

108TH CONGRESS  
1ST SESSION

# S. 1109

To provide \$50,000,000,000 in new transportation infrastructure funding through Federal bonding to empower States and local governments to complete significant infrastructure projects across all modes of transportation, including roads, rail, transit, aviation, and water, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 22, 2003

Mr. TALENT (for himself and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To provide \$50,000,000,000 in new transportation infrastructure funding through Federal bonding to empower States and local governments to complete significant infrastructure projects across all modes of transportation, including roads, rail, transit, aviation, and water, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; ETC.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Build America Bonds Act of 2003”.

1 (b) REFERENCES TO INTERNAL REVENUE CODE OF  
2 1986.—Except as otherwise expressly provided, whenever  
3 in this Act an amendment or repeal is expressed in terms  
4 of an amendment to, or repeal of, a section or other provi-  
5 sion, the reference shall be considered to be made to a  
6 section or other provision of the Internal Revenue Code  
7 of 1986.

8 **SEC. 2. FINDINGS.**

9 Congress finds the following:

10 (1) Our Nation's highways, transit systems,  
11 railroads, airports, ports, and inland waterways  
12 drive our economy, enabling all industries to achieve  
13 growth and productivity that makes America strong  
14 and prosperous.

15 (2) The establishment, maintenance, and im-  
16 provement of the national transportation network is  
17 a national priority, for economic, environmental, en-  
18 ergy, security, and other reasons.

19 (3) The ability to move people and goods is crit-  
20 ical to maintaining State, metropolitan, rural, and  
21 local economies.

22 (4) The construction of infrastructure requires  
23 the skills of numerous occupations, including those  
24 in the contracting, engineering, planning and design,

1 materials supply, manufacturing, distribution, and  
 2 safety industries.

3 (5) Investing in transportation infrastructure  
 4 creates long-term capital assets for the Nation that  
 5 will help the United States address its enormous in-  
 6 frastructure needs and improve its economic produc-  
 7 tivity.

8 (6) Investment in transportation infrastructure  
 9 creates jobs and spurs economic activity to put peo-  
 10 ple back to work and stimulate the economy.

11 (7) Every billion dollars in transportation in-  
 12 vestment has the potential to create up to 47,500  
 13 jobs.

14 (8) Every dollar invested in the Nation's trans-  
 15 portation infrastructure yields at least \$5.70 in eco-  
 16 nomic benefits because of reduced delays, improved  
 17 safety, and reduced vehicle operating costs.

18 **SEC. 3. CREDIT TO HOLDERS OF BUILD AMERICA BONDS.**

19 (a) IN GENERAL.—Part IV of subchapter A of chap-  
 20 ter 1 (relating to credits against tax) is amended by add-  
 21 ing at the end the following new subpart:

22 **“Subpart H—Nonrefundable Credit for Holders of**  
 23 **Build America Bonds**

“Sec. 54. Credit to holders of Build America bonds.

1 **“SEC. 54. CREDIT TO HOLDERS OF BUILD AMERICA BONDS.**

2       “(a) ALLOWANCE OF CREDIT.—In the case of a tax-  
 3 payer who holds a Build America bond on a credit allow-  
 4 ance date of such bond which occurs during the taxable  
 5 year, there shall be allowed as a credit against the tax  
 6 imposed by this chapter for such taxable year an amount  
 7 equal to the sum of the credits determined under sub-  
 8 section (b) with respect to credit allowance dates during  
 9 such year on which the taxpayer holds such bond.

10       “(b) AMOUNT OF CREDIT.—

11               “(1) IN GENERAL.—The amount of the credit  
 12 determined under this subsection with respect to any  
 13 credit allowance date for a Build America bond is 25  
 14 percent of the annual credit determined with respect  
 15 to such bond.

16               “(2) ANNUAL CREDIT.—The annual credit de-  
 17 termined with respect to any Build America bond is  
 18 the product of—

19                       “(A) the applicable credit rate, multiplied  
 20                       by

21                       “(B) the outstanding face amount of the  
 22                       bond.

