BIPARTISAN POLICY CENTER

February 6, 2020

The Honorable Richard Neal
Chairman
House Committee on Ways and Means
1102 Longworth House Office Building
Washington D.C. 20515

The Honorable Kevin Brady
Ranking Member
House Committee on Ways and Means
1139 Longworth House Office Building
Washington D.C. 20515

Re: Hearing Titled "Paving the Way for Funding and Financing Infrastructure Investments"

Dear Chairman Neal and Ranking Member Brady,

The Bipartisan Policy Center (BPC) appreciates the opportunity to submit a written statement for consideration by the Committee regarding the critically important topics raised in the hearing, "Paving the Way for Funding and Financing Infrastructure Investments."

The United States faces a $2 trillion infrastructure funding gap over the next 10 years. That represents the difference between what is planned to be spent and what is needed to maintain, modernize, replace, and upgrade the nation's infrastructure. Moreover, even more funding will be necessary to decarbonize transportation systems, reduce greenhouse gas emissions, address climate change, and adapt our infrastructure to mitigate the unavoidable climate impacts already underway. Addressing these needs will require a transformation in how we plan, fund, and build infrastructure across the country.

Several BPC projects have explored how best to fund and finance needed infrastructure and developed bipartisan, consensus-driven solutions.[1] We wish to highlight a handful of these proposals for the Committee to consider as it grapples with how best to address our nation's mounting infrastructure needs:

Increase fuel user fees for the last time and indexing them to inflation. A static gas tax, unadjusted to keep pace with inflation, can meet fewer infrastructure needs over time and will put increasing pressure on Congress to find offsets in the budget or deficit-spend—the latter being fiscally irresponsible. In total, Congress must find about $176 billion in the budget to cover projected Highway Trust Fund revenue shortfalls over the next 10 years. To boost federal transportation funding, finally tackle deferred maintenance, sustainably pay for needed investments, and buy time to transition to a user fee based on vehicle miles traveled, fuel user fees should be increased by at least 15 cents and indexed to inflation. This is the only short-term option that will adequately cover all near-term needs and maintain the user-pay principle embedded in the current system.

Strengthen the user-pay, user-benefit model. The Highway Trust Fund provides for a nexus between who pays and who benefits from the fund, though it does not follow a direct 1:1 user-pay, user-benefit model. Starting in 1970, just 14 years after the creation of the trust fund, Congress began expanding the list of eligible projects to include transit projects, despite only collecting revenue from a variety of vehicle-related taxes. Policymakers should seek to ensure that those who benefit from HTF spending are contributing something. To that end, Congress could:

- Roughly synchronize spending with user tax/fee receipts;

- Periodically analyze all HTF user taxes and fees to ensure costs are fairly allocated to different classes of system users;
- Ensure more beneficiaries of the HTF pay into it by, for example, reinstating the diesel tax for passenger trains, eliminating reduced user fees on fuel for intercity and local buses, and levying a modest user fee on bicycle tires; and
- Support electric vehicle ownership while ensuring that their drivers contribute to the HTF.

Authorize a new direct payment infrastructure bond. The federal government has several programs designed to provide state and local governments with access to low-cost financing for infrastructure projects. But a new direct payment bond would attract new investors, support a wide range of both public and privately developed projects, and give state and local governments another tool in the toolbox. Direct payment bonds offer a new product—a taxable bond for which the issuer receives a direct payment from the federal government, or the buyer receives a federal tax credit, providing a borrowing discount to tax-exempt bonds. Unlike traditional municipal debt however, direct payment bonds are attractive to several types of investors, including those who do not have federal tax liability, such as pension funds.

Encourage public-private partnerships to engage private capital and transfer risk. Public-private partnerships or P3s can be a key tool for state and local governments to address overwhelming infrastructure needs. The public sector should not be expected cover these costs alone. Private sector partners can bring an appetite for risk, necessary capital, and valuable expertise to a project. Investors with hundreds of billions of dollars to deploy are actively seeking infrastructure projects to support. P3s are not the right model for every project, but under the right conditions, a P3 can deliver a more cost-effective and better performing project. Applicants for federal funding or financing should be required to demonstrate that they have evaluated all delivery options, including P3s, to determine which would provide the best value for taxpayers over the lifecycle of a project.

Expand Private Activity Bonds. PABs complement the existing tax-exempt bond market by extending favorable tax treatment to public-private partnerships (traditional tax-exempt debt is generally available only for publicly-owned and managed projects). They are a proven tool to finance infrastructure projects and expanding their use, e.g., by raising their volume cap, would give communities with yet another option to finance their needs.

