To establish the American Infrastructure Fund, to provide bond guarantees and make loans to States, local governments, and non-profit infrastructure providers for investments in certain infrastructure projects, and to provide equity investments in such projects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2013

Mr. Delaney (for himself, Mr. Barr, Mr. Bera of California, Mr. Carney, Mr. Cole, Mr. Connolly, Mr. Rodney Davis of Illinois, Mr. Fitzpatrick, Ms. Gabbard, Mr. Garcia, Mr. Gibson, Mr. Johnson of Ohio, Mr. Joyce, Mr. Kennedy, Mr. Kind, Mr. Kinzinger of Illinois, Mr. Messer, Mr. Moran, Mr. Murphy of Florida, Mr. Peters of California, Mr. Pittenger, Mr. Polis, Mr. Ruppersberger, Ms. Sinema, Mr. Stivers, Mr. Turner, and Mr. Yoho) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To establish the American Infrastructure Fund, to provide bond guarantees and make loans to States, local governments, and non-profit infrastructure providers for investments in certain infrastructure projects, and to provide equity investments in such projects, and for other purposes.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Partnership to Build
America Act of 2013”.

SEC. 2. AMERICAN INFRASTRUCTURE FUND.

(a) AMERICAN INFRASTRUCTURE FUND.—

(1) IN GENERAL.—There is established a wholly
owned Government corporation to be called the
American Infrastructure Fund ("AIF")—

(A) which shall be headed by the Board of
Trustees established under subsection (b);

(B) which may have separate sub-accounts
or subsidiaries for funds used to make loans,
bond guarantees, and equity investments under
this section and funds used to make bond guar-
antees under this section;

(C) which shall be available to the AIF to
pay for the costs of carrying out this section,
including the compensation of the Board and
other employees of the AIF; and

(D) the funds of which may be invested by
the Board in such manner as the Board deter-
mines appropriate.
(2) DEPOSITS TO AIF.—All funds received from bond issuances, loan payments, bond guarantee fees, and any other funds received in carrying out this section shall be held by AIF.

(3) LIMITATIONS.—The charter of the AIF shall limit its activities to those activities described as the mission of the Board under subsection (b)(2).

(4) OVERSIGHT.—The AIF shall register with the Securities and Exchange Commission and the Secretary shall report to Congress annually as to whether the AIF is fulfilling the mission of the Board under subsection (b)(2).

(5) TREATMENT OF AIF.—Title 31, United States Code, is amended in each of sections 9107(c)(3) and 9108(d)(2)—

(A) by inserting “the American Infrastructure Fund,” after “the Regional Banks for Cooperatives,”; and

(B) by striking “those banks” and inserting “those entities”.

(b) BOARD OF TRUSTEES.—

(1) IN GENERAL.—There is established a Board of Trustees of the AIF (the “Board”), which shall be composed of 11 members, of which at least 4 must be risk management experts, as certified by
the Board, having substantial experience in bond
guarantees or municipal credit.

(2) MISSION.—The Mission of the Board is—

(A) to operate the AIF and its subsidiaries
to be a low cost provider of bond guarantees,
loans, and equity investments to State and local
governments and non-profit infrastructure pro-
viders for both urban and rural non-profit in-
frastucture projects that provide a positive eco-
nomic impact and to meet such other standards
as the Board may develop;

(B) to operate the AIF in a self-sustaining
manner so as to allow the AIF to repay its in-
frastucture bonds when due;

(C) to not have a profit motive, but seek
at all times to pursue its mission of providing
low cost bond guarantees and loans while cov-
ering its costs, reserves as may be needed, and
applying prudent underwriting standards;

(D) to only consider projects put forth by
State and local governments and not to seek
projects directly;

(E) to at all times make clear that no tax-
payer money supports the AIF or ever will; and
(F) to engage in no other activities other than those permitted under this section.

(3) Membership.—

(A) Presidentially-appointed members.—Except as provided under subparagraph (C), 4 members of the Board shall be appointed by the President, by and with the advice and consent of the Senate, and serve for a term of 7 years.

(B) Additional members.—Except as provided under subparagraph (C), 7 members of the Board shall be appointed by the current members of the Board appointed pursuant to this subparagraph or subparagraph (C)(ii), and serve for a term of 7 years.

