

112TH CONGRESS  
1ST SESSION

# H. R. 992

To amend the Internal Revenue Code of 1986 to create jobs through increased investment in infrastructure, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 2011

Mr. LEVIN (for himself, Mr. RANGEL, Mr. STARK, Mr. McDERMOTT, Mr. LEWIS of Georgia, Mr. NEAL, Mr. BECERRA, Mr. THOMPSON of California, Mr. LARSON of Connecticut, Mr. BLUMENAUER, Mr. KIND, Mr. PASCRELL, Ms. BERKLEY, and Mr. CROWLEY) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to create jobs through increased investment in infrastructure, 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; AMENDMENT OF 1986 CODE;**

4 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the  
6 “Building American Jobs Act of 2011”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-  
8 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment  
 2 to, or repeal of, a section or other provision, the reference  
 3 shall be considered to be made to a section or other provi-  
 4 sion of the Internal Revenue Code of 1986.

5 (c) TABLE OF CONTENTS.—The table of contents for  
 6 this Act is as follows:

- Sec. 1. Short title; amendment of 1986 Code; table of contents.
- Sec. 2. Extension of Build America Bonds.
- Sec. 3. Extension and additional allocations of recovery zone bond authority.
- Sec. 4. Exempt-facility bonds for sewage and water supply facilities.
- Sec. 5. Extension of exemption from alternative minimum tax treatment for certain tax-exempt bonds.
- Sec. 6. Allowance of new markets tax credit against alternative minimum tax.
- Sec. 7. Extension of tax-exempt eligibility for loans guaranteed by Federal home loan banks.
- Sec. 8. Extension of temporary small issuer rules for allocation of tax-exempt interest expense by financial institutions.
- Sec. 9. Election for refundable low-income housing credit for 2011.

7 **SEC. 2. EXTENSION OF BUILD AMERICA BONDS.**

8 (a) IN GENERAL.—Subparagraph (B) of section  
 9 54AA(d)(1) is amended by inserting “or during the period  
 10 beginning on the date of the enactment of the Building  
 11 American Jobs Act of 2011 and ending on December 31,  
 12 2012,” after “January 1, 2011,”.

13 (b) EXTENSION OF PAYMENTS TO ISSUERS.—

14 (1) IN GENERAL.—Section 6431 is amended—

15 (A) by inserting “or during the period be-  
 16 ginning on the date of the enactment of the  
 17 Building American Jobs Act of 2011 and end-  
 18 ing on December 31, 2012,” after “January 1,  
 19 2011,” in subsection (a), and

1 (B) by striking “before January 1, 2011”  
2 in subsection (f)(1)(B) and inserting “during a  
3 particular period”.

4 (2) CONFORMING AMENDMENTS.—Subsection  
5 (g) of section 54AA is amended—

6 (A) by inserting “or during the period be-  
7 ginning on the date of the enactment of the  
8 Building American Jobs Act of 2011 and end-  
9 ing on December 31, 2012,” after “January 1,  
10 2011,” and

11 (B) by striking “QUALIFIED BONDS  
12 ISSUED BEFORE 2011” in the heading and in-  
13 serting “CERTAIN QUALIFIED BONDS”.

14 (c) REDUCTION IN PERCENTAGE OF PAYMENTS TO  
15 ISSUERS.—Subsection (b) of section 6431 is amended—

16 (1) by striking “The Secretary” and inserting  
17 the following:

18 “(1) IN GENERAL.—The Secretary”,

19 (2) by striking “35 percent” and inserting “the  
20 applicable percentage”, and

21 (3) by adding at the end the following new  
22 paragraph:

23 “(2) APPLICABLE PERCENTAGE.—For purposes  
24 of this subsection, the term ‘applicable percentage’

1 means the percentage determined in accordance with  
 2 the following table:

“In the case of a qualified bond issued during calendar year:	The applicable percentage is:
2009 or 2010 .....	35 percent
2011 .....	32 percent
2012 .....	31 percent.”.

