



A Bond Dealers of America Analysis of Federal Policy Impacting
the US Fixed Income Markets



FIXED INCOME INSIGHTS

BDA Policy Brief: Infrastructure

Detailed Political Intelligence, BDA Advocacy, Tangential Activity, Current Status and Outlook

The need for infrastructure investment has long been a policy priority for municipal market participants, including the Bond Dealers of America.

However, the idea has been magnified since the elimination of key bond provisions in the *Tax Cuts and Jobs Act of 2017*, and in recent years as Presidential platforms continue to spotlight the issue. As the COVID-19 pandemic has sunk the US economy into a deep recession, most policy experts agree, a generational public works package will be needed to jump start an economic rebound.

In the most recent [Infrastructure Report Card](#), the America Society of Civil Engineers deemed America's infrastructure as a D+, and in need of investment of over \$4 trillion dollars. It's easy to see why the topic of infrastructure was a major driving point behind in the 2016 Presidential

election, with both candidates touting spending and promoting bipartisan sweeping actions, But with minimal legislative movement, its easy to see why the topic remains a top priority heading into the 2020 race.

While Congress and the Administration focused on tax-reform following the 2016 election, the *Tax Cuts and Jobs Act of 2017* eliminated tax-exempt advance refundings. This has made infrastructure spending at the state and local level more difficult by hampering their ability to refinance their debt, and municipal market advocates have been fighting to revive the provision in years following.

In Washington, “*Infrastructure Week*” has become a running punch line due to the prevalence of talk, but no action. While many policy experts believe a massive federal infrastructure investment package will not happen in the near term, the COVID-19 pandemic and the following economic turmoil may provide the opportunity for action as our country turns from mitigation, to public works and recovery from what is the deepest economic downturn since the Great Depression.

Below is an in-depth look at federal infrastructure policy through a municipal bond lens. The BDA examines past and present proposals, highlights market advocacy, and will also provide an outlook for potential Federal actions.

BDA Infrastructure Priorities

In recent years, there have been no shortage of infrastructure proposals

on Capitol Hill and from the Administration. One common theme is the recognition of the important role that municipal financing will play in any long-term infrastructure recovery. This recognition is in no small part due to long standing municipal market advocacy from the BDA, as well other muni participants involved with the Public Finance Network, and previously with the Municipal Bonds for America Coalition.

BDA infrastructure priorities on Capitol Hill remain: The reinstatement of advance fundings, raising the limit of bank qualified debt, and expand the usage of PABs.

While discussions surrounding a new Build America Bonds program untethered from sequestration continue, there is yet to be legislation drafted

Below are bills that are currently being considered in the 116th Congress:

H.R 2 - The Invest in America Act

- Package is part of the original House Democrats Moving America infrastructure framework
- Includes \$500 billion in infrastructure investment over 5 years for highways, personal and commercial vehicle safety, and rail among other provisions
- Bill includes no bond provisions

H.R 5422 - The MAMBA Act

- Expand the definition of “manufacturing facility”
- Eliminate restrictions on “directly related and ancillary facilities”

- Increase the maximum IDB size limitation from \$10 million to \$30 million
- Increase the limitation on small issue bond proceeds for first-time farmers
- Repeal the separate dollar limitation on the use of small issue bond proceeds for depreciable property

H.R 2772 - [***The Investing in Our Communities Act***](#)

- Sponsored by House Municipal Finance Caucus Co-Chairs;
- Would fully reinstate the ability for issuers to refinance their debt via tax-exempt advance fundings;
- **The bill currently has 28 co-sponsors.**

H.R 3967- [***The Municipal Bond Support Act of 2019***](#)

- Introduced by Rep. Terri Sewell (D-AL) who sits on the powerful tax writing Committee on Ways and Means;
- The bill would raise to \$30 million from \$10 million the deductibility of bank qualified debt; and
- Set the \$30 million limit on a borrower-by-borrower basis, rather than aggregating all bank-qualified bonds issued by a conduit issue.
- **The bill currently has 5 co-sponsors.**

