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Reconciliation Update: Latest Developments for Tax-Exempt Bonds & Public Finance and What to Expect Next

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Tax-exempt municipal bonds avoided a potential worst-case scenario of elimination in the House-passed budget reconciliation bill — the **One Big Beautiful Bill Act**. The recently released tax language from the **Senate Finance Committee** for its version of the Act also preserves access to tax-exempt bonds, which are a critical tool for infrastructure development in communities across the nation.

Read on to learn more about efforts to preserve access to this critical financing tool, how Congress has shown support for tax-exempt municipal bonds, and what to expect as the reconciliation bill moves forward.

First, a quick rewind to set the stage.

To discuss recent developments for tax-exempt bonds in the budget reconciliation bill, we need to first briefly look back to 2017 when the Republican-controlled US House of Representatives approved a budget reconciliation bill that eliminated tax-exempt private activity bonds used for various purposes, including projects for affordable housing projects, airports, water and sewage facilities, solid waste disposal facilities, certain manufacturing facilities, and qualified 501(c)(3) tax-exempt organizations like colleges and hospitals.

The tax-exempt bond community, including the team at ML Strategies on behalf of our client the National Association of Health and Educational Facilities Finance Authorities (NAHEFFA), and the Public Finance Practice at Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. (Mintz) effectively worked to change that language when the bill went to the Senate, preserving access to tax-exempt private activity bonds in the final bill — the Tax Cuts and Jobs Act (TCJA). However, the final version of the bill did end the ability to issue tax-exempt advance refunding bonds, which had allowed issuers to refinance existing debt at lower interest rates.

Over the ensuing years we have worked toward the goal of restoring advance refunding, but with the results of the 2024 election giving Republicans control of the White House and both chambers of Congress, it was immediately evident there would be another reconciliation bill with much of the TCJA set to expire in 2025, and that elimination of tax-exempt bonds could be back on the table.

Unified control of government gives Republicans ability to pass party line reconciliation bill.

With full control of the levers of government, Republicans announced plans for a new 2025 reconciliation bill to reduce spending and make permanent the TCJA. Knowing that tax-exempt private activity bonds had been used as a pay-for in the original House-passed reconciliation bill in 2017, and with outside groups and the Republican-controlled House Budget Committee identifying elimination of tax-exempt bonds in the list of options to pay for the current reconciliation bill, the tax-exempt bond community once again activated to defend access to this important financing tool.

Numerous organizations, including ML Strategies on behalf of NAHEFFA, and the Public Finance Practice at Mintz, have worked since last year's election to ensure members of Congress are aware of the critical role tax-exempt bonds play in their communities. As a result of this work, the One Big Beautiful Bill Act, which was passed by the House on May 22 in a 215-214 vote with all Democrats opposing, made no negative changes to access to tax-exempt bonds. On June 16, 2025, the Senate Finance Committee released its version of the Act.

Both House and Senate versions of the bill contain similar provisions that would significantly impact the tax-exempt municipal bond market in two areas:

- A revision unlocking the maximum amount of 4% Low-Income Housing Tax Credits (LIHTC) for projects financed at least 25% (down from 50%) with tax-exempt volume cap bonds. This would potentially allow twice as many credits to be generated from the same amount of volume cap bonds. The Senate version would make this change permanent, while the House version sunsets the change after 2029.
- An alignment of the rules governing qualified small issue bonds with new methods for calculating research and development expenses outlined in other parts of the tax code.

Challenges for foundations, colleges, and universities.

The One Big Beautiful Bill Act includes a change to the existing tax on net investment income for private foundations, shifting away from the current flat rate of 1.39%. Instead, a tiered system would be implemented, with tax rates increasing based on the total value of a foundation's assets. Foundations with assets under $50 million would continue to be taxed at the existing 1.39% rate. For those holding assets between $50 million and $250 million, the tax rate would rise to 2.78%. Foundations with assets ranging from $250 million to $5 billion would be taxed at 5%. The highest rate, 10%, would apply to foundations whose assets exceed $5 billion.

Both the House and Senate versions of the bill also included increases in the excise tax on endowments at private colleges and universities, with rates determined by the size of each institution's student-adjusted endowment — i.e., the school's investment assets per eligible student. Both versions would retain the current 1.4% excise tax rate for institutions with endowments exceeding $500,000 but not more than $750,000 per student, but each version would add additional, higher-rate tiers for institutions with larger per-student endowments. The Senate version would add two additional tiers: 4% for institutions with per-student endowments between $750,000 and $2 million, and 8% for institutions with per-student endowments over $2 million. The House version adds three additional tiers: institutions with per-student endowments between $750,000 and $1.25 million would be subject to a 7% tax; those with per-student endowments between $1.25 million and $2 million would be subject to a 14% tax; and those with per-student endowments exceeding $2 million would be subject to a 21% tax.

Looking ahead. Timeline for final passage and addressing conflicting priorities.

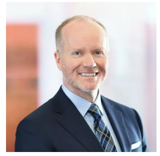
Officially, Republicans have stated they want to see final passage of the reconciliation bill by July 4, but that is an extremely narrow timeline to move a bill through the upper chamber, resolve differences with the House, and then have a vote on a final bill.

In the few remaining days before the July 4 holiday, the Senate will continue its internal debate over how to make the TCJA permanent and achieve the president's spending goals, all while addressing concerns from Republicans across the spectrum about energy tax provisions, Medicaid, and the state and local tax deduction (SALT). Bond advocates are continuing to make the case that access to tax-exempt bonds must be preserved in the final reconciliation bill.

Let us know how we can help as you consider the implications of this bill to your bottom line.

Reach out to any of our team members to learn how ML Strategies can help you achieve your bond-related policy goals at the federal level and how the public finance team at Mintz can support you on a range of bond-related issues, including affordable housing finance, bondholder / trustee representation, education and healthcare financings, government / quasi-government financings, swaps and other derivatives, tax-exempt bond controversy resolution, and underwriters' counsel.

Authors



R. Neal Martin, Senior Director of Government Relations

Neal Martin brings more than two decades of experience in government and federal relations to his work, helping clients navigate a wide range of issues. He provides strategic guidance to organizations seeking to advance their legislative priorities and enhance their visibility before Congress and federal agencies.

Matthew O. Page

Matthew O. Page is a Mintz attorney who focuses on public finance matters, including governmental and nonprofit debt finance. He acts as bond counsel, disclosure counsel, and counsel to borrowers, issuers, lenders, remarketing agents, trustees, and underwriters.