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 - And finally, [You Keep Using That Word. I Do Not Think It Means What You Think It Means](#) is reprised this week by [Association of Irrigated Residents v. Kern County Board of Supervisors](#). “Irrigated?” Take a moment and mentally compile a list of your most common irritants. Is one of those irritants a county-issued permit to allow a local refinery to double its capacity via the importation into the community of trainloads of a particularly combustible hydrocarbon? Oh, it is? Well then, never mind.
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PUBLIC UTILITIES - CALIFORNIA

[Association of Irrigated Residents v. Kern County Board of Supervisors](#)

Court of Appeal, Fifth District, California - November 21, 2017 - Cal.Rptr.3d - 2017 WL 5590096 - 17 Cal. Daily Op. Serv. 11, 188

Objectors filed mandamus action challenging county’s certification of environmental impact report (EIR) issued under California Environmental Quality Act (CEQA) and ensuing approval of project to modify an oil refinery.

The Superior Court denied writ of mandate. Objectors appealed.

The Court of Appeal held that:

- Substantial evidence supported county’s finding that existing physical conditions of oil refinery included an operating refinery, in determination of appropriate baseline for use in EIR;
- Compliance with state cap-and-trade program could be considered in evaluation, preparation, and approval of EIR;
- Interstate Commerce Commission Termination Act of 1995 (ICCTA) did not preempt CEQA review of environmental effects associated with off-site rail activity.

Substantial evidence supported county’s finding that existing physical conditions of oil refinery included an operating refinery, in determination of appropriate baseline for use in environmental impact report (EIR) under California Environmental Quality Act (CEQA) for proposed project to modify refinery, even though operations had previously been shut down after operator and its subsidiary declared bankruptcy; refinery operations of up to 70,000 barrels per day had been

approved by issuance of permits or other entitlements that were still in effect, refinery did actually process crude oil and other hydrocarbons until bankruptcy filing, and processing of other hydrocarbons resumed approximately three years after bankruptcy.

State's cap-and-trade program for greenhouse gas emissions constituted regulations adopted to implement a statewide plan for the reduction or mitigation of greenhouse gas emissions, and thus, pursuant to California Environmental Quality Act (CEQA) guidelines, program was properly considered by county in its evaluation, preparation, and approval of the environmental impact report (EIR) for proposed project to modify oil refinery.

Interstate Commerce Commission Termination Act of 1995 (ICCTA) did not categorically preempt environmental impact report (EIR) issued under California Environmental Quality Act (CEQA) from describing and analyzing environmental effects associated with off-site rail activity, such as the emission of criteria pollutants by train locomotives, in analysis of proposed project for modification of oil refinery, where such review under CEQA could not have been used to deny a rail carrier the ability to conduct operations and transport crude oil to the refinery, and conducting CEQA review did not create possibility of rail carrier being subject to state or local requirements which addressed a matter within Surface Transportation Board's exclusive jurisdiction.

Interstate Commerce Commission Termination Act of 1995 (ICCTA) did not preempt, as applied, an environmental impact report (EIR) issued under California Environmental Quality Act (CEQA) from describing and analyzing environmental effects associated with off-site rail activity, such as the emission of criteria pollutants by train locomotives, in analysis of proposed project for modification of oil refinery; words set down in an EIR would have no actual effect on actions taken by a rail carrier or how or when those actions were taken.

REDEVELOPMENT AGENCIES - CALIFORNIA

[City of Grass Valley v. Cohen](#)

Court of Appeal, Third District, California - November 20, 2017 - Cal.Rptr.3d - 2017 WL 5563097 - 17 Cal. Daily Op. Serv. 11, 106

City, as successor agency for dissolved redevelopment agency, brought mandamus and declaratory judgment action against Department of Finance, seeking to compel Department to recognize enforceability of certain agreements involving redevelopment agency.

The Superior Court denied city's petition in part. City appealed and Department cross-appealed.

The Court of Appeal held that:

- City was required to exhaust administrative remedies before seeking writ commanding Department to consider whether certain transfers were enforceable obligations, and
- Whether or not new statutory definition, under Dissolution Law, of an enforceable obligation applied to particular agreement was an issue within Department's discretion to decide in first instance.

City, as successor to dissolved redevelopment agency, was required to exhaust administrative remedies before seeking writ commanding Department of Finance to consider whether certain transfers, under agreement executed by redevelopment agency, constituted transfers for goods and services, in determining whether transfers were enforceable obligations under the Dissolution Law, even though provision of Dissolution Law providing for city to meet and confer with Department

stated that city “may” request such process. Exhaustion of administrative remedies was generally a prerequisite to judicial review, and administrative process might have resolved or at least narrowed the dispute.

Whether or not new statutory definition, under Dissolution Law, of what constituted an enforceable obligation between a redevelopment agency and its creator applied to particular agreement regarding highway project was an issue within Department of Finance’s discretion to decide in the first instance, by way of administrative review process, rather than an issue to be considered in first instance by Court of Appeal, on appeal of trial court decision in city’s action for judicial review, where issue was one that properly would have gone first to Department had the new definition been in existence at time of administrative process.

EMINENT DOMAIN - DISTRICT OF COLUMBIA

[National Railroad Passenger Corp. \(Amtrak\) v. 3.44 Acres More or Less of Land](#)

United States District Court, District of Columbia - September 20, 2017 - F.Supp.3d - 2017 WL 4179878

National Railroad Passenger Corporation (Amtrak) filed suit to condemn two parcels of land. Landowner moved for partial summary judgment, challenging Amtrak’s statutory authority to take one of the parcels, and Amtrak cross-moved for partial summary judgment.

The District Court held that:

- Standard for Amtrak to exercise its eminent domain power, necessary for intercity passenger rail transportation, means that condemned property must have significant relationship to Amtrak’s goals, and
- Amtrak’s exercise of eminent domain power to acquire landowner’s parcel of land was permissible under statute that granted such power.

For a property to be eligible for condemnation under Amtrak’s statutory power to acquire by eminent domain interests in property that are necessary for intercity passenger rail transportation, it must have a significant relationship or direct nexus to Amtrak’s goals, which, as set forth by statute, include minimizing federal subsidies, and maximizing the use of its resources, including the most cost-effective use of employees, facilities, and real property; this standard of necessity, is less strict than less-resort need, because that standard would be impossible to implement without vitiating Amtrak’s power to take property, and the standard requires more than mere usefulness, because under that standard almost any condemnation could be plausibly justified as useful for a transportation provider.

Amtrak is not a government entity with general authorization to exercise the sovereign’s power of eminent domain on behalf of the sovereign itself, but rather, Amtrak is a government-sponsored corporation that has power to take property within confines of the terms of its statutory grant of such power, and as such, Amtrak’s decision to exercise its limited power is subject to less deferential review than that afforded to a governmental entity.

Amtrak’s exercise of eminent domain power to acquire land parcel, sitting adjacent to train station, which contained an office building and underground parking garage, was permissible pursuant to statute that granted Amtrak power to take property necessary for intercity passenger rail

transportation. The parcel bore a significant relationship to Amtrak's transportation goals, as ownership of the office building afforded Amtrak with flexibility to decide how to most efficiently execute the expansion aspect of its master plan for the adjacent train station, and Amtrak had interest in acquiring fee simple to the parcel to solidify its current use of the office building for staff and to access the street underpass for vehicle access to the train station and the underground parking.

EMINENT DOMAIN - HAWAII

[Leone v. County of Maui](#)

Supreme Court of Hawai'i - October 16, 2017 - P.3d - 2017 WL 4604836

Landowners brought action against county claiming inverse condemnation and equal protection and due process violations, and seeking punitive damages.

The Circuit Court granted county's motion to dismiss. Landowners appealed and the Intermediate Court of Appeals vacated. After a jury trial on remand, the Circuit Court entered judgment in favor of county. Landowners appealed, county cross-appealed, and county's application for transfer to the Supreme Court was granted.

The Supreme Court of Hawaii held that:

- Property value was a relevant factor for analysis of whether land had economically viable uses;
- Real estate appraiser was qualified to opine as expert on economically beneficial use;
- Regulations that leave land in its natural state do not always constitute a taking;
- Shifting burdens of production regarding economically beneficial use of property did not apply;
- A jury is not required to be informed on the effect private restrictive covenants have on a regulatory takings analysis; and
- Whether land retained some economically beneficial use was for jury.

Property value was relevant factor for analysis of whether land had economically viable uses, and therefore testimony from real estate appraiser regarding investment use of land was admissible in landowners' regulatory taking action against county; even though property value could not have been sole focus of economically viable use inquiry, evidence that landowners could have waited for land to increase in value was not precluded, and trial court gave jury instruction explaining that whether land had economically beneficial use did not turn on whether land had value.

Real estate appraiser was qualified to opine as expert on economically beneficial use in landowners' regulatory taking action against county, despite contention that appraiser's expertise was in value rather than use of land; appraiser had been working as appraiser for more than 35 years, appraiser had to determine highest and best use of properties he evaluated as part of his work, and appraiser had conducted highest and best use test in connection with thousands of properties.

A regulation could potentially require land to be left substantially in its natural state and still not be considered a regulatory taking; regulations that leave land in its natural state do not always constitute a taking.

Shifting burdens of production regarding economically beneficial use of property did not apply to landowners' regulatory taking action against county, and therefore jury instruction on shifting burdens was not warranted; case was tried by jury, rather than by court, and instruction on shifting burdens would have confused jurors.

The existence of private restrictive agreements cannot saddle the government with liability in a takings analysis; at all times in a takings analysis, it is solely the government action that must be evaluated.

IMMUNITY - ILLINOIS

[Corbett v. County of Lake](#)

Supreme Court of Illinois - November 30, 2017 - N.E.3d - 2017 IL 121536 - 2017 WL 5894189

Bicyclist who was injured when she was thrown off her bicycle while riding over an allegedly defective portion of a bike path brought action against county and city for entities' allegedly willful or wanton conduct with respect to the bike path's condition.

The Circuit Court entered summary judgment for county and city. Bicyclist appealed with respect to city only. The Appellate Court reversed and remanded. City appealed.

The Supreme Court of Illinois held that the bike path was not a "trail" under the statute that gave local public entities immunity from liability for injuries caused by a condition of any hiking, riding, fishing, or hunting trail.

Allegedly defective bike path on which bicyclist fell was not a "trail" under the statute that gave local public entities immunity from liability for injuries caused by a condition of any hiking, riding, fishing, or hunting trail, and thus city in which path was located was not absolutely immune from bicyclist's suit for city's allegedly willful or wanton acts or omissions as to the path's condition; the legislature intended to apply blanket immunity only to primitive, rustic, or unimproved trails, but the path in question was a 10-mile-long, shared-use path, paved with asphalt and held out for the use of bicycles, pedestrians, and in-line skaters.

ANNEXATION - INDIANA

[Certain Home Place Annexation Territory Landowners v. City of Carmel](#)

Court of Appeals of Indiana - October 31, 2017 - N.E.3d - 2017 WL 4929936

Landowners in unincorporated township, which was proposed annexation area, filed a petition remonstrating against city's proposed annexation.

The Hamilton Superior Court granted petition. City appealed. The Court of Appeals reversed and remanded. On remand, the Hamilton Superior Court ruled in favor of city, and landowners appealed.

The Court of Appeals held that landowners failed to prove that fire protection was being adequately furnished by a provider other than city so as to prevent annexation.

Landowners in unincorporated township, which was proposed annexation area, failed to prove that fire protection was being adequately furnished by a provider other than city so as to prevent annexation pursuant to statute, stating that proposed annexation will not take place if court finds that fire protection services are adequately furnished by provider other than the municipality seeking annexation. City and township signed a contract whereby city agreed to furnish fire protection service to residents of township outside limits of city, township did not have fire

department and did not employ any firefighters, and township did not contribute any resources to the fire department, such as personnel, training, or additional equipment.

EMINENT DOMAIN - SOUTH DAKOTA

[Long v. State](#)

Supreme Court of South Dakota - November 21, 2017 - N.W.2d - 2017 WL 5624239 - 2017 S.D. 78

After landowners prevailed against the State in inverse condemnation action, the Circuit Court denied landowners' motion for attorney's fees and expenses. Landowners appealed.

The Supreme Court of South Dakota held – as matter of first impression – that the statute governing relocation benefits and assistance in acquisition of property does not authorize attorney's fees and expenses, although statute incorporates provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), since compliance with the URA is permissive rather than mandatory, and statute's plain language does not authorize attorney's fees and expenses, since compliance with the URA is permissive rather than mandatory, and statute's plain language does not authorize attorney's fees and expenses

EMINENT DOMAIN - SOUTH DAKOTA

[Long v. State](#)

Supreme Court of South Dakota - November 21, 2017 - N.W.2d - 2017 WL 5623123 - 2017 S.D. 79

Landowners brought inverse condemnation action against state and city, alleging that construction of state highway caused flooding on their properties.

Following bifurcation of liability and damages issues, settlement of liability issue between landowners and city, and bench trial, the Circuit Court found state solely liable for damage to properties, and dismissed state's cross-claim seeking contribution and indemnification from city. Following jury trial on issue of damages, the Circuit Court awarded monetary damages to each individual landowner. State appealed.

The Supreme Court of South Dakota held that:

- Doctrine of sovereign immunity did not bar landowners' inverse condemnation claims;
- State's construction of highway was actual and proximate cause of flooding on landowners' properties;
- Injury to landowners' properties was peculiar and not of kind suffered by public as whole;
- The Joint Tortfeasor's Act does not apply to inverse condemnation proceedings, and thus does not create a statutory right of contribution between two or more persons jointly or severally liable on a theory of inverse condemnation for the taking of private property without just compensation; and
- State did not acquire drainage easement over landowners' properties.

Doctrine of sovereign immunity did not bar landowners' inverse condemnation claims against state and city, arising from construction of state highway which led to flooding of real properties, since claims were not in nature of tort, but were instead constitutional.

State's construction of public highway was actual and proximate cause of flooding on landowners' properties, and thus amounted to taking of private property requiring just compensation, even if landowners could not prove foreseeability of flooding at time of highway's construction over 60 years ago, where 2010 analysis of culverts during resurfacing project found that culverts were insufficient in size to prevent flooding.

Injury to landowners' properties was peculiar and not of kind suffered by public as whole, and thus supported inverse condemnation claims against state and city, where construction of public highway resulted in flooding of landowners' properties but not properties of other area residents.

The Joint Tortfeasor's Act does not apply to inverse condemnation proceedings, and thus does not create a statutory right of contribution between two or more persons jointly or severally liable on a theory of inverse condemnation for the taking of private property without just compensation.

State did not acquire drainage easement over landowners' properties, despite award of permanent damages to landowners on inverse condemnation claims, justly compensating landowners for flooding on their properties caused by construction of public highway, where state failed to define scope and boundaries of any purported easement or present evidence on valuation, and instead simply submitted language in its proposed judgment requesting drainage easement over subject properties in perpetuity.

EMINENT DOMAIN - WEST VIRGINIA

[West Virginia Lottery v. A-1 Amusement, Inc.](#)

Supreme Court of Appeals of West Virginia - November 13, 2017 - S.E.2d - 2017 WL 5559867

Holders of permits to operate limited video lottery game (LVL) terminals brought action against state lottery for taking without just compensation, deprivation of property without due process, and civil conspiracy, all of which related to state lottery's decision to require permit holders to use a different software program for their LVL terminals at their expense.

After allowing permit holders to amend their complaint following state lottery's first motion to dismiss for failure to limit the recovery sought to the state's insurance coverage, the Circuit Court found that state lottery had waived immunity, determined that permit holders did not need to limit their regulatory-taking and due-process claims to the limits of the state's insurance policy, and denied state lottery's second motion to dismiss. State lottery appealed.

The Supreme Court of Appeals of West Virginia held that:

- State lottery did not waive its claim of sovereign or qualified immunity;
- The statutory eminent domain procedure, and therefore inverse condemnation, can, in an appropriate case, be utilized to seek compensation for personal property; abrogating *State ex rel. Firestone Tire & Rubber Co. v. Ritchie*, 153 W. Va. 132, 168 S.E.2d 287;
- The proper procedure for pursuing inverse condemnation is to file a complaint in circuit court seeking a writ of mandamus to compel the state to institute condemnation proceedings; abrogating *Stewart v. State Road Commission*, 117 W. Va. 352, 185 S.E. 567; and
- The state insurance policy exception to sovereign immunity applies only to immunity under the state constitution and does not extend to qualified immunity.

State lottery's failure to raise the issue of sovereign or qualified immunity in its first motion to

dismiss action for regulatory taking and related claims by holders of permits to operate limited video lottery game (LVL) terminals did not result in a waiver of immunity; state lottery explicitly reserved the right to assert those immunities in a footnote in the first motion to dismiss, state lottery raised the issue of immunity in its second motion to dismiss, which was filed in response to permit holders' amended complaint, and nothing in the rules of civil procedure limited the scope of a second motion to dismiss to the allegations that were changed as between the original and amended complaints.

TAX - MONTANA

[Zinvest, LLC v. Gunnersfield Enterprises, Inc.](#)

Supreme Court of Montana - November 21, 2017 - P.3d - 2017 WL 5591723 - 2017 MT 284

Purchaser of real property, who acquired interest in property from county following unpaid property taxes by record title owner, brought quiet title action.

The District Court entered order quieting title to property, and denied record title owner's motion for summary judgment. Record title owner appealed.

The Supreme Court of Montana held that tax assessment on property was invalid, and thus subsequent tax lien sale was void.

Tax assessment on parcel of real property, which went to property's previous owner, rather than record title owner, was invalid, and thus subsequent tax lien sale of property from county to purchaser, and issuance of tax deed, were void in purchaser's quiet title action. Statutory protections requiring property to be assessed in the owner's name, and prohibiting department of revenue from changing any ownership records unless the department has received a transfer certificate, were mandatory.

[Muni Buyers Are Handed a Holiday Bounty With Governments Rushing to Market.](#)

- **New offerings hold near 13-year high in usually slow month**
- **Issuance may break \$54.7 billion monthly record seen Dec. 1985**

For municipal-bond buyers, December is providing the chance for a rare holiday shopping spree.

Spurred by legislation in Congress that would end the tax-exemption for a big share of the market starting next year, state and local governments are rushing to borrow, turning a typically sleepy month into a potential record-setter.

That's created some discounts, too: In anticipation of the deluge, prices have dropped, sending the Bloomberg Barclays Municipal Bond Index 0.54 percent lower in November, its worst monthly performance in a year.

"It is significantly busier," said David Mullen, senior vice president and director of public finance at Dougherty & Co., a Minneapolis based investment bank and financial advisor. "The feeling in the office is hectic."

The volume of sales scheduled over the next 30 days currently stands at \$26.9 billion, holding near its highest in almost 13 years. That's already more than was sold in all of last December, and the final tally is likely to be considerably higher because many deals are planned with less than a month's notice.

The tax bills in Congress — which propose scrapping subsidies for advance refundings and, in the House's version, private activity bonds as well — would reduce tax-exempt issuance significantly starting next year. Those two categories accounted for about 40 percent of total new supply over the past three years, according to Peter Block, managing director of credit strategy at Ramirez & Co.

