to the plans for public investment that are approved by the competent authorities;

d) Inspect and make payment according to the contracts that are finished and transferred;

dd) Balance the capital sources to pay off the outstanding debts derived from infrastructural development in accordance with the regulations in Clause 2 Article 106 of this Law;

e) Ensure the scope and scale of each project according to the targets, fields and programs that are approved and according to the capital plans that are implemented;

g) Supervise, inspect and assess the implementation of the plans for public investment.

2. The Ministry of Planning and Investment shall instruct, supervise and inspect the implementation of the annual and medium-term plans for public investment of the Ministries, central authorities and the People's Committees of provinces.

3. The Ministry of Finance shall provide the capital according to the plans for public investment that are approved by the competent authorities.

4. The Government shall provide instructions on the implementation of the plans for public investment.

## **Article 75. Adjustment to plans for public investment**

1. The National Assembly shall make overall adjustment to the annual and medium-term plans for investment financed by funds derived from the State budget and Government bonds when:

- a) There is adjustment to the targets for the strategy and national plan for socio-economic development;
- b) There are dramatic changes in the balance of the State budget or the mobilization of capital sources.

2. The National Assembly Standing committee shall make adjustment to the annual and medium-term plans for investment financed by funds derived from the State budget and Government bonds among the Ministries, regulatory authorities and local authorities if the total capital of the annual and medium-term plans for investment that are approved by the National Assembly is not be changed.

3. According to the conditions in each period, the Prime Minister shall adjust:

- a) the medium-term plans for investment financed by funds derived from the central budget and the Government bonds of the appointed Ministries, regulatory authorities and local authorities in accordance with the regulations in Clause 3 Article 65 of this Law in the total capital of each Ministry, regulatory authority and local authority that is approved by the National Assembly;
- b) the annual plans for investment financed by funds derived from the central budget and Government bonds among the sectors, fields and programs of the entities prescribed in Clause 4 and Clause 5 Article 66 of this Law;
- c) Annual and medium-term plans for investment using loan capital from the State;
- d) Annual and medium-term plans for investment in programs and projects using ODA and overseas concessional loans used in such governing bodies.

4. The Ministry of Planning and Investment shall:

- a) Take charge of assessing the plan to adjust the annual and medium-term plans for investment financed by funds derived from central budget, Government bonds and bonds among the sectors, fields and programs of the Ministries, regulatory authorities and local authorities and send reports to the Prime Minister for consideration;
- a) Take charge of assessing the plan to adjust the medium-term plans for investment financed by funds derived from central budget, Government bonds used for the sectors, fields and programs of the Ministries, regulatory authorities and local authorities and send reports to the Prime Minister for consideration;
- c) Adjust the annual plans for investment financed by funds derived from central budget and

Government bonds in the sectors, fields and programs of the Ministries, regulatory authorities and local authorities provided that such capital must not exceed the total capital of the medium-term investment plan of each project that is approved by the competent authorities.

The Ministry of Planning and Investment shall report the adjustment to the previous investment plan prescribed in this point to the Prime Minister before March 31 each year.

5. The People's Councils of provinces shall adjust the annual and medium-term plans for investment financed by funds derived from local revenues from the State budget, the municipal bonds, revenues which are retained but not recorded in the state budget balance and other loan capital from the local budget when:

- a) There is adjustment to the targets local plan for socio-economic development;
- b) There are dramatic changes in the balance of local budget revenues or the mobilization of capital sources;
- c) There are changes in the use or and the amount of capital of the annual plans among the local authorities and units.

6. The People's Committees shall adjust the annual and medium-term plans for investment financed by funds derived from the local revenues from the State budget, municipal bonds, revenues which are retained but not recorded in the state budget balance and other loan capital from the local budget used for investing among the sectors, fields and programs and in the sectors, fields and programs of the units using such capital and send report to the People's Council at the same level in the next meetings.

