New York Times Rebuttal:

Private Activity Bonds Support Job Creation & Economic Development
-- Flawed, Inaccurate New York Times Article Debunked --

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The New York Times article, *A Stealth Tax Subsidy for Business Faces New Scrutiny*, is riddled with inaccuracies and misinterpretations of one of the nation's most important economic development tools: qualified private activity bonds (PABs). The story, sensational and misleading throughout, highlights perceived misuses and infers abuses of the U.S. tax code, all the while ignoring the essential public purpose that these bonds serve. PABs are exactly as they sound, a bond instrument, supported and endorsed by the United States Congress since 1914, that catalyze private investment in projects and industries that may otherwise not receive conventional financing. PABs are one of the oldest tax policies on record and were included in our Nation's first formal tax code.

Let's address the article's inaccuracies. First, the Times states that the 1986 tax code created a "stealth subsidy for private enterprise". Stealth? The tax exempt bond section of the Internal Revenue Code is very well established, dating back 100 years, and it allows over 50,000 state and local bond issuers throughout the country access to this critical financing tool. The PAB market amounts to just a fraction of the total market for tax-exempt bonds. This tool is decisively not stealth, and in fact is one of the most well understood and well regulated parts of the tax code. They were, as the article indicates, well vetted during the long and transparent tax reform process of 1986. The end result was an improved development finance tool – not a "stealth subsidy". The inference that PABs are a secret or a loophole that allows large private business interests to benefit where others would not is either naïve or purposefully misleading. Most private businesses would prefer to use conventional lending tools, but given market and project economics, some require alternative lending options to access capital. The private activity bond market provides this critical access to capital.

Second, the article identifies a handful of potentially alarming projects – a golf course, museum, basketball arena and office buildings for two financial institutions. There are two substantive flaws in the Times article. While these projects may seem less worthy of tax-exempt financing on their face, such a cursory review is irresponsible at best. To begin, the identified projects represent a mere fraction of the overall number of projects that benefit from PABs. PABs are issued on behalf of thousands of private enterprises like small manufacturers, non-profits, veterans, housing developers, universities, first time farmers, cultural institutions, hospitals and renewable energy providers annually. Further, each of these projects were supported and approved for PAB financing by state or local governments with their understanding that the projects were important to the economic development and long range stability of their communities.

The same goes for the special bond programs targeted in the Times article such as New York Liberty Zone Bonds, Gulf Opportunity Zone Bonds, Midwestern Disaster Area Bonds and Recovery Zone Bonds. Here is perhaps where the Times makes its most fatal mistake. These programs were created with bi-partisan Congressional support and strongly supported by two Presidential Administrations. These programs addressed the devastation and destruction felt in the Gulf States after Hurricane Katrina, floods in the Midwest and job loss from the national recession. These programs work outside and independent of the 1986 tax code regulating private activity bonds. They are unique, broadened bond programs not related at all to the established use of PABs and have no bearing whatsoever on the discussion concerning PABs. Traditional PABs cannot be issued for golf courses and office towers as these special programs were created as unique access to capital tools to directly address targeted needs in states and to spur private enterprise growth.

For example, the Bank of America and Goldman Sachs buildings provided much needed economic stability to New York after September 11th. Through the issuance of New York Liberty Zone Bonds these projects signaled to the world that our country's greatest city was open for business and that nothing would hold back America's effort to create jobs, spur investment, grow our economy and continue the process of healing after the 9/11 tragedies. Without this specialized PAB financing, those institutions may well not have chosen to re-locate where they did. It should also be pointed out that the redevelopment and rebirth of the World Trade Center site has been financed using New York Liberty Zone Bonds. This project marks one of our country's greatest redevelopment success stories. Would the Times suggest that this is a misuse or abuse of this Congressionally authorized financing tool?

To imply misuse or abuse is to undermine the core role that these critical financing measures play in supporting the American economy. Again, it remains the prerogative of the local communities to make decisions on how best to support economic development and community investment after these tragedies. Without these bond programs, the same investment would not have happened. Congress should be applauded for creating these programs, not criticized for supporting America's communities.

