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Bipartisan Support for Bill Authorizing Tax Exempt Financing of Public Buildings.

A pair of Senators from both sides of the aisle, Senator Todd Young (R-Ind.) and Senator Catherine Cortez Masto (D-Nev.), introduced the Public Buildings Renewal Act of 2019 last week, which would authorize the use of tax exempt financing along with private equity to rebuild schools and public buildings through public-private partnerships. "We owe it to our students and teachers, our firefighters and nurses, and all taxpayers to find a way to upgrade our schools and public buildings. This is a public health and safety issue that impacts not just Hoosiers, but all Americans. Our bill will enable local governments to access private financing to support public building projects for the first time, so that much needed building upgrades can occur. I look forward to working with my colleagues to advance this critical legislation," said Senator Young.

At the end of 2016/beginning of 2017, the IRS issued a revenue procedure which liberalized the ability on the part of public agencies to enter into long-term management contracts with private companies and still benefit from tax exempt financing. However, the P3 industry has yet to come up with a way of using the new IRS rule to couple tax exempt financing with the infusion of private equity in the capital structure. This latest bill (which was originally introduced in the last session of Congress) would expressly authorize up to $5 billion of tax exempt private activity bonds for government buildings in part financed with private equity.

"Whether it be police stations, court houses, hospitals, or schools, our nation's infrastructure is one of the most important assets we have. Having the private sector involved in our infrastructure projects allows us to tap into innovation and technology that the public sector may not otherwise have access to," said Senator Tim Scott (R-SC), another co-author of the P3 bill. "When we allow public buildings to be eligible for Private Activity Bonds, we reduce the cost of capital for public-private partnerships hoping to invest in our neighborhoods and communities."

By adding public buildings as a new class of projects eligible for financing with Private Activity Bonds, state and local governments can more easily attract private investment to pay for public building projects, such as schools, universities, courthouses, and hospitals, and preserve the risk transfer so critical to the success of a P3 project. Private investment in public building provides state and local governments with access to private capital, accelerated project development, transfer of risk, and the ability to spread out payments over the length of the contractual term. The ownership of the building, however, would always remain with the government entity.

By Barney Allison on April 2, 2019

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