23               “(3) APPLICABLE CREDIT RATE.—For purposes  
 24 of paragraph (2), the applicable credit rate with re-  
 25 spect to an issue is the rate equal to an average  
 26 market yield (as of the day before the date of sale

1 of the issue) on outstanding long-term corporate  
2 debt obligations (determined in such manner as the  
3 Secretary prescribes).

4 “(4) CREDIT ALLOWANCE DATE.—For purposes  
5 of this section, the term ‘credit allowance date’  
6 means—

7 “(A) March 15,

8 “(B) June 15,

9 “(C) September 15, and

10 “(D) December 15.

11 Such term includes the last day on which the bond  
12 is outstanding.

13 “(5) SPECIAL RULE FOR ISSUANCE AND RE-  
14 DEMPTION.—In the case of a bond which is issued  
15 during the 3-month period ending on a credit allow-  
16 ance date, the amount of the credit determined  
17 under this subsection with respect to such credit al-  
18 lowance date shall be a ratable portion of the credit  
19 otherwise determined based on the portion of the 3-  
20 month period during which the bond is outstanding.  
21 A similar rule shall apply when the bond is re-  
22 deemed.

23 “(c) LIMITATION BASED ON AMOUNT OF TAX.—

1           “(1) IN GENERAL.—The credit allowed under  
2           subsection (a) for any taxable year shall not exceed  
3           the excess of—

4                   “(A) the sum of the regular tax liability  
5                   (as defined in section 26(b)) plus the tax im-  
6                   posed by section 55, over

7                   “(B) the sum of the credits allowable  
8                   under this part (other than this subpart and  
9                   subpart C).

10           “(2) CARRYOVER OF UNUSED CREDIT.—If the  
11           credit allowable under subsection (a) exceeds the  
12           limitation imposed by paragraph (1) for such taxable  
13           year, such excess shall be carried to the succeeding  
14           taxable year and added to the credit allowable under  
15           subsection (a) for such taxable year.

16           “(d) CREDIT INCLUDED IN GROSS INCOME.—Gross  
17           income includes the amount of the credit allowed to the  
18           taxpayer under this section (determined without regard to  
19           subsection (c)) and the amount so included shall be treat-  
20           ed as interest income.

21           “(e) BUILD AMERICA BOND.—For purposes of this  
22           part, the term ‘Build America bond’ means any bond  
23           issued as part of an issue if—

24                   “(1) 95 percent or more of the proceeds from  
25                   the sale of such issue are to be used—

1           “(A) for expenditures incurred after the  
2           date of the enactment of this section for any  
3           qualified project, or

4           “(B) for deposit in the Build America  
5           Trust Account for repayment of Build America  
6           bonds at maturity,

7           “(2) the bond is issued by the Build America  
8           Corporation, is in registered form, and meets the  
9           Build America bond limitation requirements under  
10          subsection (f),

11          “(3) the Build America Corporation certifies  
12          that it meets the State contribution requirement of  
13          subsection (k) with respect to such project, as in ef-  
14          fect on the date of issuance,

15          “(4) the Build America Corporation certifies  
16          that the State in which an approved qualified project  
17          is located meets the requirement described in sub-  
18          section (l),

19          “(5) except for bonds issued in accordance with  
20          subsection (f)(4), the term of each bond which is  
21          part of such issue does not exceed 30 years,

22          “(6) the payment of principal with respect to  
23          such bond is the obligation of the Build America  
24          Corporation, and

1           “(7) the issue meets the requirements of sub-  
2           section (g) (relating to arbitrage).

3           “(f) LIMITATION ON AMOUNT OF BONDS DES-  
4           IGNATED.—

5           “(1) NATIONAL LIMITATION.—There is a Build  
6           America bond limitation for each calendar year.  
7           Such limitation is—

8                   “(A) for 2004—

9                           “(i) with respect to bonds described in  
10                           subsection (e)(1)(A), \$50,000,000,000,  
11                           plus

12                           “(ii) with respect to bonds described  
13                           in subsection (e)(1)(B), such amount (not  
14                           to exceed \$15,000,000,000) as determined  
15                           necessary by the Build America Corpora-  
16                           tion to provide funds in the Build America  
17                           Trust Account for the repayment of Build  
18                           America bonds at maturity, and

19                           “(B) except as provided in paragraph (3),  
20                           zero thereafter.

