AMERICAN
PUBLIC
TRANSPORTATION
ASSOCIATION

July 13, 2017

The Honorable Orrin Hatch
Chairman
Senate Finance Committee
Washington, DC 20510

Dear Chairman Hatch:

On behalf of the American Public Transportation Association (APTA) and its more than 1,500 member organizations, we appreciate the opportunity to express our priorities and concerns as your committee considers legislation to reform our nation's tax code.

While there has been much discussion about eliminating tax deductions and incentives in the tax code, we believe that the following tax provisions serve the national interest and provide substantial benefits to all Americans. We also believe Congress must take bold action to increase dedicated revenues to the Highway Trust Fund (HTF).

Municipal Bonds

First, we urge Congress to fully preserve the long-established provisions of federal law that ensure interest earned on municipal bonds continues to be exempt from federal taxation. Between 2003 and 2012, counties, localities, states and local authorities financed $3.2 trillion in infrastructure investment through tax-exempt municipal bonds. This is a vital tool for state and local government public transportation projects and is a cost-effective way to attract private investment in public transportation projects. Congress should not consider changes that will raise the borrowing costs and reduce the capacity of municipal bond issuers to fund projects that are crucial for our transportation network and the economy.

Commuter Tax Benefit

We urge you to preserve the current transit commuter tax benefit provided to U.S. employers and their employees who use transit. The 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 to support an employee's commute to work, providing substantial savings to both the employer and the employee.

APTA strongly supported legislation in 2015 that made parity between the transit commuter benefit and the parking benefit permanent. Congress should not reverse course and eliminate this valuable tax benefit for the millions of American workers who rely on it to reduce transportation expenses, which is often a household's second largest expense. Congress should also support the transit benefit to reduce traffic congestion and harmful emissions, as well as provide employers a payroll tax deduction and a valuable employee recruitment and retention tool.

Alternative Fuels Benefits

We request that Congress permanently extend the federal tax credits for alternative fuels and related infrastructure 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 that benefit from these tax credits, especially, 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. 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 the eligible uses of this tax credit.

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. Specifically, APTA would suggest that Congress 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, with the issuer (transit agency or municipality) remaining 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 otherwise 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. APTA also recommends removing 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. In addition, APTA supports 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

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. 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.

Therefore, an investment tax credit proposal would ideally incorporate the ability to apply the credit against the alternative minimum tax; would have no maximum credit amount for eligible projects; would have no minimum requirement for the amount of equity used as a percentage of the total amount financed; would have no restriction on the use of Federal funding sources to repay the equity; would include the ability to use non-user fee based sources of repayment (such as dedicated sales or property taxes); and have 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).

Highway Trust Fund

Finally, and most importantly, Congress should seize the opportunity to address the long-term solvency of the Highway Trust Fund in a tax reform bill. APTA is very grateful for the work that the Finance Committee and all of Congress did to pay for the FAST Act in 2015. However, with no increase in dedicated revenue, the federal surface transportation program faces another funding crisis in FY2020. It has been more than two decades since Congress last raised the federal fuel taxes that primarily support the HTF, and the purchasing power of this revenue has decreased by nearly 40 percent over that time. With transit ridership growing at a higher rate than both population and vehicle miles travelled since 2004, it is more important than ever to ensure sufficient funding to give transit systems the ability to meet the increasing demand for quality service. Simply put, a predictable, long-term federal commitment to surface transportation investment is essential to the nation's economic growth and international competitiveness.

Conclusion

We look forward to working with you, the Members of the Finance Committee and all of Congress to support legislation that will benefit the U.S. economy and our international competitiveness through public transportation investment. For every $1 billion invested in public transportation, 50,000 jobs are created. Of this federal capital investment, more than 70 percent will flow through to the private sector, supporting private employment nationwide. Clearly, increased investment in public transportation infrastructure is part of a pro-growth agenda, and we encourage you to support tax provisions that your constituents and local businesses rely on. Thank you for your attention to these important matters.

Sincerely,

Richard A. White
Acting President and CEO