Invest in Public Transportation for a Stronger America

Appendix: Finance Recommendations

APTA
AMERICAN PUBLIC TRANSPORTATION ASSOCIATION

The American Public Transportation Association Urges the Trump Administration and Congress to Dramatically Increase Federal Investment in Public Transportation Programs as well as Improve and Expand Finance Mechanisms that are Appropriate for Some Projects.

APTA Infrastructure Initiative Recommendations Appendix: Finance Principles

As a new Administration and Congress prepare to action on a $1 trillion effort to fix America's crumbling infrastructure, APTA and its more than 1,500 members stand ready to engage in a productive dialogue with the Administration and Congress to ensure that the public transportation industry's rehabilitation and expansion needs are appropriately addressed. APTA's Legislative Committee approved these finance principles on March 12, 2017.

The key to the ultimate success of any such effort continues to be how to pay for needed improvements. With a national transit rehabilitation deficit of $90 billion and growing, as estimated by the Federal Transit Administration, sufficient support from all levels of government remains an obstacle to progress.

Erasing the infrastructure deficit, while rebuilding and expanding our transit systems to best meet the needs of today's commuting public, and enhancing our nation's economic competitiveness, should be the primary goals of any plan.

Although some are calling for an infrastructure initiative to focus primarily on incentivizing private financing for road, bridge, rail, transit, aviation and water infrastructure investments, APTA and its more than 1,500 member organizations clearly understand and support the need for increased federal funding as a foundation, with an array of financing options as additional tools. This is the foundation of the existing federal programs, which APTA strongly supports and should be the basis for any new infrastructure initiative.

Over the last decade, our industry has taken advantage of Transportation Infrastructure Finance and Innovation Act (TIFIA) bonds, Railroad Rehabilitation and Improvement Financing (RRIF) loans, Private Activity Bonds, tax credits and municipal debt.

Such financing methods are part of a broader mix of tools already available to the industry that can leverage and augment stable and predictable sources of funding. They are not, however, substitutes for adequate funding. In fact, financing cannot exist without a dedicated and stable funding stream to back it up.

In this appendix, we discuss the efficacy of these existing financing mechanisms, with an emphasis on how they can be further refined and improved to maximize their financial benefit. APTA urges Congress to use the existing financing mechanisms as the basis for any provisions in an infrastructure initiative designed to leverage private sector financing tools for public transportation infrastructure projects.

We caution, however, that despite our embrace of these financing tools, they alone cannot solve the infrastructure deficit our industry currently faces. New revenues to provide greater support for existing federal transit programs must be a fundamental element of any new federal initiative to support infrastructure investment.

We look forward to working with our partners in Washington to achieve our common goal to make American infrastructure world-class once again.

Municipal Bonds

For more than 100 years, municipal bonds have been a key component of state and local government projects that have built our national infrastructure system. Between 2003 and 2012, counties, localities, states and state/local authorities financed $3.2 trillion in infrastructure investment through tax-exempt municipal bonds.

- APTA strongly supports maintaining the current tax-exempt status of municipal bonds.

Tax Credit Bonds for Surface Transportation Projects

APTA supports the use of Qualified Tax Credit Bonds for surface transportation projects, as well as expanding the tax liabilities eligible to be offset by the credits. This proposal should attract additional classes of investors, including non-taxable entities such as pension funds. Pension funds are tax-exempt, which makes many tax-exempt infrastructure bonds uneconomic. The use of Qualified Tax Credit Bonds for surface transportation projects would provide pension funds an incentive to support increased investment in the rehabilitation of existing and construction of new U.S. infrastructure.

- Congress should authorize Qualified Tax Credit Bonds for surface transportation projects under Section 54A of the tax code.
- The Federal government would provide a 100% interest subsidy by granting the bondholder an annual credit that can be applied against their federal tax liabilities.
- The issuer (transit agency or municipality) remains responsible for repayment of the principal.
- To improve the marketability of the bonds, the tax credits should be applied against federal income withholding tax on wages and benefits (other than Social Security and Medicare), which should attract pension funds and insurance companies that currently have no financial incentive to invest in tax-exempt debt.
- Similar tax credit bond programs have been authorized for school construction, energy sectors and other purposes, but not yet for public transportation and highway projects.
- APTA recommends an authorization of no less than $50 billion over a five-year period ($10 billion annually).

Private Activity Bonds (PABs)

APTA urges Congress to enhance the availability and use of low-interest private activity bonds (PABs) for public transportation and intercity passenger rail projects with significant private participation (such that the projects otherwise would not qualify for tax-exempt financing). APTA supports:

- Expanding the eligibility of mass-commuting facility PABs beyond their current use (construction of rail and bus infrastructure and facilities) to include acquisition of rolling stock.
- Remove mass-commuting facilities from the federally-imposed state volume cap for PABs, thereby aligning these public transportation and intercity passenger rail activities with airports, docks, and wharves which are not subject to the PAB state volume caps.
- Reducing the "capable of 150-mph" speed requirement for high-speed intercity passenger rail facility PABs to allow more projects to be eligible, especially those privately-operated services running on shared rights-of-way with freight railroads.