Hence a rush that recalls the scramble to issue seen in December 1985, ahead of the last major overhaul of the U.S. tax code. Governments in New York are leading the charge with \$4 billion of borrowing planned, followed by California, Texas and Florida.

Should December issuance top \$54.7 billion, it would be the biggest month in the market's history. Mikhail Foux, head of municipal strategy at Barclays Plc, estimates that \$40 billion to \$50 billion will be sold, in line with other forecasts. That compares with about \$32 billion in November.

The dramatic increase in supply has driven municipal prices down and yields up, with the Bloomberg Barclays municipal index losing about 0.8 percent last month, the worst monthly showing in a year.

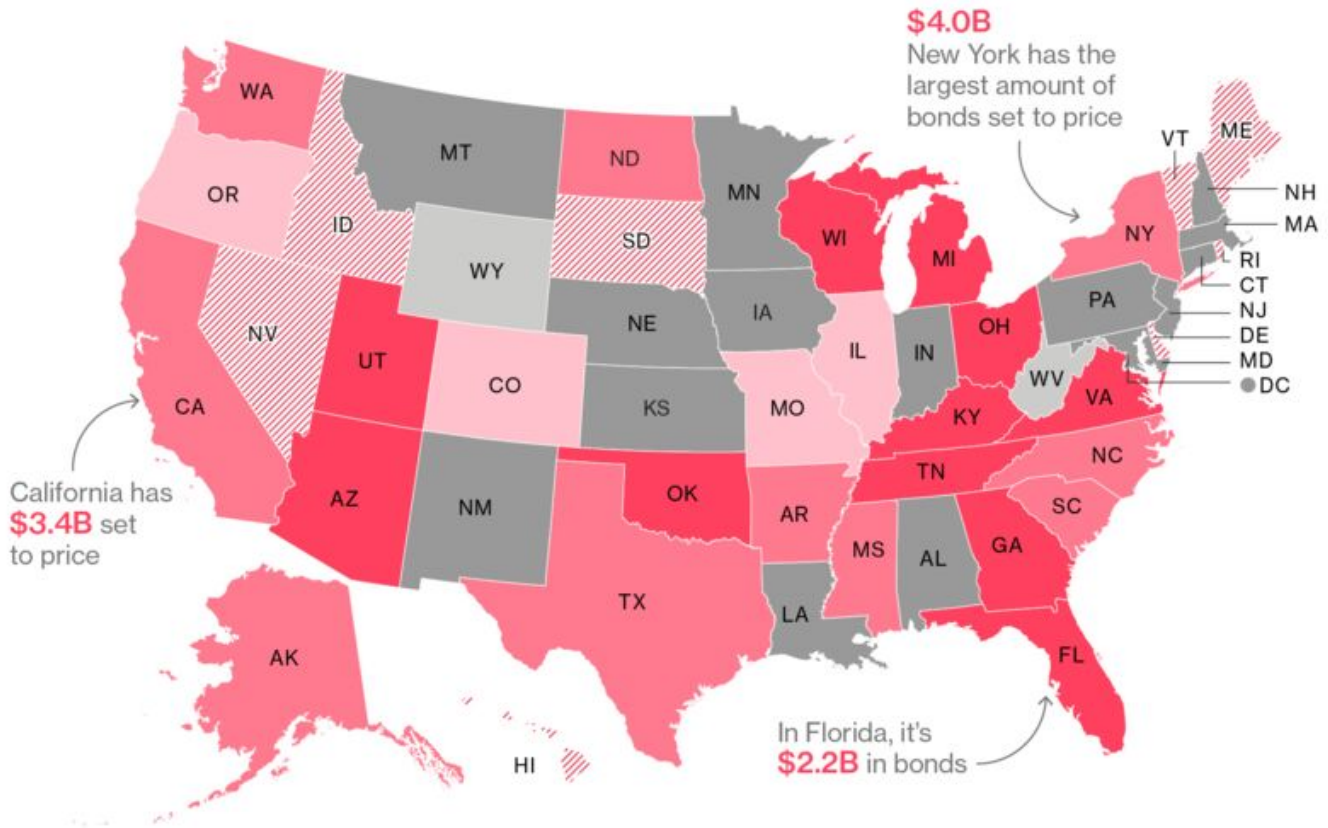
"I'm getting the impression that there is a lot of general market distortion that prices are significantly different than what they were two or three weeks ago," said Scott Stevenson, a managing director at D.A. Davidson, an underwriter.

Munis' Massive Month

Borrowers concerned about possible tax changes have accelerated issuance. Major issuers like New York and California are set to more than double what they sold this time last year.

Year-over-year change in 30-day long-term visible supply*

● -100% to -0.1% ● 0% ● +0.1% to +50% ● +51% to +300% ● More than +300% ▨ No 2016 supply**



* Visible supply measures deals put on the calendar scheduled for sale over the next 30 days and typically captures about half of what eventually comes to market.

**States had no visible supply as of Nov. 30, 2016 and plan to issue \$400m or less in the next 30 days

Source: Bloomberg Municipal Bond Monitor, values as of 11/30

Bloomberg

The uncertainty is due partly to the discrepancies between the House and Senate tax bills, with the Senate proposing to leave the private activity bond market intact.

“One pivotal question, one key uncertainty to this whole equation is the degree to which what’s eventually passed. Is it the House version or is it the Senate version?” said Brett Wander, chief investment officer of fixed income at Charles Schwab.

For the moment, that’s sending underwriters into overdrive. And buyers are busy shopping.

Bloomberg Markets

By Danielle Moran

December 1, 2017, 6:00 AM PST

Every Basis Point Counts to Muni-Bond Issuers Rushing to Market.

- **Difference in rates between taxable, tax-exempt would add up**
- **A-rated 30-year G.O. bond issue would cost \$12 million more**

What's the difference between selling municipal bonds that are tax-exempt and taxable? While a few fractions of a percentage point might not seem like much, it can cost taxpayers millions of dollars.

For example, an A-rated municipality that issues \$100 million in 30-year general-obligation bonds in the taxable rather than the tax-exempt market would see an additional cost of 0.40 percentage points, or \$12 million over the next three decades, according to calculations based on Bloomberg's indexes.

That's why states and local governments are rushing to sell billions of dollars of bonds this month, in case Congress enacts legislation that would tax the income from a big chunk of the municipal securities that are sold after this year.

The U.S. House of Representatives' bill would pull tax-exemption from refinancings known as advance refundings and from private activity bonds, which are used by colleges, hospitals and airports, among other borrowers. The Senate's would leave private activity bonds intact, though that could change when the two chambers negotiate a compromise.

Borrowers aren't waiting to see. Wheaton College, the Norton, Massachusetts-based liberal arts institution, plans to offer \$56 million revenue bonds next week, some of which will be used for an advance refunding. If the deal was sold at taxable yields, the higher interest costs would be equivalent to about \$200 of additional tuition per year from each of its students under a 30-year maturity, said Brian Douglas, executive vice president for finance and administration.

The college was planning to sell the bonds anyway, but once tax reform came under discussion, the university decided to move quickly, he said.

Wheaton, which has over 1,650 students, is rated A3 by Moody's Investors Service. Taxable A-rated revenue bonds with a five-year maturity would cost about 90 basis points more than their tax-exempt counterparts, according to data compiled by Bloomberg.

Over 65 percent of students receive need-based aid at Wheaton. Annual tuition cost \$50,520 for the 2017-18 year. "We try every way we can to lower the costs for our students," Douglas said, "and this change would have the opposite effect, it would force us to increase costs for students."

Other entities face a similar hike in borrowing costs. Dennis Hunt, executive vice president and manager of public finance at Stephens Inc., said municipalities that sell tax-exempt bonds with a top yield of 4 percent would pay 5.5 percent if bondholders had to pay tax on the income.

If the proposed limit on tax-exempt private activity bonds goes through, many issuers would likely curb their borrowing because of the the higher interest rates, he said. That would cut into spending on infrastructure projects, putting the tax bill at odds with President Donald Trump's stated goal of pumping more money into public works.

"It would be a very significant difference," he said.

Bloomberg Markets

By Amanda Albright

December 1, 2017, 8:50 AM PST

Passage of Senate Tax Bill Leaves Fate of PABs to Reconciliation.

The Senate's passage of its tax bill by a 51-49 vote early Saturday morning sets the stage for a sea change in the municipal market once it's reconciled with the House's version and signed into law.

The fate of private activity bonds, which would be spared in the Senate bill but killed in the House measure, hangs in the balance. With advance refundings eliminated in both bills, that popular cost-saving tool for municipalities is all but dead.

Both bills would reduce the corporate tax rate to 20% from 35%, although the Senate bill would delay the reduction until 2019. Muni market experts have said that will kill any demand for munis by banks, property and casualty and insurance companies and life insurance companies.

President Trump, however, raised the possibility that the final corporate tax rate might be 22% as a result of upcoming House and Senate negotiations.

Speaking to reporters at the White House Saturday morning, Trump said, "It could be 22 when it comes out but it could also be 20. We'll see what ultimately comes out."

The ultimate fate of PABs is uncertain. The Senate bill, while preserving them, amended its bill on Friday to retain both the individual and corporate alternative minimum tax, which is applicable to PABs that are not 501(c)(3) bonds and makes them less attractive. The bill, on the plus side for the muni market, would raise the amounts exempted from the AMT. The earlier version of the Senate bill would have eliminated the AMT.

House Ways and Means Committee Chairman Kevin Brady said Thursday he might agree to preserve PABs but push for limits on their uses. That's raised concerns among muni market participants who now worry that PABs will be restricted in the upcoming negotiations over a final tax bill rather than left alone as in the Senate bill.

"I think over time that's an area that has drifted in its mission from infrastructure projects that have regional or national significance that should be supported by every taxpayer in America into a wide range of issues," Brady, R-Texas, said in response to a question from The Bond Buyer.

The House bill would terminate PABs after the end of the year. Brady echoed some House Republicans who want some PABs preserved for infrastructure.

Brady said House lawmakers have been learning about the various uses of PABs. "Part of the reason for addressing it in the House version was to have this discussion about should they continue, and if so, in what form," he said.

The Senate on Friday also revised its tax bill to adopt the House provision on federal deductions for state and local taxes. Both bills would eliminate the deductions for state and local income and sales taxes but would permit the deduction of up to \$10,000 of state and local property taxes.

Republican Rep. Tom Reed of New York, a member of the House Ways and Means Committee, told

The Bond Buyer Thursday that California and Illinois Republican House lawmakers are continuing to press for a deduction for state and local income taxes to be added in conference. Among the possibilities, according to Reed, is a ceiling on the deduction for a combination of property taxes and state and local income taxes.

“Stay tuned,” Reed said. “This is all part of the legislative process. There is going to be further expansion of the SALT deduction. That is one issue that has to be resolved.”

The Senate bill would keep the current mortgage interest deduction for loans of up to \$1 million. The House would cap mortgage interest on new home loans beginning Jan. 1 at \$500,000. Both bills would end the deductibility of home equity loans.

Before passing its bill the Senate raised to 23% from 17.4% the amount of income that can be deducted by filers of pass-through entities.

Meanwhile, 21 House Republicans sent a letter to the House and Senate GOP leaders early last week urging them to preserve PABs and advance refundings.

The number of House Republicans who signed the new letter is significant because it nearly equals the 22-seat majority Republicans hold in the House. No Democrats voted for the House tax reform bill and none are expected to support the final House-Senate legislation.

Republicans hold a 240-194 advantage in the House with one seat vacant pending a March 13, 2018 special election to replace former Rep. Tim Murphy, R-Pa.

“We strongly object to the proposed elimination of tax-exempt private activity and advance refunding bonds in any final tax reform package,” said the letter sent Brady and House Speaker Paul Ryan, R-Wis.

Their proposed termination, the letter said, “undermines President Trump’s infrastructure and economic development agenda for the middle-class.”

Copies also were sent Senate Finance Committee Chairman Orrin Hatch, R-Utah, and Senate Majority Leader Mitch McConnell, R-Ky.

The letter pointed out that the proposed changes “violate a request made by 162 members of the House of Representatives in a March 9, 2017 letter.”

The earlier letter was a bipartisan request led by Reps. Randy Hultgren, R-Ill., and Dutch Ruppersberger, D-Md., co-chairs of the House Municipal Finance Caucus.

Brady acknowledged understanding the message in the letter.

The elimination of advance refundings in both versions of the bill is already spurring a rush to market in the primary as issuers try to take advantage of the ability to refinance debt prior to the call date while they still can.

However, municipal issuers may have to forget about buying state and local government series securities for the escrows of all those advance refundings.

The debt limit is looming and if Congress doesn’t suspend it or increase it by Dec. 8, then the Treasury Department will have to take extraordinary measures and the first action it usually takes is to halt sales of SLGS.

SLGS are specially tailored, non-marketable securities from Treasury that can only be purchased by state and local governments or other muni issuers subject to yield restriction and arbitrage rebate restrictions under the Internal Revenue Code. They are most often bought by issuers for advance refunding escrows, which are subject to yield restriction requirements. Issuers want to make sure their investment yields don't exceed their bond yields. But issuers can also invest in SLGS with bond proceeds to avoid generating arbitrage.

"Because of the pending tax bills, issuers all across the country are rushing to do advance refundings before New Year's," said Sam Gruer, managing director at Blue Rose Capital Advisors. "The market is expecting a significant amount of advance refundings and the SLGS window is going to be shut down in the middle of it."

Gruer said issuers may instead have to buy open market Treasuries for their advance refunding escrows.

"Given the potential for a large amount of transactions, issuers should start planning for this now," he said.

Market sources said they are especially worried that smaller state and local governments with smaller transactions will be unable to advance refund their bonds.

Federal tax rules contain a safe harbor under which tax regulators won't question the yield on an advance refunding escrow if the issuer obtains at least three bids for the securities to be put into the escrow. But what if smaller issuers don't get three bids or any bids at all for escrow securities?

Underwriters and investment advisors may be swamped with advance refundings and not want to spend the holiday season trying to find bids for small deals, some sources said.

The Congressional Budget Office said in a report issued Thursday that if the debt limit is not suspended or raised after Dec. 8, the Treasury will have to take extraordinary measures but that that will keep the federal government from running out of cash until late March or early April.

Currently there is no statutory limit on the issuance of new federal debt because Congress the limit of federal debt through Dec. 8 in the Continuing Appropriations Act, 2018, and the Supplemental Appropriations for Disaster Relief Requirements Act, 2017, enacted in September.

That means that on Dec. 9, absent any action by Congress to extend the suspension or increase the ceiling, the debt limit will be reset to reflect the cumulative borrowing through the period of suspension.

As of Nov. 17, an additional \$700 billion was borrowed, bringing the amount of outstanding federal debt subject to the limit up to \$20.5 trillion, the CBO report said. On Dec. 9 the new debt limit will be that amount plus whatever is additionally borrowed through Dec. 8, the report said.

"Under current law, on Dec, 9, federal debt will be at the statutory limit and the Treasury will need to use "extraordinary measures" to continue to raise cash," the CBO said. "Those measures would probably be exhausted in late March or early April.

The Bond Buyer

By Brian Tumulty & Lynn Hume

December 02 2017, 8:43pm EST

[While You Were Sleeping The Senate Passed Its Version of the Tax Cuts and Jobs Act.](#)

At about 2:00 a.m. EST on Saturday, December 2, 2017, the only people awake in Washington, D.C. were [alcoholics, the unemployable, and angry loners](#). Also awake were members of the United States Senate (but I repeat myself). At that early hour, the Senate passed its version of the [Tax Cuts and Jobs Act](#) (the “Act”) by a vote of 51 - 49. Bob Corker of Tennessee was the only one of the 52 Senate Republicans to vote against the Act; none of the 48 Senate Democrats voted for it.

The House of Representatives passed its version of the Act on November 16. The differences between the versions of the Act as passed by the House and Senate will now be reconciled either by a conference committee comprised of members of the House and Senate or some other form of negotiation between the two chambers of Congress. Once a final version of the Act has been negotiated, the House and the Senate will vote on this version, assuming it is not identical to either the House or Senate version. For analysis and speculation regarding the Act’s effect on tax-exempt bonds, hit the jump.

[Continue Reading](#)

By Michael Cullers on December 3, 2017

The Public Finance Tax Blog

Squire Patton Boggs

[Illinois' \\$750 mln Bonds Won by BofA with Still Hefty Yields.](#)

CHICAGO, Nov 29 (Reuters) - Bank of America Merrill Lynch won \$750 million of Illinois bonds in competitive bidding on Wednesday as the state faced a lingering market penalty for its fiscal and political woes.

Spreads for the general obligation bonds over Municipal Market Data’s benchmark triple-A yield scale tightened by about 2 to 5 basis points for 10-year and longer bonds in the deal, but widened by 4 to 10 basis points for some shorter-dated bonds, according to Randy Smolik, MMD’s chief market analyst.

That indicated good performance for Illinois bonds mainly in the 10-year range compared with where they had been trading in the secondary market, he added.

Market conditions were tough for the two-part bond deal from Illinois, the lowest-rated U.S. state, as the muni market was hit with a sixth-straight session of falling prices and higher yields.

For Illinois bonds due in 2042 with a 5 percent coupon and priced with a 4.42 percent yield, the spread was 165 basis points over the benchmark scale’s 2.77 percent yield for top-rated bonds, according to MMD, a unit of Thomson Reuters.

“It’s the widest spread for a state GO bond by far,” Smolik said.

An impasse between Illinois’ Republican governor and Democrats who control the legislature left the

state without a complete budget for an unprecedented two fiscal years. Lawmakers enacted a fiscal 2018 budget and income tax rate hikes in July over Governor Bruce Rauner's vetoes.

The stalemate ballooned the state's backlog of bills from vendors and service providers to an all-time high of nearly \$16.4 billion, which was deflated to \$9.1 billion as of Wednesday with the help of proceeds from Illinois' \$6 billion GO bond sale in October.

BofA was the winning bidder on Wednesday with an overall 4.33 percent interest cost for \$655 million of bonds with maturities from 2018 through 2042 to fund capital projects. The bank also won \$95 million of bonds due in 2018 through 2027 to finance information technology with a 3.71 percent interest cost.

Bank of America Merrill Lynch is the corporate and investment banking division of Bank of America Corp.

(Reporting by Karen Pierog; Editing by Matthew Lewis)

[House Approves Legislation to Reauthorize Flood Insurance Program.](#)

House Republicans voted to reauthorize flood insurance for five years with heavy reforms including new reporting requirement for FEMA

Although the House and the Senate remain at odds over how to advance legislation that would reauthorize the National Flood Insurance Program (NFIP), the House on Nov. 14 approved its measure by a vote of 237-189 along party lines.

The legislation, the 21st Century Flood Reform Act (H.R. 2874), combines a series of bills that, in addition to reauthorizing the NFIP, would bring about considerable reforms to the program. Some of the proposed reforms could raise premium rates for flood insurance policyholders and make insurance less affordable for homeowners. As lawmakers respond to the aftereffects of this year's severe storms, some expressed hesitation to attach controversial reforms to a must-pass reauthorization bill, which the White House had urged Congress to consider earlier this year.

The NFIP is currently operating under a temporary extension that will expire on Dec. 8 if Congress does not act. Facing a busy congressional calendar, the House may have to pass an additional short-term funding extension through the end of December until a longer-term package is approved.