(C) Initial members.—The Board shall initially consist of the following members, who shall be appointed not later than the end of the 60-day period beginning on the date that bonds are issued under subsection (e):

(i) Four members, appointed by the President, by and with the advice and consent of the Senate.

(ii) Seven additional members, appointed one each by the seven entities pur-
chasing the largest amount of bonds (by aggregate face amount of bonds purchased) under subsection (e).

(D) Staggered terms.—The members of the Board shall serve staggered terms, with each of the initial members of the Board serving for terms of 4, 5, 6, 7, and 8 years, respectively, and the initial Chair selected under subparagraph (E) serving for 9 years. The decision of which Board members, other than the Chair, serve for which initial terms shall be made by the members of the Board drawing lots.

(E) Chair.—The members of the Board shall choose 1 member to serve as the Chair of the Board for a term of 7 years, except that the initial Chair shall serve for a term of 7 years, as described under subparagraph (D).

(F) Vacancies.—Any member of the Board appointed to fill a vacancy occurring before the expiration of the term to which that member’s predecessor was appointed shall be appointed only for the remainder of the term.

(G) Continuation of service.—Each member of the Board may continue to serve after the expiration of the term of office to
which that member was appointed until a successor has been appointed.

(H) CONFLICTS OF INTEREST.—No member of the Board may have a financial interest in, or be employed by, a Qualified Infrastructure Project (‘‘QIP’’) related to assistance provided under this section or any entity that has purchased bonds under subsection (e). Owning municipal credit of any State or local government or owning the securities of a diversified company that engages in infrastructure activities, provided those activities constitute less than 20 percent of the company’s revenues, or investing in broadly held investment funds shall not be deemed to create a conflict of interest. The Board may issue regulations to define terms used under this subparagraph.

(4) COMPENSATION.—The members of the Board shall be compensated at an amount to be set by the Board, but under no circumstances may such compensation be higher than the rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(5) STAFF.—The Board shall employ and set compensation for such staff as the Board determines
as is necessary to carry out the activities and mission of the AIF, and such staff may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53, United States Code, relating to classification and General Schedule pay rates.

(6) PROCEDURES.—The Board shall establish such procedures as are necessary to carry out this section.

(7) CORPORATE GOVERNANCE STANDARDS.—

(A) BOARD COMMITTEES GENERALLY.—

The Board shall maintain all of the committees required to be maintained by the board of directors of an issuer listed on the New York Stock Exchange as of the date of the enactment of this section.

(B) RISK MANAGEMENT COMMITTEE.—The Board shall maintain a risk management committee, which shall—

(i) consist of 4 members of the Board, with the initial 4 members consisting of 2 members appointed under paragraph (3)(C)(i) and 2 members appointed under paragraph (3)(C)(ii);

(ii) employ additional staff who are certified by the Board as having significant
and relevant experience in insurance underwriting and credit risk management;

(iii) establish the risk management policies used by the Board.

(C) STANDARDS.—The Board shall, to the extent practicable, follow all standards with respect to corporate governance that are required to be followed by the board of directors of an issuer listed on the New York Stock Exchange as of the date of the enactment of this section.

(c) INFRASTRUCTURE INVESTMENT.—

(1) IN GENERAL.—The AIF shall provide bond guarantees to debt issued by State and local governments and non-profit infrastructure providers, make loans to States, local governments, and non-profit infrastructure providers, and make equity investments in projects sponsored by State and local governments and non-profit infrastructure provider to help Qualified Infrastructure Projects (“QIPs”). The AIF may not make any loans or provide bond guaranties to for-profit entities.

(2) QUALIFIED INFRASTRUCTURE PROJECTS.—

A project qualifies as a QIP under this section if—
(A) the project involves the construction, maintenance, improvement, or repair of a trans-
portation, energy, water, communications, or educational facility; and

(B) the recipient of bond guarantees, loans, equity investments, or any other financ-
ing technique authorized under this Act pro-
vides written assurances prescribed by the AIF that the project will be performed in compliance with the requirements of all Federal laws that would otherwise apply to similar projects to which the United States is a party.

(3) APPLICATION FOR ASSISTANCE.—

(A) IN GENERAL.—A State or local gov-
ernment that wishes to receive a loan or bond guarantee under this section shall submit an application to the Board in such form and man-
ner and containing such information as the Board may require.