#### **Article 76. Time for disbursement of capital of annual and medium-term plans for public investment**

1. With regard to the projects financed by funds derived from the State budget, Government bonds, municipal bonds and the revenues which are retained but not recorded in the state budget balance:

- a) The capital of a medium-term plan for public investment must be disbursed before December 31 in the initial year of the plan for public investment in the later stage;
- b) The capital of a plan for public investment shall be disbursed until the following year. The time for disbursement can be extended in special cases or cases approved by competent authorities. Such extension must not exceed the medium-term plan for public investment.

2. With regard to the programs and projects using ODA and overseas concessional loans:

- a) The capital of an annual or medium-term plan for public investment in compliance with the International Agreement on ODA and concessional loans signed with the foreign donors;

b) The amount of the foreign capital of an annual plan for public investment shall be disbursed in proportion to the progress of the capital provision by the foreign donors.

3. With regard to any project using the loan capital from the State, other loan capital from the local budget, such capital shall be disbursed in proportion to the date of repayment.

## **Section 2: SUPERVISION, INSPECTION, ASSESSMENT OF PLANS, PROGRAMS AND PROJECTS ON PUBLIC INVESTMENT**

### **Article 77. Supervising and inspecting plans for public investment**

1. The professional agency in charge of public investment management shall supervise and inspect the plans for public investment of the units under their management.

2. The regulatory authorities in charge of public investment shall supervise and inspect:

a) The compliance with the regulation of the law on public investment;

b) The establishment, assessment, approval and assignment of the plans for public investment;

b) The establishment, assessment, approval and implementation of the programs and projects mentioned in the plans for public investment;

d) The implementation of the plans for public investment;

dd) The outstanding debts arising from infrastructural construction and loss on public investment.

### **Article 78. Assessment of plans for public investment**

1. Article 78. Assessment of plans for public investment

2. The annual plan for public investment shall be assessed quarterly and annually.

3. The contents of the plans for public investment that are assessed are:

a) The performance of the plans that are approved by the competent authorities.

b) Effects of the plans for public investment on attracting the investors from other capital sources and the consequence of socio-economic development;

c) The feasibility of the plans for public investment;

d) The management of public investment;



dd) The remaining issues; the reasons and solutions to such remaining issues.

### **Article 79. Supervising and inspecting programs and projects**

1. The governing bodies, program leaders, investors and the competent persons to decide the investment in the programs and projects and the competent authorities in charge of public investment shall supervise and inspect the investment in the programs and projects according to the contents and targets that are approved to ensure the targets and investment effectiveness.

2. The programs and projects shall be inspected as follows:

a) The program leaders and investors shall inspect the programs and projects that they are assigned;

b) The governing bodies, competent persons to decide the investment shall conduct at least one inspection of programs and projects to be completed after 12 months;

b) The governing bodies, competent persons to decide the investment shall conduct inspection when there is adjustment to the programs and projects leading to the change of the location, targets, scope, the increase in the total investment and other necessary cases;

d) The competent authorities in charge of public investment shall conduct scheduled or surprise inspection of the programs and projects.

### **Article 80. Assessment of programs and projects**

1. Assessment of programs and projects includes initial, midterm, final or stage assessment, impact assessment and surprise assessment.

2. It is required to conduct midterm or stage assessment, final assessment and impact assessment of the plans for public assessment.

3. It is required to conduct initial, midterm, final assessment and impact assessment of the projects of national importance and group-A-projects.

4. It is required to conduct final assessment and impact assessment of the projects of national importance and group-A-projects.

5. In addition to the regulations in Clauses 2, 3 and 4 this Article, the governing bodies and competent persons to decide the investment and the competent authorities in charge of public investment shall conduct other forms assessment prescribed in Clause 1 this Article if necessary.

### **Article 81. Assessed contents of programs and projects**

1. It is required to conduct initial assessment of:

a) The preparation, organization and mobilization of the resources to implement the programs and projects provided in order to ensure the approved targets and progress.

b) Problems occurring after the programs and projects are approved;

c) Solutions to the problems that are conformable with the actual conditions.

2. It is required to conduct midterm and stage assessment of:

a) The conformity of the result of the implementation of the programs and projects to the investment targets;

b) The performance of the workload at the time of assessment in proportion to the approved plan;

c) The necessary solutions including the adjustment to the programs and projects.