H.R. 2874 includes the following provisions:

- Reauthorize the NFIP for five years, from its Dec. 8, 2017 expiration through Sept. 30, 2022
- Lower the annual cap on premium increases from 18 percent to 15 percent
- Create a new flood insurance affordability program that allows states to subsidize premiums for low-income policyholders
- Require property owners to disclose any known flood damage prior to selling or renting a property, and
- Direct the Federal Emergency Management Agency (FEMA) to provide a mitigation credit for homeowners who have made improvements to their property to reduce the impact of flood damage.

The bill would also enact new reporting requirements for FEMA, which would require the agency to disclose to policyholders the formula used to determine insurance rates and provide property owners

with information on flood risk and previous claims. Important to note for counties, the bill would create a new voluntary Community-Based Flood Insurance Pilot Program, which would allow local governments to purchase flood insurance for a portion of properties within their jurisdiction or for all of them.

The bill also contains several provisions of concerns to policyholders, including:

- An increase in the threshold of premium increases from 5 percent to 6.5 percent, meaning whenever rates increase for policyholders, they would do so at no less than 6.5 percent; this represents an increase from what is currently authorized under federal law;
- The cap on annual premiums is set at \$10,000, which could limit affordability of the program to homeowners, and decrease the overall risk pool; and
- The implementation of a \$25-\$250 surcharge for policyholders who elect to make monthly installments on their annual premiums.

During a Nov. 13 hearing about the bill in the House Rules Committee, Rep. Garret Graves (R-La.) voiced concerns with the legislation, which he said did not adequately address the long-term solvency of the NFIP or the program's leftover debts from the costs incurred by superstorms such as Hurricanes Sandy and Katrina. Graves also argued that much of the NFIP's \$24 billion in debt was a result of levee failures, and not due to a lack of coverage among property owners in New Orleans, who could face higher premiums that would go toward paying off the program's debts.

The measure must now be considered in the Senate, which remains divided on significant issues with the NFIP, such as the program's long-term solvency and premium increases for policyholders.

Although NACo applauds lawmakers' efforts to reauthorize the NFIP and implement reporting standards that are beneficial to homeowners, counties remain concerned with proposals that could make flood insurance less affordable, especially at a moment when communities across the country are still engaged in recovery efforts.

NATIONAL ASSOCIATION OF COUNTIES

By JACOB TERRELL Nov. 22, 2017

[Fitch U.S. Water and Sewer Rating Criteria.](#)

[View the criteria.](#)

30 Nov 2017

[S&P Request for Comment: U.S. Municipal Retail Electric And Gas Utilities.](#)

S&P Global Ratings is requesting comments on proposed changes to its methodology for assigning ratings and related credit products to U.S. retail electric, retail gas, steam, chilled water, and combined utility systems where electric and/or gas is the predominant service...

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Nov. 27, 2017

[S&P Criteria FAQ: Proposed Criteria For U.S. Municipal Retail Electric And Gas Utilities.](#)

On Nov. 27, 2017, S&P Global Ratings published a request for comment (RFC) on revised criteria for U.S. municipal retail electric, retail gas, steam, chilled water, and combined utility systems where electric or gas is the predominant service (“U.S. Municipal Retail Electric And Gas Utilities”).

[Continue Reading](#)

[Affordable Housing Advocates Say Trump Tax Reform Bill is 'Devastating.'](#)

Elimination of private-activity bonds would lead to steep drop in affordable housing units

Affordable housing advocates were cautiously optimistic that the House tax reform bill would have only modest effects on low-income housing after the Trump administration’s framework explicitly retained the tax credit responsible for virtually all construction and preservation of low-income housing units—the Low-Income Housing Tax Credit (LIHTC).

While the House’s tax reform bill released Thursday does include LIHTCs, the unexpected elimination of private-activity bonds would have devastating effects on the construction and preservation of affordable housing. When combined with other changes the bill proposes, accounting firm [Novogradac & Company estimates](#) a loss of nearly 1 million affordable housing units produced over 10 years.

“This was the worst case scenario that we were bracing for,” said Rachel Fee, Executive Director of the New York Housing Conference. “We knew bonds were slated for elimination in previous tax reform proposals so that threat has been out there,” she explained, “However, given that the tax reform framework announced last month explicitly supported the housing credit, we were hopeful that there was sincere interest from the administration and House Republicans in supporting this public-private partnership model with a track record of success.”

The LIHTC program provides two types of credits for developers willing to put affordable housing units in their projects—the 9-percent credit and the 4-percent credit. The 4-percent credit can only be claimed if 50-percent or more of the project is funded using tax-exempt private-activity bonds.

The House tax reform bill, dubbed the Tax Cuts and Jobs Act, proposes eliminating private-activity bonds, so while LIHTCs are explicitly retained in the bill, the elimination of the bonds would eliminate the 4-percent credit and likely lead to a precipitous drop in construction of low-income housing units produced by the program.

“These bonds contribute to 60-percent or more of the affordable rental housing built or renovated every year,” said Michael Novogradac of Novogradac & Company. “Hundreds and hundreds of thousands of units of affordable housing would be lost over the next 10 years.”

The bond elimination compounds a problem that was expected in the bill—the corporate tax rate cut.

The bill proposes cutting the rate from 35 to 20-percent. This would ultimately lower the value of LIHTCs and thus the amount of equity available to developers for building low-income housing units.

Novogradac & Company's analysis measured the effects of the elimination of the 4-percent LIHTC, the corporate tax cut, and change in inflation adjustments through out the tax code and found a reduction in LIHTC-financed units produced somewhere between 882,000 and 983,000 over 10 years.

The New York Housing Conference, in coordination with New York City and the State of New York, estimates that the combination of the corporate tax cut and the elimination of the 4-percent credit would cost New York alone \$4.5 billion and 17,128 affordable housing units annually.

It could ultimately lead to as much as a 15-percent drop in the number of new affordable housing units, and that's before taking into account the effects of eliminating private-activity bonds.

Private-activity bonds are used to fund a number of different public works, in addition to affordable housing units. Trump has actually proposed expanding the use of private-activity bonds in the past, as part of his push for increased spending on infrastructure projects, so this cut comes as a surprise. Treasury Secretary Steven Mnuchin actually advocated for "enhancing" private-activity bonds during his confirmation process.

The Joint Committee on Taxation estimates that elimination of private-activity bonds would save the federal government \$38.9 billion over the next 10 years. That's a drop in the bucket for a bill that the House estimates would add \$1.5 trillion to the deficit over 10 years.

CURBED.COM

BY JEFF ANDREWS NOV 3, 2017, 5:00PM EDT

[Tax Reform Bill Would Eliminate Future Supply of Nearly 1 Million Affordable Rental Housing Units: Novogradac](#)

According to Novogradac & Company analysis, the Tax Cuts and Jobs Act, House Ways and Means Committee Chairman Kevin Brady's landmark tax reform legislation would reduce the future supply of affordable rental housing by nearly one million units. That would translate to a reduction of as much as two-thirds of the current production of affordable rental housing provided by the Low-Income Housing Tax Credit (LIHTC) program.

Specifically, the following changes proposed by the bill would negatively affect the number of rental homes built or renovated by the LIHTC:

- Eliminate private activity bonds and associated 4 percent LIHTCs.
- Lower corporate tax rate from 35 percent to 20 percent, and
- Change inflation factor for future LIHTC allocations from CPI-U to "chained CPI."

The following analyzes the effect of each change and provides a rough estimate of the degree to which each change would affect the number of affordable rental housing units supported by the LIHTC over 10 years.

1. Elimination of private activity bonds and associated 4 percent LIHTCs.

The latest data available from the National Council of State Housing Agencies (NCSHA) shows that in 2015, 49,380 tax-exempt multifamily private activity bond-financed homes were awarded 4 percent LIHTCs. However, according to data from the Council of Development Finance Agencies (CDFA), new tax-exempt multifamily bond issuance increased at least 51 percent or more in 2016; based on CDFa data the estimated number of rental homes financed is assumed also to have increased by 51 percent in 2016. Accordingly, repeal of the 4 percent LIHTC for tax-exempt bonds means a loss of roughly 788,000 to 881,000 affordable rental homes over 10 years, or more.

2. Lower corporate tax rate from 35 percent to 20 percent.

The reduction of the top corporate tax rate from 35 percent in 2017 to 20 percent in 2018 would reduce the tax loss benefits of LIHTC investments, since the value of depreciation expense deductions would be reduced. An [analysis by Novogradac & Company](#) found that lowering the corporate tax rate to 20 percent would reduce LIHTC equity by about 15 percent, translating to \$1.2 billion or more in loss equity annually. This loss of investor equity translates into loss of 85,600 to 93,900 affordable rental homes over 10 years, or more.

Much of this loss could be addressed through a [two-step proposal to increase allocable LIHTC and modernize the credit percentage formula](#).

3. Change inflation factor for future LIHTC allocations from CPI-U to “chained CPI.”

The current draft of tax reform legislation would change the inflation adjustments throughout tax code from a factor based on the consumer price index for all urban consumers (CPI-U) to one based on a “chained” CPI-U. Many economists claim that the chained CPI-U provides a more accurate estimate of changes in the cost of living from one month to the next by accounting for the effects of substitution on changes in the cost of living. This change will decrease inflation adjustments in LIHTC allocations in future years, and would lead to a loss of 8,200 more affordable rental homes over 10 years.

Conclusion

On balance, it appears that Chairman Brady’s tax reform legislation would reduce the total amount of LIHTC-financed affordable rental homes by about 882,000 to 983,000, or more, over 10 years. Furthermore, given the lower financial feasibility under a lowered corporate rate, the changes would also result in rental homes that would likely serve higher average income levels, provide fewer amenities and/or social services.

Published by Michael Novogradac on Friday, November 3, 2017 - 12:00am

Novogradac & Company

[House Tax Bill Threatens to Make Housing Even Less Affordable for Poor.](#)

- **House measure would end tax-free bonds for affordable housing**
- **As a result, nearly 1 million rental units may not be built**

Even before Hurricane Harvey dumped 50 inches of rain on Houston, damaging hundreds of thousands of homes and apartments, affordable housing was already scarce. Because of rising rents, more than 200,000 low-income residents were spending over half their earnings on someplace to

live.

But a provision in the tax bill passed by the U.S. House of Representatives would only intensify the housing crunch in the nation's fourth-largest city — and others across the U.S. — by crippling affordable housing construction, developers and local government officials say.

The House measure would eliminate a form of tax-exempt debt called private-activity bonds — and, consequently, tax credits generated by the securities — after Dec. 31, wiping out a key tool used to finance more than half of the affordable units built each year, according to the National Council of State Housing Agencies.

The shift would jeopardize ITEX Group's \$50 million acquisition and renovation of the Villa Americana, a 258-unit low-income complex in south Houston that was built in 1972. The hurricane has only increased the demand for housing: In September, the average rent for a single-family home jumped 8 percent from a year earlier to \$1,886, according to the Houston Association of Realtors.

"If this tax legislation ever gets through, the project will probably die," said Chris Akbari, ITEX Group's president and chief executive officer. "There's no way right now to bridge the gap for some of these projects that need to be rebuilt or need to be built in these Hurricane affected areas."

While the Senate's plan doesn't eliminate private activity bonds, or PABs, the subsidy could still be pulled when negotiators iron out the differences between the two bills. That possibility is alarming developers, housing advocates and city officials who are lobbying Republicans to keep the provision out of the final legislation.

A Massive Crisis

If they're not successful, the number of affordable rental units built nationwide over the next decade may be reduced by as much as 880,000, according to an estimate by Novogradac & Company LLP, an accounting and consulting firm specializing in real estate.

"We view this as a massive crisis," said K. Nicole Asarch, president of the Texas Affiliation of Affordable Housing Providers.

PABs are issued by state and local governments and other public authorities to allow developers to borrow in the municipal market, where interest rates are lower because bondholders don't have to pay taxes on the income. They're also used by hospitals, universities and other non-profit groups, as well as by airlines and power companies.

The impact of the abolition of PABs on affordable housing is compounded because developers that finance more than 50 percent of their projects with the debt can receive income-tax credits, which they sell to investors in exchange for equity financing. About \$14 billion multifamily housing bonds were issued in 2016, according to the Council of Development Finance Agencies.

"The only way to unlock those credits is to issue private activity housing bonds," said Garth Rieman, director of housing advocacy at the National Council of State Housing Agencies. "If PABs go away, those credits go away."

Wages Can't Keep Up

The need for low-cost housing has been on the rise. As wages stagnate and housing costs increase, families nationwide are spending a greater share of their incomes on housing. Over 11 million households spend more than half of their income on rent, a 50 percent increase since 2001,

according to the Joint Center for Housing Studies of Harvard University.

The problem is particularly acute in cities. In San Francisco, the least affordable in the U.S., a worker would need to earn \$58 an hour, five-and-a-half times California's minimum wage, to afford a two-bedroom apartment, according to the National Low Income Housing Coalition.

Without PABs, the amount of affordable housing built in New York City and state would be reduced by 17,000 units a year, said RuthAnne Visnauskas, commissioner of New York state's Division of Housing and Community Renewal. She said most of the \$2 billion of PABs that New York is allocated each year under federal regulations are used for housing.

"We never thought PABs would be at risk," Visnauskas said. "It's really thrown people on their heels."

But the impact won't be limited to America's most-expensive cities. Despite Houston's reputation as affordable, before Harvey there were 215,000 low-income households in Harris County that spent more than half of their earnings on housing but only 84,000 publicly subsidized units, said Kyle Shelton director of strategic partnerships at Rice University's Kinder Institute for Urban Research.

In Baytown, Texas, about 30 miles (49 kilometers) east of Houston on Galveston Bay, the Bay City Village apartment complex was so badly damaged by Hurricane Harvey that 50 its 62 units are still unoccupied. Before the storm, Related Cos.'s affordable-housing division planned to buy and rehabilitate the 40-year-old complex, using a combination of PABs and tax credits, said Matthew Finkle, president of New York City-based Related Affordable. The Republican tax plan has put that project in doubt.

"It would have a huge impact on the ability to execute that deal," he said. "Without the bonds, without credits, and the equity from those credits it just becomes very difficult to make the deal pencil out."

Bloomberg Politics

By Martin Z Braun

December 1, 2017, 4:00 AM PST Updated on December 1, 2017, 7:23 AM PST

[The Week in Public Finance: Controversy at the Consumer Protection Agency, Education Funding Still Lags and Tax Reform's Blow to Puerto Rico.](#)

A [roundup](#) of money (and other) news governments can use.

GOVERNING.COM

BY LIZ FARMER | DECEMBER 1, 2017

[Fate of Special Purpose Tax Districts Tied to Reform Bill.](#)

Think local impact fees are high now? Eliminate private activity bond deductibility, and

then see what happens

U.S. Senate lawmakers, back in Washington after Thanksgiving holidays, are working on the double to fast-track a major tax code overhaul through to a vote on the floor this week. The aim is to take a passed Senate bill to conference—a committee of both Senators and House members—for reconciliation of its bill with legislation voted on two weeks ago in the House.

As is widely reported, the current Senate version of tax reform may need revisions—both in its cost implications and in whom it’s benefits impact—to successfully navigate push-back from Senators who could deter its passage. Word is, if the Senate passes an amended bill by just a vote or two, its compromises may be so stretched to the limit that it may simply hand the bill over to the House with a “take it or leave it” message.

[Continue reading.](#)

Builder Digital

by John McManus

November 28, 2017

[P3 Digest for November 30, 2017](#)

Dominique Lueckenhoff Brings a P3 Approach to Community-Based Stormwater Management

Editor’s Note: The following article is one in a series of six profiles of winners of NCPPP’s 2017 National Public-Private Partnership Awards, which recognize organizations and individuals who have gone above and beyond to advance the concept and implementation of P3s across the country. The winners will be honored during P3Connect in Miami Beach in January.

“Innovation is taking two things that already exist and putting them together in a new way.” — Tom Freston

States and localities throughout the nation are struggling to find reliable, cost-effective ways to prevent stormwater runoff from reaching — and polluting — major waterways. Failure to address this major cause of water pollution is endangering health and safety, while increasing the liabilities of communities with permit compliance requirements under the Clean Water Act. However, local government efforts to develop solutions often have been hampered by limited public funding for construction or capacity to implement larger scale projects. This is particularly true for greener stormwater infrastructure projects.

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NCPPP

[Neighborly Insights: Tax Outlook and Mueller Investigation Roil the Bond Markets, Taking Munis for a Ride.](#)

Municipals had a rough week to start but ended on a more positive tone, following Treasuries to lower yields as the tax reform debate moves along. Although issuance could be as much as \$50 billion for December, real money accounts (especially funds) appear to have been well positioned coming into this heavy period, and there is also going to be an especially heavy bond call/maturity period from December 1 through February 1 with proceeds that need to be reinvested somewhere.

[Continue reading.](#)

by George Friedlander

Posted 12/01/2017

Neighborly Insights

This post is adapted from the Court Street Group Weekly Perspective. [Download the full report.](#)

[Commentary: How the Puerto Rico Dispute Threatens Bond Holder Rights.](#)

The municipal bond market, for borrowers and investors alike, is fundamentally changing. Municipalities across the U.S. are struggling to provide essential services on top of skyrocketing pension and benefit obligations. In addition, although bankruptcy and default remain minimal, the Detroit bankruptcy case had a profound and sobering impact on the market, leading participants to reevaluate what a general obligation (GO), full faith and credit pledge actually means. Logically, there has been a market shift to bonds secured by a specific revenue stream – a securitized loan – as a means for issuers to enhance the attractiveness of their bonds and lower borrowing costs.

The outcome of a highly publicized court case currently being heard by Judge Laura Taylor Swain in U.S. Municipal Bankruptcy Court under Title III of PROMESA (No. 17-00257-LTS), COMMONWEALTH of PUERTO RICO vs. COFINA, is likely to set the course for where the municipal market goes from here.

COFINA bondholders are renouncing actions taken by the Commonwealth to impair or eliminate its debt. Clearly, this would be devastating for investors, including the Puerto Rican citizens who own approximately \$2.8 billion of the bonds. Impairing this debt may also impede, if not eliminate, access to funding via securitized loans.

The background: The Puerto Rico Sales Tax Financing Corporation — in Spanish, Coporacion del Fondo de Interes Apremiante or COFINA — was created by PR Law No. 91, as amended, to establish an entity that was independent and separate from the Commonwealth in order to address one of the worst fiscal crises in Puerto Rico's history. In consideration for COFINA's help in this crisis, the legislature established and assigned to COFINA a priority lien on a newly imposed, island-wide sales and use tax (SUT). A summary of Puerto Rico Act No. 56., describes the bargain:

"A special fund is hereby created to be known as the Dedicated Sales Tax Fund. The Dedicated Sales Tax Fund and all of the funds deposited therein and all the future funds that must be deposited in the Dedicated Fund pursuant to this law are hereby transferred to, and shall be the property of COFINA. This transfer is made in exchange for COFINA's commitment to pay, all or part of the extraconstitutional debt outstanding as of June 30, 2006. The Dedicated Sales Tax Fund shall be funded each fiscal year from the first revenues of the SUT, deposited at the time of receipt and shall not be deposited in the Treasury of Puerto Rico, nor shall it constitute resources available to the

Commonwealth of Puerto Rico, nor shall be available for use by the Secretary of the Treasury.”