(B) REQUIREMENT FOR NON-PROFIT INF-
RASTRUCTURE PROVIDERS TO APPLY THROUGH STATE OR LOCAL GOVERNMENTS.—A non-profit infrastructure provider may only re-
ceive a bond guarantee, loan, or equity invest-
ment under this section if the State or local
government for the jurisdiction in which the non-profit infrastructure provider is located submits an application pursuant to subparagraph (A) on behalf of such non-profit infrastructure provider.

(4) LIMITATIONS ON SINGLE STATE AWARDS.—

(A) ANNUAL LIMITATION.—The Board shall set an annual limit, as a percentage of total assistance provided under this section during a year, on the amount of assistance a single State (including local governments and other non-profit infrastructure providers within such State) may receive in assistance provided under this section.

(B) CUMULATIVE LIMITATION.—The Board shall set a limit, as a percentage of total assistance provided under this section outstanding at any one time, on the amount of assistance a single State (including local governments and other non-profit infrastructure providers within such State) may receive in assistance provided under this section.

(5) LOAN SPECIFICATIONS.—Loans made under this section shall have such maturity and carry such interest rate as the Board determines appropriate.
(6) BOND GUARANTEE.—The Board shall charge such fees for Bond guarantees made under this section as the Board determines appropriate.

(7) EQUITY INVESTMENTS.—With respect to a QIP, the amount of an equity investment made by the AIF in such QIP may not exceed 20 percent of the total cost of the QIP.

(8) PUBLIC-PRIVATE PARTNERSHIP REQUIREMENTS.—At least 25 percent of the assistance provided under this section shall be provided to QIPs for which at least 20 percent of the financing for such QIPs comes from private debt or equity.

(9) PROHIBITION ON PRINCIPAL FORGIVENESS.—With respect to a loan made under this section, the Board may not forgive any amount of principal on such loan.

(d) AMERICAN INFRASTRUCTURE BONDS.—

(1) IN GENERAL.—The Secretary shall, not later than the end of the 90-day period following the date of the enactment of this section and acting through the AIF, issue bonds, to be called “American Infrastructure Bonds”, the proceeds from which shall be deposited into the AIF.

(2) FORMS AND DENOMINATIONS; INTEREST.—American Infrastructure Bonds shall—
(A) be in such forms and denominations as determined by the Secretary, and shall have a 50-year maturity; and

(B) bear interest of 1 percent.

(3) NO FULL FAITH AND CREDIT.—Interest and principal payments paid to holders of American Infrastructure Bonds shall be paid from the AIF, to the extent funds are available, and shall not be backed by the full faith and credit of the United States.

(4) AMOUNT OF BONDS.—The aggregate face amount of the bonds issued under this subsection shall be $50,000,000,000.

(5) SALE OF AMERICAN INFRASTRUCTURE BONDS.—

(A) COMPETITIVE BIDDING PROCESS.—The Secretary shall sell the $50,000,000,000 of American Infrastructure Bonds—

(i) through a competitive bidding process that encourages aggressive bidding;

(ii) in a manner so as to ensure that there are at least 7 different un-affiliated purchasers; and

(iii) with prospective purchasers bidding on how low of a multiplier they will
accept (for purposes of subsection (b)(1) of section 966 of the Internal Revenue Code of 1986) when purchasing the American Infrastructure Bonds, for purposes of applying the foreign earnings exclusion described under that section.

(B) LIMITATION.—The multiplier described under subparagraph (A)(iii) may not be greater than 6.

(6) REIMBURSEMENT OF COSTS.—The Board shall repay the Secretary, from funds in the AIF, for the costs to the Secretary in carrying out this subsection.

(e) ADDITIONAL BONDS.—

(1) IN GENERAL.—The Board may issue such other bonds as the Board determines appropriate, the proceeds from which shall be deposited into the AIF.

(2) NO FULL FAITH AND CREDIT.—Interest and principal payments paid to holders of bonds issued pursuant to paragraph (1) shall be paid from the AIF, to the extent funds are available, and shall not be backed by the full faith and credit of the United States.