21           “(2) LIMITATION ALLOCATED TO QUALIFIED  
22           PROJECTS AMONG STATES.—

23                   “(A) IN GENERAL.—Subject to subpara-  
24                   graph (B), the limitation applicable under para-  
25                   graph (1)(A)(i) for any calendar year shall be



1 allocated by the Build America Corporation for  
2 qualified projects among the States under an  
3 allocation plan established by the Corporation  
4 and submitted to Congress for consideration.

5 “(B) MINIMUM ALLOCATIONS TO  
6 STATES.—In establishing the allocation plan  
7 under subparagraph (A), the Build America  
8 Corporation shall ensure that the aggregate  
9 amount allocated for qualified projects located  
10 in each State under such plan is not less than  
11 \$500,000,000.

12 “(3) CARRYOVER OF UNUSED LIMITATION.—If  
13 for any calendar year—

14 “(A) the Build America bond limitation  
15 amount, exceeds

16 “(B) the amount of bonds issued during  
17 such year by the Build America Corporation,  
18 the Build America bond limitation amount for the  
19 following calendar year shall be increased by the  
20 amount of such excess. Any carryforward of a Build  
21 America bond limitation amount may be carried only  
22 to calendar year 2005 or 2006.

23 “(4) ISSUANCE OF SMALL DENOMINATION  
24 BONDS.—From the Build America bond limitation  
25 for each year, the Build America Corporation shall

1 issue a limited quantity of Build America bonds in  
2 small denominations suitable for purchase as gifts  
3 by individual investors wishing to show their support  
4 for investing in America’s infrastructure.

5 “(g) SPECIAL RULES RELATING TO ARBITRAGE.—

6 “(1) IN GENERAL.—Subject to paragraph (2),  
7 an issue shall be treated as meeting the require-  
8 ments of this subsection if as of the date of  
9 issuance, the Build America Corporation reasonably  
10 expects—

11 “(A) to spend at least 95 percent of the  
12 proceeds from the sale of the issue for 1 or  
13 more qualified projects within the 3-year period  
14 beginning on such date,

15 “(B) to incur a binding commitment with  
16 a third party to spend at least 10 percent of the  
17 proceeds from the sale of the issue, or to com-  
18 mence construction, with respect to such  
19 projects within the 6-month period beginning on  
20 such date, and

21 “(C) to proceed with due diligence to com-  
22 plete such projects and to spend the proceeds  
23 from the sale of the issue.

24 “(2) RULES REGARDING CONTINUING COMPLI-  
25 ANCE AFTER 3-YEAR DETERMINATION.—If at least

1       95 percent of the proceeds from the sale of the issue  
2       is not expended for 1 or more qualified projects  
3       within the 3-year period beginning on the date of  
4       issuance, but the requirements of paragraph (1) are  
5       otherwise met, an issue shall be treated as con-  
6       tinuing to meet the requirements of this subsection  
7       if either—

8               “(A) the Build America Corporation uses  
9               all unspent proceeds from the sale of the issue  
10              to redeem bonds of the issue within 90 days  
11              after the end of such 3-year period, or

12              “(B) the following requirements are met:

13                      “(i) The Build America Corporation  
14                      spends at least 75 percent of the proceeds  
15                      from the sale of the issue for 1 or more  
16                      qualified projects within the 3-year period  
17                      beginning on the date of issuance.

18                      “(ii) The Build America Corporation  
19                      spends at least 95 percent of the proceeds  
20                      from the sale of the issue for 1 or more  
21                      qualified projects within the 4-year period  
22                      beginning on the date of issuance, and  
23                      uses all unspent proceeds from the sale of  
24                      the issue to redeem bonds of the issue

1                   within 90 days after the end of the 4-year  
2                   period beginning on the date of issuance.

