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Build America Bonds, Advance Refunding Revived by Panel.

- **Ways and Means Committee on Tuesday will discuss bill markup**
- **New BABs would lead to jump in issuance in the muni market**

Build America Bonds are back.

So is the ability to refinance debt that comes due years later on a tax-exempt basis. There's also an increase, to $30 million from $10 million, in the amount of bonds that can be sold by small issuers and for which banks can deduct their cost of carry. And Native American tribes will find it easier to borrow in the municipal market, while companies will get a new tax credit for wages paid in U.S. possessions.

These are among the proposals affecting the municipal bond market in the text of a bill released late Friday by the House Ways and Means Committee, which on Tuesday will resume discussion of the Build Back Better Act, its portion of President Joe Biden's $3.5 trillion economic agenda.

The return of so-called tax-exempt advance refunding bonds is something municipal market participants have been advocating for since they were prohibited under President Donald Trump's tax overhaul in 2017. The wish for a return of Build America Bonds, a type of subsidized taxable bond, goes back even further, to the end of 2010, when the program expired.

"It's safe to say there's a lot of very happy issuers out there," Emily Swenson Brock, director of the Government Finance Officers Association's Federal Liaison Center, said in an email on Sept. 11. The group, which represents state and local governments in the U.S. and Canada, has been lobbying for both provisions.

Brock cautioned that the House had a big list to tackle before its self-imposed Sept. 27 deadline, and that Speaker Nancy Pelosi had "to get the caucus in lock-step for reconciliation, which will require some give and take."

Issuers sold $187 billion in Build America Bonds, created by the American Recovery and Reinvestment Act of 2009, before the program expired at the end of 2010. BABs provided issuers with a direct-payment 35% subsidy on the interest they paid to investors, making the taxable borrowing even cheaper than tax-exempt. The subsidy was later lowered as a result of budget sequestration.

"Short opinion is that Christmas came early!" Dave Erdman, Wisconsin's capital finance director, said in an email. "Yes 'some assembly required' and some details need to be worked out, but very happy with the work completed by the Ways and Means Committee!"

New BABs will offer a direct-payment subsidy of 35% from 2022 to 2024 and decrease to 28% by 2027 and after that. Brock of the GFOA said Monday that the committee clarified that the bill would offer direct-pay bonds to the issuer, rather than a credit allowed to the buyer. The committee plans to clarify this in the markup this week, according to Brock.

Burned Last Time

“There will be many issuers out there who felt burned by sequestration-related subsidy cuts last time and may not even consider this taxable financing option without overwhelmingly attractive subsidy rates,” said Tom Kozlik, head of municipal strategy and credit at Hilltop Securities in Dallas, Texas.

Advance refundings once counted for anywhere between 25% and 30% of municipal bond sales every year. In recent years, issuers have turned to doing them with taxable munis because interest rates had become so compressed.

“The muni-friendly provisions in the Ways and Means reconciliation draft is nothing short of a love letter to MuniLand,” said Eric Kazatsky of Bloomberg Intelligence in an email. “While we don’t know what will make the final cut, it is safe to say that public finance bankers should have their hands full going forward.”

The Joint Committee on Taxation on Sept. 11 released a report on the budgetary effects of each of the proposals being considered by Ways and Means. New BABs would cost the government $22.5 billion between fiscal 2022 and 2031, while allowing tax-exempt advance refundings would cost $14.9 billion. Expanding bank-qualified issuance would cost $3.97 billion.

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By Joseph Mysak Jr

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— With assistance by Erik Wasson