3. It is required to conduct final assessment of:

a) The process of the implementation of the programs and projects including: the result of the implementation of the targets of the programs and projects; the mobilized resources; the advantages that the beneficiaries receive from the programs and projects, the impacts and the stability of the programs and projects;

b) The experience from the implementation of the programs and projects and the necessary recommendations; responsibilities of the advisory organizations, governing bodies, program leaders, investors, competent persons to decide the investment policies, investment and the relevant entities.

4. It is required to conduct impact assessment of:

a) The economic-technological operation;

b) The socio-economic impacts;

b) Impacts on environment and ecosystem;

d) The stability of the projects;

dd) The experience from the investment policies, Decision on investment, implementation and operation of the programs and projects; responsibilities of the advisory organizations, governing bodies, program leaders, Investors, competent persons to decide investment policies, investment and relevant entities.

5. It is required to conduct surprise assessment of:

a) The conformity of the result of the implementation of the programs and projects to the

investment targets at the time of assessment;

b) The performance of the workload at the time of assessment in proportion to the approved plan;

c) Unexpected problems (if any), reason for such problems and responsibilities of the relevant entities;

d) The effects and the seriousness of the effects of the unexpected problems on the implementation of the programs and projects, the capability to achieve the targets of the programs and projects;

dd) Necessary solutions.

### **Article 82. Public investment supervision**

1. The programs and projects shall be supervised by the community. The Vietnamese Fatherland Front shall take charge of the investment project by the community.

2. The governing body shall collect the opinions of the residential community at the places where the projects are carried out about the Decision on investment in the projects of national importance, group-A-projects, projects requiring the major relocation, projects that are likely to exert dramatic effects on the environment, projects directly affecting the socio-economic conditions of the residential community at the places where the projects are carried out and the opinions about the investment policies, construction, location, sewage treatment, environment protection, compensation, site clearance and plans for relocation under the regulations of the law.

3. The community shall supervise:

a) the compliance with the regulations of the law on investment, construction land, waste treatment and environment protection;

b) compensation, site clearance and plan for relocation provided that the benefits of locals are secured;

c) programs and projects funded by an amount of the locals' contribution;

d) the implementation and rate of progress of programs and projects;

dd) the compliance with the regulations in Article 14 of this Law;

e) negative effects on the community's benefits; negative effects on community's living environment during the investment and implementation of projects; activities leading to loss of fund and property of projects.

### **Article 83. Procedures for public supervision**

1. The Vietnamese Fatherland Front shall take charge and cooperate with the socio-political organizations and relevant authorities in:

a) formulating the plan for the public supervision on the annual local programs and projects according to the regulations in the Clause 3 Article 82 of this Law;

b) establishing the public supervision team for each program and project;

c) notifying the program leaders, investors and the managing Board of the programs and projects of the supervision plan and the members of the local investment supervision team within 45 days prior to the implementation.

2. The program leaders, investors and managing Board of the programs and projects shall:

a) Provide sufficient and accurate documents related to the execution of the programs and projects prescribed in Clause 2 Article 82 of this law for the public investment supervision team;

b) Facilitate the public investment supervision team under the regulations of the law.

c) Enhance the measures to carry out the projects.

#### **Article 84. Supervising, inspecting and evaluating plans, programs and projects**

1. The program leaders and investors shall conduct initial, mid-term and final supervision, inspection and assessment of the programs and projects.

2. The governing body, investment decision-makers and the regulatory authorities in charge of public investment shall conduct supervision, impact assessment and surprise assessment of the programs and projects under their management.

3. The assessing body shall conduct assessment or employ eligible experts or advisory organizations to conduct assessment.

4. The Government shall give instructions on the supervision, inspection and assessment of the plans, programs and projects and public investment supervision.

#### **Article 85. Inspection of public investment**

1. The inspection of the management and use of the capital budget for public investment must comply with the regulations of this Law and other relevant laws.

2. The inspection of the public investment must be associated with the functions and duties of the entities and must follow the procedures for inspection under the regulations of the law on inspection.

