

November 3, 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 of 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, through public use of the assets financed by PABs, alleviation of congestion on nearby routes and facilitation of jobs and economic growth. 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,

American Road & Transportation Builders Association
Association for the Improvement of American Infrastructure (AIAI)
Associated General Contractors of America
American Association of State Highway and Transportation Officials
American Concrete Pavement Association
American Concrete Pipe Association
American Council of Engineering Companies
American Investment Council
American Society of Civil Engineers
Associated Equipment Distributors
BPC Action
Concrete Reinforcing Steel Institute
The Design-Build Institute of America
International Union of Operating Engineers
National Asphalt Pavement Association
National Council for Public-Private Partnerships
National Electrical Contractors Association
National Stone, Sand and Gravel Association
National Utility Contractors Association
Portland Cement Association
Reason Foundation
US Performance Based Building Coalition

Att.

cc: Members of the House Ways & Means Committee
Chairman Bill Shuster, House Transportation & Infrastructure Committee
Ranking Member Peter DeFazio, House Transportation & Infrastructure Committee

PABs Underpin P3 Transportation Market (9/16)

	Public Finance (\$mill.)		PPP Project Finance (\$ mill.)			Total	Financial Close
	State/Local*	TIFIA	PRIVATE ACTIVITY BONDS	Bank Debt	Equity		
91 Express Lanes, CA (TR)	0	0	0	100	30	130	7/93
Dulles Greenway, VA (TR)	0	0	0	298	80	378	9/93
So. Bay Express, CA (TR)	0	140	0	400	160	700	5/03
I-495 Express, VA (TR)	409	589	589	0	350	1,937	7/08
SH 130 seg. 5+6, TX (TR)	0	430	0	686	210	1,326	3/08
I-595, FL (AP)	0	603	0	781	208	1,592	2/09
Port of Miami Tunnel, FL (AP)	100	341	0	342	80	863	10/09
No. Tarrant Express, TX (TR)	573	650	400	0	426	2,049	2/09
LBJ Expressway, TX (TR)	490	850	615	0	672	2,627	6/11
Denver Eagle rail, CO (AP)	1,312!	280	396	0	54	2,042	8/10
Jordan Bridge, VA (TR)	0	0	0	0	120	120	1/12
Midtown Tunnel, VA (TR)	731	422	675	0	272	2,100	4/12
Presidio Parkway, CA (AP)	0	60+90 ^o	0	167	45	362	6/12
I-95 HOT Lanes, VA (TR)	83	300	253	0	280	916	12/12
East End Bridge, IN (AP)	392	0	677	0	82	1,151	3/13
No. Tarrant Exp. 3A/B, TX (TR)	0	531	274	0	430	1,235	9/13
Goethals Bridge, NY (AP)	456	474	461	0	113	1,500	11/13
US 36 Managed Lanes, CO (TR)	76	60	20	0	41	208	2/14
I-69 Managed Lanes, IN (AP)	80	0	244	0	40.4	370	7/14
I-4 Managed Lanes, FL (AP)	861	949	0	486	104	2,300	9/14
Pennsylvania Rapid Bridges (AP)	225	0	751	0	59	1,119	1/15
Portsmouth Bypass, OH (AP)	125	209	251	0	49	634	4/15
SH 288, TX (TR)	0	348	298	0	370	1,069	5/16
I-77 Managed Lanes, NC (TR)	95	189	100	0	248	636	6/15
Purple Line transit, MD (AP)	1,599	875	367	0	138	2,650	6/16
LaGuardia Central Term., NY (AP)	1,200	0	2,400	0	200	4,000	6/16
Total	\$8,362	\$8,042	\$8,741	\$3,260	\$4,491	\$33,300	9/16

(TR) Toll revenue debt financing

(AP) Availability payment financing

* excludes public sunk costs

*Source: Public Works Financing newsletter
Major Projects Database (9/16)*