

Chairman Hatch, Ranking Member Wyden, and fellow Members:

My name is Baruch Feigenbaum. I am the Assistant Director for Transportation Policy at Reason Foundation, a non-profit think tank with offices in Los Angeles and Washington DC. For almost four decades Reason's transportation experts have been advising federal, state and local policymakers on market-based approaches to transportation.

My Credentials on Today's Topic

I am a graduate of the Georgia Institute of Technology with degrees in Public Policy and Transportation Planning with a concentration in Engineering. My Master's Thesis studied Induced Demand in growing areas and potential solutions. With Reason, I have authored studies on mobility, highway quality, highway congestion, transit options, funding alternatives and innovative financing. I have worked with the states of Georgia and North Carolina as well as numerous counties to implement transportation policy and funding reform. I currently serve on two National Academy of Sciences Transportation Research Board Committees, Bus Transit Systems and Intelligent Transportation Systems. Further, I assist the committees on Transportation Revenue and Financing and Metropolitan Planning. My testimony today draws on these experiences.

Overview of Testimony

While the federal government continues to delay action on meaningful transportation reform, states are leading the way. Understandably, raising taxes is unpopular; while several states have increased their gas tax, moved to a gas tax/sales tax combo or have begun testing Reason's preferred option of mileage based user fees, the majority have chosen to stretch their resources further with innovative financing. Given scant political support for funding increases at the federal level, Congress should examine what states are doing to stretch their resources.

At the same time, innovative financing is not a panacea for our transportation problems. Financing is the act of obtaining full project funding up-front from investors, while funding is the actual revenue itself. While financing can stretch resources, states must have some underlying funding such as gas taxes, tolls, or mileage based user fees. States need to avoid a situation such as New Jersey's where the state became so overly leveraged through borrowing that 100% of its annual gas tax revenue must go to repay its debt, and still be insufficient, so the state would have to tap still other funding to repay the debt.

There are numerous financing tools that states use. These can be divided into several categories

- Federal credit assistance which includes TIFIA, Section 129 Loans and State Infrastructure Banks;

- Bonding which includes Revenue Bonds, General Obligation Bonds, Limited and Special Tax Bonds, Hybrid Bonds, Grant Anticipation Notes, Private Activity Bonds, Tax Credit Bonds;
- Non-profit Financing; and
- Methods to Leverage Federal Aid including Matching Flexibility and Advance Construction.

However, most of the innovative financial activity has taken place through public-private partnerships (P3s) using TIFIA and Private Activity Bonds. A smaller source of innovative financing has been state infrastructure banks. The rest of my testimony focuses on these tools.

Recommendation No. 1: Increase Use of Public-Private Partnerships

A powerful tool that fewer than a dozen states are actively using so far is the long-term public private partnership in which the private sector designs, builds, finances, operates, and maintains a major highway or bridge—typically on the scale of \$500 million to several billion dollars in cost. Over the past 12 years, the largest 16 P3 projects of this kind have involved a total investment of nearly \$28 billion. Most of these projects involve some degree of state investment, on the order of 20-25%, analogous to a down payment. The rest is privately financed by the winning concession team, using a mix of debt and equity.

Infrastructure investment is growing in popularity in the private sector. Many entities such as insurance companies, investment banks, and pension funds invest through an infrastructure investment firm. Since it is not possible to invest equity into infrastructure owned and operated by governments, these companies seek to invest in infrastructure that has been privatized (or was always private such as utilities) or in P3s. Private infrastructure raised from investors set a record in 2014 of \$48.3 billion, the latest year for which numbers are available.

There are many advantages to this type of procurement. Because the same entity will be constructing and then operating the project over many decades, its incentive is to build it more durably so as to minimize its life-cycle cost, rather than minimizing only the initial construction cost. The P3 company also accepts many of the mega-project risks that are usually borne by taxpayers— construction cost overruns, late completion, inadequate maintenance, and in many cases traffic and revenue. Because these are examples of project finance, the total cost is raised up-front, and the bonds are paid off over many years as highway users benefit from the improved infrastructure. And proper maintenance is contractually guaranteed for these high-profile projects.