3. The result of the inspection of public investment activities must be published under the

regulations of the law. In case of any violation against the law on public investment, the inspecting authority shall impose penalties within their competence or transfer the dossiers on the violation to the competent authorities for consideration.

## **Chapter V**

### **OBLIGATIONS, ENTITLEMENTS AND RESPONSIBILITIES OF AUTHORITIES, ORGANIZATIONS AND INDIVIDUALS INVOLVED IN PUBLIC INVESTMENT ACTIVITIES**

#### **Article 86. Obligations and entitlements of National Assembly**

1. Promulgate laws and Resolutions on public investment.
2. Decide the investment policies on the national target programs and projects using the public investment capital.
3. Decide and adjust the annual and medium-term plans for public investment.
4. Adjust the criteria used for classifying the projects of national importance.
5. Supervise the implementation of the plans for public investment, national target programs and projects of national importance; supervise the compliance with the law on public investment.

#### **Article 87. Obligations and entitlements of Government**

1. Ensure consistent management of public investment.
2. Request the National Assembly to promulgate the laws and resolutions; request the National Assembly Standing Committee to promulgate the ordinances and resolutions on public investment.
3. Promulgate the legal documents on management of public investment.
4. Request the National Assembly to decide the investment policies on the national target programs and projects of national importance.
5. Decide the investment policies on the target programs in accordance with the regulations in Clause 2 Article 17 of this Law.
6. Formulate the annual and medium-term plans for public investment and request the National Assembly to decide and adjust them.
7. Implement the annual and medium-term plans for public investment.
8. Report the implementation of the annual and medium-term plans for public investment,

national target programs and projects of national importance to the National Assembly.

9. Inspect the implementation of the annual and medium-term plans for public investment; inspect the execution of the programs and projects financed by funds derived from central budget and government bonds; inspect the targets and investment policies on public investment of the local authorities.

#### **Article 88. Obligations and entitlements of Ministry of Planning and Investment**

1. Be responsible to the Government for the consistent management of public investment.
2. Promulgate or request the competent authorities to promulgate the legal documents related to public investment, principles, criteria, allocated rate and use of the capital budget for investment.
3. Take charge and cooperate with the Ministry of Finance in determining the total funds from the State budget, government bonds and loan capital from the State used for the annual and medium-term plans for public investment.
4. Present the national annual and medium-term plans for public investment to the Government.
5. Adjust or request the competent authorities to adjust the annual and medium-term plans for public investment.
6. Be responsible to the Government for the consistent management of ODA and overseas concessional loans; take charge of management and use of the ODA and overseas concessional loans.
7. Take charge and cooperate with the relevant authorities in assessing the capital and ability to balance the capital of the projects financed by funds derived from the central budget, the government bonds and other capital under the regulations of the law.
8. Be responsible to the Government for the consistent management of the national target programs.
9. Implement, supervise, inspect and evaluate the plans, programs and projects and other management obligations of public investment.

#### **Article 89. Obligations and entitlements of Ministry of Finance**

1. Cooperate with the Ministry of Planning and Investment in formulating the annual and medium-term plans for public investment.
2. Take charge and cooperate with the Ministry of Planning and Investment in determining the total funds from the State budget, government bonds and loan capital from the State used for the annual and medium-term plans for public investment.

3. Take charge and cooperate with the Ministry of Planning and Investment in assessing the capital and ability to balance the capital of the projects financed by funds derived from the central budget, the government bonds and other capital under the regulations of the law.
4. Take charge and cooperate with the Ministry of Planning and Investment in instructing the local financial authorities to balance the regular budget to pay the expenditure used for formulating, assessing and deciding the investment policies, approving the Decisions on investment in the programs, maintaining and operating the projects in use.
5. Report the disbursement and finalization of the plans, programs and projects to the Government.

#### **Article 90. Obligations and entitlements of Ministries and central authorities**

1. Manage public investment under the regulations of the law.
2. Promulgate, direct, inspect and supervise the conformity with the standards and eco-technical norms.
3. Decide the investment policies on the programs and projects in accordance with the regulations in Clause 4 Article 17 of this Law and decide the investment in the programs and projects in accordance with the regulations in Clause 2 Article 39 of this Law.
4. Formulate the plans for public investment.
5. Supervise, evaluate, inspect and supervise the implementation of the plans, programs and projects within their management.
6. Report the implementation of the plans, programs and projects and the result of such implementation.
7. Cooperate with the Ministries, regulatory authorities and local authorities in implementing the plans, programs and projects according to the assigned obligations.