COFINA - revenue analysis: The Sales and Use Tax (SUT) pledged to COFINA is very strong, as reflected in all but one of the elements credit analysts consider when evaluating a bond.

- *Demographics and Economic Base - **Poor.*** The island has a declining population, low income levels, and high unemployment relative to the U.S. mainland.
- *Nature of the Dedicated Revenue - **Superior.*** The SUT applies to a very broad list of services and essential consumer goods, is very stable, and is enforced throughout the entire island.
- *Revenue Analysis and Fund Flows - **Superior.*** Fiscal year 2017 collections were a record high and double 2013 levels. A priority lien exists on collected taxes, going first to bondholders.
- *Debt Service Coverage - **Superior.*** The ratio of pledged revenue to annual debt service on the senior lien bonds was 11x in fiscal year 2017.

The problem: After following the law and the set-forth payment mechanism for many years, as well as countless legal opinions attesting to COFINA's property rights, multiple opinions rendered by the Commonwealth's own Department of Justice, year upon year of statements by Governors, Legislators, and Development Bank officials attesting to COFINA's rights the Commonwealth provided the following statement as part of its complaint filed with the bankruptcy court (Under Title III of PROMESA) on Sept. 8:

“This adversary proceeding is being commenced to resolve the Commonwealth-COFINA Dispute. As set forth, in this complaint, the SUT revenues, wherever located and whenever arising, are the exclusive property of the Commonwealth.”

With 25 years of experience as a municipal bond analyst and portfolio manager, I have never witnessed such apparent disregard for property rights, existing statutes, and Constitutional law. Since July 2015, while remaining current on debt payments, the Commonwealth has increasingly made bondholders uneasy by their actions and inactions with regard to COFINA's rights and priorities. With this complaint, however, they essentially deny COFINA's existence altogether. Even in Title III bankruptcy, the Commonwealth's actions appear almost contemptuous of US Municipal Bankruptcy law as amended in 1988, which had the sole purpose of distinguishing between certain revenue bonds and general obligation (GO) debt. At least in this matter, it appears that promises, obligations, commitments, liens, contracts, and bargains carry little weight with the Commonwealth government.

The ramifications: Should the Commonwealth of Puerto Rico prevail, I foresee it setting a disastrous precedent.

- Access to the securitized loan market could be restricted for all borrowing municipalities. This would be most damaging to state and local borrowers with weak GO ratings. Over time, this may affect higher-rated issuers as well.
- Local governments and municipalities could be forced to choose between default and austerity.
- The ratings of some existing revenue bonds may see multiple downgrades.
- Future Puerto Rican bonds will necessitate a specific revenue pledge separate from their general fund. Oddly, this is the COFINA bond structure the Commonwealth is arguing against.
- Rating agencies will have the challenge of squaring up ratings among different securitized bonds.
- An alarming moral hazard would be created if interest rates (borrowing risk) are determined based on the political and judicial landscape - eschewing property rights and collateral.
- Bankruptcy will become a more popular option for politicians as an “easy” short-term solution to more difficult long-term problems.
- There could be a significant impact on the U.S. municipal market if the control board and the

Commonwealth push through a Detroit-like bankruptcy result favoring pensioners over secured borrowers and other creditors with constitutional priority.

- If a borrower's ability to repay is in doubt, and complying with the law is optional, that borrower could be forced to pay higher interest rates, which could be a budget-busting proposition for financially fragile municipalities.
- Higher government borrowing costs may crowd-out the ability to provide and maintain essential services. This could lead to higher taxes or a reduction of services, resulting in a U.S. taxpayer bailout nonetheless.

The numbers: Consider the Virgin Islands Electric and Water Authority. In July 2017, it was shunned by "once burned, twice shy" municipal investors leery of a Puerto Rico-like restructuring, leaving officials no choice but to issue a three-year note paying 10.85% interest. Contrast this with Philadelphia Gas Works Authority, which issued three-year notes yielding 1.2%. That is an interest penalty spread of 9.65%. Applying this to half of Puerto Rico's estimated outstanding debt of \$60 billion equates to an annual financial impact of \$3 billion.

The bottom line: I cannot begin to imagine the current struggles for the people of Puerto Rico. Without electricity, adequate shelter, and dependable water supplies, I am at a loss to relate to the challenges people on the island face today, and for the foreseeable future. Yet, I firmly believe that if debt relief is the action taken by the Commonwealth against COFINA, it will only hurt, not help, the territory as it emerges from this crisis. The ability to raise funds to deliver needed services is one of the most broadly essential functions a government can provide, and the cost of those funds affects all citizens.

All things considered, I'm an understanding holder of Puerto Rico general obligation debt, but I'm an angry COFINA bondholder.

Policymakers and the public must recognize that bonds are not all structured the same. Each bond has very separate and unique security features which need to be considered and respected, not just in the case of COFINA, but for the overall health of the municipal bond market. For if all bonds are treated the same, and politics trump property rights and the sound application of bond analysis, then the unintended consequences will be costly and far-reaching.

In closing, as a Chartered Financial Analyst and Certified Financial Planner®, I pride myself on taking a long-term view, doing extensive research, and adhering to a moderately conservative risk profile. My clients are accepting of lower returns in lieu of lower overall portfolio volatility — and like me, they are pleased to provide capital to state and local governments in need of infrastructure development. They are not vultures or unscrupulous speculators, and I take offense to the generalization by public officials and others who insist they are — and the last thing any of us expects is to be "wiped out." Risk is certainly a part of this business, but my hope is that we will all look to the future and craft solutions that protect not only investors and borrowers, but also our fellow citizens of Puerto Rico who desperately require our help.

The Bond Buyer

by Glenn E. Ryhanych

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The views expressed in this article are the author's own and do not in any way reflect the opinions of Spire Wealth Management. Mr. Ryhanych personally owns General Obligation, Highway & Transportation, and COFINA bonds issued by the Commonwealth of Puerto Rico.

[Tax Cut Bill Could Wallop Muni Bond Market.](#)

The House and Senate tax cut bills would adversely impact the economies, bond issues and home prices in high-tax states

The sleepy municipal bond market could be subject to a rude awakening if Congress succeeds in passing a tax cut bill.

The final bill, if there is one, will most likely impact the supply and credit quality of municipal bonds and the strength of many state and local economies issuing municipal debt, and their housing markets could be hit by falling home prices.

Here's how the House and Senate bills could impact the muni market:

- The House bill caps the state and local tax (SALT) deduction at \$10,000; the Senate eliminates it.
- The House and Senate bills both eliminate advanced refundings, which muni issuers use to refinance higher interest debt not currently callable with lower interest bonds.
- The House bill eliminates tax-free private activity bonds that colleges, hospitals and affordable housing developers use to finance projects, which constitute about 25% to 30% of municipal bond supply, according to Barclays. The Senate bill has no such provision.

Overall there is little good news in either the House or Senate bill for the muni market, with a few exceptions. Neither the House nor Senate tax bill tampers with the tax deductibility of muni bond interest, which is the primary reason investors buy munis and state and local governments issue them.

Both bills eliminate the AMT, which private activity muni bonds were subject to, and both would likely reduce the supply of tax-free municipal bonds, which could boost the prices of tax-free munis already in the market.

The impact on muni bond demand, however, would be mixed. While changes to the SALT deduction could increase demand for munis from investors in high-tax states searching for tax-deductible investments, many taxpayers may no longer need the deduction because they won't be itemizing deductions due to the doubling of the personal tax deduction, included in both the House and Senate bills. In addition, demand for munis from institutional corporate investors would decline because of the cut in corporate taxes, also included in the House and Senate tax bills.

If Congress passes a tax bill that is close to the House or Senate version, "there will be tremendous pressure on many state and local governments particularly those in the Northeast and on the West Coast," said Mark Zandi, chief economist at Moody's Analytics.

Those governments, primarily in high-tax states like California, Connecticut, New York and New Jersey, would have a difficult time financing services and would have to make big changes, says Zandi, noting that investors in those government bonds would be hurt along with homeowners in those districts.

He explains that home prices in high-tax districts are impacted by the tax deductibility of state and local taxes because people tend to buy as much house as they can on an after-tax basis. If the after-tax affordability of a house declines because of tax changes, those home prices will fall, due to a decline in demand, and that, in turn, would impact the property tax revenues of those districts. And that would increase the credit risks of the muni bonds issued by those districts.

“There is nothing credit positive” for munis in the House or Senate tax bill, says Jane Ridley, senior director in the U.S. Public Finance at S&P Global. She’s not expecting a wide range of downgrades but notes that some states and local governments will find it difficult to balance their budgets if tax revenues decline because they will have a harder time raising taxes that are either not deductible or not fully deductible.

Investors and advisors will need to regard each municipal bond issue on a case by case basis, understanding how the final tax bill will impact an issuer’s revenues and tax base and how the municipality is addressing those changes, advises Ridley.

Certain segments of the muni bond market will be particularly vulnerable if the final bill includes a provision contained in the House bill that eliminates private activity municipal bonds. “The elimination of tax-exempt PABs...would most directly affect debt issuance for transportation infrastructure issuers,” according to an analysis by S&P Global Ratings. The “entire not-for-profit health care sector” would also be adversely affected, according to S&P Global Ratings.

There will likely be changes in the final tax bill before a final vote. The House has passed its bill and as of late Tuesday the Senate bill has made it through the Finance and Budget committees. A full Senate vote could come as early as this Thursday. If the Senate passes its tax cut bill, the horsetrading between the two congressional houses will begin.

THINK ADVISOR

BERNICE NAPACH

NOVEMBER 28, 2017

[House Tax Bill Threatens New D.C. Affordable Housing Preservation Fund.](#)

Washington, D.C.’s Council has approved a new \$10 million affordable housing preservation fund, and The Washington Post [reports](#) that whoever is hired to manage it will play a role in shaping the effort to preserve, acquire and rehabilitate the city’s [existing affordable housing stock](#).

“The fund is an important step toward saving D.C.’s disappearing low-cost housing,” Claire Zippel, a housing policy analyst at the DC Fiscal Policy Institute, told the Post.

According to the city’s Department of Housing and Community Development (DHCD), the city lost at least 1,000 units of subsidized housing between 2006 and 2014. A further 13,700 units have subsidies that will expire in 2020 and are at risk of loss.

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NEXT CITY

D.C. Establishes \$10 million Fund to Preserve Disappearing Affordable Housing.

The D.C. Department of Housing and Community Development has a newly established \$10 million public-private fund dedicated to preserving affordable housing and is seeking a fund manager to manage the money.

The preservation fund, approved by the D.C. Council for the 2018 fiscal year, is in addition to the \$100 million in taxpayer money dedicated to the District's Housing Production Trust Fund, the city's biggest pot of money to encourage development of affordable housing.

"We know the needs are great . . . we know where properties are at risk," said Polly Donaldson, the director of DHCD. "We are working to identify those in need immediately and have the [fund] manager be able to start up immediately on that."

The goal of the preservation fund, Donaldson explained, is to preserve, acquire and rehabilitate the city's existing affordable housing stock.

According to the DHCD, the city lost at least 1,000 units of subsidized housing between 2006 and 2014. Another 1,750 units are at risk of being lost, according to the D.C. Preservation Network, a group of government agencies and community-based organizations working to preserve affordable housing in the city. A further 13,700 units have subsidies that will expire in 2020 and are at risk of loss.

"The fund is an important step toward saving D.C.'s disappearing low-cost housing," said Claire Zippel, a housing policy analyst at the D.C. Fiscal Policy Institute.

The new fund will help to increase the amount of public funds available, which has been the biggest constraint in the city's push to preserve affordable housing, she added.

"In recent years, there's been a lot of pressure on D.C.'s Housing Production Trust Fund to meet the full spectrum of affordable housing needs that the city has . . . so it's great news that there's now another tool in the city's affordable housing toolbox," Zippel said.

Creating the preservation fund is one of six recommendations made by the Housing Preservation Strike Force created by Mayor Muriel E. Bowser in 2015. The strike force set the goal of preserving 100 percent of the District's existing federally- and city-assisted affordable rental homes. Establishing the preservation fund is part of a multipronged approach to that objective.

Also included in the recommendations was creating a preservation unit tasked to identify affordable housing at risk of being lost and to deploy resources to preserve them. The preservation unit would have preferential access to money from the fund, according to the strike force's final report. The DHCD is currently in the process of hiring someone to head the unit.

In researching similar funds across the country, the strike force looked at successful examples in New York City, Los Angeles, Denver, Seattle and the San Francisco area. They found the funds all started with an initial government investment, which was used to leverage private investment.

San Francisco, for example, launched a public-private fund in February to preserve and produce affordable housing in one of the most expensive real estate markets in the United States. Like the District's preservation fund, San Francisco's Housing Accelerator Fund aims to use initial city funding to leverage private investment.

The goal in the District is to use the initial \$10 million to leverage an additional \$30 million in private or philanthropic resources.

But the D.C. government has been faulted for mismanagement of the Housing Production Trust Fund, the city's biggest affordable housing program. In a report in March, the Office of the D.C. Auditor found that millions of dollars in loan repayments had likely gone uncollected from developers, and that many low-cost apartments in the program are occupied by tenants who may not be income-eligible. The auditor also criticized the DHCD, which oversees the fund, for "unreliable" records related to the fund.

The DHCD has laid out general guidelines regarding the new preservation fund's structure and the types of projects it will finance, but details on the fund's design will emerge from the competitive application process.

"We want the fund manager to have strong knowledge of the District and to develop the fund in relation to some of the unique characteristics of the District," including the city's geographic limitations, its high cost of living, its growing population, and the overlapping of state, local and county functions, said Donaldson.

Donaldson said the department expects to finalize arrangements with one or more of the selected fund managers and to have the first project funded by the first quarter of 2018. The fund manager will report quarterly to DHCD.

An advantage of this kind of public-private fund is its flexibility, said Danilo Pelletiere, a senior policy adviser at DHCD.

"A fund like this can move more quickly," making it an apt tool to preserve affordable housing in a fast-changing real estate market, he said.

The Washington Post

By Mary Hui

November 26, 2017

[GOP Tax Plan Threatens Big Break for Stadium Bondholders, Putting Raiders Project at Risk.](#)

- The House tax reform bill ends a 60-year run of teams' access to tax-exempt municipal bonds.
- The Senate bill does not include this provision, and it's unclear how the final legislation will shake out.
- Some expect removing this provision could hurt projects like the \$1.9 billion domed stadium being built in Las Vegas for the Raiders.
- The Raiders do not expect to issue bonds until next year.

In 1953, the Boston Braves started a trend. They became the first Major League Baseball team to relocate in 50 years, drawn to Milwaukee by a new publicly funded stadium, according to Brookings research. That set the stage for the next 64 years of sports stadium financing.

The recently passed House tax bill would end this six-decade run of teams' access to tax-exempt municipal bonds for building what have become multibillion-dollar stadiums. The change isn't in the Senate bill, but if it makes it into whatever form goes to the president's desk, experts say it threatens the \$1.9 billion Raiders dome in Las Vegas and the future of stadium financing.

"If you were going to build a stadium that actually had to be paid for out of the income of the football team, you would never spend \$1 billion, let alone \$2 billion," said Roger Noll, professor of economics emeritus at Stanford University. "This would affect them enormously."

Fifty-four pages into the House "Tax Cut and Jobs Act," which passed with no votes from Democrats, lawmakers say sports stadiums "do not generally meet the criteria" of public-purpose bonds on which interest is excluded from federal taxes. Under the new provision, the interest on any bonds issued after Nov. 2, 2017, for pro sports stadiums, is taxable.

This could be a problem for the Raiders.

None of the \$750 million in bonds Clark County, Nevada, agreed to back for a new stadium have been issued. Las Vegas Stadium Authority officials told CNBC they don't expect the issuance to happen until at least the first quarter of next year. The stadium Authority's preliminary estimates already show a \$20 million to \$25 million reduction in public contribution without the tax break.

"It will raise costs, the margin projections will now be less, and it would take a longer time to realize the bonds," said Mark Rosentraub, director of the Center for Sport and Policy at the University of Michigan. Rosentraub worked on financial projections for the new stadium on behalf of the University of Nevada, Las Vegas, before the Raiders were involved. "Whether or not it breaks a deal or doesn't break a deal, that's up to a lot of factors and conjecture."

The tax change raises costs for teams but research suggests it could be a boon for federal taxpayers. A 2016 Brookings Institution study showed that pro sports stadiums have spent \$3.2 billion federal taxpayer dollars since 2000. The think tank hasn't published forward-looking research but the Joint Committee on Taxation scored the tax savings at \$200 million over the next 10 years, which Brookings researchers said seems "very low."

"There's no economic or political reason why a federal taxpayer in Oklahoma should subsidize the movement of the Raiders from L.A. to Las Vegas," said Ted Gayer, who authored the report and is director of the economic studies program at Brookings. "It's an egregious misuse of our taxpayer dollars."

Of 45 major league stadiums that have been built since 2000, 36 were financed at least partially with tax-exempt bonds, according to the study.

"It's difficult enough to get new stadiums financed these days," said Steve Greenberg, managing director at Allen & Co., who specializes in sports M&A. "Anything that would take away that tax exemption would make a difficult situation even tougher, whether it's the Raiders or anybody else."

It's not just the Raiders spending big on stadiums. MLB team the Texas Rangers is expecting its \$1.1 billion Globe Life Field to open in 2020. The Oakland A's, in the city which lost its hometown Raiders to Las Vegas and the Warriors to San Francisco, has selected a site near Laney College for its stadium, also opening in 2020.

College teams and major league soccer teams have also leaned on tax exemptions, just with much lower price tags. Pizza Hut Park in Frisco, Texas, now called Toyota Stadium, cost the public \$69 million, or 57 percent of its total cost, according to Harvard professor Judith Grant Long's 2012 book "Public-Private Partnerships for Major League Sports Facilities."

Financing for the Las Vegas project becomes trickier when you factor in who owns the Raiders. There are 18 billionaire owners in the National Football League, according to Forbes. Raiders principal owner Mark Davis is not one of them.

Los Angeles Rams owner and real estate mogul Stan Kroenke, by contrast, is worth an estimated \$8 billion, and is financing the new Rams stadium as a part of his 298-acre sports and entertainment district, without federal support. That scope might not be an option for Davis, who in comparison is worth an estimated \$500 million and gets an annual income from operating his football team.

"Virtually every stadium in the NFL has been built within the last 20 years," Stanford's Noll said. "The Raiders are sort of at the end of the tunnel, and they're the ones that get hammered."

NFL stadiums built in the past two decades have gotten more elaborate and expensive, averaging \$2 billion in renovation costs, which Noll attributed to access to public financing and owners' egos. He compared the modern football stadium to Egyptian pyramids, and owners as today's "pharaohs," looking to make a lasting monument.

These "pyramids" are rebuilt roughly every 20 years, which also tends to be when ownership changes, Noll said. If that time frame is right, a few could be ready for a face-lift; Arrowhead Stadium in Kansas City built in 1972, the Chicago Bear's Soldier Field, which opened in 1924 and was renovated in 2003, and the Buffalo Bills' New Era Field, which originally opened in 1973. The Washington Redskins have talked about a new stadium to replace FedExField, and a plan to renovate Nissan Stadium in Nashville, Tennessee, was released earlier this year.