3           “(h) RECAPTURE OF PORTION OF CREDIT WHERE  
4 CESSATION OF COMPLIANCE.—

5                   “(1) IN GENERAL.—If any bond which when  
6           issued purported to be a Build America bond ceases  
7           to be such a qualified bond, the Build America Cor-  
8           poration shall pay to the United States (at the time  
9           required by the Secretary) an amount equal to the  
10          sum of—

11                   “(A) the aggregate of the credits allowable  
12          under this section with respect to such bond  
13          (determined without regard to subsection (c))  
14          for taxable years ending during the calendar  
15          year in which such cessation occurs and the 2  
16          preceding calendar years, and

17                   “(B) interest at the underpayment rate  
18          under section 6621 on the amount determined  
19          under subparagraph (A) for each calendar year  
20          for the period beginning on the first day of  
21          such calendar year.

22                   “(2) FAILURE TO PAY.—If the Build America  
23          Corporation fails to timely pay the amount required  
24          by paragraph (1) with respect to such bond, the tax  
25          imposed by this chapter on each holder of any such

1       bond which is part of such issue shall be increased  
 2       (for the taxable year of the holder in which such ces-  
 3       sation occurs) by the aggregate decrease in the cred-  
 4       its allowed under this section to such holder for tax-  
 5       able years beginning in such 3 calendar years which  
 6       would have resulted solely from denying any credit  
 7       under this section with respect to such issue for such  
 8       taxable years.

9               “(3) SPECIAL RULES.—

10               “(A) TAX BENEFIT RULE.—The tax for  
 11               the taxable year shall be increased under para-  
 12               graph (2) only with respect to credits allowed  
 13               by reason of this section which were used to re-  
 14               duce tax liability. In the case of credits not so  
 15               used to reduce tax liability, the carryforwards  
 16               and carrybacks under section 39 shall be appro-  
 17               priately adjusted.

18               “(B) NO CREDITS AGAINST TAX.—Any in-  
 19               crease in tax under paragraph (2) shall not be  
 20               treated as a tax imposed by this chapter for  
 21               purposes of determining—

22                       “(i) the amount of any credit allow-  
 23                       able under this part, or

24                       “(ii) the amount of the tax imposed  
 25                       by section 55.

1 “(i) BUILD AMERICA TRUST ACCOUNT.—

2 “(1) IN GENERAL.—The following amounts  
3 shall be held in a Build America Trust Account by  
4 the Build America Corporation:

5 “(A) The proceeds from the sale of all  
6 bonds issued under this section.

7 “(B) The amount of any matching con-  
8 tributions with respect to such bonds.

9 “(C) The investment earnings on proceeds  
10 from the sale of such bonds.

11 “(D) Any earnings on any amounts de-  
12 scribed in subparagraph (A), (B), or (C).

13 “(2) USE OF FUNDS.—Amounts in the Build  
14 America Trust Account may be used only to pay  
15 costs of qualified projects, redeem Build America  
16 bonds, and fund the operations of the Build America  
17 Corporation, except that amounts withdrawn from  
18 the Build America Trust Account to pay costs of  
19 qualified projects may not exceed the aggregate pro-  
20 ceeds from the sale of Build America bonds de-  
21 scribed in subsection (e)(1)(A).

22 “(3) USE OF REMAINING FUNDS IN BUILD  
23 AMERICA TRUST ACCOUNT.—Upon the redemption of  
24 all Build America bonds issued under this section,  
25 any remaining amounts in the Build America Trust

1 Account shall be available to the Build America Cor-  
2 poration for any qualified project.

3 “(j) QUALIFIED PROJECT.—For purposes of this sec-  
4 tion—

5 “(1) IN GENERAL.—The term ‘qualified project’  
6 means the financing of capital improvements for any  
7 transportation infrastructure project of any govern-  
8 mental unit or other person, including highways,  
9 transit systems, railroads, airports, ports, and inland  
10 waterways, proposed by a State and approved by the  
11 Build America Corporation.