#### **Article 91. Obligations and entitlements of the People's Councils**

1. The People's Councils shall:
  - a) decide the investment policies and investment programs financed by funds derived from local revenues from the State budget, municipal bonds, revenues which are retained but not recorded in the state budget balance and other loan capital from the local budget;
  - b) consider and comment on the investment policies on the local group-B- projects and group-C- major projects financed by funds derived from the central budget and the Government bonds;
  - c) decide the investment policies on the programs and projects in accordance with the regulations

in Clause 5 Article 17 of this Law;

d) consider and comment on the local annual and medium-term plans for public investment including the catalogues and the allocated rate of each project financed by funds derived from the central budget and Government bonds;

dd) decide the local annual and medium-term plans for public investment including the list and the capital allocated to each project financed by funds derived from local revenues from the State budget, loan capital from the State, municipal bonds, revenues which are retained but not recorded in the State budget balance and other loan capital from the local budget.

e) Supervise the projects financed by capital budget for public investment allocated to the local authorities including the funds derived from the central budget, Government bonds, local revenues from the state budget, loan capital from the State, municipal bonds, ODA and overseas concessional loans, revenues which are retained but not recorded in the State budget balance and other loan capital from the local budget.

2. In addition to the obligations and entitlements prescribed in Clause 1 this Article, the People's Councils of provinces shall:

b) consider and comment on the investment policies on the local group-A- projects;

b) decide the criteria of the local major projects which are conformable with the targets, development orientation, financial capacity and the specific characteristics of such provinces.

## **Article 92. Obligations and entitlements of the People's Committees of provinces**

1. Manage the public investment within their competence under the regulations of the law.

2. Request the People's Councils of provinces to consider:

a) deciding the investment policies and investment programs financed by funds derived from the municipal bonds, revenues which are retained but not recorded in the State budget balance and other loan capital from the local budget.

b) commenting on the investment policies on the projects within the competence of the Prime Minister in accordance of the regulations in Clause 3 Article 17 of this Law;

c) deciding on the investment policies on the group-B- projects and group-C- major projects under their management in accordance with the regulations in Point b, Clause 5 Article 17 of this Law;

d) commenting on the annual and medium-term plans for public investment financed by funds derived from the central budget, the Government bonds, ODA and the overseas concessional loans in accordance with the lists and allocated rate of each project;



dd) deciding the local annual and medium-term plans for public investment financed by funds derived from local revenues from the State budget, municipal bonds, loan capital from the State, revenues which are retained but not recorded in the State budget balance and other loan capital from the local budget.

3. Decide the investment policies on the projects in accordance with the regulations in Clause 6 Article 17 of this Law and decide the investment in the programs and projects in accordance with the regulations in Clause 3 Article 39 of this Law.

4. Implement, supervise and evaluate the plans for public investment using the capital budget within their competence.

5. Cooperate with the Ministries and central authorities in executing, supervising, inspecting and evaluating the programs and projects in such provinces.

### **Article 93. Obligations and entitlements of the People's Committees of districts**

1. Formulate the annual and medium-term plans for public investment under their management.

2. Assess the programs and projects under their management.

Request the People's Councils of districts to:

a) decide the investment policies and investment programs financed funds derived from the local budget in accordance with the allocated rate of the capital and revenues which are retained but not recorded in the State budget balance of districts.

b) give opinions about the investment policies on the projects under the management of the Prime Minister in accordance of the regulations in Clause 3 Article 17 of this Law and of the superior People's Councils;

c) deciding on the investment policies on the group-B- projects and group-C- major projects under their management in accordance with the regulations in Point b, Clause 5 Article 17 of this Law;

dd) deciding the local annual and medium-term plans for public investment financed by funds derived from revenues which are retained but not recorded in the State budget balance of districts.