3 (d) CURRENT REFUNDINGS PERMITTED.—Sub-  
 4 section (g) of section 54AA is amended by adding at the  
 5 end the following new paragraph:

6 “(3) TREATMENT OF CURRENT REFUNDING  
 7 BONDS.—

8 “(A) IN GENERAL.—For purposes of this  
 9 subsection, the term ‘qualified bond’ includes  
 10 any bond (or series of bonds) issued to refund  
 11 a qualified bond if—

12 “(i) the average maturity date of the  
 13 issue of which the refunding bond is a part  
 14 is not later than the average maturity date  
 15 of the bonds to be refunded by such issue,

16 “(ii) the amount of the refunding  
 17 bond does not exceed the outstanding  
 18 amount of the refunded bond, and

19 “(iii) the refunded bond is redeemed  
 20 not later than 90 days after the date of the  
 21 issuance of the refunding bond.

1           “(B) APPLICABLE PERCENTAGE.—In the  
 2           case of a refunding bond referred to in subpara-  
 3           graph (A), the applicable percentage with re-  
 4           spect to such bond under section 6431(b) shall  
 5           be the lowest percentage specified in paragraph  
 6           (2) of such section.

7           “(C) DETERMINATION OF AVERAGE MATU-  
 8           RITY.—For purposes of subparagraph (A)(i),  
 9           average maturity shall be determined in accord-  
 10          ance with section 147(b)(2)(A).”.

11          (e) CLARIFICATION RELATED TO LEVEES AND  
 12 FLOOD CONTROL PROJECTS.—Subparagraph (A) of sec-  
 13 tion 54AA(g)(2) is amended by inserting “(including cap-  
 14 ital expenditures for levees and other flood control  
 15 projects)” after “capital expenditures”.

16 **SEC. 3. EXTENSION AND ADDITIONAL ALLOCATIONS OF RE-**  
 17 **COVERY ZONE BOND AUTHORITY.**

18          (a) EXTENSION OF RECOVERY ZONE BOND AUTHOR-  
 19 ITY.—Section 1400U–2(b)(1) and section 1400U–  
 20 3(b)(1)(B) are each amended by inserting “or during the  
 21 period beginning on the date of the enactment of the  
 22 Building American Jobs Act of 2011 and ending on De-  
 23 cember 31, 2011,” after “January 1, 2011,”.

24          (b) ADDITIONAL ALLOCATIONS OF RECOVERY ZONE  
 25 BOND AUTHORITY BASED ON UNEMPLOYMENT.—Section

1 1400U–1 is amended by adding at the end the following  
2 new subsection:

3 “(c) ALLOCATION OF 2011 RECOVERY ZONE BOND  
4 LIMITATIONS BASED ON UNEMPLOYMENT.—

5 “(1) IN GENERAL.—The Secretary shall allo-  
6 cate the 2011 national recovery zone economic devel-  
7 opment bond limitation and the 2011 national recov-  
8 ery zone facility bond limitation among the States in  
9 the proportion that each such State’s 2009 unem-  
10 ployment number bears to the aggregate of the 2009  
11 unemployment numbers for all of the States.

12 “(2) MINIMUM ALLOCATION.—The Secretary  
13 shall adjust the allocations under paragraph (1) for  
14 each State to the extent necessary to ensure that no  
15 State (prior to any reduction under paragraph (3))  
16 receives less than 0.9 percent of the 2011 national  
17 recovery zone economic development bond limitation  
18 and 0.9 percent of the 2011 national recovery zone  
19 facility bond limitation.

20 “(3) ALLOCATIONS BY STATES.—

21 “(A) IN GENERAL.—Each State with re-  
22 spect to which an allocation is made under  
23 paragraph (1) shall reallocate such allocation  
24 among the counties and large municipalities (as  
25 defined in subsection (a)(3)(B)) in such State

1 in the proportion that each such county's or  
2 municipality's 2009 unemployment number  
3 bears to the aggregate of the 2009 unemploy-  
4 ment numbers for all the counties and large  
5 municipalities (as so defined) in such State.