12 “(2) APPROVAL GUIDELINES AND CRITERIA.—  
13 Not later than 60 days after the date of the enact-  
14 ment of this section, the Build America Corporation  
15 shall consult with the appropriate committees of  
16 Congress regarding the development of guidelines  
17 and criteria for the approval by the Corporation of  
18 projects as qualified projects for inclusion in the al-  
19 location plan established under subsection (f)(2)(A)  
20 and shall submit such guidelines and criteria to such  
21 committees. The guidelines and criteria shall—

22 “(A) to the maximum extent, be consistent  
23 with statutory provisions governing the ap-  
24 proval of transportation projects, as in effect on  
25 such date, and

1                   “(B) require the Build America Corpora-  
2                   tion—

3                   “(i) to base such approval on—

4                   “(I) the results of alternatives  
5                   analysis and preliminary engineering,  
6                   and

7                   “(II) a comprehensive review of  
8                   mobility improvements, environmental  
9                   benefits, cost effectiveness, and oper-  
10                  ating efficiencies, and

11                  “(ii) to give preference to—

12                  “(I) projects supported by evi-  
13                  dence of stable and dependable financ-  
14                  ing sources to construct, maintain,  
15                  and operate the infrastructure,

16                  “(II) projects expected to have a  
17                  significant impact on traffic conges-  
18                  tion, and

19                  “(III) projects which promote re-  
20                  gional balance in infrastructure in-  
21                  vestment.

22                  “(k) STATE CONTRIBUTION REQUIREMENTS.—

23                  “(1) IN GENERAL.—For purposes of subsection  
24                  (e)(3), the State contribution requirement of this  
25                  subsection is met with respect to any qualified



1 project if the Build America Corporation has re-  
 2 ceived from 1 or more States, not later than the  
 3 date of issuance of the bond, written commitments  
 4 for matching contributions of not less than 20 per-  
 5 cent of the cost of the qualified project.

6 “(2) STATE MATCHING CONTRIBUTIONS MAY  
 7 NOT INCLUDE FEDERAL FUNDS.—For purposes of  
 8 this subsection, State matching contributions shall  
 9 not be derived, directly or indirectly, from Federal  
 10 funds, including any transfers from the Highway  
 11 Trust Fund under section 9503.

12 “(l) UTILIZATION OF UPDATED CONSTRUCTION  
 13 TECHNOLOGY FOR QUALIFIED PROJECTS.—For purposes  
 14 of subsection (e)(4), the requirement of this subsection is  
 15 met if the appropriate State agency relating to the quali-  
 16 fied project has updated its accepted construction tech-  
 17 nologies to match a list prescribed by the Secretary of  
 18 Transportation and in effect on the date of the approval  
 19 of the project as a qualified project.

20 “(m) OTHER DEFINITIONS AND SPECIAL RULES.—  
 21 For purposes of this section—

22 “(1) BOND.—The term ‘bond’ includes any ob-  
 23 ligation.

24 “(2) TREATMENT OF CHANGES IN USE.—For  
 25 purposes of subsection (e)(1)(A), the proceeds from

1 the sale of an issue shall not be treated as used for  
2 a qualified project to the extent that the Build  
3 America Corporation takes any action within its con-  
4 trol which causes such proceeds not to be used for  
5 a qualified project. The Secretary shall specify reme-  
6 dial actions that may be taken (including conditions  
7 to taking such remedial actions) to prevent an action  
8 described in the preceding sentence from causing a  
9 bond to fail to be a Build America bond.

10 “(3) PARTNERSHIP; S CORPORATION; AND  
11 OTHER PASS-THRU ENTITIES.—In the case of a  
12 partnership, trust, S corporation, or other pass-thru  
13 entity, rules similar to the rules of section 41(g)  
14 shall apply with respect to the credit allowable under  
15 subsection (a).