H.R.1508- [***The Move America Act of 2019***](#)

- Bi-cameral and bi-partisan legislation would expand the use of tax-exempt PABs;
- Projects covered under the legislation include: airports; ports; transit; freight and passenger rail; roads; bridges; flood projects;

inland and costal waterway improvements; wastewater and sewage facilities; and broadband infrastructure;

- Creates new infrastructure tax credit to help fund infrastructure projects through P3's
- **The bill has 4 co-sponsors in House, 1 in the Senate.**

Infrastructure Proposals

Following the 2016 election, a plethora of legislative proposals have emerged that would provide federal funding for the building of new, improvement of current, and mitigation for future needs of infrastructure. **Many of which contain BDA and municipal market priorities such as the reinstatement of advance refundings, expansion of PABs and even a new BABs program untethered from sequestration.**

Below are proposals the BDA continues to watch for development:

Moving Forward Framework

In January 2020, the House of Representatives majority developed a cross -Committee framework for infrastructure action. The sprawling policy proposal calls for over \$760 billion dollars of investment over a 5 year period, a modest investment compared to the overall need.

The [framework includes several municipal bond provisions](#), these include:

- **Advanced fundings** –Restores State and local governments’ ability to invest in infrastructure projects with favorable financing terms by allowing them to use one bond’s proceeds to replace existing bonds.
- **Direct Subsidy Bonds**-Provides taxable bonds, such as Build America Bonds, that State and local governments can use to finance surface transportation projects while the bondholder receives a direct subsidy, rather than tax-free interest like municipal bonds.
- **Qualified Private Activity Bonds** –Expands the national volume cap for qualified highway or surface freight transfer facilities to allow for greater investment in surface transportation public-private partnerships.
- **Tax Credit Bonds** –Provides a taxable bond that State and local governments can use to finance surface transportation projects while the bondholder receives a tax credit, rather than tax-free interest like municipal bonds.

The BDA shortly following the introduction of the framework submitted testimony to the House Committee on Ways and Means in support of the bond provisions.

- [**BDA Testimony in Support of the Moving Forward Framework**](#)

The BDA, along with the Public Finance Network (PFN), a group of market participants coordinated by the Government Finance

Officers Association (GFOA), submitted a coalition comment letter in support of the municipal bond provisions:

- [**PFN Testimony in Support of Bond Provisions**](#)

Rebuilding Americas Infrastructure

The Trump Administration used its FY 2019 budget as an opportunity to promote vast infrastructure spending. The document titled, [**“Rebuilding Americas Infrastructure”**](#) addresses ways to permanently fix the Nation’s infrastructure deficit to improve quality of life and strengthen economic competitiveness.

The framework includes:

- **Private Activity Bonds-PABs., which often support regionally- and nationally-significant projects, would have broaden eligibility and flexibilities. The Budget estimates the cost of these policy expansions at \$6 billion.**
- **Incentive Grants** -\$100 billion in competitive grants to applicants that demonstrate innovative approaches to generating new revenue streams, prioritizing maintenance, and modernizing procurement practices.
- **Transformative Projects** – \$20 billion in competitive funding for commercially viable transformative projects that are capable of generating revenue, provide net public benefits, and would have a significant positive impact on the Nation, a region, State, or

metropolitan area.

- **Expand Federal Leveraging Programs** – \$14 billion in additional subsidy funding for key Federal credit programs that finance infrastructure projects, along with expanded eligibility to other sectors such as airports and ports.
- **Federal Capital Revolving Fund** – \$10 billion to establish a mandatory revolving fund to finance purchases, construction, or renovation of Federally-owned civilian real property.

Jobs & Infrastructure Plan for America's Workers

In 2018, the Senate minority developed a sprawling spending plan to enhance infrastructure nationwide, while also putting an emphasis on overturning aspects of the 2017 Tax Cuts and jobs Act.

