American Association of Port Authorities
Alliance of the Ports of Canada, the Caribbean, Latin America and the United States

Seaports Deliver Prosperity

December 5, 2017

The Honorable Orrin Hatch
Chairman
Senate Committee on Finance
SD-219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Kevin P. Brady
Chairman
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

The Honorable Ron Wyden
Ranking Member
Senate Committee on Finance
SD-219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Richard E. Neal
Ranking Member
House Committee on Ways and Means
1139E Longworth House Office Building
Washington, DC 20515

The Honorable Mitch McConnell
Majority Leader
United States Senate
S-230 Capitol Building
Washington, DC 20510

The Honorable Charles E. Schumer
Minority Leader
United States Senate
S-221 Capitol Building
Washington, DC 20510

The Honorable Paul Ryan
Speaker of the House
U.S. House of Representatives
H-232 Capitol Building
Washington, DC 20515

The Honorable Nancy Pelosi
House Minority Leader
U.S. House of Representatives
H-204 Capitol Building
Washington, DC 20515

Dear Chairmen Hatch and Brady, Ranking Members Wyden and Neal, Majority Leader McConnell, Speaker Ryan, and Minority Leaders Schumer and Pelosi:

As you work to finalize the *Tax Cuts and Jobs Act*, the American Association of Port Authorities (AAPA) would like to make recommendations in the areas of tax-exempt bonds and the wind energy production tax credit provisions in the bills, which impact the port industry and the nation. AAPA is the united voice of America's ports. The nation's seaports serve a vital role in U.S. job creation, economic prosperity, international competitiveness and Americans' standard of living. Seaport cargo activity accounts for 26 percent of the U.S. GDP, over 23 million American jobs, and generates over $320 billion annually in federal, state and local tax revenues. Ports serve as economic engines and vital freight gateways to the global marketplace for American farmers, manufacturers and consumers, and serve as critical infrastructure for the U.S. military in any deployment overseas. These comments are on behalf of our U.S. members.

Private Activity Bonds – Ports and their private sector partners rely on a variety of financing tools to build public port infrastructure, including tax-exempt bonds, both municipal and private activity bonds (PABs). The cost of port infrastructure development would increase significantly if the provision in the House bill to repeal PABs' tax-exempt status is adopted in the final bill. AAPA strongly urges you not to include this provision.

Attached is a list with port examples of the economic impact, if the PABs cannot continue to be exempt from federal taxation. A recent AAPA study showed that ports are in a building boom. Ports and their private sector partners plan to invest nearly $155 billion in port infrastructure by 2021. Tax-exempt PABs are an important part of their ability to finance these projects. Also impacting the cost of building infrastructure is the Senate provision on the **alternative minimum tax,** which can also affect the cost of financing with private activity bonds. AAPA supports the House version that fully repeals the alternative minimum tax.

Advanced Refunding of Bonds – AAPA is also concerned about the repeal of the advance refunding tool for tax-exempt bonds, which is contained in both the House and Senate bills. In the port industry, this primarily impacts municipal bonds. As the cost of infrastructure has increased, ports in the United States have had to look to a variety of financing tools. Taking away the advance refunding tool would also lead to cost increases to build needed infrastructure. AAPA urges you to reconsider the provision to repeal advance refunding of bonds.

Infrastructure investments are critically needed and consistently have enjoyed significant support from the American people. Therefore, AAPA strongly encourages you to keep or expand the financing tools available for ports, including those related to tax-exempt bonds. We urge you to not accept the House language on tax-exempt bonds, drop the provisions repealing advance refunding, and repeal the alternative minimum tax as provided in the House bill.

Wind Energy Tax Credit – Ports are an important part of the supply chain for the wind energy industry by providing facilities to both handle shipments of large components as well as assemble them for off-shore use. AAPA supports a permanent wind energy production tax credit or at a minimum supports no change in the current tax structure. We urge you to not adopt the House provision on wind energy.

Finally, AAPA's original letter on tax reform outlined several other infrastructure investment priorities that were not included in the House or Senate tax bills. We look forward to working with you on a broad infrastructure package to provide tax fairness for the Harbor Maintenance Tax and to fund the multimodal freight network. The port industry needs $66 billion in investment over the next decade to ensure the nation has a world class transportation system and to address the shortfall of infrastructure investments in this country.