A toll-concession P3 is the best deal for taxpayers as the toll can provide most of the revenue to repay the financing for the project. Availability payments, the other type of P3, also need a source of revenue (typically existing fuel tax revenue). However, both types of P3 projects transfer risk to the private sector, which is the biggest advantage of all P3s. In design-build projects, the private sector takes on the risks of late completion

and construction cost overruns. But in a toll concession P3, the private sector not only takes on delivery and cost overrun risks, but also takes on traffic and revenue risk. In the Great Recession, when people were driving less, certain toll roads did not meet their traffic projections. For those procured as P3s, the private company--not taxpayers--shouldered the financial responsibility. However, for those procured through conventional methods, taxpayers were on the hook for the difference.

P3 contractors also deliver projects more cost-effectively. The I-70 Value for Money Report prepared for Colorado DOT's HPTE unit, looked at six projects comparing the actual project cost with the cost estimated by the procuring agency if the project were delivered internally. All five U.S. projects, I-595 in Florida, FasTracks in Denver, the Port of Miami Tunnel, the Goethals Bridge in New York and Presidio Parkway in San Francisco were delivered at lower cost, ranging from 12.5% to 20% savings. The report also examined the life-cycle costs of the LBJ Express Lanes which were 15% lower than for the public sector comparator.

There are two financial tools which help make these projects possible. So that the private investors can compete on a level financial playing field, Congress authorized states to issue tax-exempt revenue bonds, whose interest rates are similar to revenue bonds for state-led projects. These are called Private Activity Bonds (PABs), having a statutory cap of \$15 billion.

The PABs program in recent years has been well-used. As of the end of 2014, about \$5 billion of these bonds had been issued, and another \$5 billion had been approved for issuance by DOT. That leaves only \$5 billion of the original \$15 billion available for a growing pipeline of P3 projects. Congress is encouraged to double the cap to \$30 billion, for a 6-year bill, increase the cap to \$25 billion for a 4-year bill, and increase the cap to \$20 billion for a two-year bill.

Congress also created the popular Transportation Infrastructure Finance and Innovation Act (TIFIA) credit support program, under which P3 projects can obtain subordinated loans to complete a financing package. Each dollar of Federal funds can provide up to \$10 in TIFIA credit assistance.

I recommend Congress make several reforms to the TIFIA program as well. First, in order to stretch resources further I recommend decreasing the maximum percentage of project costs that a TIFIA loan can cover from 49% to 33%. While the USDOT's TIFIA office has never approved a loan for more than 33%, there is no guarantee that this will continue in the future. Second, I suggest reforming the TIFIA process, so that all projects that meet the criteria receive funds. When Congress reformed TIFIA in 2012's MAP-21, it intended for the program to become a check-the-box process. Instead USDOT has been applying discretionary criteria to the TIFIA program. Congress should direct USDOT to approve all projects that meet TIFIA criteria, subject to the availability of TIFIA funds.

Recommendation No. 2: Increase Use of State Infrastructure Banks

State infrastructure banks are revolving infrastructure investment funds for transportation that are established and administered by states. Similar to a private bank, an SIB can offer a range of loans and credit assistance to public and private sponsors of highway and transit programs. SIBs allow states to make more efficient use of transportation investments and leverage federal and state funds by attracting other public and private investment. SIBs can be used as collateral for the bond market or as reserve funding. However, under current legislation, states may not use any federal funding to capitalize SIBs.

There are three different kinds of SIBs, using appropriated funds from TEA-21 and SAFETEA-LU: federally-capitalized, state-capitalized and federally- and state-capitalized. Thirty-two states plus Puerto Rico have federally capitalized SIBs. While SIB usage is widespread, similar to P3s, most of the loan activity, 87%, is concentrated in a few states. South Carolina is the leader with \$3.3 billion in activity to 13 large projects. Two states, Georgia and Kansas have state-only capitalized SIBs; while two, Florida and Ohio have combined federal/state capitalized SIBs. However, the vast majority of state activity, \$762 million, has taken place in Florida.

Future legislation should allow states to capitalize up to 10% of certain parts of their highway and transit funding. This provision existed in both TEA-21 and SAFETEA-LU.

Thank you for the opportunity to testify today on transportation finance. I would be happy to answer any and all questions, either orally or in writing.