4. Decide the investment policies on the projects in accordance with the regulations in Clause 6 Article 17 of this Law and decide the investment in the programs and projects in accordance with the regulations in Clause 4 Article 39 of this Law.

5. Implement, supervise, evaluate and inspect the plans, programs and projects and other management authorities related to the public investment according to the division of

management.

6. Cooperate with the relevant authorities and organizations in executing, supervising, inspecting and evaluating the programs and projects in such districts.

#### **Article 94. Obligations and entitlements of the State audit**

1. Decide the annual audit plan for the plans, programs and projects and notify the National Assembly and the Government prior to the implementation.

2. Conduct annual audit, specialized audits and audits of the plans, programs and projects at the request of the National Assembly, National Assembly Standing Committee, Government and Prime Minister.

3. Report the result of the annual audit, specialized audit and auditors' requests related to the plans, programs and projects to the National Assembly and National Assembly Standing Committee.

4. Announce the audits of the plans, programs and projects under the regulations of the law.

#### **Article 95. Obligations and entitlements of Vietnamese Fatherland Front**

1. Take charge of supervision on the investment in the programs and projects in accordance with the regulations in Clause 1 and Clause 3 Article 82 of this Law and other relevant laws.

2. Collect the opinions of the community about the investment policies on the local programs and projects in accordance with the regulations of Clause 2 Article 82 of this Law and regulations of the law on democratic practice at communes, wards and towns.

#### **Article 96. Rights and responsibilities of entities engaged in proposing investment policies**

1. Propose programs and projects conformable with the strategy, planning and plan for socio-economic development in each stage.

2. Mobilize the resources to execute the programs and projects on schedule.

3. Request the competent authorities to consider and decide the investment policies when any program is different from other programs and the regular duties according to the assigned obligations.

4. Be responsible for the information and figures related to the proposed programs and projects.

#### **Article 97. Rights and responsibilities of entities related to Decisions on investment policies**

1. Entities decide the investment policies on programs and projects in accordance with the

regulations in Article 18 of this Law.

2. Any entity prescribed in Clauses 2, 3, 4 and 6 Article 17 of this Law that decide the inappropriate and ineffective investment or cannot balance the capital leading to the loss and wastage shall be disciplined or liable to administrative penalties or criminal prosecution depending on the nature and severity of the violations; or compensate for the damage (if any) under the regulations of the law.

3. Any entity related to the establishment and assessment that commits the violations, which leads to the inappropriate and ineffective investment shall be disciplined or liable to administrative penalties or criminal prosecution depending on the nature and severity of the violations; or compensate for the damage (if any) under the regulations of the law.

**Article 98. Rights and responsibilities of program leaders and investors related to establishment of programs and projects**

1. Take legal responsibility for the documents sent to the competent authorities for approval.

2. Provide necessary documents for the authorities in charge of assessing the programs and projects.

3. Propose measures to attract the capital to execute the programs and projects on schedule.

4. Take responsibility for the establishment of programs and projects. Be disciplined or liable to administrative penalties or criminal prosecution depending on the nature and severity of the violations in case of violations; or compensate for the damage (if any) under the regulations of the law.

**Article 99. Rights and responsibilities of investors in programs and projects**

1. Invest in the programs and projects according to the investment policies that are approved by the competent authorities, which is conformable with the ability to balance the capital under their management and meets the standards in investment and assessment result. Be disciplined or liable to administrative penalties or criminal prosecution depending on the nature and severity of the violations in case of inappropriate investment leading to ineffective investment, time-consuming or loss; or compensate for the damage (if any) under the regulations of the law.

2. Assess the programs and projects before they are approved, including assessing the capital and ability to balance the capital.

3. Balance the capital to pay the cost to establish and assess the programs and projects under their management.

4. Direct the program leaders and investors to execute the programs and projects on time and ensure the quality within the scope of the approved investment plan.

5. Decide to adjust, suspend or cancel the programs and projects.
6. Supervise, inspect and assess the programs and projects and the activities of the program leaders and investors during the execution of the programs and projects.
7. Take legal responsibility for the violations against the regulations on competence during the selection of the program leaders and investors.

