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1ST SESSION

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

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 6, 2007

Mr. WYDEN (for himself, Mr. THUNE, Mr. COLEMAN, Ms. KLOBUCHAR, Mrs. DOLE, Mr. VITTER, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide \$50,000,000,000 in new transportation infrastructure funding through bonding to empower States and local governments to complete significant infrastructure projects across all modes of transportation, including roads, bridges, rail and transit systems, ports, and inland waterways, 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 2007”.

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 AND PURPOSE.**

9 (a) FINDINGS.—Congress finds the following:

10 (1) Our Nation’s highways, transit systems,
11 railroads, ports, and inland waterways drive our
12 economy, enabling all industries to achieve growth
13 and productivity that makes America strong and
14 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 (9) Numerous experts have noted that the esti-
19 mated cost to maintain and improve our Nation's
20 highways, bridges, and other critical transportation
21 infrastructure significantly exceeds what is currently
22 being provided by all levels of government.

23 (b) PURPOSE.—The purpose of this Act is to provide
24 financing for additional transportation infrastructure cap-
25 ital investments.

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

2 (a) IN GENERAL.—Subpart H of part IV of sub-
 3 chapter A of chapter 1 (relating to nonrefundable credit
 4 to holders of certain bonds) is amended by adding at the
 5 end the following new section:

6 **“SEC. 54A. CREDIT TO HOLDERS OF BUILD AMERICA**
 7 **BONDS.**

8 “(a) ALLOWANCE OF CREDIT.—If a taxpayer holds
 9 a Build America bond on 1 or more credit allowance dates
 10 of the bond occurring during any taxable year, there shall
 11 be allowed as a credit against the tax imposed by this
 12 chapter for the taxable year an amount equal to the sum
 13 of the credits determined under subsection (b) with re-
 14 spect to such dates.

15 “(b) AMOUNT OF CREDIT.—

16 “(1) IN GENERAL.—The amount of the credit
 17 determined under this subsection with respect to any
 18 credit allowance date for a Build America bond is 25
 19 percent of the annual credit determined with respect
 20 to such bond.

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

24 “(A) the applicable credit rate, multiplied
 25 by

1 “(B) the outstanding face amount of the
2 bond.

3 “(3) APPLICABLE CREDIT RATE.—For purposes
4 of paragraph (2), the applicable credit rate with re-
5 spect to an issue is the rate equal to an average
6 market yield (as of the day before the date of sale
7 of the issue) on outstanding long-term corporate
8 debt obligations (determined in such manner as the
9 Secretary prescribes).

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

13 “(A) March 15,

14 “(B) June 15,

15 “(C) September 15, and

16 “(D) December 15.

17 Such term includes the last day on which the bond
18 is outstanding.

19 “(5) SPECIAL RULE FOR ISSUANCE AND RE-
20 DEMPTION.—In the case of a bond which is issued
21 during the 3-month period ending on a credit allow-
22 ance date, the amount of the credit determined
23 under this subsection with respect to such credit al-
24 lowance date shall be a ratable portion of the credit
25 otherwise determined based on the portion of the 3-

1 month period during which the bond is outstanding.

2 A similar rule shall apply when the bond is redeemed
3 or matures.

4 “(c) LIMITATION BASED ON AMOUNT OF TAX.—The
5 credit allowed under subsection (a) for any taxable year
6 shall not exceed the excess of—

7 “(1) the sum of the regular tax liability (as de-
8 fined in section 26(b)) plus the tax imposed by sec-
9 tion 55, over

10 “(2) the sum of the credits allowable under this
11 part (other than subpart C, section 1400N(l), and
12 this section).

