THE BOND BUYER

Qualified Infrastructure Bonds are the new BABs

By

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House Ways and Means Committee Chairman Richard Neal, D-Mass., authored the tax policy provisions involving municipal bonds and private activity bonds. ***Bloomberg News***

House Democrats released further details Monday of the $1.5 trillion infrastructure plan they will bring to a vote next week that is filled with a cornucopia of provisions using the municipal bond market for financing.

Highlights of the package include a new series of taxable direct-pay bonds that would start with a federal 42% subsidy for interest expenses.

The new Qualified Infrastructure Bonds, which are modeled after Build America Bonds, would have their direct-pay subsidies phase lower to 38% in 2025, 34% in 2027, and 30% permanently thereafter.

The legislation also would restore tax-exempt advance refunding 30 days following enactment into law and authorize the issuance of $30 billion in qualified school infrastructure bonds (QSIBs) over three years.

The QSIB allocation of $10 billion per year over three years would be based on the Title 1 education formula for each state. All interest costs for the QSIBs would be reimbursed by the federal government.

In addition, state volume caps for the issuance of tax-exempt private activity bonds would be raised 80% nationwide to $135 per capita from the current $75 per capita, providing relief for states such as California, Massachusetts, and New York which have been reaching their limit because of their heavy usage for multifamily housing projects.

Small states also would get a higher annual PABs ceiling of $402.22 million, up from the current $225 million.

The package was put together by Democrats and does not have any significant Republican support. The bond provisions which originated in the House Ways and Means Committee chaired by Rep. Richard Neal, D-Mass., do have bipartisan support on his panel although they have not been brought to a formal committee vote.

The larger $1.5 trillion package, if passed by the Democratic-controlled House, would become a negotiating document for eventual talks with the Republican-controlled Senate and the Trump administration.

“We’re going to encourage our Republican friends in the House to support this,” said Michael Nicholas, CEO of the Bond Dealers of America. “It doesn’t correspond directly with the Senate highway bill, but that’s something we are supporting as well.”

That sentiment was echoed by Emily Brock, director of the federal liaison center for the Government Finance Officers Association, and Charles Samuels of Mintz Levin, counsel to the National Association of Health & Educational Facilities Finance Authorities.

Samuels' organization, which includes smaller nonprofit hospitals and colleges, is particularly pleased that the legislation includes an increase to $30 million from

$10 million the amount of tax-exempt bonds banks can buy under favorable terms as bank-qualified.

Bank qualified debt, also known as BQ debt and bank eligible, allows the bank to deduct the carrying cost of that debt as a business cost.

The current limit of $10 million has been in place since 1986, except for a two-year period in 2009-2010 when the American Recovery and Reinvestment Act raised it to $30 million. ARRA also applied the limitation to individual borrowers rather than conduit issuers, which the law snapped back to afterward.

“There isn’t anything particularly partisan in any of these bond provisions,” said Samuels. “There are Republicans who individually will support all or most of these bond provisions. Hopefully, the process will allow them to indicate that support.”

Samuels said the House bill “reflects our priorities” and is cause for excitement. “At the state and local government level, it is totally bipartisan and nonpartisan,” he said.

Brock described the legislation as “a significant step in the right direction.”

“We’ve asked for many of these proposals many times over the last several years and we have it now,” she said.

Brock couldn’t predict how House Republicans who support the municipal bond provisions will vote on the overall infrastructure package.

“I think we need to understand the politics of the issue here,” Brock said. There are a lot of other issues outside our wheelhouse that are in this bill, that in some cases make it a partisan proposal.”

As far as the key issue of funding the Highway Trust Fund going forward, the legislation extends trust fund taxes that expire in September 2022 for another five years.

However, the expected funding shortfall of $106.7 billion in the Highway Account and $38.6 billion in the Mass Transit Account are covered with deficit spending from the general fund.

The package also contains numerous green energy provisions that have received pushback from numerous Republicans.

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