In the meantime, the NFL and Nevada legislators are fighting back.

In response to the tax debate, league spokesman Joe Lockhart, told reporters on a conference call that the NFL teams are eager to keep the tax break, and touted stadiums as economic drivers for communities, Reuters reported.

Local lawmakers are looking to make sure their stadiums are exempt when the final version of tax reform gets passed. Despite previous opposition to government-funded stadiums, Republican Sen. Dean Heller of Nevada is lobbying for the Raiders' Las Vegas dome to have access to tax-exempt bonds. Nevada Democrat Rep. Dina Titus said the tax bill in its current form would damage her district, which includes Las Vegas.

"This provision is one of the many reasons why the GOP tax bill is bad for Nevada," Titus said in a statement the day the House passed its tax bill. "In case any of the Republican proposals move forward, I have been working with Rep. [Richard] Neal and other lawmakers to submit a measure in conference committee that would postpone the effective date."

Despite the tax code disruption, there's still bound to be demand for stadiums, said Allen & Co.'s Greenberg. The funding structure will change, and has already started shifting to rely more on private financing, he said.

"That is a trend that you're going to continue to see," Greenberg said. "The days of a municipality ponying up the lion's share of the financing for a billion-dollar arena in this environment, I don't see those days coming back."

Whether a stadium provision makes it into law remains to be seen. The Senate bill, if it passes this week, still has to be reconciled with the House's version before President Donald Trump can sign it. The Senate's version passed the Finance Committee, and next goes to the Budget Committee, which meets Tuesday.

Senate Majority Leader Mitch McConnell still needs to lock in 50 votes and half a dozen Republican senators are still wavering. Undecided lawmakers worry that tax reform, in its current form, would only modestly boost economic growth, significantly increase the national debt and give the biggest tax breaks to the wealthiest Americans, among other factors.

Kate Rooney | @Kr00ney

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[What Do Muni Bonds Have To Do With Medicare? Here's Why You Should Care.](#)

It's that time of year again. No, I don't mean the holidays. It's that window in time when those who just turned 65 can sign up for Medicare.

You're probably asking why a bond manager is writing about Medicare and what this has to do with anything. Simple. The law requires some people to pay higher Medicare premiums than others. Simply stated, this is the government's way of saying that Medicare is means tested. Those who earn more, pay more. Tax-free income from municipal bonds is included in your modified adjusted gross income.

Here's the rub. You may own a large municipal bond portfolio of all high coupon munis: maybe 5.50%, 5.00%, perhaps some 4.00% coupons. If you purchased bonds over the last four years with maturities 12 years or less, you paid high premium prices for each. Your actual yield based on cost is most likely one-half that of your coupon. However, your brokerage firm reports the gross coupon income on your Form 1099, which is also reported to the IRS, and then reported to the Social Security Administration for use in means testing your Medicare premiums. By definition this overstates your income, thus possibly placing you in a higher Medicare means testing category than is appropriate.

The bummer here is that if your muni portfolio is large enough and populated with high coupon bonds, the gross income grotesquely overstates what you are actually earning. You should care because it may increase your Medicare premiums. This is due to the difference between coupon cash flow versus real yield based on cost.

This coupon tragedy is much more prevalent in Muniland as opposed to corporate bonds. That's because when a state, city, county or municipality comes to market with a new issue there usually is a reverse inquiry. That is, several municipal bond fund managers may be queried as to what structure they may be interested in having. All high coupons? Current coupons? Zero coupons? From what I understand of the process the underwriters take that information under advisement then decide with the issuers the best structure.

Take a look at Illinois—the most dysfunctional state government. To help pay down their \$16 billion in unpaid bills over the past two years the state issued \$4.5 billion bonds. The 5.00% municipal General Obligation bonds due November 1, 2022 was one maturity size. This portion of the 2022

maturity size represented \$500 million of the \$4.5 billion. The dollar price at the new issue was 108.465, or \$1084.65 per bond yielding 3.15% to maturity.

This means at maturity you'll hopefully get back \$1,000 face value for every bond. Do the math. The state immediately took in a premium of \$84.65 per bond equaling \$42,325,000 more than it will pay at maturity while paying a 5% coupon rather than the 3.15% yield to investors based on the bond's cost.

Forbes

by Marilyn Cohen

NOV 28, 2017

[MSRB Compliance Workshop - MSRB Rule G-42](#)

MSRB Rule G-42: Understanding Advice and Recommendations

Friday, December 8, 2017

12:30 p.m. - 1:30 p.m. EST

As the first of a series of free virtual compliance workshops, MSRB staff will conduct an in-depth discussion about key provisions of MSRB Rule G-42 on Duties of Non-Solicitor Municipal Advisors related to advice and recommendations. This workshop will follow a question-and-answer format based on questions and suggestions from regulated entities and other stakeholders.

CPE Credit

This is a group-internet based event. Participants may receive one regulatory ethics continuing professional education (CPE) credit upon participation in the full webinar. The program level is "overview" and there are no prerequisites or advanced preparation required. The MSRB is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be submitted to the National Registry of CPE Sponsors through its website: www.learningmarket.org. For more information regarding MSRB administrative policies such as complaint, please contact our offices at (202) 838-1500.

[Click here to register.](#)

[NFMA Municipal Analysts Bulletin.](#)

The NFMA's newsletter, the Municipal Analysts Bulletin, is posted.

To read the newsletter, click here: [Vol. 27, No. 3.](#)

[GASB Issues Exposure Draft: Implementation Guidance Update.](#)

GASB Issues Exposure Draft, *Implementation Guide No. 201Y-X*, Implementation Guidance Update—201Y.

[Read the Exposure Draft.](#)

[Republicans in House Seek Protection for Municipal Bonds in Tax Bill.](#)

(Reuters) - A group of Republicans in the U.S. House of Representatives on Wednesday urged keeping federal tax breaks on private activity bonds sold by the developers of hospitals, nursing homes, airports and toll roads to reduce costs.

A tax bill in Congress to eliminate that exemption, plus tax breaks on advance refunding bonds used to lower interest costs, stunned the \$3.8 trillion municipal debt market.

U.S. Representative Randy Hultgren, an Illinois Republican and co-chair of the Congressional Municipal Finance Caucus, said a letter he and 20 other Congressmen signed to object to the proposals was aimed at highlighting the value of tax-free debt issuance.

"It's really important for projects. We've seen multiple returns in jobs created," he said, adding that supporters will continue to push to retain these tax exemptions as the bills work their way through Congress.

The proposals are incompatible with President Donald Trump's push for greater infrastructure investment, the letter stated.

"This change in policy contradicts the growing need of the federal government to rely more, not less, on states and municipalities, as well as the private sector, to help to finance needed infrastructure in a market driven, cost effective manner," the letter said.

It added that advance refunding of municipal debt issues over the last five years will translate into saving taxpayers in every state billions of dollars in interest costs.

Legislation that passed the House earlier this month, as well as a bill pending in the Senate would disallow states, cities, schools and other issuers from refinancing on a tax-exempt basis bonds that are more than 90 days from the date the debt can be bought back by an issuer. This is done by issuers in order to save money by taking advantage of lower market interest rates.

Current refundings of debt within a 90-day call date window would remain tax-exempt.

The House bill would also yank the tax exemption for new private activity bonds (PABs) used by nonprofit organizations and governments to finance projects including hospitals, nursing homes, colleges, affordable housing, economic development, ports, toll roads and airports at lower costs.

Tim Fisher, legislative and federal affairs coordinator for the Council of Development Finance Agencies, said the letter may help if and when a Congressional conference committee meets to hash out differences between the House and Senate bills.

“(The letter) is a good sign that shows certain House Republicans are willing to go on the record,” he said.

The elimination of PABs would raise nearly \$39 billion for the federal government between 2018 and 2027, while removing tax-exemption for advance refunding bonds would generate \$17.3 billion over that time period, according to an estimate from the Joint Committee on Taxation.

By REUTERS

NOV. 29, 2017, 7:48 P.M. E.S.T.

(Reporting by Karen Pierog in Chicago; Editing by Daniel Bases and Lisa Shumaker)

Buried in the Tax Bills, Multiple Unintended Consequences.

Republicans’ determination to pass overhaul magnifies risks in an already complicated system

In their rush to pass a sweeping tax overhaul, Republicans and the Trump administration may be headed for a reckoning with the law of unintended consequences.

The U.S. tax system is a complex, jury-rigged contraption. At the best of times, tampering with any part invariably triggers collateral consequences. Those risks are magnified now by Republicans’ determination to pass the plan with minimal hearings on party lines by Christmas.

Gary Cohn, President Donald Trump’s chief economic adviser, touched on this in a recent interview on CNBC: “We not only have to think about what the objective is with taxes, and tax reform. We have to think how do we get 218 votes [in the House of Representatives], and how do we get 51 votes [in the Senate] on top of understanding the intended consequences [and] the unintended consequences.”

The bills, as they stand, contain countless incentives for gamesmanship: differing tax rates for different types of foreign property and profits, arbitrary expiration and implementation dates to hold the 10-year deficit impact below \$1.5 trillion, and changes to the Affordable Care Act to free up government dollars that could roil private insurance markets. “There are more ticking time bombs in this bill than a Road Runner cartoon,” says Martin Sullivan, chief economist for the nonprofit group Tax Analysts.

Two components in particular could have significant, unintended consequences: the treatment of pass-throughs—businesses such as partnerships that pay taxes as individuals rather than corporations—and of state and local taxes.

Historically, pass-throughs paid the same rate as individuals. Small businesses often say this is unfair because the top individual rate, now 39.6%, is above the corporate tax rate, now 35%.

Those complaints have little economic foundation: 86% of pass-throughs are so small they pay a personal rate of 25% or less, according to the Tax Policy Center, a think tank. Moreover, pass-through income is taxed once whereas corporate income is commonly taxed twice: at the corporate level, then on dividends and capital gains to shareholders.

Nonetheless, to appease business owners the House bill taxes 30% of pass-through income at just 25%. The Senate bill would let them deduct 17.4% of their income. Professionals such as doctors and lawyers above a certain income level would be prohibited from paying that lower rate.

Sen. Ron Johnson (R., Wis.), who has been a holdout, complains pass-throughs are still unfairly disadvantaged compared with the proposed corporate rate of 20%.

This change doesn't come cheap: the nonpartisan Joint Committee on Taxation says the House provision will lose nearly \$600 billion in revenue over the coming decade and the Senate provision \$225 billion, due to tighter eligibility and an early expiration to reduce the deficit impact.

Yet the loss could easily be far more. Legions of attorneys, accountants and consultants will work over time to help any high-income client reclassify him or herself as a pass-through.

Suppose you're a doctor or lawyer. Daniel Shaviro, a law professor at New York University, says: "Not to worry. Some law partnerships or doctors own their buildings, so you form two pass-throughs, one is the service business and the other owns the building, rents it out to the first and gets the low rate." Or, he says, a law firm may form a partnership that owns its name and charges partners royalties for its use.

Treasury may struggle to craft guardrails against such maneuvers that hold up in court, says Kent Smetters, director of the Penn Wharton Budget Model, which simulates fiscal policy effects. His team estimates the pass-through changes will lose \$71 billion to \$94 billion more than JCT estimates.

There is precedent: After Kansas eliminated state income taxes on pass-throughs in 2012 it suffered a huge hit to revenue and finally reversed course this year. The federal tax reform in 1986 reduced personal rates below corporate rates, so many businesses became pass-throughs and corporate tax revenue fell short of expectations.

To pay for lower corporate and pass-through rates, legislators will eliminate several deductions, the largest of which is for state and local taxes (although the House would preserve a \$10,000 break for property tax.) The rationale: the deduction serves no economic purpose and merely subsidizes state and local government spending.

The same is true for the federal break for municipal bond interest, yet its benefits are more evenly shared by Republican and Democratic states and thus it hasn't been touched. The state and local deduction benefits mainly affluent residents of Democratic states like California, New York and Maryland.

Sacrificing that deduction serves a purpose: It finances a more growth-friendly federal tax code. Yet many states have come to rely on hefty taxes paid by their wealthiest residents to finance extensive and costly public services.

Losing the federal deduction will raise effective tax rates on wealthy residents of states such as California, New York, Connecticut and New Jersey by two to five percentage points, according to Goldman Sachs economists. Some residents will move; others will never come. Goldman reckons New York City could lose 2% to 4% of its top earners as a result. The erosion of their tax base could imperil those states' fiscal health and force them to slash public services.

For some conservative lawmakers that may be an intended consequence. But it's also why no Democrats back the plan and will likely try to undo it if they retake Congress, much as Republicans have tried to undo the Affordable Care Act ever since Democrats enacted it on party lines. That sort

of instability is yet another unintended consequence of the nation's increasingly polarized politics.

The Wall Street Journal

By Greg Ip

Nov. 29, 2017 12:06 p.m. ET

Write to Greg Ip at greg.ip@wsj.com

[U.S. Conference of Mayors President and New Orleans Mayor Mitch Landrieu Issues Statement in Response to Senate Passing Tax Reform Bill.](#)

Bill Marks Critical Step Forward in Providing Essential Funding

Washington, DC - The U.S. Conference of Mayors, the National League of Cities, the National Association of Counties and the National Association of Regional Councils today released the following statement applauding passage of the Brownfields Enhancement Economic Development and Reauthorization Act of 2017 (H.R. 3017):

"We commend members of the U.S. House of Representatives for passing this important legislation in a bipartisan manner. It marks a critical step forward in providing local officials not only with the funding they need, but also the flexibility to tailor their brownfield redevelopment to meet the individual needs of their cities, counties and regions.

"For many people, brownfields are just the neighborhood eyesore or the former industrial site, but for Mayors and other local officials they also represent unrealized potential. We see the redevelopment of brownfields as a chance to bring jobs back to a community, revitalize neighborhoods, increase our tax base, and reuse and enhance already existing infrastructure in a more sustainable way.

"We appreciate that members of the House invited local officials to testify and incorporated many of our suggestions to improve the bill. We thank Representatives Greg Walden, Frank Pallone, John Shimkus, Paul Tonko, Bill Shuster, Peter DeFazio, Garret Graves, Grace Napolitano, Elizabeth Esty, John Katko, and David McKinley for their steadfast support on this issue. Their sustained efforts will allow us to build upon our past successes as we continue to redevelop the more than 400,000 brownfield sites across the country."

The United States Conference of Mayors

[Analysis of the Tax Cuts and Jobs Act: Tax Policy Center](#)

The Tax Cuts and Jobs Act is working its way through Congress. On November 9, the House Ways and Means Committee passed a version of the Tax Cuts and Jobs Act ([link is external](#)) and the entire US House of Representatives passed its version of the bill ([link is external](#)) on November 16. The Senate Finance Committee also passed its version of the Tax Cuts and Jobs Act ([link is external](#)) on November 16.

The Tax Policy Center has released distributional estimates of the Tax Cuts and Jobs Act to reflect the bill as passed by the Senate Finance Committee on November 16, 2017. We find the bill would reduce taxes on average for all income groups in both 2019 and 2025. In general, higher income households receive larger average tax cuts as a percentage of after-tax income, with the largest cuts as a share of income going to taxpayers in the 95th to 99th percentiles of the income distribution. On average in 2027, taxes would rise modestly for the lowest-income group, change little for middle-income groups, and decrease for higher-income groups. Compared to current law, 9 percent of taxpayers would pay more in 2019, 12 percent in 2025, and 50 percent in 2027.



TPC has also released an analysis of the macroeconomic effects of the Tax Cuts and Jobs Act as passed by the Senate Finance Committee on November 16, 2017. We find the legislation would boost US gross domestic product (GDP) 0.7 percent in 2018, have little effect on GDP in 2027, and boost GDP 0.1 percent in 2037. The resulting increase in taxable incomes would reduce the revenue loss arising from the legislation by \$179 billion from 2018 to 2027. Because most of the tax cuts expire after 2025, we expect deficits (not including interest costs) would decline from 2028 to 2037 and macroeconomic feedback would boost the deficit savings by \$34 billion over that interval. Including macroeconomic effects and interest costs, the legislation is projected to increase debt as a share of GDP by over 5 percent in 2027 and by over 4 percent in 2037.

Links to our most recent analyses and detailed tables are below. To brush up on some tax policy basics, or to refer to our previous analyses, see our [Prepping for the 2017 Tax Reform Debate collection page](#).



[Senate Tax Bill Could Add Anti-Stadium Bond Provision.](#)

Sen. James Lankford offered an amendment to the Republican tax bill in the Senate to eliminate tax breaks for professional sports stadium construction, matching a provision in the House bill.

The Oklahoma Republican's Senate bill proposal would make sports stadiums ineligible for tax breaks given to private activity bondholders. Income on private activity bonds is tax-exempt if the project financed by the bonds has some public benefit. Lankford's amendment would spell out that professional stadiums cannot be categorized as a public good and therefore the tax break couldn't apply.

"Senator Lankford disagrees with using billions of federal taxpayer dollars for the subsidization of private stadiums when we have so many infrastructure needs in our country," Lankford spokesman D.J. Jordan said in an email. "Everyone likes free federal money to build their expensive stadiums, but with \$20 trillion in federal debt, this is waste that needs to be eliminated."

Despite differences in legislative text between the Lankford amendment and the House bill, the effect would be the same: the tax break would be eliminated, said Tim Fisher, coordinator of legislative and federal affairs at the Council of Development Finance Agencies.

CDFA, which represents finance officers at state, local, non-profit and private entities, opposes the

provision because bonds for stadiums can help spur economic growth, Fisher said.

“Stadium bonds are an important part of the development finance toolbox,” he said.

It was unclear Thursday afternoon if the amendment would be included in the Senate’s debate on the tax bill or during the vote on final passage.

ROLLCALL

By JACOB FISCHLER

NOV 30, 2017

[Bloomberg Brief Weekly Video - 11/30](#)

Taylor Riggs, a contributor to Bloomberg Briefs, talks with editor Joe Mysak about this week’s municipal market news.

[Watch video.](#)

Bloomberg

November 30th, 2017, 5:27 PM PST

[Moody's Warns Cities to Address Climate Risks or Face Downgrades.](#)

- **Communities in Texas, Florida, other coastal states at risk**
- **Credit rating agency says it’s adding climate to credit risks**

Coastal communities from Maine to California have been put on notice from one of the top credit rating agencies: Start preparing for climate change or risk losing access to cheap credit.

In a report to its clients Tuesday, Moody’s Investors Service Inc. explained how it incorporates climate change into its credit ratings for state and local bonds. If cities and states don’t deal with risks from surging seas or intense storms, they are at greater risk of default.

“What we want people to realize is: If you’re exposed, we know that. We’re going to ask questions about what you’re doing to mitigate that exposure,” Lenny Jones, a managing director at Moody’s, said in a phone interview. “That’s taken into your credit ratings.”

In its report, Moody’s lists six indicators it uses “to assess the exposure and overall susceptibility of U.S. states to the physical effects of climate change.” They include the share of economic activity that comes from coastal areas, hurricane and extreme-weather damage as a share of the economy, and the share of homes in a flood plain.

Based on those overall risks, Texas, Florida, Georgia and Mississippi are among the states most at risk from climate change. Moody’s didn’t identify which cities or municipalities were most exposed.