6 “(B) 2011 ALLOCATION REDUCED BY  
7 AMOUNT OF PREVIOUS ALLOCATION.—Each  
8 State shall reduce (but not below zero)—

9 “(i) the amount of the 2011 national  
10 recovery zone economic development bond  
11 limitation allocated to each county or large  
12 municipality (as so defined) in such State  
13 by the amount of the national recovery  
14 zone economic development bond limitation  
15 allocated to such county or large munic-  
16 ipality under subsection (a)(3)(A) (deter-  
17 mined without regard to any waiver there-  
18 of), and

19 “(ii) the amount of the 2011 national  
20 recovery zone facility bond limitation allo-  
21 cated to each county or large municipality  
22 (as so defined) in such State by the  
23 amount of the national recovery zone facil-  
24 ity bond limitation allocated to such county  
25 or large municipality under subsection

1           (a)(3)(A) (determined without regard to  
2           any waiver thereof).

3           “(C) WAIVER OF SUBALLOCATIONS.—A  
4           county or municipality may waive any portion  
5           of an allocation made under this paragraph. A  
6           county or municipality shall be treated as hav-  
7           ing waived any portion of an allocation made  
8           under this paragraph which has not been allo-  
9           cated to a bond issued before May 1, 2011. Any  
10          allocation waived (or treated as waived) under  
11          this subparagraph may be used or reallocated  
12          by the State.

13          “(D) SPECIAL RULE FOR A MUNICIPALITY  
14          IN A COUNTY.—In the case of any large munici-  
15          pality any portion of which is in a county, such  
16          portion shall be treated as part of such munici-  
17          pality and not part of such county.

18          “(4) 2009 UNEMPLOYMENT NUMBER.—For  
19          purposes of this subsection, the term ‘2009 unem-  
20          ployment number’ means, with respect to any State,  
21          county or municipality, the number of individuals in  
22          such State, county, or municipality who were deter-  
23          mined to be unemployed by the Bureau of Labor  
24          Statistics for December 2009.

25          “(5) 2011 NATIONAL LIMITATIONS.—

1           “(A) RECOVERY ZONE ECONOMIC DEVEL-  
2           OPMENT BONDS.—The 2011 national recovery  
3           zone economic development bond limitation is  
4           \$10,000,000,000. Any allocation of such limita-  
5           tion under this subsection shall be treated for  
6           purposes of section 1400U–2 in the same man-  
7           ner as an allocation of national recovery zone  
8           economic development bond limitation.

9           “(B) RECOVERY ZONE FACILITY BONDS.—  
10          The 2011 national recovery zone facility bond  
11          limitation is \$15,000,000,000. Any allocation of  
12          such limitation under this subsection shall be  
13          treated for purposes of section 1400U–3 in the  
14          same manner as an allocation of national recov-  
15          ery zone facility bond limitation.”.

16          (c) AUTHORITY OF STATE TO WAIVE CERTAIN 2009  
17          ALLOCATIONS.—Subparagraph (A) of section 1400U–  
18          1(a)(3) is amended by adding at the end the following:  
19          “A county or municipality shall be treated as having  
20          waived any portion of an allocation made under this sub-  
21          paragraph which has not been allocated to a bond issued  
22          before May 1, 2011. Any allocation waived (or treated as  
23          waived) under this subparagraph may be used or reallo-  
24          cated by the State.”.

1 **SEC. 4. EXEMPT-FACILITY BONDS FOR SEWAGE AND WATER**  
 2 **SUPPLY FACILITIES.**

3 (a) BONDS FOR WATER AND SEWAGE FACILITIES  
 4 EXEMPT FROM VOLUME CAP ON PRIVATE ACTIVITY  
 5 BONDS.—

6 (1) IN GENERAL.—Paragraph (3) of section  
 7 146(g) is amended by inserting “(4), (5),” after  
 8 “(2),”.