The plan would create and a ["Federal Infrastructure Financing Authority."](#) the plan would also create a new direct pay bond program:

- To ensure that State and local governments have flexibility to finance infrastructure projects as efficiently as possible, by eliminating arbitrary tax barriers for infrastructure projects that benefit the public.
- The creation a new direct-pay bond program for qualified infrastructure projects, deepening the lending market and allowing large investors, like pension funds, to more easily invest in

rebuilding America's infrastructure.

Think-Tank Policy Positions

Many influential Washington think-tanks have also recently weighed in on the topic of infrastructure. Below are several policy thought leaders position papers on the importance of including bond related provisions in any federal infrastructure package:

- [Bi-Partisian Policy Institute: A Guide to Infrastructure Bonds](#)
- [Brookings Institute: Building Better Infrastructure with Bonds](#)
- [CATO Institute: Eight Infrastructure Policy Lessons](#)
- [Tax Policy Center: Infrastructure, the Gas Tax and Municipal Bonds](#)

Muni Market Advocacy

The BDA, along with our partners in the state and local government have been tireless pushing for municipal market priorities on Capitol Hill and within the Administration. Since the elimination of tax-exempt advance refundings in the *2017 Tax Cuts and Jobs Act*, the reinstatement of this provision has remained the top priority of the BDA, as well the PFN.

The BDA and the PFN continue to call for language included [H.R. 2772, the Investing in Our Communities Act](#), in the next stimulus or any infrastructure measure. As state and local governments enter into uncharted territory, with extreme downward pressure on credit, having the ability to refinance outstanding debt will only work favorably to help struggling entities invest:

- [BDA Statement on Infrastructure](#)

- [BDA Letter to Congress: We Urge Support of Muni Provisions in Stimulus](#)
- [PFN Infrastructure Roundtable Sponsored by the BDA](#)

As the BDA has been supportive in the drafting of legislation that would reinstate advance refundings, the BDA continues to press Congress to [increase the limit of BQ debt](#) and remains vocal for the need of expanded use of PABs and urges Congress to continue exploration into a new BABs program unattached to sequestration.

The BDA and the broader PFN group will continue to provide direction to decision makers on Capitol Hill, and will continue to advocate for all member priorities.

Outlook

Throughout the 116th Congress, there have been multiple "false starts" on infrastructure policy and the COVID-19 outbreak has provided no relief from this pattern. As recently as mid-April, the [House of Representatives was pressuring the White House](#) to support infrastructure measures in the CARES Act, a sweeping \$2 trillion stimulus package. While these efforts fell short, the sentiment for infrastructure investment via a public works stimulus package still remains and now has some [Senate Republican backing](#).

The BDA remains pessimistic on an infrastructure package passing both Chambers of Congress and being signed into law by President Trump in 2020.

While a sweeping bill may be a reach this year, future stimulus packages may include certain infrastructure provisions, including bond provisions.

In the recently released HEROES Act, it was widely believed that a new BABs program would be included in the initial draft, however this failed to materialize. But recently, AR legislation sponsor Rep. Steve Stivers (R-OH) and Dutch Ruppersburger (D-MD), stated they have [yet to give up hope](#) of inclusion of the provision in a negotiated package this summer.

At this time, it seems highly likely that the Democrats will retain control of the House, and the Senate is treading towards the Democrats as well. While it is too early to predict the Presidential race, and one cannot underscore the power of incumbency, [many believe that if the election was held today](#), Joe Biden would be presidential elect tomorrow.

Regardless of election outcome, municipal market priorities such as the reinstatement of advance funding, and the raising of the BQ debt limit, have strong bi-partisian support in both chambers, and as policy makers turn from short term stimulus, to long term public works packages likely in 2021, there is a real opportunity these provisions to be enacted.

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