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

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

21 “(1) 95 percent or more of the proceeds of such
22 issue are to be used for expenditures incurred after
23 the date of the enactment of this section for 1 or
24 more qualified projects pursuant to an allocation of

1 such proceeds to such project or projects by the
2 Transportation Finance Corporation,

3 “(2) the bond is issued by the Transportation
4 Finance Corporation and is in registered form (with-
5 in the meaning of section 149(a)),

6 “(3) the Transportation Finance Corporation
7 certifies that it meets the State contribution require-
8 ment of subsection (l) with respect to such project,
9 as in effect on the date of issuance,

10 “(4) the Transportation Finance Corporation
11 certifies that the State in which an approved quali-
12 fied project is located meets the requirement de-
13 scribed in subsection (m),

14 “(5) the face amount of such bond, when added
15 to the face amount of all Build America bonds pre-
16 viously issued in the calendar year, does not exceed
17 the Build America bond limitation for such year
18 under subsection (g),

19 “(6) the term of each bond which is part of
20 such issue does not exceed 30 years,

21 “(7) the payment of principal with respect to
22 such bond is the obligation of the Transportation Fi-
23 nance Corporation, and

24 “(8) the issue meets the requirements of sub-
25 section (h).

1 “(f) QUALIFIED PROJECT.—For purposes of this sec-
 2 tion, the term ‘qualified project’ means the capital im-
 3 provements to any transportation infrastructure project of
 4 any governmental unit or other person, including roads,
 5 bridges, rail and transit systems, ports, and inland water-
 6 ways, proposed by 1 or more States and approved by the
 7 Transportation Finance Corporation, but does not include
 8 costs of operations or maintenance with respect to such
 9 project.

10 “(g) LIMITATION ON AMOUNT OF BONDS DES-
 11 IGNATED.—

12 “(1) NATIONAL LIMITATION.—There is a Build
 13 America bond limitation for each calendar year.
 14 Such limitation is—

15 “(A) \$5,000,000,000 for 2007,

16 “(B) \$5,000,000,000 for 2008,

17 “(C) \$10,000,000,000 for 2009,

18 “(D) \$10,000,000,000 for 2010,

19 “(E) \$10,000,000,000 for 2011,

20 “(F) \$10,000,000,000 for 2012, and

21 “(G) except as provided in paragraph (4),
 22 zero thereafter.

23 “(2) MINIMUM ALLOCATIONS TO STATES.—In
 24 making allocations for each calendar year under sub-
 25 section (e)(1), the Transportation Finance Corpora-

tion shall ensure that the amount allocated for qualified projects located in each State for such calendar year is not less than 1 percent of the total amount allocated for such year.

“(3) CARRYOVER OF UNUSED ISSUANCE LIMITATION.—If for any calendar year the limitation amount imposed by paragraph (1) exceeds the amount of Build America bonds issued during such year, such excess shall be carried forward to one or more succeeding calendar years as an addition to the limitation imposed by paragraph (1) and until used by issuance of Build America bonds.

“(4) ISSUANCE OF SMALL DENOMINATION BONDS.—From the Build America bond limitation for each year, the Transportation Finance Corporation shall issue a limited quantity of Build America bonds in small denominations suitable for purchase as gifts by individual investors wishing to show their support for investing in America’s transportation infrastructure.

“(h) SPECIAL RULES RELATING TO EXPENDITURES.—

“(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of

1 the date of issuance, the Transportation Finance
2 Corporation reasonably expects—

3 “(A) at least 95 percent of the proceeds of
4 such issue are to be spent for 1 or more quali-
5 fied projects within the 5-year period beginning
6 on such date,

7 “(B) to incur a binding commitment with
8 a State or third party to spend at least 10 per-
9 cent of the proceeds of such issue, or to com-
10 mence construction, with respect to such
11 projects within the 12-month period beginning
12 on such date, and

13 “(C) to proceed with due diligence to com-
14 plete such projects and to spend the proceeds of
15 such issue.

16 “(2) RULES REGARDING CONTINUING COMPLI-
17 ANCE AFTER 5-YEAR DETERMINATION.—To the ex-
18 tent that less than 95 percent of the proceeds of
19 such issue are expended by the close of the 5-year
20 period beginning on the date of issuance, the Trans-
21 portation Finance Corporation shall redeem all of
22 the nonqualified bonds within 90 days after the end
23 of such period. For purposes of this paragraph, the
24 amount of the nonqualified bonds required to be re-

1 deemed shall be determined in the same manner as
2 under section 142.

