Government Finance Officers Association
American Public Gas Association
American Public Power Association
American Public Transportation Association
American Society of Civil Engineers
Association of Public and Land-grant Universities
Council of Infrastructure Financing Authorities
International City/County Management Association
Large Public Power Council
National Association of Clean Water Agencies
National Association of Counties
National Association of Regional Councils
National Association of State Auditors, Comptrollers and Treasurers
National Association of State Treasurers
National Council of State Housing Agencies
National League of Cities
National School Boards Association
National Special Districts Coalition
The United States Conference of Mayors

December 15, 2022

The Honorable Charles Schumer
Majority Leader, U.S. Senate
322 Hart Senate Office Building
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader, U.S. Senate
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker, U.S. House of Representatives
1236 Longworth House Office Building
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader, U.S. House of Representatives
2468 Rayburn House Office Building
Washington, DC 20515

Dear Majority Leader Schumer, Minority Leader McConnell, Speaker Pelosi, and Minority Leader McCarthy:

We, the undersigned organizations collectively known as the Public Finance Network, representing nearly fifty thousand public organizations and issuers of municipal securities, are writing to again urge you to waive the statutory Pay-as-You-Go-Act of 2010 (PAYGO) before the close of the 117th Congress. Failure to do so will result in the elimination of $14 billion in subsidy payments to public entities across the country. Subsidy payments from our federal partners are currently included in the budgets of thousands of jurisdictions. Without certainty of receipt, essential public services may become acutely impacted.

As we collectively worked to emerge from the Great Recession over a decade ago, state and local governments and public entities across the country utilized options made available to stimulate the economy and undertook several hundred billion dollars in critical, long-term infrastructure obligations through the issuance of direct subsidy bonds.

At the time, the understanding was that federal payments related to these bonds would not be subject to the appropriation process and would not be subject to sequestration. To our dismay, the federal government appears on the brink of completely reneging on this deal by eliminating $14 billion in payments to state and local entities. Specifically, unless new legislation is enacted that will waive the PAYGO as relates to the budgetary effects of the American Rescue Plan, thousands of state and local entities will not receive any Build America Bond (BAB), Qualified School Construction Bonds (QSCB), Qualified Zone Academy Bonds (QZAB), New Clean Renewable Energy Bonds (New CREB), or Qualified Energy Conservation Bonds (QECB) payments otherwise guaranteed to them under the law.

Entities that issued these bonds generally in 2009, 2010, and 2011 did so in partnership with the federal government. For example, a BAB is a type of municipal bond designed to expand the pool of investors for municipal debt at a time when investment in traditional tax-exempt municipal bonds was in decline. Additionally, projects financed with these bonds helped provide jobs and needed infrastructure investments when the economy needed it most. Unlike a traditional municipal bond, interest on a BAB is taxable to the bondholder and the interest rate paid is higher than for a traditional tax-exempt bond. However, Treasury is required to reduce this additional expense by providing a payment to the bond issuer equal to 35 percent of the interest paid to the bondholder. In all, nearly 2,400 communities issued BABs to finance $180 billion in infrastructure projects, including school construction, water and sewer improvements, hospital and other health care system upgrades, highway and public transit investments, and electric power utility transmission, generation and distribution. Insofar as Congress fails to prevent these credit payments from being eliminated under PAYGO sequestration, it will be our residents who ultimately pay for the increased project costs.

QSCBs supported the construction, rehabilitation, and repair of public-school facilities. State and local governments issued up to $22 billion of QSCBs, including $11 billion allocated in 2009 and another $11 billion in 2010. Indian tribal governments were given authority to issue an additional $200 million annually in 2009 and 2010. QSCBs were allocated to local education authorities (LEAs) with the largest populations of school-age students in under-resourced communities; to LEAs determined to be "in-need" by the Secretary of Education; and to states based on their proportion Title I grant funding for disadvantaged students under the No Child Left Behind Act. Eliminating payments to issuers of QSCBs would hurt hardest the schools and states serving some of the nation's most disadvantaged students.

Congress sought to make energy investment incentives available to not just investor-owned utilities and merchant generators, it created New CREBs to be issued by public power utilities and rural electric cooperatives. This change was made to ease the concentration of tax creditable energy project ownership by merchant power generators. Interest paid on these bonds is taxable to the bondholder, but the issuer receives a payment equal to 70 percent of the rate estimated by Treasury to permit issuance of bonds without discount and interest cost to the issuer. More than 800 public power utilities, school districts, city governments, and rural electric cooperatives were allocated more than $2.2 billion in New CREB bonding authority to finance, wind, solar, hydropower, and biomass projects. Again, if Congress allows New CREB payments to be eliminated, it will result in their customers either seeing an increase on their monthly bill or in reduced resources available for investments in grid security and reliability.

Payments to issuers of these special purpose bonds are already laboring under a steady stream of cuts triggered by the Budget Control Act of 2011 due to the failure of the Joint Select Committee on Deficit Reduction. These "Joint Committee Reductions" began in 2013 and are now expected to continue through 2031. Joint Select Committee reductions will have cut payments by nearly $3 billion by the end of Fiscal Year 2022 and will cut payments by another $1.6 billion by the end of Fiscal Year 2031.

Allowing Joint Committee Reductions to continue is a travesty because so many public entities depend on this federal-state-local partnership. However, allowing PAYGO to eliminate these payments entirely would be catastrophic to communities that stepped up during the Great Recession to try to create jobs when job creation was desperately needed, to students in schools that are already underserved and to renters and homeowners that are already struggling to pay utilities, taxes, and other bills.

As a result, we hope Congress will overcome its differences and fix this problem for all Americans. Thank you for your time and consideration.

Sincerely,

Government Finance Officers Association, Emily Swenson Brock, 202-393-8467
American Public Gas Association, Emily Wong, 202-470-4262
American Public Power Association, John Godfrey, 202-467-2929
American Public Transportation Association, Eric Bustos, 202-496-4865
American Society of Civil Engineers, Caroline Sevier, 202-789-7855
Association of Public and Land-grant Universities, Lindsey Tepe, 202-478-6079
Council of Infrastructure Financing Authorities, Deirdre Finn, 850-445-9619
International City/County Management Association, Elizabeth Kellar, 202-962-3611
Large Public Power Council, John Di Stasio, 512-707-1010
National Assn of State Auditors, Comptrollers and Treasurers, Cornelia Chebinou, 202-624-5451
National Association of State Treasurers, Shaun Snyder, 202-744-6663
National Association of Clean Water Agencies, Kristina Surfus, 202-833-4655
National Association of Counties, Paige Mellerio, 202-942-4272
National Association of Regional Councils, Leslie Wollack, 202-618-5696
National Council of State Housing Agencies, Garth Rieman, 202-624-7710
National League of Cities, Michael Gleeson, 202-626-3091
National School Boards Association, Deborah Rigsby, 202-550-4823
National Special Districts Coalition, Cole Arreola-Karr, 417-861-7418
The United States Conference of Mayors, Larry Jones, 202-861-6709

CC: Members of the United States House of Representatives
Members of the United States Senate