Bond rating agencies such as Moody’s are important both for bond issuers and buyers, as they

assign ratings that are used to judge the risk of default. The greater the risk, the higher the interest rate municipalities pay.

Bloomberg News reported in May that towns and counties were able to secure AAA ratings despite their risks of flooding and other destruction from storms, which are likely to be more frequent and intense because of climate change. If repeated storms and floods are likely to send property values — and tax revenue — sinking while spending on sea walls, storm drains or flood-resistant buildings goes up, investors say bond buyers should be warned.

Jones said Tuesday that the company had been pressured by investors to be more transparent about how it incorporates climate change into the ratings process. Some praised the move, while also urging it to go further.

Think Harder

“This kind of publication shoots for municipalities to think harder about disclosure,” Adam Stern, a senior vice president at Breckinridge Capital Advisors in Boston, said in an interview. “The action would start to happen when and if you start seeing downgrades.”

Jones, the Moody’s managing director, said he couldn’t recall any examples of the company downgrading a city or state because it failed to address climate risk.

Eric Glass, a fixed-income portfolio manager at Alliance Bernstein, said real transparency required having a separate category or score for climate risk, rather than mixing it in with other factors like economic diversity and fiscal strength.

Still, the new analysis is “certainly a step in the right direction,” Glass said by email.

Others worried that Moody’s is being too optimistic about cities’ desire to adapt to the risks associated with climate change.

Shalini Vajjhala, a former Obama administration official who consults with cities on preparing for climate change, says that won’t happen on a large scale until cities start facing consequences for failing to act — in this case, a ratings downgrade.

“Investors and governments alike are looking for clear market signals to pursue, and perhaps even more importantly, to defend investments in major adaptation and resilience projects to their constituents and taxpayers,” Vajjhala, who now runs Re:Focus Partners, said in an email. “Outside of the rating agencies, it is not obvious who else could send a meaningful market-wide signal.”

Rob Moore, a senior policy analyst at the Natural Resources Defense Council, said increased attention from rating agencies could push cities to reconsider where they build.

“If I was a city official, I’d be asking a whole lot of questions about what vulnerabilities their community has, and how each new proposed development adds to that vulnerability,” Moore said in an email. “Because at some point, your creditors certainly will.”

Bloomberg

By Christopher Flavelle

November 29, 2017, 1:00 AM PST

California's Post-Redevelopment Tools are Getting a Test Drive.

LOS ANGELES — California cities are beginning to figure out how to use economic tools created to fill a gap left when redevelopment agencies were dissolved in 2012.

La Verne city leaders have spent the past 18 months coming up with a plan to redevelop 100 acres into a mixed-use development involving housing, infrastructure and a parking structure for a train station on the Foothill Gold Line, a light rail extension into the San Gabriel Valley, said Larry Kosmont, founder of Kosmont Cos., a consultant on the project.

That plan uses the Enhanced Infrastructure Financing District legislation that was adopted in 2014, and further refined in 2015.

La Verne, a city of about 30,000 about 30 miles east of downtown Los Angeles, is among the first cities to create such an improvement district.

It took La Verne 18 months to come up with an infrastructure financing plan, Kosmont said. The city went to Los Angeles County with the idea of improving the area around the proposed transit station. The county owns the nearby Los Angeles County Fairgrounds and Brackett Field Airport. The county, which doesn't have an EIFD process, hasn't decided whether to join, Kosmont said, but participants can decide to contribute their money at a later date, he said.

The city made a decision to move ahead with its own share and activated the EIFD as of Oct. 30. Making the decision to do it now enables the city to set a baseline for tax increment for the tax rolls in 2018.

"The county is still reviewing," Kosmont said. "I hope they will come in next year."

The new light rail line is key to the plan. The Los Angeles County Metropolitan Transportation Authority has a groundbreaking ceremony planned Dec. 2 for the \$1.5 billion Foothill extension. Metro issued Nov. 8 the request for qualifications for the 12.3-mile project that will add six new light rail stations in Glendora, San Dimas, La Verne, Pomona, Claremont and Montclair.

The debate in Congress over the future of private activity bonds could make things harder for the city; the GOP tax bill in the House of Representatives would eliminate them, while a Senate Republican plan keeps them.

The elimination of PABs won't stop the project, but it takes away another avenue to encourage public-private partnerships in the state, Kosmont said.

The infrastructure La Verne is building would be funded with public money generated by the tax increment the district generates.

Any potential EIFD bonds wouldn't be affected, but Kosmont said the elimination of PABs could make it hard to do a public-private project on the parking structure next to the transit station, because it would then have to be funded with taxable bonds or as a stand-alone parking bond. The parking structure for the district isn't likely to be constructed for a couple of years, because rail line construction has to be completed first.

Gov. Jerry Brown signed legislation eliminating some 400-plus redevelopment agencies in 2011. Prior to that, cities and counties could use tax increment financing – the increase in tax revenues generated by new development – to repay bonds issued to finance development and infrastructure in project areas deemed “blighted.” The RDAs were also required to set aside 20% for affordable housing.

Two laws passed in 2015 sought to restore some of the economic tools used by the former RDAs. The laws allow cities, counties and special districts to form EIFDs under specific circumstances. Once the districts are formed, local government can use tax increment to finance infrastructure improvements.

The initial EIFD statute, Senate Bill 628 was passed in 2014. Assembly Bill 313 approved in 2015 added refinements.

EIFDs are separate government entities, formed through a joint powers authority consisting of cooperating cities, counties, and special districts. They can finance traditional public works, such as transportation, transit, parks and libraries, water and sewer facilities, solid waste disposal, and flood control and drainage.

A primary difference between EIFDs and the former redevelopment agencies is the new districts can’t just capture all the tax increment created with new development. The district’s authority can designate its own tax increment, but it then has to ask other municipalities in the district if they would like to contribute their increment to the project.

That authority has to create an infrastructure financing plan that will attract private investment and reduce the carbon footprint, Kosmont said.

The authority establishes a boundary and identifies infrastructure improvements that could occur over the next 45 years. The La Verne project involves the creation of three new districts on 110 acres in the city’s downtown area, two adjacent to the rail station, and one bracket near the airport.

La Verne’s financing plan has a 10-year outlook horizon that determines how much tax increment will be generated from new development, Kosmont said.

Improvements planned around the Gold Line station include sustainable water and utility projects and a parking garage. The city rezoned a number of properties around the transit station to build affordable housing and other amenities by working with private developers, Kosmont said.

Voter approval is not required to form an EIFD, but there is a 55% requirement to authorize bonds. Where an IFD makes the tax increment available for up to 30 years, the EIFD extends that timeline to 45 years.

“I am calling EIFDs sustainability and housing districts, because they are used for sustainable infrastructure,” Kosmont said.

Another difference between redevelopment agencies and EIFDs is that a blight study is not required, but an infrastructure plan is, Kosmont said. The former redevelopment districts had to be created in blighted areas as they were designed to bring economic development to areas unable to attract new projects – and also to provide funding for and encourage affordable housing development.

When Brown pushed to eliminate redevelopment agencies, the governor’s argument was that they were taking away money needed for school districts.

“The school district tax increment is not eligible to be part of EIFDs, as they were with redevelopment agencies,” Kosmont said.

“That wipes out 50 cents on the dollar,” he said. “It’s why RDAs were so powerful. They took everyone’s increment and used it for redevelopment. The RDAs came into the sandbox and took everyone’s toys. The EIFDs come into the sandbox with their toys, and then ask if they can share everyone else’s toys.”

The districts can include brownfield restoration and other environmental mitigation; affordable housing development, and transit-oriented development.

Even as cities are beginning to figure out how to use EIFDs, two candidates for governor – California Treasurer John Chiang and former Los Angeles Mayor Antonio Villaraigosa are talking about bringing back redevelopment agencies if they are elected.

“I believe that more tools to facilitate development and redevelopment are better than less, particularly in Los Angeles as the region is preparing for the Olympics, addressing the evolution of mobility and catching up with years of deferred infrastructure projects,” said Timothy Reimers, a principal with Polsinelli, a law firm.

The Bond Buyer

By Keeley Webster

Published November 16 2017, 2:00pm ES

[Republicans in House Seek Protection for Municipal Bonds in Tax Bill.](#)

(Reuters) – A group of Republicans in the U.S. House of Representatives on Wednesday urged keeping federal tax breaks on private activity bonds sold by the developers of hospitals, nursing homes, airports and toll roads to reduce costs

A tax bill in Congress to eliminate that exemption, plus tax breaks on advance refunding bonds used to lower interest costs, stunned the \$3.8 trillion municipal debt market.

U.S. Representative Randy Hultgren, an Illinois Republican and co-chair of the Congressional Municipal Finance Caucus, said a letter he and 20 other Congressmen signed to object to the proposals was aimed at highlighting the value of tax-free debt issuance.

“It’s really important for projects. We’ve seen multiple returns in jobs created,” he said, adding that supporters will continue to push to retain these tax exemptions as the bills work their way through Congress.

Legislation that passed the House earlier this month, as well as a bill pending in the Senate would disallow states, cities, schools and other issuers from refinancing on a tax-exempt basis bonds that are more than 90 days from the date the debt can be bought back by an issuer. This is done by issuers in order to save money by taking advantage of lower market interest rates.

Current refundings of debt within a 90-day call date window would remain tax-exempt.

The House bill would also yank the tax exemption for new private activity bonds (PABs) used by

nonprofit organizations and governments to finance projects including hospitals, nursing homes, colleges, affordable housing, economic development, ports, toll roads and airports at lower costs.

Tim Fisher, legislative and federal affairs coordinator for the Council of Development Finance Agencies, said the letter may help if and when a Congressional conference committee meets to hash out differences between the House and Senate bills.

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Tim Fisher, legislative and federal affairs coordinator for the Council of Development Finance Agencies, said the letter may help if and when a Congressional conference committee meets to hash out differences between the House and Senate bills.

“(The letter) is a good sign that shows certain House Republicans are willing to go on the record,” he said.

The elimination of PABs would raise nearly \$39 billion for the federal government between 2018 and 2027, while removing tax-exemption for advance refunding bonds would generate \$17.3 billion over that time period, according to an estimate from the Joint Committee on Taxation.

Reporting by Karen Pierog in Chicago; Editing by Daniel Bases and Lisa Shumaker

November 29, 2017

[CDFA Fundamentals of Economic Development Finance WebCourse.](#)

January 24 - 25, 2018

Daily: 12:00 - 5:00 PM Eastern

The **Fundamentals of Economic Development Finance WebCourse** is the foundation for all of CDFA’s educational offerings. This course will help you understand the variety of development finance tools available, from bonds, tax credits and TIF, to federal financing programs, RLFs, and access to capital lending resources.

The Fundamentals Course is based on CDFA’s Practitioner’s Guide to Economic Development Finance, the only comprehensive reference guide dedicated to building and utilizing the development finance toolbox. The Practitioner’s Guide provides the insight and practical information needed to critically understand how economic development is financed and the tools, strategies and techniques used to build strong communities.

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[Click here](#) to learn more and to register.

[MSRB Extends Comment Deadline on Request for Comment on Providing Compliance Support.](#)

The Municipal Securities Rulemaking Board (MSRB) today announced that it is [extending the deadline for public comment](#) on its approach to compliance support to February 9, 2018.

“The MSRB recognizes that in light of the current focus on Congressional tax reform proposals and year-end schedules, additional time will enable our stakeholders to provide more thoughtful and comprehensive responses on how the MSRB can deliver the most impactful compliance support,” said MSRB Executive Director Lynnette Kelly. “The purpose of the request for comment is to jumpstart a long-term dialogue with stakeholders on how the MSRB can most effectively facilitate compliance. We welcome preliminary input to help us begin to focus our efforts.”

The MSRB first announced its long-term strategic focus on compliance in June 2017 and has since established a Compliance Advisory Group, launched an online Compliance Center and developed a series of virtual compliance workshops, among other activities to support understanding of MSRB rules.

“Continued input from stakeholders is essential to assisting the MSRB in prioritizing, developing and delivering compliance resources that are responsive to the market’s needs,” Kelly said.

[Read the request for comment.](#)

[Now Available: 7th Edition, Federal Securities Laws of Municipal Bonds Deskbook.](#)

The *Federal Securities Laws of Municipal Bonds Deskbook* is an essential guide for all bond lawyers, regulatory staff, in-house counsel for investment firms and banks, state and local government attorneys, and other securities professionals. This comprehensive publication delivers all key materials relating to the federal securities laws of municipal bonds in a portable deskbook. The new 7th Edition includes an updated summary of the MSRB rules and the most recent SEC enforcement decisions, SEC reports, SEC no-action letters, SEC final releases, and other relevant reports and guidelines.

[Purchase Deskbook Here](#)

[Refresh Your Knowledge of MSRB Gift-Giving Restrictions.](#)

This holiday season, make sure you are aware of limitations on gifts or gratuities in relation to municipal securities or municipal advisory activities by exploring the Municipal Securities

Rulemaking Board's MuniEdPro® course, [Gifts, Gratuities, Non-Cash Compensation and Expenses of Issuance: MSRB Rule G-20](#).

The course uses common scenarios to illustrate compliance with limitations and exclusions on the value of gifts and gratuities that regulated entities and their associated persons can give to officials of a bond issuer. The course also addresses restrictions related to expenses of issuance.

At the end of the course, the learner will be able to:

- Explain the requirements of [Rule G-20](#);
- Understand exclusions from the \$100 limit per year, per person; and
- Describe the recordkeeping requirements under MSRB Rule G-8 that apply to dealers and municipal advisors under Rule G-20.

Dealer and municipal advisor firms: enhance your firm's compliance program by offering your municipal finance professionals access to all MuniEdPro® courses at the [discounted rate of \\$100 per person](#). The discounted rate, which is available through December 31, 2017, is a \$270 value per person, saving firms over 60 percent on the course catalog.

For more information about MuniEdPro® or to inquire about subscription options, contact Ritta McLaughlin at rmclaughlin@msrb.org or 202-838-1306.

[Hawkins Advisory: Tax-Advantaged Bond Provisions in Senate Tax Bill.](#)

The attached Hawkins Advisory describes provisions affecting tax-exempt bonds and tax credit bonds that are included in the version of the Tax Cuts and Jobs Act passed by the U.S. Senate on December 2, 2017.

[Read the Advisory.](#)

[ACG and BDA Tax Reform Update.](#)

[Read the Memorandum.](#)

BOND DEALERS OF AMERICA

NOVEMBER 28, 2017

[MBFA Chair Contributes Article on PABs and Advance Refundings in the Bond Buyer.](#)

The City of Columbia and other local governments have long worked in good faith with our federal partner to develop policies and programs that invest in our communities and deliver results. As such, I deeply appreciate that both the House and Senate tax bills would maintain the century-old tax exemption for municipal bonds. State and local governments make over 75 percent of our nation's

infrastructure investments, many of them financed with municipal bonds, and the preservation of the tax exemption for municipal bonds in both bills recognizes that the best thing the federal government can do on infrastructure is to first do no harm.

However, I am deeply concerned that the House bill would eliminate the tax exemption for private activity bonds and that both bills would eliminate the advance refunding of municipal bonds, robbing local governments of the ability to save taxpayer money by taking advantage of lower interest rates. I am also concerned that the House bill would eliminate the New Markets Tax Credit and the Historic Preservation Tax Credit, which are important tools in our economic and community development efforts. Combined with proposals to limit or completely eliminate the deduction for state and local taxes included in both bills, it is not hyperbole to argue that absent changes, these bills pose a grave threat to local government finance in general and to local government efforts to build and maintain core infrastructure.

Private Activity Bonds may sound esoteric and even boring, but they play a critical role in financing projects and programs that foster job creation and economic development and meet important public policy goals. In Columbia and South Carolina, they finance hospitals, affordable housing (including rental projects and mortgage financing), airports, student loans, and more. Equally important: Private Activity Bonds maximize community control, putting decision making firmly in the hand of state and local officials. The tax exemption for private activity bonds allows the federal government to support infrastructure investments and economic development efforts with a minimum of federal bureaucracy and interference. Repealing it makes little sense, especially in light of the reforms, strict controls, and volume caps on private activity bonds instituted by the 1986 tax act.

I am at a loss as to why both the House and Senate bills would eliminate advanced refunding of municipal bonds. I am, to quote one of my fellow mayors, “completely baffled” by this provision. Summaries of the bills offer no policy justification for this provision, making it clear that it is nothing more than a money grab from local governments and local taxpayers to finance tax cuts elsewhere in the bill. Since 2012, advanced refunding has saved South Carolina cities, counties, school districts, universities, and utilities (and their taxpayers and ratepayers) approximately \$164 million. It makes no sense to rob local governments of the ability to take advantage of lower interest rates and save our taxpayers and utility customers money.

Just as alarmingly, the Senate bill’s elimination of the deduction for state and local taxes would increase taxes for a large number of South Carolinians and taxpayers across the country, imposing federal taxes on dollars they never see in the first place - the textbook definition of double taxation. Simply put, the deduction puts more money in the hands of American families. In addition, any alterations to the deduction would upset the carefully balanced fiscal federalism that has existed since the permanent creation of the federal income tax over 100 years ago. As a general principle, the City of Columbia strongly believes that no federal law or regulation should preempt, limit or interfere with the constitutional or statutory rights of states and local governments to develop and operate our own tax systems.

The Historic Preservation Tax Credit and the New Markets Tax Credit have a strong track record of delivering results in South Carolina and across the country. They are crucial to our economic development and community revitalization efforts. New Markets has supported hundreds of millions of investment in struggling South Carolina neighborhoods, creating thousands of jobs. The Historic Preservation Tax Credit has been critical to the revitalization of Downtown Columbia and our neighborhoods. (I would be remiss if I did not include a plug for Senator Tim Scott’s proposal, the Investing in Opportunity Act, to create tax incentives for investment in distressed communities. It is a perfect example of how the federal government can work with local governments to promote

economic revitalization.)

I am fully aware of the urgent need to simplify our tax code and broaden our tax base, preferably in a deficit neutral manner. This bill does not do that. Many of its \$5.5 trillion in tax cuts, which are tilted towards corporations and the wealthy, would be paid for on the back of local governments and our taxpayers through the provisions outlined above. \$1.5 trillion of the bill's tax cuts would simply be added to our debt and paid for by future generations.

Regardless of where you stand on the issue of tax cuts, there is a better way: one that respects a century of federalism and the federal-local partnership and does not pass costs on to local governments, local taxpayers, and middle-class families.

Click [HERE](#) to view the Bond Buyer article online.

December 1, 2017

[How Cash-Strapped Chicago Snagged a Triple-A Rating for Its New Bonds.](#)

Chicago is running a multimillion-dollar deficit and faces a pension-funding crisis that dwarfs many others around the country.

Yet the nation's third-largest city is on the verge of selling as much as \$3 billion in bonds at a triple-A rating, the latest twist in the tale of cash-strapped U.S. municipalities adopting Wall Street financial engineering in their struggle to raise money in the market.

Echoing methods adopted by Puerto Rico and New York, Chicago has created a new company to sell debt, offering a tempting pledge to investors: a dedicated first claim to the city's sales-tax revenue.