3 “(3) REALLOCATION.—In the event the recipi-
4 ent of an allocation under subsection (g) after notice
5 and a reasonable opportunity to take corrective ac-
6 tion fails to demonstrate to the satisfaction of the
7 Transportation Finance Corporation that its actions
8 will allow the Transportation Finance Corporation to
9 meet the requirements under this subsection, the
10 Transportation Finance Corporation may redis-
11 tribute the allocation meant for such recipient to
12 other recipients.

13 “(i) SPECIAL RULES RELATING TO ARBITRAGE.—A
14 bond which is a part of an issue shall not be treated as
15 a Build America bond unless, with respect to the issue
16 of which such bond is a part, the Transportation Finance
17 Corporation satisfies the arbitrage requirements of section
18 148 with respect to proceeds of the issue.

19 “(j) RECAPTURE OF PORTION OF CREDIT WHERE
20 CESSATION OF COMPLIANCE.—If any bond which when
21 issued purported to be a Build America bond ceases to
22 be such a bond, the Transportation Finance Corporation
23 shall pay to the United States (at the time required by
24 the Secretary) an amount equal to the sum of—

1 “(1) the aggregate of the credits allowable
 2 under this section with respect to such bond (deter-
 3 mined without regard to subsection (c)) for taxable
 4 years ending during the calendar year in which such
 5 cessation occurs and each succeeding calendar year
 6 ending with the calendar year in which such bond is
 7 redeemed by the Transportation Finance Corpora-
 8 tion, and

9 “(2) interest at the underpayment rate under
 10 section 6621 on the amount determined under para-
 11 graph (1) for each calendar year for the period be-
 12 ginning on the first day of such calendar year.

13 “(k) BUILD AMERICA BONDS TRUST ACCOUNT.—

14 “(1) IN GENERAL.—The following amounts
 15 shall be held in a Build America Bonds Trust Ac-
 16 count by the Transportation Finance Corporation:

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

19 “(B) The investment earnings on proceeds
 20 from the sale of such bonds.

21 “(C) The amount described in paragraph
 22 (2).

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

1 “(2) APPROPRIATION OF REVENUES.—There is
2 hereby appropriated to the Build America Bonds
3 Trust Account an amount equal to the lesser of—

4 “(A) the revenues resulting from the im-
5 position of fees pursuant to section 13031 of the
6 Consolidated Omnibus Budget Reconciliation
7 Act of 1985 (19 U.S.C. 58c) for fiscal years be-
8 ginning after September 31, 2007, or

9 “(B) \$50,000,000,000.

10 “(3) USE OF FUNDS.—Amounts in the Build
11 America Bonds Trust Account may be used only to
12 pay costs of qualified projects, redeem Build Amer-
13 ica bonds, and fund the operations of the Transpor-
14 tation Finance Corporation, except that amounts
15 withdrawn from the Build America Bonds Trust Ac-
16 count to pay costs of qualified projects may not ex-
17 ceed the proceeds from the sale of Build America
18 bonds described in subsection (e)(1).

19 “(4) USE OF REMAINING FUNDS IN BUILD
20 AMERICA BONDS TRUST ACCOUNT.—Upon the re-
21 demption of all Build America bonds issued under
22 this section, any remaining amounts in the Build
23 America Bonds Trust Account shall be available to
24 the Transportation Finance Corporation to pay the
25 costs of any qualified project.

1 “(5) APPLICABILITY OF FEDERAL LAW.—The
 2 requirements of any Federal law, including titles 23,
 3 40, and 49 of the United States Code, which would
 4 otherwise apply to projects to which the United
 5 States is a party or to funds made available under
 6 such law and projects assisted with those funds shall
 7 apply to—

8 “(A) funds made available under the Build
 9 America Bonds Trust Account for similar quali-
 10 fied projects, including contributions required
 11 under subsection (l), and

12 “(B) similar qualified projects assisted by
 13 the Transportation Finance Corporation
 14 through the use of such funds.

15 “(6) INVESTMENT.—Subject to subsections (h)
 16 and (i), it shall be the duty of the Transportation
 17 Finance Corporation to invest in investment grade
 18 obligations such portion of the Build America Bonds
 19 Trust Account as is not, in the judgment of the
 20 Board of Directors of the Transportation Finance
 21 Corporation, required to meet current withdrawals.
 22 To the maximum extent practicable, investments
 23 should be made in securities that support infrastruc-
 24 ture investment at the State and local level.

