



**AMERICAN
PUBLIC
TRANSPORTATION
ASSOCIATION**

December 7, 2017

The Honorable Orrin Hatch
Chairman
Senate Committee on Finance

The Honorable Kevin Brady
Chairman
House Committee on Ways and Means

The Honorable Ron Wyden
Ranking Member
Senate Committee on Finance

The Honorable Richard Neal
Ranking Member
House Committee on Ways and Means

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**ACTING
PRESIDENT & CEO**
Richard A. White

Dear Members of the Conference Committee on Tax Reform:

On behalf of the American Public Transportation Association (APTA) and its more than 1,500 member organizations, we write to convey our priorities as the Conference Committee reconciles the House and Senate versions of the “Tax Cuts and Jobs Act.” Our overriding goal is that tax reform legislation should encourage increased investment in the nation’s infrastructure, and we are concerned that several provisions could instead discourage investment.

We respectfully urge the Committee to address the following issues:

Highway Trust Fund

Without question, Congress should take meaningful and immediate action to address our long-term transportation infrastructure challenges. With Congress facing the dual challenges of the impending Highway Trust Fund insolvency and the stated desire to develop a significant new infrastructure initiative, the time to act is now. A predictable, long-term federal commitment to surface transportation investment is essential to the nation’s economic growth and international competitiveness. This tax bill represents the best and most realistic opportunity to accomplish this goal.

Private Activity Bonds (PABs)

We urge the conferees to adopt the Senate position to retain Private Activity Bonds (PABs), which are an important infrastructure financing mechanism. Low-interest PABs have been used in a variety of infrastructure projects to save significant taxpayer dollars by reducing the amount of direct federal spending necessary to undertake large-scale public works projects.

The House provision to repeal the use of PABs would be harmful and inconsistent with the intention of the Administration and Congressional leaders to develop a new infrastructure initiative that attracts private-sector investment and encourages public-private partnerships. The conferees should reject the House provision that would have a chilling effect on private sector investments in infrastructure projects.

Advance Refundability of Municipal Bonds

APTA is disappointed that the House and Senate bills would eliminate the ability to advance refund municipal bonds, which are another important infrastructure financing mechanism. The ability to take advantage of lower interest rates for a one-time refinance is a significant factor in the attractiveness and utility of municipal bonds, and its repeal would only disincentivize their use. We support any effort to responsibly increase flexibility for state and local issuers and benefit taxpayers, including delaying the effective date of the advance refunding provision.

Commuter Tax Benefit

Current law treats the cost of commuting to work on public transportation as a tax-free fringe benefit that can be provided by an employer or utilized as a pretax payroll deduction. Supporting an employee's commute to work provides substantial savings to both the employer and the employee. In many regions of the country, transportation costs are the second highest household expense.

We appreciate that the House and Senate bills recognize the value of the commuter tax benefit by retaining certain key elements, such as the pretax payroll deduction option, but we are disappointed that both bills would eliminate an employer's ability to deduct the cost of providing the benefit. Eliminating the ability for employers to deduct the cost of providing this benefit is a disincentive for employers to help defray transportation commuting costs for working families, and the conferees should maintain current law. We also urge the conferees to reject the House provision that creates new tax liabilities for tax-exempt entities that offer these benefits.

Alternative Fuels Benefits

Unfortunately, the House and Senate bills also fail to extend the alternative fuels and related infrastructure tax credits that expired on December 31, 2016. A permanent extension would support the long-term energy security of our nation and provide certainty for small, medium, and large-sized transit agencies across the country. In particular, transit agencies benefit from the \$0.50 per gasoline gallon equivalent (GGE) tax credit offered to transit agencies fueling their vehicles with compressed (CNG) or liquefied (LNG) natural gas that expired last year. Failure to renew these credits will discourage future investment in CNG and LNG fleets and associated infrastructure. APTA also supports the inclusion of electric and hybrid electric vehicles within eligible uses. We urge the Committee to reconsider extending and expanding these important tax credits, and we encourage any effort in Congress to extend these provisions this year.

Pension Funds

APTA also urges conferees to reject House language under Section 5001, which would subject certain investments by state and local government pension plans, particularly those in alternative investments, to the unrelated business income tax (UBIT) under Section 501 of the Internal Revenue Code. We are concerned that the House provision would subject these pension funds, which often include public transit employees, to increased taxation on investment earnings that are needed to ensure the solvency of such pension plans. The Senate bill is preferable on this issue because it preserves current law.

Conclusion

We urge the conferees to improve the House and Senate tax reform legislation in ways that will increase investment in our nation's infrastructure, not discourage it. Addressing the state of good repair backlog for surface transportation infrastructure, which is currently \$90 billion and growing for public transportation alone, will require bold action to dedicate new revenues to the Highway Trust Fund. The House and Senate passed bills do not address this fundamental and critical issue for our industry or our country. We look forward to working with Congress on this and other issues as you continue to develop this most significant piece of legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. White". The signature is written in a cursive, flowing style.

Richard A. White
Acting President & CEO

Cc: Members of the Conference Committee on Tax Reform