In theory, that should make the debt as secure as U.S. Treasury bonds. But there is a catch: analysts and investors say in the scenario of a bankruptcy, it is difficult to predict whether owners of the new bonds would get paid back ahead of other creditors, pensioners or even police and emergency services workers.

The deal tests whether years of near-zero interest rates will send yield-starved investors into complex bond structures. And Chicago — with a school system that has teetered near bankruptcy and greater expenses than its revenues — could still face a funding gap down the line even if it manages to lower its borrowing costs, analysts say.

For the \$575 million in bonds being priced this week, Jefferies LLC is the underwriter, while Goldman Sachs Group Inc. will lead the next batch, according to city presentations. Carole Brown, chief financial officer of Chicago and a former banker at Barclays PLC, told investors that she devised the plan to create the corporate entity to issue the bonds, according to a person who attended an investor luncheon for the sale.

Through the sale, Chicago is tapping a tool New York's leaders developed in the 1970s as the city faced the specter of a bankruptcy. Back then, Felix Rohatyn, a famed mergers and acquisition banker at Lazard, led an entity called the Municipal Assistance Corp., which allowed New York to borrow money even after major banks had choked off financing.

Puerto Rico sold more than \$15 billion in sales tax bonds over the past decade. Rating firms

considered the debt to be the island's safest offering, and it was snapped up by investors. Now those bondholders are fighting in court against creditors owning general-obligation bonds, who say their claim on the island's full faith and credit should include sales taxes also. Known by the acronym Cofina, those bonds recently traded at pennies on the dollar.

"Sometimes greed overtakes fear" in the market, said Chris Ryon, a portfolio manager at Thornburg Investment Management, which oversees more than \$10 billion in municipal bonds. "It's a function of investors' desire for income."

Earlier this year, Chicago issued more than \$1 billion in bonds, with part of the deal yielding 6%, far higher than most tax-exempt municipal credits. The coming deals would allow Chicago to refinance some of its over \$9 billion in debt with lower interest costs, city officials have said.

The new debt, the first portion of which has maturities up to 26 years, could save the city more than \$90 million in borrowing costs next year, according to the city. Chicago's leaders emphasize in bond filings that the new company, dubbed the Sales Tax Securitization Corp., is separate from the city.

Illinois currently doesn't allow its municipalities to file for bankruptcy, though lawmakers introduced legislation in recent years that cleared the way for Chicago or its school system to file.

Chicago declined to comment on the debt deal. Robert Christmas, a partner at law firm Nixon Peabody, which is advising the city on the sale, said investors shouldn't compare Puerto Rico's sales-tax bonds with Chicago's offering, in part because the city has stronger protections for investors than the island territory had.

Chicago's deal also sheds light on how widely diverging views can emerge from credit-ratings firms in the municipal bond market. Moody's Investors Service has graded the city's debt as junk, but S&P Global Ratings, Fitch Ratings and Kroll Bond Rating Agency have given Chicago investment-grade ratings.

For this latest issuance, Fitch and Kroll gave Chicago's corporate entity an additional boost: a AAA rating, the highest possible grade and equivalent to U.S. Treasuries.

S&P scored it two grades lower, although the firm still rates it five notches higher than other Chicago bonds. S&P also said in November it could change how it evaluates debt like Chicago's latest issuance, meaning investors could end up with bonds that are later downgraded by the firm.

In 2015, two years after it defaulted on its debt, Detroit snagged an investment-grade rating from S&P on new bonds by promising investors they would have first claim on income-tax revenues, although it didn't create a new corporation like Chicago.

Thornburg's Mr. Ryon said Chicago's new entity doesn't deserve separate credit ratings from the city's other debt. "It's a bit of smoke and mirrors," he said.

Moody's, which lowered the city's general-obligation bonds to junk in 2015, doesn't have a rating for the city's new debt. Chicago asked Moody's to withdraw the junk ratings on the general-obligation bonds, the firm said.

Bond ratings are also important because they can dictate money flows. Fund managers are often restricted to buying bonds with certain grades.

Other cities and states will be watching Chicago's bond sales. Illinois passed a special statute allowing the city to issue the bonds, and now other municipalities in the state can do the same.

States including California, Nebraska and Rhode Island have passed laws in recent years aimed at giving bondholders first claims on some taxes even if the issuer is in financial distress. Illinois and Michigan have also proposed similar laws.

Investors say municipalities with weaker financials will continue to try to woo bondholders with proposed safeguards, especially with the market rattled by Puerto Rico's restructuring.

"The idea is to provide a little more reassurance to potential creditors that they've got first crack at the money," said Glenn Weinstein, a Chicago attorney at Pugh, Jones & Johnson P.C., who has advised the city in the past.

At the same time, Mr. Weinstein said, "if you don't have financial difficulties and your credit is good, you don't need this."

Dow Jones Newswires

By Gunjan Banerji

Published December 03, 2017

Write to Gunjan Banerji at Gunjan.Banerji@wsj.com

[Financing Infrastructure Through Tax Policy: Tug-Of-War With A Frayed Rope.](#)

In Short :

The Situation: Private activity bonds are issued by or on behalf of states and local governments to finance certain private (or partially private) projects that benefit the public. Usually, interest income from bonds issued by states and local governments to finance government projects is exempt from federal income taxes.

The Development: The U.S. House tax reform bill proposes to eliminate the tax exemption for newly issued private activity bonds, while the Senate's tax bill would allow the exemption to remain.

Looking Ahead: It remains to be seen how the final tax reform measures will treat interest from government project bonds.

Recent bills on U.S. tax reform before the House and Senate have taken competing positions with respect to the tax exemption for private activity bonds ("PABs"). While the House bill would eliminate the tax exemption for newly issued PABs, the Senate proposal would retain their tax-exempt status. The ultimate outcome could have major implications for infrastructure projects, including those funded by public-private partnerships.

Public-private partnerships are a type of funding model for infrastructure projects, whereby the public partner is represented by the local, state, or national government and the private partner is typically a privately-owned business, often with an expertise that can add value and complement the overall goals of the project. There are several potential benefits of this type of partnership, such as quicker completion of projects and minimizing the debt that local governments need to take on.

Overview of Private Activity Bonds

PABs are bonds issued by or on behalf of states and local governments that finance certain private (or partially private) projects that benefit the public. Generally, the income interest from bonds issued by states and local governments to finance government projects is exempt from federal income taxes, while the income from bonds issued for the benefit of private actors and mixed public-private businesses is subject to federal income taxes. However, there is an exception for bonds issued to finance qualified private activities, such as the construction of airports, docks and wharves, high-speed intercity rail facilities, waste facilities, and mass transit. In those specific cases, states and local governments can issue bonds to finance projects owned by private or mixed private-public businesses, and the income from those bonds is currently exempt from federal income tax.

In the United States, PABs are a major source of funding used for infrastructure projects. While the Trump administration has expressed the benefits of stimulating infrastructure investment through public and private capital and made it clear that this is a key agenda item, the need for investment and upgrades in the United States is something that is widely accepted by both political parties. Recent transportation projects such as the I-77 hot lanes in North Carolina and I-95 managed lanes in Virginia benefitted from the issuance of PABs. The competing House and Senate bills are now creating uncertainty with respect to this important financing mechanism.

Competing House and Senate Tax Proposals on Private Activity Bonds

The tax reform bill recently passed by the House would eliminate the tax exemption for PABs. The House's projected increase in revenue for eliminating this exemption is approximately \$39 billion. However, this change would also essentially eliminate an important financing method used for public-private partnerships since, if enacted, interest rates for financing infrastructure projects would likely increase and the incentive for private investment in public projects would likely decrease.

The Senate tax reform bill would maintain the tax-exempt status of PABs and, therefore, preserve the incentives that private entities currently have to invest in public work projects. This aspect of the Senate plan is consistent with President Trump's pledge to attract private capital to rehabilitate America's infrastructure. The elimination of PABs will likely make it much more difficult to meet the President's goal of \$1 trillion of infrastructure spending, including increased investment from the private sector.

Final Provisions on Project Activity Bonds Not Yet Settled

It is unclear whether the tax-exempt status of PABs will be retained in the final version of any U.S. tax reform. We will continue to monitor developments, and provide updates as events progress.

TWO KEY TAKEAWAYS

1. PABs are a significant source of funding used for infrastructure projects.
2. The Senate tax reform bill would maintain the tax-exempt status of PABs, preserving the incentives that private entities currently have to invest in public work projects.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

Last Updated: November 24 2017

Jones Day

[**SIFMA U.S. Municipal Credit Report, Third Quarter 2017**](#)

The [municipal bond credit report](#) is a quarterly report on the trends and statistics of U.S. municipal bond market, both taxable and tax-exempt. Issuance volumes, outstanding, credit spreads, highlights and commentary are included.

Summary

According to Thomson Reuters, long-term public municipal issuance volume totaled \$84.6 billion in the third quarter of 2017, a decline of 16.0 percent from the prior quarter (\$100.7 billion) and a decline of 22.0 percent year-over-year (y-o-y) (\$108.7 billion). As of the end of September, year-to-date municipal issuance totaled \$271.8 billion and was generally in line with the 10-year average of \$271.6 billion for the first three quarters of the year. Including private placements (\$3.1 billion), long-term municipal issuance for 3Q'17 was \$87.6 billion.

Tax-exempt issuance totaled \$75.2 billion in 3Q'17, a decline of 14.0 percent q-o-q and a decline of 23.7 percent y-o-y; year to date, tax-exempt issuance was \$239.1 billion. Taxable issuance totaled \$5.9 billion in 3Q'17, a decline of 37.3 percent q-o-q and 25.1 percent y-o-y; year to date, taxable issuance totaled \$22.7 billion. AMT issuance was \$3.5 billion in 3Q'17, a decline of 7.9 percent q-o-q but an increase of 49.4 percent y-o-y; year to date, AMT volumes were \$10.0 billion year to date ending September.

By use of proceeds, general purpose led issuance totals in 3Q'17 (\$20.2 billion), followed by primary & secondary education (\$15.5 billion) and higher education (\$7.8 billion). Refunding volumes rose slightly to comprise 44.1 percent of issuance in 3Q'17 from 41.4 percent in the prior quarter but declined from 52.4 percent from the third quarter of 2016.

[**Proposals With State and Local Implications in Limbo Amid Turbulent Senate Tax Debate.**](#)

The state and local tax deduction remains a marquee item. But there are also notable amendments filed involving tax credits, marijuana and municipal bonds.

WASHINGTON — Proposed changes to the Senate tax bill that could affect state and local governments remained pending Thursday night, as Republicans worked to resolve sticking points with the legislation and an expected vote on it slid into Friday.

The most significant amendments on the radar for many states and localities are two versions of a proposal from Sen. Susan Collins, a Maine Republican. These would add a \$10,000 deduction for state and local property taxes to the bill. As written, the legislation would end state and local tax, or SALT, deductions individuals can now claim.

Beyond SALT, lawmakers filed other amendments of note for state and local governments and those

who work on economic development.

For instance, one from Sen. Lindsey Graham, a South Carolina Republican, would delete a section in the bill that would scale back an existing historic rehabilitation tax credit, commonly used to help finance the restoration of old buildings.

Another amendment, from Sen. Cory Gardner, a Colorado Republican, would rewrite the “280E” section of the tax code so that state-licensed marijuana firms could claim standard business tax deductions on their federal tax returns. Colorado is among the U.S. states that permits regulated recreational marijuana use and sales.

And Sen. Sherrod Brown, an Ohio Democrat, put forward an amendment that would eliminate language in the legislation repealing the tax exempt status of advance refunding bonds. In some situations, state and local governments can use the bonds to refinance debt and save on borrowing costs.

Democratic proposals have so far not gained much traction as the Senate tax bill has taken shape. But 21 House Republicans, led by Rep. Randy Hultgren of Illinois, did send a letter this week to House and Senate leaders urging that tax exemptions for advance refunding and private activity bonds be preserved in tax legislation.

Private activity bonds are used in some public-private partnership deals, and states and localities can also issue them on behalf of 501(c)(3) nonprofits, including institutions like hospitals and universities.

There is also language embedded in the Senate bill to open a portion of the Arctic National Wildlife Refuge to oil and gas drilling.

This is potentially significant for Alaska, which has seen budget difficulties in recent years as state revenue from oil and gas production there has declined. But the prospect of opening the area to drilling remains deeply controversial among conservationists and others who do not want see the refuge’s landscapes and wildlife habitats disturbed by development.

Republican leaders strained Thursday to shore up the votes needed to pass their tax measure without Democratic support.

They hit a roadblock when the Senate parliamentarian shot down a “trigger” mechanism to raise taxes in the event that projected economic growth, which would help cover the cost of tax cuts, falls short in the years ahead. Sen. Bob Corker, a Tennessee Republican, had indicated that the trigger was a priority for securing his support.

Meanwhile, Democrats blasted new estimates from the congressional Joint Committee on Taxation that showed the growth the bill would spur would make up for only \$458 billion, of the \$1.4 trillion in lost revenues it would cause over a 10-year timeframe.

“This bill offers very little other than a holiday bonanza to multinational corporations and special interests,” Sen. Ron Wyden, an Oregon Democrat and the ranking member on the Senate Finance Committee, told reporters. The analysis, he added, contradicts claims the bill would pay for itself.

Route Fifty

By Bill Lucia,
Senior Reporter

Republicans Send Tax Cut Bill to Towns With Curbs on Bond Deals.

- **Tax bills curb refinancings that saved \$3 billion last year**
- **Governments around U.S. rush to borrow before tool revoked**

The list of infrastructure needs in Elkhorn, Wisconsin, is long: a decrepit public-works building, a century-old city hall and the all-important task of filling winter's bounty of potholes.

In October, Elkhorn scraped together \$449,000 through a bond sale known as an advance refunding, a frequently used technique that allows debt to be refinanced years before it can be paid off. Such deals have become a mainstay of the \$3.8 trillion municipal-debt market, accounting for about a third of the borrowing in 2016, saving state and local governments an estimated \$3 billion that year alone.

"The more you pay in interest, the less you get done," said James Heilman, finance director for Elkhorn, a city of 10,000 residents about 47 miles (76 kilometers) southwest of Milwaukee. "We never have a lack of needs as far as infrastructure goes — what we have is a lack of money."

But his town's representative in Congress — House Speaker Paul Ryan — may take away that tool. The broad overhaul the Republican shepherded through his chamber would tax the income from bonds sold for advance refundings, a step that would effectively make them no longer viable because investors would demand higher yields to buy the securities.

That's not the only way the cost of the federal tax cuts would ripple down to local governments. Both the House and the Senate proposed limiting — or eliminating outright — the deduction for state and local taxes, which may make it more politically difficult for governments in high-tax states like New York to raise them further. The House bill would also make it more expensive to build airports, hospitals and affordable housing by preventing businesses from borrowing in the tax-exempt market.

But doing away with advance refundings would eliminate a crucial tool that's saved governments tens of billions since interest rates tumbled after last decade's recession. The process involves issuing new bonds, buying Treasuries and using the income to cover debt-service bills as they come due — rather than paying the bonds off all at once, as homeowners do when refinancing mortgages. The savings can free up money for public works or help keep tax increases at bay.

The change will do little to cover the cost of tax cuts that will add \$1.4 trillion to the deficit over the next decade, according to Congress's Joint Committee on Taxation. The committee estimates that eliminating the subsidy for advance refundings will raise about \$17 billion in revenue through 2027.

"We're not even sure that federal policy makers understand the impact," said Matthew Chase, executive director of the National Association of Counties. "We think this was grabbing numbers off a spreadsheet as revenue raisers without really understanding the scope of the market."

The impact will be felt equally in urban, Democratic districts and Republican strongholds in the suburbs and fast-growing regions of the south. Lexington School District One, in central South Carolina, used advance refundings to avoid property-tax increases, said John Butler, its chief financial officer. The district, which serves over 25,000 students, will save more than \$10 million from one done earlier this year.

“If they don’t keep them tax-exempt, in the long run the school district will end up paying more interest on the bonds and that will cause the taxpayer to pay more taxes,” he said.

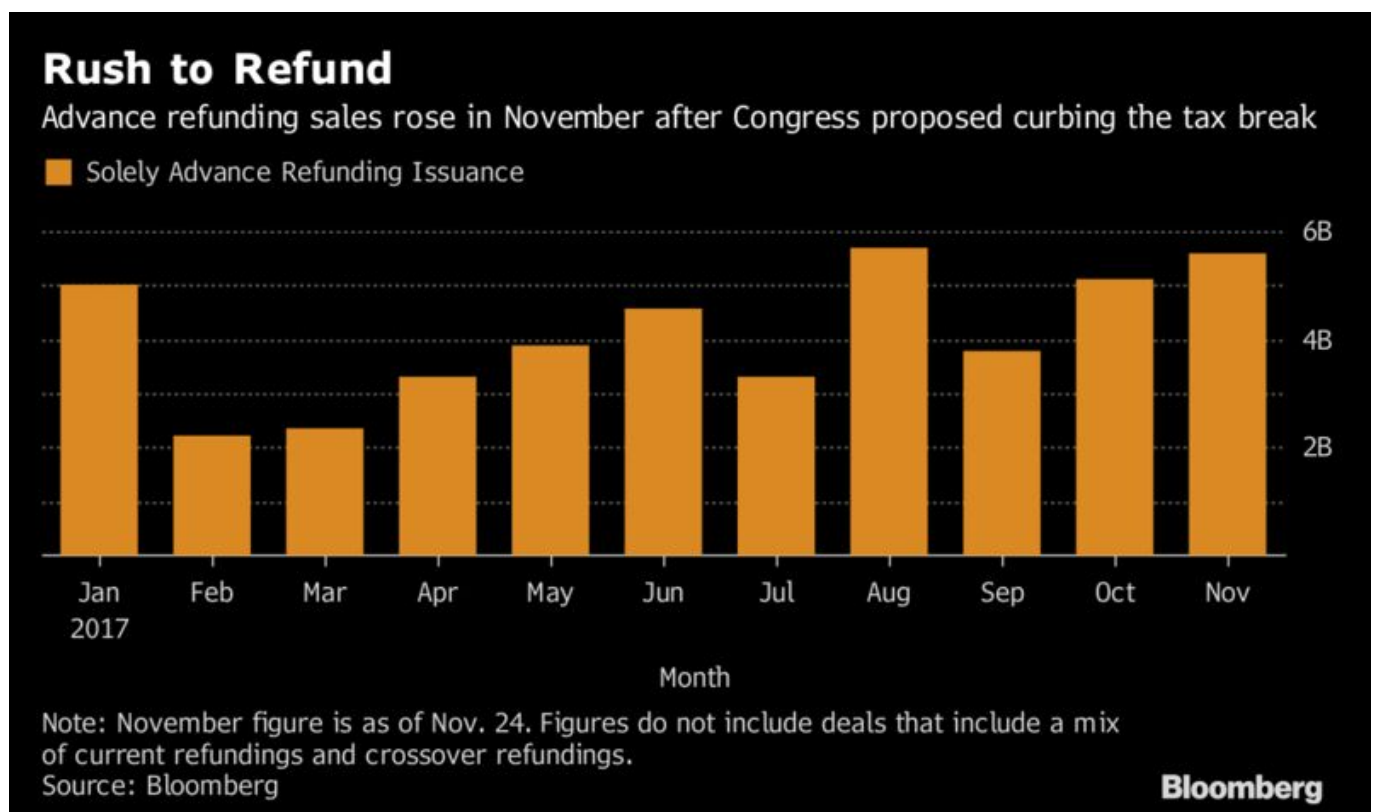
While the Senate and House plans differed on some details, both chambers backed the curbs on advance refundings, indicating it’s likely to remain in the final version of the legislation. The opposition from local governments wasn’t much of an obstacle in the House. Representative Joe Wilson, a Tea Party-backed Republican from South Carolina’s Lexington County, said the House bill was an overall win for residents of his district.