16 “(4) BONDS HELD BY REGULATED INVEST-  
17 MENT COMPANIES.—If any Build America bond is  
18 held by a regulated investment company, the credit  
19 determined under subsection (a) shall be allowed to  
20 shareholders of such company under procedures pre-  
21 scribed by the Secretary.

22 “(5) CREDITS MAY BE STRIPPED.—Under regu-  
23 lations prescribed by the Secretary—

24 “(A) IN GENERAL.—There may be a sepa-  
25 ration (including at issuance) of the ownership

1 of a Build America bond and the entitlement to  
 2 the credit under this section with respect to  
 3 such bond. In case of any such separation, the  
 4 credit under this section shall be allowed to the  
 5 person who on the credit allowance date holds  
 6 the instrument evidencing the entitlement to  
 7 the credit and not to the holder of the bond.

8 “(B) CERTAIN RULES TO APPLY.—In the  
 9 case of a separation described in subparagraph  
 10 (A), the rules of section 1286 shall apply to the  
 11 Build America bond as if it were a stripped  
 12 bond and to the credit under this section as if  
 13 it were a stripped coupon.

14 “(6) REPORTING.—The Build America Cor-  
 15 poration shall submit reports similar to the reports  
 16 required under section 149(e).”.

17 (b) AMENDMENTS TO OTHER CODE SECTIONS.—

18 (1) REPORTING.—Subsection (d) of section  
 19 6049 (relating to returns regarding payments of in-  
 20 terest) is amended by adding at the end the fol-  
 21 lowing new paragraph:

22 “(8) REPORTING OF CREDIT ON BUILD AMER-  
 23 ICA BONDS.—

24 “(A) IN GENERAL.—For purposes of sub-  
 25 section (a), the term ‘interest’ includes amounts

1 includible in gross income under section 54(d)  
 2 and such amounts shall be treated as paid on  
 3 the credit allowance date (as defined in section  
 4 54(b)(4)).

5 “(B) REPORTING TO CORPORATIONS,  
 6 ETC.—Except as otherwise provided in regula-  
 7 tions, in the case of any interest described in  
 8 subparagraph (A), subsection (b)(4) shall be  
 9 applied without regard to subparagraphs (A),  
 10 (H), (I), (J), (K), and (L)(i) of such subsection.

11 “(C) REGULATORY AUTHORITY.—The Sec-  
 12 retary may prescribe such regulations as are  
 13 necessary or appropriate to carry out the pur-  
 14 poses of this paragraph, including regulations  
 15 which require more frequent or more detailed  
 16 reporting.”.

17 (2) TREATMENT FOR ESTIMATED TAX PUR-  
 18 POSES.—

19 (A) INDIVIDUAL.—Section 6654 (relating  
 20 to failure by individual to pay estimated income  
 21 tax) is amended by redesignating subsection  
 22 (m) as subsection (n) and by inserting after  
 23 subsection (l) the following new subsection:

24 “(m) SPECIAL RULE FOR HOLDERS OF BUILD  
 25 AMERICA BONDS.—For purposes of this section, the credit

1 allowed by section 54 to a taxpayer by reason of holding  
 2 a Build America bond on a credit allowance date shall be  
 3 treated as if it were a payment of estimated tax made by  
 4 the taxpayer on such date.”.

5 (B) CORPORATE.—Subsection (g) of sec-  
 6 tion 6655 (relating to failure by corporation to  
 7 pay estimated income tax) is amended by add-  
 8 ing at the end the following new paragraph:

9 “(5) SPECIAL RULE FOR HOLDERS OF BUILD  
 10 AMERICA BONDS.—For purposes of this section, the  
 11 credit allowed by section 54 to a taxpayer by reason  
 12 of holding a Build America bond on a credit allow-  
 13 ance date shall be treated as if it were a payment  
 14 of estimated tax made by the taxpayer on such  
 15 date.”.

16 (c) CLERICAL AMENDMENTS.—

17 (1) The table of subparts for part IV of sub-  
 18 chapter A of chapter 1 is amended by adding at the  
 19 end the following new item:

“Subpart H. Nonrefundable Credit for Holders of Build America  
 Bonds.”.