Investment Tax Credits

The Federal government currently utilizes investment tax credits to finance and promote clean energy and affordable housing projects that would not otherwise be economically feasible for private investors without government support. In October 2016, the Trump campaign submitted a proposal, frequently called "Ross-Navarro," advocating for investment tax credits to support the participation of private equity in infrastructure investment. One of the proposal's authors, Commerce Secretary Wilbur Ross, later explained that the tax credit proposal "was meant to provide another tool, not to be the be all and end all." APTA's position is that increased federal funding should be the centerpiece of an infrastructure initiative. While innovative financing can be an important supplement to federal funding, investment tax credits could be of limited practicality for many transit projects. However, we have the following recommendations to improve their usefulness and impact.

Under the Ross-Navarro proposal, investors would be provided tax credits equal to 82 percent of their upfront equity investment in a given project. By covering a portion of the private investor's expected return, the investment tax credits would lower the risk premium associated with repayment of equity; the reduction in risk premium would in turn be passed along to public project sponsors in the form of a lower interest rate. The value of the tax credits would be distributed over several years, thereby requiring investors to engage in long-term oversight of project performance.

The tax credits would serve to subsidize the expected returns on equity that would otherwise be demanded by the investor; however, they would not fully cover the costs of repayment. Therefore, an additional creditworthy revenue source (typically user fee-based) would be required to secure the equity financing subsidized by the tax credits. Because most transit projects rely on government grants and do not typically solicit private equity financing except in the context of public-private partnerships (P3), the usefulness of tax credits to many transit projects may be relatively limited, although their usefulness could be increased if the types of eligible sources of repayment were to be expanded.

APTA recommends implementing investment tax credits for surface transportation projects with the maximum level of flexibility for public project sponsors and private investors to ensure that the fullest possible range of projects can take advantage of tax credit availability. An investment tax credit proposal would ideally incorporate:

- The ability to apply the credit against the alternative minimum tax.
- No maximum credit amount for eligible projects.
- No minimum requirement for the amount of equity used as a percentage of the total amount financed.
- No restriction on the use of Federal funding sources to repay the equity.
- The ability to use non-user fee based sources of repayment (such as dedicated sales or property taxes).
- No limitation on the use of the tax credit for eligible projects also supported by other tax credit-based instruments (such as Qualified Tax Credit Bonds).

Transportation Infrastructure Finance and Innovation Act (TIFIA) Program

The Fixing America's Surface Transportation Act (FAST Act) made significant improvements to the TIFIA program, including allowing TIFIA assistance to capitalize state infrastructure banks and tightening the definition of rural projects.

APTA recommends further streamlining for TIFIA program requirements for Federal Transit Administration (FTA) Capital Investment Grant Program (CIG) projects, including:

Streamlining and increasing the coordination of the federal review processes for candidate projects seeking assistance from both the CIG and TIFIA programs.

- Enhancing the predictability of TIFIA assistance for CIG candidate projects. TIFIA's Master Credit Agreement provision is intended to assist programs of related and commonly-secured projects by removing TIFIA "selection risk" for projects scheduled in the out-years. This provision could be modified to also permit early TIFIA conditional commitment for a single project that also is seeking CIG funds, to address FTA's requirement that other sources of capital be reasonably identified before approving a full funding grant agreement.
- Granting expedited credit reviews to low-risk candidates. Expedite processing for projects with dependable, investment grade revenue sources, such as sales taxes.

Implementing MAP-21's increased project share for TIFIA secured loans:

- The 2012 Surface Transportation Authorization, Moving Ahead for Progress in the 21st Century Act (MAP-21), increased the maximum amount of a TIFIA loan from 33 percent to 49 percent of project costs. This increased share would enable TIFIA credit assistance to meaningfully support certain projects with large public benefits that may be difficult to finance conventionally without federal credit support, while still ensuring other investors share in project costs and risks. Although DOT has authority to approve loans as a greater percentage of project costs, in practice DOT does not issue loans for more than 33 percent of project costs for any project.

Railroad Rehabilitation and Improvement Financing (RRIF) Program

APTA recommends that Congress authorize federal funding for the credit risk premium of RRIF projects, consistent with the TIFIA program. This proposal will enhance and to ensure access to the RRIF program by public transportation agencies.

- Authorize federal funds for credit risk premiums under RRIF at $50 million annually to leverage $1 billion annually in RRIF assistance.
- Make the subsidy cost of federal credit assistance under RRIF an eligible use of TIGER program funds, consistent with the TIFIA program.

ABOUT THE AMERICAN PUBLIC TRANSPORTATION ASSOCIATION (APTA)

APTA is a nonprofit international association of 1,500 public and private sector organizations that are involved in the planning, building and operation of all modes of public transportation – bus, paratransit, light and commuter rail, intercity and high-speed passenger rail, subways and ferries. APTA members serve the public interest by providing safe, efficient and economical transit services and products.

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