

THE BOND BUYER

Hatch retirement could help muni market in 2019

By

Brian Tumulty

Published

January 03 2018, 4:18pm EST

WASHINGTON – The outlook for the tax treatment of the municipal bond market could be brighter in 2019 when Senate Finance Committee will have a new chairman.

That's because one of the leading candidates for the position is Sen. Mike Crapo, R-Idaho, who "the bond community would welcome," said Chuck Samuels, a member of Mintz Levin who is counsel to the National Association of Health & Educational Facilities Finance Authorities.

"Crapo has been a stalwart supporter of municipal bonds both for private activity bonds and a supporter of liberalizing ... bank qualified" bonds, Samuels told The Bond Buyer Wednesday.

Bank-qualified bonds were created by the Tax Reform Act of 1986 to encourage banks to buy tax-exempt bonds from smaller, less frequent issuers. Banks can buy these bonds from governments that reasonably expect to issue a total of \$10 million or less of bonds in a calendar year and deduct a portion of the interest cost of carrying the bonds.

The annual limit was raised to \$30 million from \$10 million during 2009 and 2010 under the American Recovery and Reinvestment Act of 2009.

Bob Labes, a partner at Squire Patton Boggs in Cleveland, said Crapo has a record of supporting legislation to strengthen municipal bonds.

The Senate Finance Committee's current chairman, Sen. Orrin Hatch, R-Utah, announced Tuesday that he will not seek re-election next November. Hatch is expected to remain chairman for the remainder of his term, which ends in January 2019.

Hatch led the successful Senate effort last year to preserve the tax exemption for private activity bonds in the new tax reform law.

Democrats could regain majority control in the Senate in the November election, which would enable the committee's ranking Democrat, Sen. Ron Wyden of Oregon, to regain the chairmanship he previously held.

The municipal bond community also would be comfortable with Wyden as chairman, Samuels said, adding. "I don't think he will give anybody a free pass. He and his staff want an understanding of why things are the way they are and how they may be changed."

Crapo, 66, is serving his sixth term in the Senate and currently serves as chairman of the Senate Banking, Housing and Urban Affairs Committee.

Seven-term Sen. Charles Grassley, 84, has more seniority on the Senate Finance Committee than Crapo, but the Iowa Republican could choose to remain as chairman of the Judiciary Committee. In that role earlier this year, he oversaw the nomination and confirmation of Neil Gorsuch to be an associate justice of the Supreme Court of the United States as well as 12 federal appeals court justices.

Micah Green, a partner at Steptoe & Johnson, gave Crapo and Grassley similar ratings on their support for the muni market. "I don't look at them as, by definition, opposed to the municipal marketplace," he said. "In the end the Senate in the showed great support for private activity bonds and I think Crapo and Grassley were both supportive these."

Crapo, for his part, 'is not speculating on any transitions as this time as there are many factors that affect all this, not the least of which is which party controls the Senate," his spokesman Robert Sumner said in an email.

If Grassley should choose to take the top spot on the Finance Committee, he would only have two years remaining in the six-year term limit Senate Republicans has set for committee chairmen.

"Grassley has done it already and the question is, how does he balance it out with the judiciary process," said Green. "There will be a new senior Republican on the committee who, unless something changes, will be chair."

Labes said Grassley has supported legislation to expand the use of student loan bonds.

"Grassley was a very active chairman during the time he was chairman," said Howard Gleckman, a senior fellow in the Tax Policy Center. "He maintained to some degree a sense of bipartisanship but that began to change even while he was there."

Grassley's record on municipal bond issues is mixed, according to Samuels. Although Grassley "has many concerns and skepticisms about municipal bonds, he also is a strong protector" of Iowa's small rural hospitals and small private colleges, he said.