25 “(l) STATE CONTRIBUTION REQUIREMENTS.—

1 “(1) IN GENERAL.—For purposes of subsection
2 (e)(3), the State contribution requirement of this
3 subsection is met with respect to any qualified
4 project if the Transportation Finance Corporation
5 has received from 1 or more States, not later than
6 the date of issuance of the bond, written commit-
7 ments for matching contributions of not less than 20
8 percent (or such smaller percentage as determined
9 under title 23, United States Code, for such State)
10 of the cost of the qualified project.

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

17 “(m) UTILIZATION OF UPDATED CONSTRUCTION
18 TECHNOLOGY FOR QUALIFIED PROJECTS.—For purposes
19 of subsection (e)(4), the requirement of this subsection is
20 met if the appropriate State agency relating to the quali-
21 fied project is utilizing updated construction technologies.

22 “(n) OTHER DEFINITIONS AND SPECIAL RULES.—
23 For purposes of this section—

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

1 “(2) TRANSPORTATION FINANCE CORPORA-
 2 TION.—The term ‘Transportation Finance Corpora-
 3 tion’ means the corporation established under sec-
 4 tion 4(a) of the Build America Bonds Act of 2007.

5 “(3) PARTNERSHIP; S CORPORATION; AND
 6 OTHER PASS-THRU ENTITIES.—

7 “(A) IN GENERAL.—In the case of a part-
 8 nership, trust, S corporation, or other pass-thru
 9 entity, rules similar to the rules of section 41(g)
 10 shall apply with respect to the credit allowable
 11 under subsection (a).

12 “(B) NO BASIS ADJUSTMENT.—In the case
 13 of a bond held by a partnership or an S cor-
 14 poration, rules similar to the rules under sec-
 15 tion 1397E(i) shall apply.

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) CREDITS MAY BE TRANSFERRED.—Noth-
 15 ing in any law or rule of law shall be construed to
 16 limit the transferability of the credit or bond allowed
 17 by this section through sale and repurchase agree-
 18 ments.

19 “(7) REPORTING.—The Transportation Finance
 20 Corporation shall submit reports similar to the re-
 21 ports required under section 149(e).

22 “(8) PROHIBITION ON USE OF HIGHWAY TRUST
 23 FUND.—Notwithstanding any other provision of law,
 24 no funds derived from the Highway Trust Fund es-
 25 tablished under section 9503 shall be used to pay for

1 credits under this section or for the administrative
 2 costs of the Transportation Finance Corporation.”.

3 (b) REPORTING.—Subsection (d) of section 6049 (re-
 4 lating to returns regarding payments of interest) is
 5 amended by adding at the end the following new para-
 6 graph:

7 “(9) REPORTING OF CREDIT ON BUILD AMER-
 8 ICA BONDS.—

9 “(A) IN GENERAL.—For purposes of sub-
 10 section (a), the term ‘interest’ includes amounts
 11 includible in gross income under section 54A(d)
 12 and such amounts shall be treated as paid on
 13 the credit allowance date (as defined in section
 14 54A(b)(4)).

15 “(B) REPORTING TO CORPORATIONS,
 16 ETC.—Except as otherwise provided in regula-
 17 tions, in the case of any interest described in
 18 subparagraph (A), subsection (b)(4) shall be
 19 applied without regard to subparagraphs (A),
 20 (H), (I), (J), (K), and (L)(i) of such subsection.

21 “(C) REGULATORY AUTHORITY.—The Sec-
 22 retary may prescribe such regulations as are
 23 necessary or appropriate to carry out the pur-
 24 poses of this paragraph, including regulations

1 which require more frequent or more detailed
2 reporting.”.

3 (c) CONFORMING AMENDMENT.—Section 54(c)(2) is
4 amended by inserting “section 54A,” after “subpart C,”.

5 (d) CLERICAL AMENDMENTS.—The table of sections
6 for subpart H of part IV of subchapter A of chapter 1
7 is amended by adding at the end the following new item:
 “Sec. 54A. Credit for holders of Build America bonds.”.