9 (2) CONFORMING AMENDMENT.—Paragraphs  
 10 (2) and (3)(B) of section 146(k) are both amended  
 11 by striking “(4), (5), (6),” and inserting “(6)”.

12 (b) TAX-EXEMPT ISSUANCE BY INDIAN TRIBAL GOV-  
 13 ERNMENTS.—

14 (1) IN GENERAL.—Subsection (c) of section  
 15 7871 is amended by adding at the end the following  
 16 new paragraph:

17 “(4) EXCEPTION FOR BONDS FOR WATER AND  
 18 SEWAGE FACILITIES.—Paragraph (2) shall not apply  
 19 to an exempt facility bond 95 percent or more of the  
 20 net proceeds (as defined in section 150(a)(3)) of  
 21 which are to be used to provide facilities described  
 22 in paragraph (4) or (5) of section 142(a).”.

23 (2) CONFORMING AMENDMENT.—Paragraph (2)  
 24 of section 7871(c) is amended by striking “para-  
 25 graph (3)” and inserting “paragraphs (3) and (4)”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to obligations issued on or after  
3 the date of the enactment of this Act.

4 **SEC. 5. EXTENSION OF EXEMPTION FROM ALTERNATIVE**  
5 **MINIMUM TAX TREATMENT FOR CERTAIN**  
6 **TAX-EXEMPT BONDS.**

7 (a) IN GENERAL.—Clause (vi) of section 57(a)(5)(C)  
8 is amended—

9 (1) by inserting “or during the period beginning  
10 on the date of the enactment of the Building Amer-  
11 ican Jobs Act of 2011 and ending on December 31,  
12 2011,” after “January 1, 2011,” and

13 (2) by striking “EXCEPTION FOR BONDS  
14 ISSUED IN 2009 AND 2010” in the heading and insert-  
15 ing “TEMPORARY EXCEPTION”.

16 (b) ADJUSTED CURRENT EARNINGS.—Clause (iv) of  
17 section 56(g)(4)(B) is amended—

18 (1) by inserting “or during the period beginning  
19 on the date of the enactment of the Building Amer-  
20 ican Jobs Act of 2011 and ending on December 31,  
21 2011,” after “January 1, 2011,” and

22 (2) by striking “TAX EXEMPT INTEREST ON  
23 BONDS ISSUED IN 2009 AND 2010” in the heading and  
24 inserting “TEMPORARY EXCLUSION OF TAX EXEMPT  
25 BOND INTEREST”.

1 (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to obligations issued on or after  
 3 the date of the enactment of this Act.

4 **SEC. 6. ALLOWANCE OF NEW MARKETS TAX CREDIT**  
 5 **AGAINST ALTERNATIVE MINIMUM TAX.**

6 (a) IN GENERAL.—Subparagraph (B) of section  
 7 38(c)(4) is amended by redesignating clauses (v) through  
 8 (ix) as clauses (vi) through (x), respectively, and by insert-  
 9 ing after clause (iv) the following new clause:

10 “(v) the credit determined under sec-  
 11 tion 45D, but only with respect to credits  
 12 determined with respect to qualified equity  
 13 investments (as defined in section 45D(b))  
 14 initially made before January 1, 2012,”.

15 (b) EFFECTIVE DATE.—The amendments made by  
 16 this section shall apply to credits determined with respect  
 17 to qualified equity investments (as defined in section  
 18 45D(b) of the Internal Revenue Code of 1986) initially  
 19 made after the date of the enactment of this Act.

20 **SEC. 7. EXTENSION OF TAX-EXEMPT ELIGIBILITY FOR**  
 21 **LOANS GUARANTEED BY FEDERAL HOME**  
 22 **LOAN BANKS.**

23 (a) IN GENERAL.—Clause (iv) of section  
 24 149(b)(3)(A) is amended by inserting “or during the pe-  
 25 riod beginning on the date of the enactment of the Build-

1 ing American Jobs Act of 2011 and ending on December  
2 31, 2011,” after “December 31, 2010”.