Third, the Times article implies that the federal government is forgoing tax revenue by offering lower interest rates and interest free income through PABs. This could not be further from the truth. Little is lost by the federal government because, in the vast majority of these deals, the projects would not have otherwise proceeded without the tax-exempt bond financing authorized by the federal government and issued by local governments. More plainly stated, how can the federal government lose revenue when they never had it in the first place? The notion that the projects would have happened anyway and that investors would have otherwise invested in taxable instruments is not supported by data or by any reputable development finance professional – it is an academic theory. And this is to say nothing about the economic growth and economic activity that result from these investments, spurring job growth and widening the base of federal taxpayer support – a net benefit to the United States Treasury.

Fourth, as the article states, "it is difficult to calculate the precise dollar amount of the subsidy, given the number and variety of these bonds, experts say the annual cost to federal taxpayers could run into the billions." If the argument is that PABs are an unfair or unqualified subsidy to private enterprise, why can't the New York Times produce a number or study that references a single amount of lost revenue to the U.S. Treasury? Why? Because this assertion is unsubstantiated and unreasonable.

PABs present near zero risk to the federal, state and local government. They are non-recourse bonds that have no impact on local, state and federal tax revenues. In fact, in the event that a project goes bad, the bond holders, who knowingly invested in this risk financing product, are the only stakeholders impacted. Not the government issuers. And not citizens. Further, defaults are extremely rare and the tax-exempt bond market has historically performed better than any fixed-income investment market in the world.

Fifth, the article attempts, rather poorly, to draw a connection between the tax reform battles of the 1980s and the current state of affairs on Capitol Hill. It is true that there are proposals for eliminating or capping the use of bonds for the types of projects identified in the article. But that is not the whole story. The proposals presented by the White House and in Congress to date have suggested a cap or elimination of all tax-exempt bonds, including for essential and purely public purposes like roads, bridges, sewer, waste water treatment, energy, infrastructure, schools, and hospitals. And they have done so under the auspices of deficit reduction and comprehensive tax reform – not as suggested policy reforms. These actions, highly rejected by the entire development finance industry, would burden state and local government by driving interest rates up and increasing the cost of project financing, which would naturally decrease the ability of government to support economic development. The end result would be higher local taxes for individuals and increased rates for taxpayers. These results are all well documented by the Municipal Bonds for America Coalition and many other organizations fighting to preserve tax-exempt bonds.

Finally, the Times sinks to an all-time low by inferring that tax-exempt bonds are funding terrorists in Afghanistan. I understand that the Times is in the business to sell papers, but this assertion is both dangerous and inflammatory. To suggest that there was any knowing, or unknowing for that matter, attempt to finance a project that ultimately benefited a terrorist organization is tantamount to journalist fearmongering. There is no place in this discussion for sensational grandstanding.

The decades-long story of private activity bonds is one of local business assistance, job creation and economic revitalization. Take the case of Qualified Small Issue Manufacturing Bonds, more commonly known as Industrial Development Bonds (IDBs), or simply manufacturing bonds. These are a type of private activity bond that allow the public sector to assist manufacturers with expansion, investment and job creation through the issuance of tax-exempt bonds – assistance to a sector that since 2001 has lost nearly 5.7 million jobs . Low-cost, affordable, flexible, and efficient capital access, remains the number one concern for these manufacturers and IDBs provide just that.

Manufacturing bonds are a bedrock tool and the single most actively used bond program for financing the small- to mid-sized manufacturing sector, which often does not otherwise have access to affordable financing mechanisms. These bonds are highly regulated with limitations strictly governing their use and support expansion and investment in existing manufacturing facilities, as well as the development of new facilities and the purchase of new machinery and equipment. They are issued in small quantities; no more than $10 million per project, and fill a financing need that conventional lending cannot and will not meet.

Examples of the impact abound. For instance, Alabama recently issued two IDBs to support small manufactures in the state that have supported over 300 jobs. Virginia issued a small manufacturing bond for just $1.5 million to help support 42 important jobs at a local machine shop. Maybe Michigan presents the best example where three small IDBs supported three separate manufacturers to create and retain over 210 jobs. For states hemorrhaging manufacturing jobs, it is hard to argue against the impact and the value of this important tool.

The New York Times would have state and local governments cease assisting these borrowers, the lifeblood of many American communities. I and millions of others respectfully disagree.

The development finance community calls on the New York Times and members of the United States Congress to engage in a more open, constructive and educated dialogue on national private activity bond policy.

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To learn more about private activity bonds, go to www.cdfa.net.