8 (e) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to bonds issued after the date of
10 the enactment of this Act.

11 **SEC. 4. TRANSPORTATION FINANCE CORPORATION.**

12 (a) RECOGNITION AND STATUS.—Congress grants
13 consent and recognition to the establishment by 2 or more
14 State infrastructure banks (established under section 610
15 of title 23, United States Code) of a multistate organiza-
16 tion to be known as the “Transportation Finance Corpora-
17 tion” (hereafter in this section referred to as the “Cor-
18 poration”). Additional State infrastructure banks may join
19 the Transportation Finance Corporation subsequent to its
20 establishment.

21 (b) FUNCTIONS OF CORPORATION.—The Corpora-
22 tion—

23 (1) is authorized to issue Build America bonds
24 for the financing of qualified projects as required

1 under section 54A of the Internal Revenue Code of
2 1986,

3 (2) is authorized to establish and operate the
4 Build America Bonds Trust Account as required
5 under section 54A(k) of such Code,

6 (3) is authorized to act as a centralized entity
7 to provide financing for qualified projects (as defined
8 in section 54A(f) of such Code),

9 (4) may—

10 (A) leverage resources and stimulate public
11 and private investment in transportation infra-
12 structure,

13 (B) encourage States to create additional
14 opportunities for the financing of transportation
15 infrastructure,

16 (C) perform any other function the sole
17 purpose of which is to carry out the financing
18 of qualified projects through Build America
19 bonds, and

20 (5) not later than February 15 of each year
21 shall submit a report to Congress describing the ac-
22 tivities of the Corporation for the preceding year.

23 (c) EXEMPTION FROM TAXES.—

24 (1) IN GENERAL.—The Corporation, including
25 its franchise, capital, reserves, surplus, sinking

1 funds, mortgages or other security holdings, and in-
2 come, shall be exempt from all taxation now or here-
3 after imposed by the United States, by any territory,
4 dependency, or possession thereof, or by any State,
5 county, municipality, or local taxing authority, ex-
6 cept that any real property of the Corporation shall
7 be subject to State, territorial, county, municipal, or
8 local taxation to the same extent according to its
9 value as other real property is taxed.

10 (2) FINANCIAL OBLIGATIONS.—Build America
11 bonds or other obligations issued by the Corporation
12 and the interest on or tax credits with respect to its
13 bonds or other obligations shall not be subject to
14 taxation by any State, county, municipality, or local
15 taxing authority.

16 (d) CONSTRUCTION REGARDING RECOGNITION AND
17 STATUS.—

18 (1) IN GENERAL.—Nothing in this section shall
19 be construed to establish the Corporation as a de-
20 partment, agency, or instrumentality of the United
21 States Government, to establish the members of any
22 governing board or the officers and employees of the
23 Corporation, as officers or employees of the United
24 States Government, or to subject the Corporation to
25 the provisions of title 31, United States Code.

1 (2) UNITED STATES NOT OBLIGATED.—The de-
 2 posit of Federal funds into the Build America Bonds
 3 Trust Account established under section 54A(k) of
 4 the Internal Revenue Code of 1986 shall not be con-
 5 strued as a commitment, guarantee, or obligation on
 6 the part of the United States to any third party, nor
 7 shall any third party have any right against the
 8 United States for payment solely by virtue of the
 9 contribution. Any security or debt-financing instru-
 10 ment issued by the Corporation shall expressly state
 11 that the security or instrument does not constitute
 12 a commitment, guarantee, or obligation of the
 13 United States.

14 **SEC. 5. ADDITIONAL REVENUES THROUGH EXTENSION OF**
 15 **CUSTOMS USER FEES.**

16 Section 13031(j)(3) of the Consolidated Omnibus
 17 Budget Reconciliation Act of 1985 (19 U.S.C.
 18 58c(j)(3)(A)) is amended—

19 (1) by striking “October 14, 2014” in subpara-
 20 graph (A) and inserting “October 14, 2026”, and

21 (2) by striking “September 30, 2014” in sub-
 22 paragraph (B) and inserting “October 14, 2026”.

○