"Building American Jobs Act of 2011"

Build America Bonds ("BABs"). To date, the Build America Bonds program has been used by State and local governments to make more than $106 billion of infrastructure investments nationwide. The bill would extend this program through 2012. For direct-pay Build America Bonds issued in 2011, the amount of the direct payment would be reduced from 35% to 32% of the coupon interest. For such bonds issued in 2012, the amount of the direct payment would be reduced to 31% of the coupon interest. The bill would also allow issuers to issue Build America Bonds to effect a current refunding of outstanding Build America Bonds; as a result, issuers and the Federal government could save money if interest rates fall in the future.

Recovery Zone Bonds ("RZBs"). The *American Recovery and Reinvestment Act* authorized $10 billion in Recovery Zone economic development bonds and $15 billion in Recovery Zone facility bonds. These bonds could be issued during 2009 and 2010. Each state received a share of the national allocation based on that state's job losses in 2008 as a percentage of national job losses in 2008, with each state receiving a minimum allocation of these bonds. These allocations were then sub-allocated to local municipalities. Municipalities receiving an allocation of these bonds would be permitted to use these bonds to invest in infrastructure, job training, education, and economic development in areas within the boundaries of the State, city or county (as the case may be) that has significant poverty, unemployment or home foreclosures. Because the formula that was used in the *American Recovery and Reinvestment Act* looked to net job losses instead of unemployment, some areas of the country with significant numbers of unemployed individuals did not receive any allocation of Recovery Zone bonds. The bill would make an additional allocation of Recovery Zone bonds to ensure that each local municipality receives a minimum allocation equal to at least its share of national unemployment in December 2009. The bill would also extend the authorization for issuing Recovery Zone bonds through 2011.

Water and sewer exempt-facility bonds excluded from state volume caps. Under current law, State agencies are generally subject to a cap with respect to the volume of private activity bonds they may issue. Certain bonds are not subject to these state volume caps. For example, bonds to finance airports, docks and wharves are excluded from state volume caps. Furthermore, qualified 501(c)(3) bonds are also excluded from state volume caps. The bill would exclude bonds financing facilities that furnish water and sewage facilities from state volume caps. The bill would also exclude bonds financing facilities that furnish water and sewage facilities from certain limitations on tribal government issuances.

Eliminate costs imposed on State and local governments by the alternative minimum tax. The alternative minimum tax (AMT) can increase the cost to State and local governments of issuing tax-exempt private activity bonds. In general, interest on tax-exempt private activity bonds is generally subject to the AMT. This limits the marketability of these bonds and, therefore, forces State and local governments to issue these bonds at higher interest rates. The *American Recovery and Reinvestment Act* excluded private activity bonds from the AMT if the bond was issued in 2009 or 2010, and allowed AMT relief for current refunding of private activity bonds issued after 2003 and refunded during 2009 and 2010. The bill would extend both of these *American Recovery and Reinvestment Act* provisions for one year (i.e., exempt from

AMT tax-exempt private activity bonds issued in 2011 and current refunding of private activity bonds issued after 2003 and refunded during 2011).

New Markets Tax Credit. Through the New Markets Tax Credit (NMTC) program, the federal government is able to leverage federal tax credits to encourage significant private investment in businesses in low-income communities. For each dollar of qualified private investment, the NMTC program provides investors with either 5 cents or 6 cents of federal tax credits (depending on the amount of time that has passed since the original investment was made). The value of these tax credits depends on a taxpayer's ability to use these credits to offset tax liability. The NMTC program will not encourage investors to make investments in low-income communities if these investors are unable to use these credits to offset tax liability. Taxpayers that are subject to the alternative minimum tax (AMT) are unable to use NMTC to offset their AMT tax liability. In order to ensure that the NMTC encourages AMT taxpayers to make qualifying investments, the bill would allow NMTC to be claimed against the AMT with respect to qualified investments made between March 15, 2010 and January 1, 2012.

Extension of tax-exempt eligibility for loans guaranteed by Federal Home Loan Banks. State and local governments currently face significant costs when issuing tax-exempt municipal bonds to finance state and local projects. The *Housing and Economic Recovery Act of 2008* helped these municipalities by temporarily allowing bonds that are guaranteed by Federal home loan banks to be eligible for treatment as tax-exempt bonds regardless of whether the bonds are used to finance housing programs. Allowing these bonds to be guaranteed by Federal home loan banks has helped State and local governments obtain financing for necessary projects (e.g., constructing roads, repairing bridges, building and renovating schools and hospitals, funding college loans, etc) at a lower cost. The bill would extend this benefit for bonds issued through 2011.

Extension of temporary small issuer rules for allocation of tax-exempt interest expense. Under current law, financial institutions are not allowed to take a deduction for the portion of their interest expense that is allocable to such institution's investments in tax-exempt municipal bonds. For purposes of this interest disallowance rule, bonds that are issued by a "qualified small issuers" are not taken into account as investments in tax-exempt municipal bonds. Under current law, a "qualified small issuer" is defined as any issuer that reasonably anticipates that the amount of its tax-exempt obligations (other than certain private activity bonds) will not exceed $10,000,000. The *American Recovery and Reinvestment Act* increased this dollar threshold to $30,000,000 when determining whether a tax-exempt obligation issued in 2009 and 2010 qualifies for this small issuer exception. The small issuer exception would also apply to an issue if all of the ultimate borrowers in such issue would separately qualify for the exception. For these purposes, the issuer of a qualified 501(c)(3) bond shall be deemed to be the ultimate borrower on whose behalf a bond was issued. The bill would extend this benefit for bonds issued through 2011.

Direct payment in-lieu-of low-income housing credit for 2011. The bill would allow state housing agencies to elect to receive a payment in lieu of a portion of the State's allocation of low income housing tax credits for 2011.