

November __, 2017

The Honorable Kevin Brady, Chairman
The Honorable Richard Neal, Ranking Member
Committee on Ways & Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Brady and Ranking Member Neal:

Today, we write to express our strong opposition to Section 3601 of the Tax Cuts and Jobs Act (H.R. 1), "Termination of Private Activity Bonds." This provision severely conflicts with the need to deploy all types of funding sources for transportation infrastructure improvements, including private capital. Ultimately, it would raise costs for most such projects, regardless of how they are financed.

Private Activity Bonds (PABs) have a variety of applications. Since the passage of SAFETEA-LU, the federal surface transportation reauthorization bill in 2005, PABs have been a valuable tool for advancing highway, transit and intermodal transportation projects. The U.S. Secretary of Transportation may authorize state and local government agencies to issue PABs to lower the financing costs of private sector project sponsors. According to the U.S. Department of Transportation, it has issued over \$6.5 billion in PABs under Section 11143 of Title XI of SAFETEA-LU, benefitting millions of highway and transit users across the country. In addition, the Department has allocated about \$4.3 billion in PABs. Thus, in total, PABs have been or are being utilized on 24 projects across 15 states since 2005. (See www.transportation.gov/buildamerica/programs-services/pab.) Similarly, as shown in the attached chart from the expert journal *Public Works Financing*, PABs have been integral to numerous complex and high-profile transportation projects launched from 2005 through 2016.

Section 3601 of H.R. 1 would eliminate the tax exemption for the interest on PABs utilized for any new projects after 2017, effectively terminating the incentive for this practice in the future. The committee's written summary of H.R. 1 contends the current use of PABs provides an unfair market advantage to private sector entities associated with them. Section 3601 is thus intended to level the playing field among private sector competitors and end the federal government's subsidizing of private sector borrowing costs.

In the case of surface transportation projects, this line of reasoning is severely flawed. First, there is substantial public benefit from projects using PABs, both through public use of the assets financed by PABs and alleviation of congestion on nearby routes as well. Therefore, the committee's contention that states and localities accrue merely "indirect benefits" from these projects is simply incorrect.

Second, termination of this incentive for private sector financing would further constrain available funding for surface transportation projects. It is therefore likely that many future

projects, similar to those enumerated in the chart from *Public Works Financing*, would never be built or would cost significantly more. Thus, the public would never fully enjoy the economic, quality of life and other benefits from these projects. Moreover, the absence of PABs could increase funding pressures across a state's transportation plan, leading to the elimination or delay of all manner of planned projects, including those to be funded exclusively with public dollars.

It is also important to note that, while the Trump Administration has not yet released a detailed infrastructure proposal, it has publicly stated that its parameters will include \$200 billion in new funding, which will be meant to leverage \$800 billion in additional investment, including private capital. In fact, the Administration's FY 2018 budget proposal recommended lifting the \$15 billion cap on the use of PABs for highway and intermodal projects, and expanding PABs' eligibility. Any objective assessment would conclude that terminating the use of PABs will make these levels of infrastructure investment much more difficult to achieve, if not impossible.

For all these reasons, we respectfully urge you to amend or delete Section 3601 as you further consider H.R. 1, so the use of PABs is preserved or even enhanced for transportation infrastructure projects. Thank you for considering our views at this important time.

Sincerely,

cc: Members of the Ways & Means Committee