“It lets families keep more of the money they earn, stops American jobs from moving overseas and gives small businesses more room to expand,” he said in the emailed statement. “Reducing taxes promotes cycles of new jobs, new housing, and new investments in real estate, growing the tax base and the economy.”

Representative Terri Sewell, an Alabama Democrat and former bond lawyer who serves on the House Ways and Means Committee, offered an amendment that would have kept the refundings tax-exempt, only to see it struck down. The deals have drawn criticism in Congress for being costly to the Treasury by simultaneously subsidizing the original bonds and those issued to refinance that debt.

Sewell called that critique “ridiculous,” saying she has seen firsthand how lowering debt costs can help communities and nonprofits. “For the life of me I can’t understand why the Republicans would go after these useful tax incentives,” she said. “Why would we discourage the ability to have savings?”

Cities, states and nonprofits have started to flood the market with bond sales to refinance before the legislation becomes law, pushing the calendar of offerings over the next month to the highest in 13 months.



AshLee Strong, a spokeswoman for Ryan, said if it’s enacted governments will still be able to sell

low-cost tax-exempt debt for construction projects. "State and local governments will be able to continue financing important public works projects," she said in an email.

But Heilman, the finance director of Elkhorn, said the shift will prevent cities like his from freeing up needed cash by taking advantage of lower interest rates when the opportunity arises.

"I don't think there's a community in this country that couldn't use to do a little more infrastructure work," Heilman said. "Or if it's a little bit of savings on their tax roll, that's not a bad thing either."

Bloomberg

By Amanda Albright

November 29, 2017, 4:00 AM PST

[KBRA Assigns AA- Rating with a Stable Outlook to PA Turnpike Commission's MLF-Enhanced Turnpike Sub Sp. Rev Refunding Bonds, Third Series of 2017](#)

Kroll Bond Rating Agency (KBRA) has assigned a AA- long-term rating and Stable Outlook to the Pennsylvania Turnpike Commission Motor License Fund-Enhanced Turnpike Subordinate Special Revenue Refunding Bonds, Third Series of 2017. In addition, KBRA has affirmed the long-term rating of AA- with a Stable Outlook to all of the Commission's outstanding Motor License Fund-Enhanced Turnpike Subordinate Special Revenue Bonds, with the exception of those backed by a letter of credit or liquidity facility.

This rating is based on the below key rating determinants including the five determinants of [KBRA's U.S. Public Toll Roads, Bridges, & Tunnels Bond Rating Methodology](#) as well as the two below italicized elements of [KBRA's Special Tax Revenue Bond Rating Methodology](#) which were utilized to evaluate aspects of support from the Commonwealth's Motor License Fund:

- Size and Scope of Operations
- Demand Assessment
- Management/Regulatory Framework
- Financial Profile
- Nature of Special Tax Revenues
- Revenue Analysis
- Security Provisions

To access the full report, please click on the link below:

[PA Turnpike Commission's MLF-Enhanced Turnpike Sub Sp. Rev Refunding Bonds, Third Series of 2017](#)

If you have any difficulties accessing the report, please contact info@kbra.com or visit www.kbra.com.

[KBRA Assigns A+ Rating with a Stable Outlook to Pennsylvania Turnpike Commission's Turnpike Sub Rev Refunding Bonds, Third Series of 2017](#)

Kroll Bond Rating Agency (KBRA) has assigned a long-term rating of A+ with a Stable Outlook to the Pennsylvania Turnpike Commission's Turnpike Subordinate Revenue Refunding Bonds, Third Series of 2017. At the same time, KBRA has affirmed the long-term rating of A+ with a Stable Outlook on the Commission's outstanding Turnpike Subordinate Revenue Bonds. Lastly, KBRA has affirmed the long-term rating of AA- with a Stable Outlook on the Commission's outstanding Turnpike Revenue Bonds. KBRA's long-term rating excludes bonds backed by a letter of credit or liquidity facility, unless otherwise noted.

This rating is based on the [KBRA's U.S. Public Toll Roads, Bridges, & Tunnels Rating Methodology](#). KBRA's rating evaluation focuses on the following key rating determinants:

- Size and Scope of Operations
- Demand Assessment
- Management/Regulatory Framework
- Security Provisions

To access the full report, please click on the link below:

[Pennsylvania Turnpike Commission's Turnpike Sub Rev Refunding Bonds, Third Series of 2017](#)

If you have any difficulties accessing the report, please contact info@kbra.com or visit www.kbra.com.

[KBRA Affirms Long-Term Rating of AA- and Stable Outlook on Columbus Regional Airport Authority's Airport Revenue Bonds.](#)

Kroll Bond Rating Agency (KBRA) has affirmed the long-term rating of AA- with a Stable Outlook on the Columbus Regional Airport Authority's ("CRAA") Airport Revenue Bonds. This rating applies to all of the Authority's outstanding Airport Revenue debt, except for bonds backed by a letter of credit or liquidity facility. As of September 26, 2017, the Authority had approximately \$84.2 million of airport revenue bonds outstanding.

This affirmation is based on [KBRA's U.S. General Airport Revenue Bond Methodology](#).

To access the full report, please click on the link below:

[Columbus Regional Airport Authority's Airport Revenue Bonds](#)

If you have any difficulties accessing the report, please contact info@kbra.com or visit www.kbra.com.

[Ramapo Agrees with SEC to Clean up Bond Finances.](#)

The town of Ramapo and its local development corporation have consented to an SEC agreement to

clean up how they issue municipal bonds.

Though they did not explicitly admit wrongdoing, by agreeing not to violate U.S. Securities and Exchange Commission laws they tacitly acknowledged they had done so.

The SEC civil case coincides with federal criminal charges filed last year against town officials for concealing financial problems and lying to bond investors.

Christopher St. Lawrence, former town supervisor, was found guilty after a four-week spring trial of conspiracy, securities fraud and wire fraud. Nachman Aaron Troodler, a former town attorney, pleaded guilty to fraud.

They fabricated Ramapo's financial reports to help sell municipal bonds, according to court documents, and to help pay for Provident Bank Park, a minor league baseball stadium.

Taxpayers had rejected a proposal to finance the stadium in 2010, and St. Lawrence pledged that it would be built with private funds. But in 2011 the development corporation issued a \$25 million bond for construction, and the town ended up paying more than half of the \$58 million project.

The stadium is now known as Palisades Credit Union Park and is the home of the Rockland Boulders.

For six years, Ramapo reported general fund balances ranging from \$1.4 million to \$4.1 million. But the fund was actually running deficits of \$249,000 to \$13.9 million.

General fund balances were distorted with phony receivables, concealed liabilities and improper fund transfers.

St. Lawrence, for instance, claimed that Ramapo was going to get \$3.1 million in Federal Emergency Management Agency reimbursements for expenses from Hurricane Irene, even though no claims had been submitted.

The town had guaranteed bond payments, so fake fund balances made the bonds appear less risky. Investors also were told that revenues from the stadium and a housing project would cover the bonds' principal and interest.

The SEC said St. Lawrence lied to investors to conceal the town's deteriorating finances and to disguise the inability of the development corporation to make payments from its own money.

Federal Judge Cathy Seibel issued a judgment on Nov. 17 that requires Ramapo and its development agency to hire a court-approved independent consultant to review financial procedures and controls. The consultant may employ accountants, attorneys, forensic experts or business advisers to assist with the review.

The consultant will recommend improvements and Ramapo must adopt changes.

The town and its agency must also hire an independent auditing firm to examine financial statements for 2017 through 2019.

If they decide to issue new bonds in the next three years, they must hire an independent counsel who will investigate the accuracy and completeness of disclosure documents.

In three years, they must certify that they have complied with all requirements of the judgment.

The criminal sentencing hearing for St. Lawrence of Wesley Hills, began on Monday and will

continue tomorrow. Troodler of Bala Cynwyd, Pennsylvania, is scheduled to be sentenced on Dec. 12.

westfaironline.com

By Bill Heltzel - November 28, 2017

Republicans in House Seek Protection for Municipal Bonds in Tax Bill.

(Reuters) - A group of Republicans in the U.S. House of Representatives on Wednesday urged keeping federal tax breaks on private activity bonds sold by the developers of hospitals, nursing homes, airports and toll roads to reduce costs.

A tax bill in Congress to eliminate that exemption, plus tax breaks on advance refunding bonds used to lower interest costs, stunned the \$3.8 trillion municipal debt market.

U.S. Representative Randy Hultgren, an Illinois Republican and co-chair of the Congressional Municipal Finance Caucus, said a letter he and 20 other Congressmen signed to object to the proposals was aimed at highlighting the value of tax-free debt issuance.

"It's really important for projects. We've seen multiple returns in jobs created," he said, adding that supporters will continue to push to retain these tax exemptions as the bills work their way through Congress.

The proposals are incompatible with President Donald Trump's push for greater infrastructure investment, the letter stated.

"This change in policy contradicts the growing need of the federal government to rely more, not less, on states and municipalities, as well as the private sector, to help to finance needed infrastructure in a market driven, cost effective manner," the letter said.

It added that advance refunding of municipal debt issues over the last five years will translate into saving taxpayers in every state billions of dollars in interest costs.

Legislation that passed the House earlier this month, as well as a bill pending in the Senate would disallow states, cities, schools and other issuers from refinancing on a tax-exempt basis bonds that are more than 90 days from the date the debt can be bought back by an issuer. This is done by issuers in order to save money by taking advantage of lower market interest rates.

Current refundings of debt within a 90-day call date window would remain tax-exempt.

The House bill would also yank the tax exemption for new private activity bonds (PABs) used by nonprofit organizations and governments to finance projects including hospitals, nursing homes, colleges, affordable housing, economic development, ports, toll roads and airports at lower costs.

Karen Pierog

NOVEMBER 29, 2017

Tax Bill Would Curb Municipal Bond Deals.

The list of infrastructure needs in Elkhorn, Wisconsin, is long: a decrepit public-works building, a century-old city hall and the all-important task of filling winter's bounty of potholes.

In October, Elkhorn scraped together \$449,000 through a bond sale known as an advance refunding, a frequently used technique that allows debt to be refinanced years before it can be paid off. Such deals have become a mainstay of the \$3.8 trillion municipal-debt market, accounting for about a third of the borrowing in 2016, saving state and local governments an estimated \$3 billion that year alone.

"The more you pay in interest, the less you get done," said James Heilman, finance director for Elkhorn, a city of 10,000 residents about 47 miles southwest of Milwaukee. "We never have a lack of needs as far as infrastructure goes — what we have is a lack of money."

But his town's representative in Congress — House Speaker Paul Ryan — may take away that tool. The broad overhaul the Republican shepherded through his chamber would tax the income from bonds sold for advance refundings, a step that would effectively make them no longer viable because investors would demand higher yields to buy the securities.

That's not the only way the cost of the federal tax cuts would ripple down to local governments. Both the House and the Senate proposed limiting — or eliminating outright — the deduction for state and local taxes, which may make it more politically difficult for governments in high-tax states like New York to raise them further. The House bill would also make it more expensive to build airports, hospitals and affordable housing by preventing businesses from borrowing in the tax-exempt market.

But doing away with advance refundings would eliminate a crucial tool that's saved governments tens of billions of dollars since interest rates tumbled after last decade's recession. The process involves issuing new bonds, buying Treasuries and using the income to cover debt-service bills as they come due — rather than paying the bonds off all at once, as homeowners do when refinancing mortgages. The savings can free up money for public works or help keep tax increases at bay.

The change will do little to cover the cost of tax cuts that will add \$1.4 trillion to the deficit over the next decade, according to Congress' Joint Committee on Taxation. The committee estimates that eliminating the subsidy for advance refundings will raise about \$17 billion in revenue through 2027.

"We're not even sure that federal policymakers understand the impact," said Matthew Chase, executive director of the National Association of Counties. "We think this was grabbing numbers off a spreadsheet as revenue raisers without really understanding the scope of the market."

The impact will be felt equally in urban, Democratic districts and Republican strongholds in the suburbs and fast-growing regions of the south. Lexington School District One, in central South Carolina, used advance refundings to avoid property-tax increases, said John Butler, its chief financial officer. The district, which serves over 25,000 students, will save more than \$10 million from one done earlier this year.

"If they don't keep them tax-exempt, in the long run the school district will end up paying more interest on the bonds and that will cause the taxpayer to pay more taxes," he said.

While the Senate and House plans differed on some details, both chambers backed the curbs on advance refundings, indicating it's likely to remain in the final version of the legislation.

The opposition from local governments wasn't much of an obstacle in the House. Rep. Joe Wilson, a Tea Party-backed Republican from South Carolina's Lexington County, said the House bill was an overall win for residents of his district.

"It lets families keep more of the money they earn, stops American jobs from moving overseas and gives small businesses more room to expand," he said in the emailed statement. "Reducing taxes promotes cycles of new jobs, new housing, and new investments in real estate, growing the tax base and the economy."

Rep. Terri Sewell, an Alabama Democrat and former bond lawyer who serves on the House Ways and Means Committee, offered an amendment that would have kept the refundings tax-exempt, only to see it struck down. The deals have drawn criticism in Congress for being costly to the Treasury by simultaneously subsidizing the original bonds and those issued to refinance that debt.

Sewell called that critique "ridiculous," saying she has seen firsthand how lowering debt costs can help communities and nonprofits. "For the life of me I can't understand why the Republicans would go after these useful tax incentives," she said. "Why would we discourage the ability to have savings?"

Cities, states and nonprofits have started to flood the market with bond sales to refinance before the legislation becomes law, pushing the calendar of offerings over the next month to the highest in 13 months.

AshLee Strong, a spokeswoman for Ryan, said if it's enacted governments will still be able to sell low-cost tax-exempt debt for construction projects. "State and local governments will be able to continue financing important public works projects," she said in an email.

But Heilman, the finance director of Elkhorn, said the shift will prevent cities like his from freeing up needed cash by taking advantage of lower interest rates when the opportunity arises.

"I don't think there's a community in this country that couldn't use to do a little more infrastructure work," Heilman said. "Or if it's a little bit of savings on their tax roll, that's not a bad thing either."

The Associated Press

November 29, 2017

[Brady Open to Keeping PABs, Limiting Their Uses.](#)

WASHINGTON - House Ways and Means Committee Chairman Kevin Brady said Thursday that he might agree to preserve private activity bonds, while pushing for limits on their uses in upcoming negotiations over a final tax bill with the Senate.

"I think over time that's an area that has drifted in its mission from infrastructure projects that have regional or national significance that should be supported by every taxpayer in America into a wide range of issues," Brady, R-Texas, said in response to a question from The Bond Buyer.

Brady's comment came during a media availability to talk about the progress on tax reform.

The Senate is working toward passing its bill and the House leadership announced on Thursday that

the House will vote Monday night on whether to go to conference with the Senate.

The tax reform bill passed by the House on Nov. 16 would terminate PABs and advance refundings after Dec. 31.

The bill pending in the Senate would also terminate advance refundings after Dec. 31, but would preserve PABs and even enhance their attractiveness to investors by repealing the alternative minimum tax that applies to them (except for 501(c)(3) bonds).

Brady said House lawmakers have been learning about the various uses of PABs. "Part of the reason for addressing it in the House version was to have this discussion about should they continue, and if so, in what form," he said.

Meanwhile, twenty one House Republicans sent a letter to the House and Senate GOP leaders earlier in the week urging them to preserve PABs and advance refundings.

The number of House Republicans who signed the new letter is significant because it nearly equals the 22-seat majority Republicans hold in the House. No Democrats voted for the House tax reform bill and none are expected to support the final House-Senate legislation.

Republicans hold a 240-194 advantage in the House with one seat vacant pending a March 13, 2018 special election to replace former Rep. Tim Murphy, R-Pa.

"We strongly object to the proposed elimination of tax-exempt private activity and advance refunding bonds in any final tax reform package," said the letter sent Brady and House Speaker Paul Ryan, R-Wis.

Their proposed termination, the letter said, "undermines President Trump's infrastructure and economic development agenda for the middle-class."

Copies also were sent Senate Finance Committee Chairman Orrin Hatch, R-Utah, and Senate Majority Leader Mitch McConnell, R-Ky.

The letter pointed out that the proposed changes "violate a request made by 162 members of the House of Representatives in a March 9, 2017 letter."

The earlier letter was a bipartisan request led by Reps. Randy Hultgren, R-Ill., and Dutch Ruppersberger, D-Md., co-chairs of the House Municipal Finance Caucus.

Brady acknowledged understanding the message in the letter.

"I think it's important to hear from our members," he said. "The House really stripped down the tax code to its bare essentials and started to rebuild it based on what's important this century, not last century. And so we're learning what's really important and that's why we restored the adoption tax credit and the employer \$5,000 help for child care."

The new letter, dated Nov. 28, was initiated by Hultgren at the urging of the Municipal Bonds for America coalition and the Council of Development Finance Agencies.

Justin Underwood, director of MBFA, said on Thursday that the letter "clearly demonstrates that there are congressional members who are hearing from mayors and other locally elected officials in their districts who are concerned how critical Main Street infrastructure projects will be financed after Dec. 31."

“The MBFA is encouraged by the members who have stepped forward to sign this letter, and others who are working behind the scenes, to ensure the House and Senate leaders know of the devastating effect that the proposed elimination of tax-exempt private activity bonds and advance refundings will have on the future growth of communities across our country,” Underwood said.

The American Society of Civil Engineers estimates the U.S. has a \$2 trillion shortfall in infrastructure spending. “Private activity bonds finance exactly the sorts of public private partnerships of which we need more of, not less,” the letter said.

The letter also highlighted the use of advance refundings by state and local governments “to reduce the cost of financing existing debt.”

“While it’s difficult to say what the eventual impact of this letter will be, right now it does strengthen the hand of Senate negotiators who want to ensure private activity bonds are protected in a final bill,” said Tim Fisher, legislative and federal affairs coordinator for CDFA. “It’s a valuable chip for negotiators to have in the horse-trading to come.”

House and Senate Republican leaders are under pressure on many issues to make changes to the tax reform bill, including Senate proposals to: enhance the child tax credit; enhance the treatment of pass through businesses and; install a triggering mechanism to reinstate some tax cuts if economic growth is less than predicted.

Nonetheless, the Senate voted 52-48 Wednesday night to begin 20 hours of debate on its version of the tax bill. Votes on numerous amendments are expected.

Sen. Susan Collins, R-Me., has amendments to counter the proposed full repeal of the state and local tax deduction by allowing homeowners to deduct up to \$10,000 for property taxes.

The focus on advocates of advance refundings and PABs is to try to retain them in the final tax legislation House and Senate Republican leaders will hammer out to reconcile differences in the two bills.

The Bond Buyer

By Brian Tumulty

Published November 30 2017