Enable TIFIA and WIFIA to support more projects. The TIFIA program offers loans, loan guarantees, and letters of credit to surface transportation projects, and its water counterpart, WIFIA, finances clean water and drinking water projects. Both programs offer assistance at favorable interest rates with deferred repayment, flexibility which can be essential for infrastructure projects but is not typically available in the private market. TIFIA and WIFIA could support more projects with higher authorization levels, tweaks to help rural communities access financing, and an effort to better align the programs' budget scoring with actual loan experience.

Authorize equity tax credits. In recent years there have been several proposals for infrastructure tax credits, including from the Obama administration and the campaign of then-candidate Trump. Like direct payment bonds, these proposals are intended to attract investment from private entities with federal tax liability. While there are limited examples of federal tax credits for infrastructure, a well-utilized federal tax credit to support low-income housing has been very successful at increasing investment in affordable homes. The Committee could consider authorizing infrastructure tax credits, either as a stand-alone program or by allowing states to convert PABs into tax credits, as proposed in H.R. 1508, the Move America Act of 2019.

Address tax defeasance rules. A municipality that wants to sell or lease to a private partner an infrastructure asset that was originally financed with tax-exempt debt must first "defease," or repay, any debt that remains outstanding. In other words, the benefit of the municipal tax exemption cannot be passed on to the new, private owner of the asset. Options for defeasance are currently limited and can be costly. More flexibility in these rules would empower the public and private sectors to develop solutions to infrastructure challenges that meet local needs.

Restore advance refunding bonds. Before the Tax Cut and Jobs Act of 2017 removed the tax exemption from advance refunding of municipal bonds, local governments used advance refunding to minimize the costs of financing infrastructure projects, such as water and wastewater facilities. From 2012-2017, municipalities saved more than $14 billion of taxpayer money through this financing tool. Take for example a typical municipal bond, paid back over 30 years. A municipality could opt to "advance refund" the bond, essentially paying it off before the typical 10-year refinance window by selling new bonds, usually at lower interest rates. In an advance refunding (as opposed to a current refunding), the bond issuer was able to pay off that old bond issue more than 90 days in advance of its first call date. Just as homeowners do when refinancing a mortgage, borrowers repay their outstanding debt to take advantage of a favorable interest rate environment, reducing their interest payments, and freeing up funds for other projects. By eliminating this provision, the Tax Cuts and Jobs Act made it more difficult for local governments to meet their ever-increasing infrastructure needs.

Above all else, America's infrastructure is in desperate need of more funding. The current backlog of deferred maintenance did not appear overnight but is instead the culmination of decades of underinvestment. Delaying needed infrastructure improvements has a significant public cost—older facilities may produce more emissions, break down more often, and may critically and fatally fail. To tackle deferred maintenance and build new and needed infrastructure, robust, long-term funding must be included in any infrastructure package that moves through Congress.

As your fact-finding effort continues, we further hope to be a resource to you and the Committee. Our work in recent years has clearly demonstrated there is much that can be accomplished, on a bipartisan basis, to more sustainably fund our nation's infrastructure needs, promote economic growth, and address climate change.

Thank you for your important work and please let us know how we can be helpful.

Sincerely,

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Bipartisan Policy Center

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Bipartisan Policy Center

CC: Members of the House Committee on Ways and Means

Endnotes

[1] Bipartisan Policy Center, "A Roadmap for the Last Gas Tax Increase," January 2020. Available at: https://bipartisanpolicy.org/report/a-roadmap-for-the-last-gas-tax-increase/. Bipartisan Policy Center, "Bridging the Gap Together: A New Model to Modernize U.S. Infrastructure," May 2016. Available at: https://bipartisanpolicy.org/report/modernize-infrastructure/. Bipartisan Policy Center, "Putting Private Capital to Work in Rural Infrastructure," September 2017. Available at: https://bipartisanpolicy.org/report/putting-private-capital-to-work-in-rural-infrastructure/. Bipartisan Policy Center, "Performance Driven: Achieving Wiser Investment in Transportation," June 2011. Available at: https://bipartisanpolicy.org/report/performance-driven-achieving-wiser-investment-transportation/. Bipartisan Policy Center, "Transportation Adaptation to Global Climate Change," December 2009. Available at: https://bipartisanpolicy.org/report/transportation-adaptation-global-climate-change/.