3 (b) EFFECTIVE DATE.—The amendment made by  
4 this section shall apply to obligations issued on or after  
5 the date of the enactment of this Act.

6 **SEC. 8. EXTENSION OF TEMPORARY SMALL ISSUER RULES**  
7 **FOR ALLOCATION OF TAX-EXEMPT INTEREST**  
8 **EXPENSE BY FINANCIAL INSTITUTIONS.**

9 (a) IN GENERAL.—Clauses (i), (ii), and (iii) of sec-  
10 tion 265(b)(3)(G) are each amended by striking “or  
11 2010” and inserting “, 2010, or 2011”.

12 (b) CONFORMING AMENDMENT.—Subparagraph (G)  
13 of section 265(b)(3) is amended by striking “AND 2010”  
14 in the heading and inserting “, 2010, AND 2011”.

15 (c) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to obligations issued after Decem-  
17 ber 31, 2010.

18 **SEC. 9. ELECTION FOR REFUNDABLE LOW-INCOME HOUS-**  
19 **ING CREDIT FOR 2011.**

20 (a) IN GENERAL.—Section 42 is amended by redesign-  
21 ating subsection (n) as subsection (o) and by inserting  
22 after subsection (m) the following new subsection:

23 “(n) ELECTION FOR REFUNDABLE CREDITS.—

24 “(1) IN GENERAL.—The housing credit agency  
25 of each State shall be allowed a credit in an amount

1 equal to such State's 2011 low-income housing re-  
 2 fundable credit election amount which shall be pay-  
 3 able by the Secretary as provided in paragraph (5).

4 “(2) 2011 LOW-INCOME HOUSING REFUNDABLE  
 5 CREDIT ELECTION AMOUNT.—For purposes of this  
 6 subsection, the term ‘2011 low-income housing re-  
 7 fundable credit election amount’ means, with respect  
 8 to any State, such amount as the State may elect  
 9 which does not exceed 85 percent of the product  
 10 of—

11 “(A) the sum of—

12 “(i) 100 percent of the State housing  
 13 credit ceiling for 2011 which is attrib-  
 14 utable to amounts described in clauses (i)  
 15 and (iii) of subsection (h)(3)(C), and

16 “(ii) 40 percent of the State housing  
 17 credit ceiling for 2011 which is attrib-  
 18 utable to amounts described in clauses (ii)  
 19 and (iv) of such subsection, multiplied by

20 “(B) 10.

21 “(3) COORDINATION WITH NON-REFUNDABLE  
 22 CREDIT.—For purposes of this section, the amounts  
 23 described in clauses (i) through (iv) of subsection  
 24 (h)(3)(C) with respect to any State for 2011 shall  
 25 each be reduced by so much of such amount as is

1 taken into account in determining the amount of the  
2 credit allowed with respect to such State under para-  
3 graph (1).

4 “(4) SPECIAL RULE FOR BASIS.—Basis of a  
5 qualified low-income building shall not be reduced by  
6 the amount of any payment made under this sub-  
7 section.

8 “(5) PAYMENT OF CREDIT; USE TO FINANCE  
9 LOW-INCOME BUILDINGS.—The Secretary shall pay  
10 to the housing credit agency of each State an  
11 amount equal to the credit allowed under paragraph  
12 (1). Rules similar to the rules of subsections (c) and  
13 (d) of section 1602 of the American Recovery and  
14 Reinvestment Tax Act of 2009 shall apply with re-  
15 spect to any payment made under this paragraph,  
16 except that such subsection (d) shall be applied by  
17 substituting ‘January 1, 2013’ for ‘January 1,  
18 2011’.”.

19 (b) CONFORMING AMENDMENT.—Section 1324(b)(2)  
20 of title 31, United States Code, is amended by inserting  
21 “42(n),” after “36A,”.

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