20 (2) Section 6401(b)(1) is amended by striking  
 21 “and G” and inserting “G, and H”.

22 (d) EFFECTIVE DATE.—The amendments made by  
 23 this section shall apply to obligations issued after the date  
 24 of the enactment of this Act.

1 **SEC. 4. BUILD AMERICA CORPORATION.**

2 (a) ESTABLISHMENT AND STATUS.—There is estab-  
3 lished a body corporate to be known as the “Build Amer-  
4 ica Corporation” (hereafter in this section referred to as  
5 the “Corporation”). The Corporation is not a department,  
6 agency, or instrumentality of the United States Govern-  
7 ment, and shall not be subject to title 31, United States  
8 Code.

9 (b) PRINCIPAL OFFICE; APPLICATION OF LAWS.—  
10 The principal office and place of business of the Corpora-  
11 tion shall be in the District of Columbia, and, to the extent  
12 consistent with this section, the District of Columbia Busi-  
13 ness Corporation Act (D.C. Code 29–301 et seq.) shall  
14 apply.

15 (c) FUNCTIONS OF CORPORATION.—The Corporation  
16 shall—

17 (1) issue Build America bonds for the financing  
18 of qualified projects as required under section 54 of  
19 the Internal Revenue Code of 1986,

20 (2) establish an allocation plan as required  
21 under section 54(f)(2)(A) of such Code,

22 (3) establish and operate the Build America  
23 Trust Account as required under section 54(i) of  
24 such Code,

1           (4) perform any other function the sole purpose  
2           of which is to carry out the financing of qualified  
3           projects through Build America bonds, and

4           (5) not later than February 15 of each year  
5           submit a report to Congress—

6                 (A) describing the activities of the Cor-  
7                 poration for the preceding year, and

8                 (B) specifying whether the amounts depos-  
9                 ited and expected to be deposited in the Build  
10                America Trust Account are sufficient to fully  
11                repay at maturity the principal of any out-  
12                standing Build America bonds issued pursuant  
13                to such section 54.

14       (d) POWERS OF CORPORATION.—The Corporation—

15               (1) may sue and be sued, complain and defend,  
16               in its corporate name, in any court of competent ju-  
17               risdiction,

18               (2) may adopt, alter, and use a seal, which shall  
19               be judicially noticed,

20               (3) may prescribe, amend, and repeal such rules  
21               and regulations as may be necessary for carrying out  
22               the functions of the Corporation,

23               (4) may make and perform such contracts and  
24               other agreements with any individual, corporation,  
25               or other private or public entity however designated

1 and wherever situated, as may be necessary for car-  
2 rying out the functions of the Corporation,

3 (5) may determine and prescribe the manner in  
4 which its obligations shall be incurred and its ex-  
5 penses allowed and paid,

6 (6) may, as necessary for carrying out the func-  
7 tions of the Corporation, employ and fix the com-  
8 pensation of employees and officers,

9 (7) may lease, purchase, or otherwise acquire,  
10 own, hold, improve, use, or otherwise deal in and  
11 with such property (real, personal, or mixed) or any  
12 interest therein, wherever situated, as may be nec-  
13 essary for carrying out the functions of the Corpora-  
14 tion,

15 (8) may accept gifts or donations of services or  
16 of property (real, personal, or mixed), tangible or in-  
17 tangible, in furtherance of the purposes of this Act,  
18 and

19 (9) shall have such other powers as may be nec-  
20 essary and incident to carrying out this Act.

21 (e) NONPROFIT ENTITY; RESTRICTION ON USE OF  
22 MONEYS; CONFLICT OF INTERESTS; INDEPENDENT AU-  
23 DITS.—



1           (1) NONPROFIT ENTITY.—The Corporation  
2 shall be a nonprofit corporation and shall have no  
3 capital stock.