(f) DEFINITIONS.—For purposes of this section:
(1) Bond Guarantee.—The term “bond guarantee” has the meaning given the term “loan guarantee” under section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(2) Cost.—With respect to a loan or a bond guarantee, the term “cost” has the meaning given such term under section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(3) Non-Profit Infrastructure Provider.—The term “non-profit infrastructure provider” means a non-profit entity that seeks to finance a QIP.

(4) Loan.—The term “loan” has the meaning given the term “direct loan” under section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(5) Secretary.—The term “Secretary” means the Secretary of the Treasury.

(6) State.—The term “State” means each of the several States, the District of Columbia, any territory or possession of the United States, and each federally recognized Indian tribe.
SEC. 3. FOREIGN EARNINGS EXCLUSION FOR PURCHASE OF INFRASTRUCTURE BONDS.

(a) In General.—Subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 966. FOREIGN EARNINGS EXCLUSION FOR PURCHASE OF INFRASTRUCTURE BONDS.

“(a) Exclusion.—In the case of a corporation which is a United States shareholder and for which the election under this section is in effect for the taxable year, gross income does not include an amount equal to the qualified cash dividend amount.

“(b) Qualified Cash Dividend Amount.—For purposes of this section, the term ‘qualified cash dividend amount’ means an amount of the cash dividends which are received during a taxable year by such shareholder from controlled foreign corporations equal to—

“(1) the multiplier determined under section 2(d)(5) of the Partnership to Build America Act of 2013 for such shareholder, multiplied by

“(2) the face amount of qualified infrastructure bonds acquired at its original issue (directly or through an underwriter) by such shareholder.

“(c) Limitations.—
“(1) IN GENERAL.—The amount of dividends taken into account under subsection (a) for a taxable year shall not exceed the lesser of—

“(A) the cash dividends received by the taxpayer for such taxable year, or

“(B) the amount shown on the applicable financial statement as earnings permanently reinvested outside the United States.

“(2) DIVIDENDS MUST BE EXTRAORDINARY.—
The amount of dividends taken into account under subsection (a) shall not exceed the excess (if any) of—

“(A) the cash dividends received during the taxable year by such shareholder from controlled foreign corporations, over

“(B) the annual average for the base period years of the cash dividends received during each base period year by such shareholder from controlled foreign corporations.

“(3) REDUCTION OF BENEFIT IF INCREASE IN RELATED PARTY INDEBTEDNESS.—The amount of dividends which would (but for this paragraph) be taken into account under subsection (a) shall be reduced by the excess (if any) of—
“(A) the amount of indebtedness of the controlled foreign corporation to any related person (as defined in section 954(d)(3)) as of the close of the taxable year for which the election under this section is in effect, over

“(B) the amount of indebtedness of the controlled foreign corporation to any related person (as so defined) as of the close of the preceding taxable year.

All controlled foreign corporations with respect to which the taxpayer is a United States shareholder shall be treated as 1 controlled foreign corporation for purposes of this subsection. The Secretary may prescribe such regulations as may be necessary or appropriate to prevent the avoidance of the purposes of this subsection, including regulations which provide that cash dividends shall not be taken into account under subsection (a) to the extent such dividends are attributable to the direct or indirect transfer (including through the use of intervening entities or capital contributions) of cash or other property from a related person (as so defined) to a controlled foreign corporation.

“(d) Definitions and Special Rules.—For purposes of this section—
“(1) Qualified Infrastructure Bonds.—

The term ‘qualified infrastructure bond’ means a bond issued under section 2(d) of the Partnership to Build America Act of 2013.

“(2) Applicable Financial Statement.—

The term ‘applicable financial statement’ means, with respect to a taxable year—

“(A) with respect to a United States shareholder which is required to file a financial statement with the Securities and Exchange Commission (or which is included in such a statement so filed by another person), the most recent audited annual financial statement (including the notes which form an integral part of such statement) of such shareholder (or which includes such shareholder)—

“(i) which was so filed for such taxable year, and

“(ii) which is certified as being prepared in accordance with generally accepted accounting principles, and

“(B) with respect to any other United States shareholder, the most recent audited financial statement (including the notes which form an integral part of such statement) of

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such shareholder (or which includes such shareholder)—

“(i) which is certified as being prepared in accordance with generally accepted accounting principles, and

“(ii) which is used for the purposes of a statement or report—

“(I) to creditors,

“(II) to shareholders, or

“(III) for any other substantial nontax purpose.