**Article 100. Rights and responsibilities of entities related to design consultancy on programs and projects**

1. Request the program leaders and investors to provide information and documents related to the design for programs and projects.
2. Design the programs and projects to the standards, norms and quality assurance measures; do not exceed the regulated standards and norms.
3. Take responsibility for the result of the design of programs and projects. Be disciplined or liable to administrative penalties or criminal prosecution depending on the nature and severity of the violations in case of incorrect design leading to ineffective investment or loss; or compensate for the damage (if any) under the regulations of the law.

**Article 101. Rights and responsibilities of entities related to assessment of plans, programs and projects**

1. Conduct the assessment of the plans, programs and projects under the regulations of the law and be responsible for the assessment result and their requests.
2. Conduct independent, transparent and objective assessment in accordance with the regulations of this Law and other laws.
3. Be disciplined or liable to administrative penalties or criminal prosecution depending on the nature and severity of the violations in case of inaccurate assessment; or compensate for the damage (if any) under the regulations of the law.

**Article 102. Rights and responsibilities of program leaders and investors to manage and carry out programs and projects**

1. Manage and carry out the programs and projects, ensure the target, process and quality.
2. Report the implementation of the programs and projects under the regulations of this Law and other relevant laws.
3. Be disciplined or liable to administrative penalties or criminal prosecution depending on the nature and severity of the violations in case of any loss; or compensate for the damage (if any)

under the regulations of the law.

### **Article 103. Rights and responsibilities of managing Board in charge of programs and projects**

1. Propose the remedies; manage and carry out the programs and projects; ensure the target, process and quality as authorized by the program leaders and investors.
2. Report the implementation of the programs and projects to the program leaders and investors.
3. Be disciplined or liable to administrative penalties or criminal prosecution depending on the nature and severity of the violations in case of any loss; or compensate for the damage (if any) under the regulations of the law.

### **Article 104. Rights and responsibilities of entities supervising, assessing and inspecting programs and projects**

1. The Heads of the Ministries, regulatory authorities and local authorities, Presidents of the People's Committees of districts, program leaders and investors shall be responsible for the consequences if they do not supervise, assess or inspect the plans, programs and projects or send reports under the regulations.
2. The entities that are assigned to supervise, inspect and evaluate the plans, programs and projects must be responsible for their reports.
3. The program leaders and investors shall be responsible for their reports and take the legal responsibility for incorrect information about the investment within their competence under the regulations of the law.
4. Any entity assigned to supervise, inspect and value the plans, programs and projects that hide the violations or other violations shall be disciplined or liable to administrative penalties or criminal prosecution depending on the nature and severity of the violations ; or compensate for the damage (if any) under the regulations of the law.

### **Article 105. Imposition of penalties**

Any entity breaches the regulations in this Law shall be disciplined or liable to administrative penalties or criminal prosecution depending on the nature and severity of the violations ; or compensate for the damage (if any) under the regulations of the law.

## **Chapter VI**

### **IMPLEMENTATION**

#### **Article 106. Transitional clauses**

1. The programs and projects that are approved by the competent authorities before the effective date of this Law but are not allocated capital shall be handled as follows:

a) The national target programs and projects shall be carried out according to the Resolution of the National Assembly and the Decision on investment of the Government;

b) The programs and projects in the investment plan that are approved by the competent authorities shall be carried out according to such plan;

c) In case of programs and projects that are approved by the competent authorities but are not in the investment plan, the investment policies on the programs and projects must be formulated, assessed and approved according to the regulations of this Law.

2. The capital budget shall only be allocated to repay outstanding debts arising from infrastructural construction before the effective date of this Law.

#### **Article 107. Effect**

This Law shall come into effect from January 01, 2015.

#### **Article 108. Specific regulations**

The Government shall regulate the binding articles and clauses in this Law.

*This Law has been adopted in June 18, 2014 by the 8<sup>th</sup> National Assembly of the Socialist Republic of Vietnam in the 7<sup>th</sup> meeting.*

**THE PRESIDENT OF NATIONAL  
ASSEMBLY**

**Nguyen Sinh Hung**