

# **Bond Case Briefs**

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## **Build Back Better: Notable Infrastructure and Other Public Finance Provisions Make Progress in Congress - Foley & Lardner**

On Wednesday, September 15, 2021, the House Committee on Ways and Means advanced the infrastructure bill (also called the Build Back Better Act). Of particular interest to the public finance market are Subtitles F and G, which are Infrastructure Financing and Community Development, and Green Energy, respectively. The legislation includes dozens of development finance provisions related to bonds, tax credits, and housing. The link to Subtitles F and G can be found [here](#).

Notably, the infrastructure bill includes the restoration of Advance Refunding Bonds, a Bond Category for Electric Vehicle Charging Stations, creation of new Qualified Infrastructure Bonds, a permanent extension to the New Markets Tax Credits, and an increase in the threshold for bank qualified bonds.

We will continue to provide updates on the status of the infrastructure bill and legislative next steps. At this point, it is important to caution that it is anticipated the bill will go through additional revisions. Committee Chair Richard Neal is a recognized friend of the muni market and the bill's finance provisions may well face headwinds from other sectors.

### **New Measures**

The following are notable measures included in the Ways and Means Committee's portion of the infrastructure bill:

#### **Infrastructure Financing:**

- Credit to issuer for a new category of qualified infrastructure bonds (modeled on the success of Build America Bonds)
- Advance refunding bonds
- Permanent modification of small issuer exception to tax-exempt interest expense allocation rules for financial institutions
- Modifications to qualified small issue Industrial Development Bonds
- Certain water and sewage facility bonds exempt from volume cap on private activity bonds
- Exempt facility bonds for zero-emission vehicle infrastructure

#### **Other Provisions Related to Infrastructure Financing:**

- Creates a 30% credit for government-owned broadband
- Permanently extends the New Markets Tax Credit (NMTC)
- Temporarily increases the historic rehabilitation tax credit (HTC) to 30%
- Permanently increases the HTC percentage to 30% for certain smaller projects
- Creates a 30% credit for qualified wildfire mitigation expenditures

## **Housing Provisions:**

- Increases in-state low-income housing tax credit (LIHTC) allocations.
- Temporarily reduces the LIHTC 50% requirement to 25%
- Basis boost for LIHTC buildings designated to serve extremely low-income households
- Basis boost for inclusion of rural areas as difficult development areas
- Increase in credit for bond-financed projects designated by housing credit agency
- Establishes a new federal neighborhood homes credit

## **Green Energy Provisions:**

- Extension of credit for electricity produced from certain renewable resources
- Extension and modification of energy credit
- Increase in energy credit for solar facilities placed in service in connection with low-income communities
- Elective Payment for energy property and electricity produced from certain renewable resources
- Investment credit for electric transmission property
- Zero emissions facility credit
- Extension of credit for carbon oxide sequestration
- Green energy publicly traded partnerships
- Zero-emission nuclear power production credit
- Extension of excise tax credits relating to alternative fuels
- Extension of second generation biofuel incentives

## **Steps to Passage**

The House Budget Committee and House Rules Committee will consider the bill before it is voted on by the full House, though the timeline for additional House and Senate action is unclear after a number of moderate House and Senate Democrats expressed concerns over the overall price tag and individual components of the bill.

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