“(3) Base period years.—

“(A) In general.—The base period years are the 3 taxable years—

“(i) which are among the 5 most recent preceding taxable years ending before the taxable year, and

“(ii) which are determined by disregarding—

“(I) 1 taxable year for which the amount described in subsection (c)(2)(B) is the largest, and

“(II) 1 taxable year for which such amount is the smallest.
“(B) Shorter Period.—If the taxpayer has fewer than 5 taxable years ending before the taxable year, then in lieu of applying subparagraph (A), the base period years shall include all the taxable years of the taxpayer ending before such taxable year.

“(C) Mergers, Acquisitions, etc.—

“(i) In General.—Rules similar to the rules of subparagraphs (A) and (B) of section 41(f)(3) shall apply for purposes of this paragraph.

“(ii) Spin-offs, etc.—If there is a distribution to which section 355 (or so much of section 356 as relates to section 355) applies during the 5-year period referred to in subparagraph (A)(i) and the controlled corporation (within the meaning of section 355) is a United States shareholder—

“(I) the controlled corporation shall be treated as being in existence during the period that the distributing corporation (within the meaning of section 355) is in existence, and
“(II) for purposes of applying subsection (c)(2) to the controlled corporation and the distributing corporation, amounts described in subsection (c)(2)(B) which are received or includible by the distributing corporation or controlled corporation (as the case may be) before the distribution referred to in subclause (I) from a controlled foreign corporation shall be allocated between such corporations in proportion to their respective interests as United States shareholders of such controlled foreign corporation immediately after such distribution.

Subclause (II) shall not apply if neither the controlled corporation nor the distributing corporation is a United States shareholder of such controlled foreign corporation immediately after such distribution.

“(4) DIVIDEND.—The term ‘dividend’ shall not include amounts includible in gross income as a dividend under section 78, 367, or 1248. In the case of a liquidation under section 332 to which section 367(b) applies, the preceding sentence shall not
apply to the extent the United States shareholder actually receives cash as part of the liquidation.

“(5) COORDINATION WITH DIVIDEND RECEIVED DEDUCTION.—No deduction shall be allowed under section 243 or 245 for any dividend which is excluded from income by subsection (a).

“(6) CONTROLLED GROUPS.—All United States shareholders which are members of an affiliated group filing a consolidated return under section 1501 shall be treated as one United States shareholder.

“(7) REPORTING.—The Secretary shall require by regulation or other guidance the reporting of such information as the Secretary may require to carry out this section.

“(e) DENIAL OF FOREIGN TAX CREDIT; DENIAL OF CERTAIN EXPENSES.—

“(1) FOREIGN TAX CREDIT.—

“(A) IN GENERAL.—No credit shall be allowed under section 901 for any taxes paid or accrued (or treated as paid or accrued) with respect to the excluded portion of any dividend.

“(B) DENIAL OF DEDUCTION OF RELATED TAX.—No deduction shall be allowed under this
chapter for any tax for which credit is not allow-allowable by reason of the preceding sentence.

“(2) EXPENSES.—No deduction shall be al-lowed for expenses directly allocable to the exclud-
able portion described in paragraph (1).

“(3) EXCLUDABLE PORTION.—For purposes of
paragraph (1), unless the taxpayer otherwise speci-
ifies, the excludable portion of any dividend or other
amount is the amount which bears the same ratio to
the amount of such dividend or other amount as the
amount excluded from income under subsection (a)
for the taxable year bears to the amount described
in subsection (e)(2)(A) for such year.

“(4) COORDINATION WITH SECTION 78.—Sec-
tion 78 shall not apply to any tax which is not allow-
able as a credit under section 901 by reason of this
subsection.

“(f) ELECTION TO HAVE SECTION APPLY.—A tax-
payer may elect to have this section apply for any taxable
year.”.

(b) CLERICAL AMENDMENT.—The table of sections
for subpart F of part III of subchapter N of chapter 1
of such Code is amended by adding at the end the fol-
lowing new item:

“Sec. 966. Foreign earnings exclusion for purchase of infrastructure bonds.”.
(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends received for taxable years ending after the date of the enactment of this Act.