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## **Federal Infrastructure Bill Set to Supercharge P3 Spending:** **Saul Ewing**

Development through public-private partnerships or “P3s” has increased sharply in the past several years, and is poised for an even bigger jump thanks to Uncle Sam. The infrastructure bill, which passed the U.S. House of Representatives last week as H.R. 3684 and which President Biden signed into law on November 15, 2021, aims to directly increase P3 spending by tens of billions of dollars. The bill is also likely to dramatically increase the number of P3 projects by making hundreds of billions of dollars available for infrastructure improvements across the United States.

One significant benefit to P3 development should come from proposed changes to private activity bond legislation. Private activity bonds or “PABs” allow state governments to issue tax-free municipal bonds for the benefit of private entities that finance one of 27 categories of public works projects. As of 2021, states may issue PABs for P3 projects at a rate of up to \$325 million per year or \$110 per resident, whichever is greater. Federal law also caps highway and surface freight financing through PABs, which includes road, bridge, and tunnel projects, at \$15 billion total across all states.

The infrastructure bill takes two big steps to increase PAB spending. First, it increases the cap for highway and surface freight projects from \$15 billion to \$30 billion. Second, and potentially more impactful, the bill would exempt from state caps 75 percent of PABs issued for qualifying broadband and carbon capture projects. In other words, the vast majority of P3s focused on broadband access and carbon capture could more easily be financed through tax-free municipal bonds.

But the PAB provisions are only half the story when it comes to H.R. 3684’s impact on P3s. With \$110 billion earmarked for roads and bridges, \$66 billion for railways, \$65 billion for power infrastructure, and \$39 billion for public transit, as well as tens of billions more for airports, sea ports, and water infrastructure, vast sums of money are likely headed to P3 projects.

The infrastructure bill will accelerate the recent U.S. trend of increased P3 spending. In 2020, the U.S. saw 84 active P3 projects – a more than 300 percent jump from 2018. P3 activity in 2022 and beyond is all but certain to dwarf those figures given the infrastructure bill.

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