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Bill Would Create New Type of Bond for Infrastructure.

WASHINGTON – Sens. Ron Wyden, D-Ore. and John Hoeven, R-N.D., on Monday introduced legislation that would create Move America Bonds, which would generally be treated as exempt-facility, private-activity bonds but would have fewer restrictions and separate state volume caps that could be converted into tax credit allocations.

The bill, called Move America Act of 2015, would also allow states to convert volume cap for the bonds to allocations for tax credits. The Senators' proposal, which is designed to increase private investment in infrastructure, has some similarities to, and also differences from, the Obama administration's proposal for qualified public infrastructure bonds (QPIBs).

"Move America will turbocharge investment and give states and localities the flexibility they need to quickly and efficiently break ground on projects," Wyden, the top Democrat on the Senate Finance Committee, said in a news release. "An injection of private capital, in addition to sustainable funding for transportation programs, will help get America's economic engine running at full speed."

Move America Bonds could be used to finance airports, docks and wharves, mass commuting facilities, railroads, highways and freight transfer facilities, flood diversion projects and inland waterway improvements.

The bonds would generally follow the same rules as exempt-facility bonds, with some exceptions.

Move America Bonds would not be subject to the alternative minimum tax. Exempt-facility bonds for airports, docks and wharves and mass commuting facilities have to be governmentally owned, but Move America Bonds used for those purposes could be privately owned. Up to 50% of the proceeds of Move America Bonds could be used for land acquisition, compared to 25% for most types of PABs. Also, certain rules for exempt-facility bonds for high-speed rail facilities and for highway and freight transfer facilities would not apply to these new bonds.

Move America Bonds would be subject to new, separate state volume caps equal to 50% of the state volume caps for PABs. As with PABs, states could carry forward unused volume cap for up to three years, but with Move America Bonds any volume cap unused after the three years could be reallocated to states that fully used their cap.

Wyden and Hoeven's bill would also authorize Move America Credits — tax credits aimed at attracting private investment in infrastructure. The credits could be used on projects financed with Move America Bonds and they could be combined with the bonds and other federal and state funding.

States would have to trade in some of their Move America Bond volume cap to get allocations for the credits. They would receive $0.25 of credit allocation for every $1 of volume cap converted. The amount of credits on a project could not be more than 20% of the project's estimated cost and could not be more than 50% of the project's total private investment.

States could sell the credits or allocate them to sponsors of projects. The sponsors could claim the credits themselves or sell them to raise capital. The credits would be available to taxpayers once projects are placed into service, and taxpayers could claim the credit at 10% for 10 years.

Move America Bonds would be similar to Obama's proposed QPIBs in that both would be new types of PABs used to finance infrastructure projects that would be exempt from the AMT. However, QPIBs would have to be used for governmentally-owned projects and would not be subject to any volume caps. Also, there would be no tax credits associated with QPIBs.

Municipal bond experts were generally positive about the bill.

"Tax-exempt bonds have been a cost-effective way to finance critical infrastructure and community investment projects for more than 100 years," said Bond Dealers of America chief executive officer Mike Nicholas. "Creating additional opportunities to use these bonds will increase their benefits to the small issuers that regional and middle-market dealers work with and, particularly, to taxpayers and local communities."

"Senator Wyden's proposal represents a creative and thoughtful approach to bridging the gap between infrastructure funding needs and available resources," said Michael Decker, managing director and co-head of municipal securities at the Securities Industry and Financial Markets Association. "We are particularly encouraged that Senator Wyden's bill proposes to leverage the existing and well-proven tax-exempt bond market, which is the single most important tool for funding infrastructure in the U.S."

Susan Collet, president of H Street Capitol Strategies, said that the goal of the bill appears to be to provide as much flexibility as possible to private investors for infrastructure projects. "It's great to see a thought-provoking, bipartisan bill" on this topic, she said.

Micah Green, a partner at Squire Patton Boggs, said that while he's not prepared to comment on the specifics of the bill, "this is yet another example of the broad based bipartisan support that exists to not only infrastructure finance, but also for ideas utilizing the municipal bond market as a mechanism for delivering lower cost financing for this needed public investment."

THE BOND BUYER

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