Sincerely,

Kurt J Nagle

Kurt Nagle
President & CEO

cc: All Members of Congress

U.S. Port Authority Examples of Tax-Exempt Private Activity Bond Uses

- The **Port of Los Angeles** (CA) estimates it would need to pay $5 million over 5 years and $30 million over 30 years if it couldn't use tax-exempt PABs, while the proposed changes to advanced refunding could cost the port $3.5 million over five years and $28.17 million over 30 years.
- The **Port of Long Beach** (CA) says it has $823 million of outstanding long-term debt, of which $394 million is in tax-exempt PABs and $395 million is eligible to be "advance refunded." For every $100 million of borrowing that can't be issued as PABs, the port estimates its debt service costs would increase by approximately $19 million.
- **The Northwest Seaport Alliance** is a joint partnership of the Washington State ports of Seattle and Tacoma that estimates the cost of its Terminal 5 modernization project will be $15 million to $50 million more expensive, depending on debt structure and interest rates, if it had to use taxable bonds instead of PABs. This calculation is based on a 30-year loan of $261 million for the project. A recent analysis indicated that the borrowing rate using PABs would be approximately 4 percent. Using taxable bonds could conservatively raise the rate to 4.3 percent to 4.9 percent.
- The **Port of Everett** (WA) utilizes PABs for important infrastructure and economic development projects, and as an incentive for port real estate development by its private-sector partners. For example, investments in the port's marine terminal facilities are returned through fees paid by the users of its facilities. Typically, the port makes the investment and collects fees that provide a long-term return of its invested capital. Because the tax-exempt PABs provide for lower interest costs, often that differential in cost is a key factor in whether the Port of Everett, as a public agency, can take on the risk of putting in the infrastructure. These bonds help the port be competitive to attract private investment that is made within its properties, ultimately paying back directly to the federal, state and local governments many times over through taxes and fees. In Washington State, local governments have steadily increased their use of PABs – from $12.98 billion in 2015 to $20.38 billion in 2016. Eliminating the tax-exempt status of these bonds would raise the cost of capital for infrastructure projects, especially through public-private partnerships.
- **The Port Authority of New York and New Jersey** is a large issuer of exempt facility PABs, with more than $5.1 billion in outstanding PABs that have been used to fund infrastructure at its airports and seaport facilities. PABs provide a cost-effective source of funds for infrastructure investment at Port Authority facilities where a mix of governmental and commercial activities take place. PABs provided lower cost financing for the rebuilding of the deep-water terminal facilities at Newark and Elizabeth and funded the construction of an extensive network of rail infrastructure connecting all the port facilities in the region to the regional Conrail network to the west. The Port Authority has a $32.2 billion 10-year capital plan that anticipates using a mix of debt issuances to achieve the lowest cost of capital. An increase in the cost of funding projects that would traditionally be funded with PABs will reduce overall capital capacity and threaten or delay the completion of projects in the plan. At today's very tight spreads between PABs and taxable rates, the incremental cost of taxable debt is currently 50 basis points. On $1 billion in borrowing, this translates to an incremental cost of debt service of $5 million per year or $150 million over the 30-year life of the bond. As spreads widen with market changes, these costs will rise.

- The **Port of Cleveland** (OH) believes the repeal of the tax exemption on PABs would negatively impact its ability help small companies, underserved communities and not-for-profit organizations access capital markets. The port deploys New Market Tax Credits through its affiliated entity, Northwest Ohio Development Fund. The Fund has financed 12 projects in low income Cuyahoga County neighborhoods, totaling $123 million. Elimination of the tax exemptions would raise the costs of projects like these and result in a decrease in economic development and correlating jobs.
- At the **Port of Port Arthur** (TX), most port-related bonds are classified under federal tax regulations as PABs, including the port's remaining bonding capacity. If the port was required to issue bonds as taxable given the current market for 30-year debt, there'd be a significant cost impact. The port's $60 million remaining authorization of bonds would carry an interest rate greater than tax-exempt by approximately 100 basis points (1 percent), resulting in $10 million to $12 million of additional interest expense until bond maturity.
- **Toledo-Lucas County Port Authority** (OH) says that removing the PAB tax exemption provisions would derail more than half of the projects that the port plans to fund in the short term, including facility bonds for its deteriorating seaport infrastructure, airport hangar construction and improvements, and TIF bonds that would help to address and eliminate blight in the area surrounding its Overland Industrial Park. Placing limitations on federal tax exemption would result in an increased cost for these projects which are critical for the Toledo region and its transportation and logistics assets. Other elements of the tax reform legislation would eliminate the New Market Tax Credit and Historical Tax Credit programs which have been utilized by the port authority and its community partners to revitalize downtown Toledo and build out the Ironville dock. These programs have played a significant role in delivering some of the largest projects the Toledo region has ever experienced, including the downtown Promedica headquarters and the announcement of the $700 million Cleveland Cliffs plant at the Ironville terminal. Another development that utilized the New Market Tax Credit program involved the construction of a new automotive part production facility operated by Detroit Manufacturing Systems (DMS) at Overland Industrial Park. The DMS investment resulted in 270 new jobs in one of the lowest income neighborhoods in our community.
- **Port Freeport** (TX) CEO Phyllis Saathoff was recently on Capitol Hill speaking about the private activity bond provision in the tax reform legislation in nearly every meeting. She said it would cost her port $1 million for every $50 million in bond authority they used. That's a million dollars her port could use on infrastructure, she said.
- The **Port of New Orleans** (LA) currently has plans to issue more than $80 million of PABs early next year. The loss of the tax exemption on PABs would increase interest costs almost $1 million per year and affect future capital and operating budgets just on these bonds. In future years, the additional cost could more than double with new issues that support job creating infrastructure and commerce. By eliminating the tax exemption for private activities bonds, the port will need to offer higher yields, which will result in additional costs.
- **The Port of Virginia** estimates that if the exemption for PABs is repealed, the cost of a $170 million+ planned bond issued for an active port expansion project in 2018 would increase by approximately $2 million over 20 years. In addition, the port's plans to refinance $57 million in debt to save $9 million would be halted by the proposed elimination of advance refunding.

Other AAPA member ports that have expressed concerns about the importance of maintaining tax-exempt bonds as a financing tool for port infrastructure include:

- Port Everglades (FL)
- Delaware Maritime Exchange members: PhilaPort (PA), South Jersey Port Corporation (NJ) and Port of Wilmington (DE)
- Port Miami (FL)
- Alabama State Port Authority (Mobile)
- Port Houston (TX)
- Port Tampa Bay (FL)
- Calhoun Port Authority (TX)
- Port of Beaumont (TX)
- Ports of Indiana (Indianapolis)
- Port of Pascagoula (MS)
- Georgia Ports Authority (Savannah)
- Massachusetts Port Authority (Boston)
- Port of South Louisiana (LaPlace)
- Port of Oakland (CA)
- Port of Portland (OR)