Bond Case Briefs

Municipal Finance Law Since 1971

Bill Would Expand Indian Tribes' Ability to Issue Tax-Exempt Bonds.

WASHINGTON – A bipartisan bill introduced in the House would expand the ways in which Indian tribes can issue tax-exempt bonds and place them more on par with state and local governments under the federal tax law.

The Tribal Tax and Investment Reform Act of 2016 (H.R. 4943), introduced by Rep. Ron Kind, D-Wis. on April 14, would amend the federal tax code to remove special status for Indian tribal governments and instead establish a volume cap for their tax-exempt bonds similar to those for state governments.

Kind is a member of the House Ways and Means Committee, which writes tax laws. His bill is co-sponsored by Lynn Jenkins, D-Kan., who is also a member of that committee.

Tribes currently can issue governmental bonds only if the proceeds are used for an "essential government function" such as for projects involving schools, streets or sewers. They cannot issue bonds for activities for which state and local governments issue private activity bonds.

Congress removed the essential government function limitation for tribal government bonds in 2009 and 2010 under the American Recovery and Reinvestment Act. President Obama, in his budget requests in recent years, has proposed repealing the "essential governmental function" standards for tribal governments.

Under the bill, the Treasury Department would create a national bond volume cap for tribal governments based on a tribe's national population, similar to the population formula it uses for states.

Kind said that Indian tribes face "historic disadvantages" in accessing capital and that "codifying tax parity with respect to tribal governments is consistent with federal treaties recognizing the sovereignty of tribal governments."

The bill says that Indian tribes are also currently excluded from certain federal tax code provisions, which "results in unfair tax treatment for tribal citizens or unequal enforcement authority for tribal enforcement agencies."

"It is long past time that changes are made to give tribes fair treatment in the tax code and access to a full range of financing options," Kind said on Monday. "Tax exempt bonds are a critical tool for raising capital and I am pleased to have bipartisan support for this legislation. I will continue to work with my colleagues across the aisle to move this important legislation forward."

The bill has been referred to the House Ways and Means committee and House Education and the Workforce committee.

Kind introduced a similar bill last Congress, which was not acted upon.

The bill would also allow Indian tribal governments to offer pension plans to their employees and to have access to the Federal Parent Locator Service run by the Department of Health & Human Services.

Indian tribes have long called for repeal of limitations on the tax-exempt bonds they can issue, which they have contended puts them at a competitive disadvantage to state and local governments.

Perry Israel, a lawyer with his own firm in Sacramento, said Monday it would “be good” to eliminate special status and put an end to an issue he remembers as lasting more than three decades. Confusion over essential government functions, he said, also gave rise to Tribal Economic Development Bonds, the 2009-2010 bonds issued under the ARRA, which were not required to be issued for “essential governmental functions.”

“I think it’s about time we stopped having special rules for Indian tribes,” Israel said. “There is this big question – what is an essential government function? We ought to go and treat tribes the same as we treat other states.”

The Bond Buyer

By Evan Fallor

April 25, 2016

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com