4           (2) RESTRICTION.—No part of the Corpora-  
5 tion’s revenue, earnings, or other income or property  
6 shall inure to the benefit of any of its directors, offi-  
7 cers, or employees, and such revenue, earnings, or  
8 other income or property shall only be used for car-  
9 rying out the purposes of this Act.

10          (3) CONFLICT OF INTERESTS.—No director, of-  
11 ficer, or employee of the Corporation shall in any  
12 manner, directly or indirectly participate in the de-  
13 liberation upon or the determination of any question  
14 affecting his or her personal interests or the inter-  
15 ests of any corporation, partnership, or organization  
16 in which he or she is directly or indirectly interested.

17          (4) INDEPENDENT AUDITS.—An independent  
18 certified public accountant shall audit the financial  
19 statements of the Corporation each year. The audit  
20 shall be carried out at the place at which the finan-  
21 cial statements normally are kept and under gen-  
22 erally accepted auditing standards. A report of the  
23 audit shall be available to the public and shall be in-  
24 cluded in the report required under subsection  
25 (c)(5).

1 (f) TAX EXEMPTION.—The Corporation, including its  
 2 franchise and income, is exempt from taxation imposed by  
 3 the United States, by any territory or possession of the  
 4 United States, or by any State, county, municipality, or  
 5 local taxing authority.

6 (g) MANAGEMENT OF CORPORATION.—

7 (1) BOARD OF DIRECTORS; MEMBERSHIP; DES-  
 8 IGNATION OF CHAIRPERSON AND VICE CHAIR-  
 9 PERSON; APPOINTMENT CONSIDERATIONS; TERM;  
 10 VACANCIES.—

11 (A) BOARD OF DIRECTORS.—The manage-  
 12 ment of the Corporation shall be vested in a  
 13 board of directors composed of 7 members ap-  
 14 pointed by the President, by and with the ad-  
 15 vice and consent of the Senate.

16 (B) CHAIRPERSON AND VICE CHAIR-  
 17 PERSON.—The President shall designate 1  
 18 member of the Board to serve as Chairperson  
 19 of the Board and 1 member to serve as Vice  
 20 Chairperson of the Board.

21 (C) INDIVIDUALS FROM PRIVATE LIFE.—  
 22 Five members of the Board shall be appointed  
 23 from private life.

24 (D) FEDERAL OFFICERS AND EMPLOY-  
 25 EES.—Two members of the Board shall be ap-

1 pointed from among officers and employees of  
2 agencies of the United States concerned with  
3 infrastructure development.

4 (E) APPOINTMENT CONSIDERATIONS.—All  
5 members of the Board shall be appointed on the  
6 basis of their understanding of and sensitivity  
7 to infrastructure development processes. Mem-  
8 bers of the Board shall be appointed so that not  
9 more than 4 members of the Board are mem-  
10 bers of any 1 political party.

11 (F) TERMS.—Members of the Board shall  
12 be appointed for terms of 3 years, except that  
13 of the members first appointed, as designated  
14 by the President at the time of their appoint-  
15 ment, 2 shall be appointed for terms of 1 year  
16 and 2 shall be appointed for terms of 2 years.

17 (G) VACANCIES.—A member of the Board  
18 appointed to fill a vacancy occurring before the  
19 expiration of the term for which that member's  
20 predecessor was appointed shall be appointed  
21 only for the remainder of that term. Upon the  
22 expiration of a member's term, the member  
23 shall continue to serve until a successor is ap-  
24 pointed and is qualified.

1           (2) COMPENSATION, ACTUAL, NECESSARY, AND  
2       TRANSPORTATION EXPENSES.—Members of the  
3       Board shall serve without additional compensation,  
4       but may be reimbursed for actual and necessary ex-  
5       penses not exceeding \$100 per day, and for trans-  
6       portation expenses, while engaged in their duties on  
7       behalf of the Corporation.

8           (3) QUORUM.—A majority of the Board shall  
9       constitute a quorum.

10          (4) PRESIDENT OF CORPORATION.—The Board  
11       of Directors shall appoint a president of the Cor-  
12       poration on such terms as the Board may determine.

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