

A Legal and Fiscal Crossroad: Tax-Exempt Municipal Bonds Face Uncertain Future

For more than a century, tax-exempt municipal bonds have served as a bedrock of public finance in the United States. These bonds, issued by states, cities, school districts, and other local government entities, provide a critical funding source for infrastructure projects like schools, roads, water systems, and hospitals. In exchange, investors (often individuals in higher tax brackets) enjoy exemption from federal income tax on the interest earned, making municipal bonds a popular vehicle for both public investment and tax-efficient portfolio management.

The legal foundation for tax-exempt municipal bonds dates back to the Revenue Act of 1913, the same year the federal income tax was reinstated via the 16th Amendment. The act excluded interest on state and local bonds from gross income, reflecting a constitutional principle of federalism: the federal government would not tax the instrumentalities of state governments. Over time, this exemption became a well-accepted feature of the tax code, codified in Section 103 of the Internal Revenue Code.

Now, as Congress debates budget priorities and considers offsets for proposed tax cuts, particularly those at extending provisions from the 2017 Tax Cuts and Jobs Act (TCJA), municipal bond tax exemption is once again

"Some lawmakers and analysts have floated the possibility of eliminating or curtailing the exemption as a revenue-raising measure."

under scrutiny. Some lawmakers and analysts have floated the possibility of eliminating or curtailing the exemption as a revenue-raising measure. More controversially, there is speculation that any such change could be applied retroactively, potentially taxing interest that investors expected to be exempt from when they purchased the bonds.

SEE **MUNICIPAL BONDS** BACK PAGE

New Arizona Law Regulates the Use of Artificial Intelligence in Denying Health Insurance Claims



Can a health insurance company deny your claim using artificial intelligence (AI)? In Arizona, the answer is mostly no.

On May 12, 2025, Governor Katie Hobbs signed House Bill 2175 into law, regulating the use of AI in the claims review process. Originally introduced by State Representative Julie Willoughby, a registered nurse, the bill received bipartisan support after several amendments. The bill's original version expressly prohibited the use of AI to deny specific claims. The bill stated, "Artificial intelligence may not be used to deny a claim or a prior authorization for medical necessity, experimental status or any other reason that involves the use of medical judgment."

The final version signed into law removed the express reference to AI. But before denying a claim submitted by a provider or a

SEE **AI** INSIDE PAGE

Understanding Executive Orders and Their Impact

Since January 20, 2025, President Trump has issued more than 160 executive orders. This is not necessarily unusual. Presidents have been issuing executive orders since 1789. However, the amount of media attention that the issuance of executive orders has generated raises many questions about what executive orders are and what purposes they serve.

The President's power to issue an executive order is derived from Article II of the Constitution, which requires that the President "take care that the laws be faithfully executed." An executive order is a written directive signed by the President which orders the federal government to take specific actions to ensure that laws are faithfully executed under Article II.

Several lawsuits have sought to enjoin presidential executive orders. Most recently, in May, the United States Supreme Court heard oral arguments in three consolidated cases challenging President Trump's executive order on birthright citizenship after the federal district courts issued nationwide injunctions—*Trump v. CASA*, *Trump v. Washington* and *Trump v. New Jersey*.

Arguments before the Court focused primarily on whether lower-court federal judges can issue universal injunctions to block an order nationwide, rather than on the merits of the underlying case.

On June 27, 2025, the Court, in a 6-3 decision, limited the power of lower courts to issue nationwide injunctions. Rather,

the scope of the injunction depends upon what is necessary for the successful plaintiff to achieve "complete relief." As Justice Amy Coney Barrett said in the majority opinion, "[T]he question is not whether an injunction offers complete relief to everyone potentially affected by an allegedly unlawful act; it is whether an injunction will offer complete relief to the plaintiffs before the court."

Susan Segal | 602.257.7425 | spssegal@gustlaw.com
Susan brings exceptional expertise in both public law and employment law.



AI FROM FRONT PAGE

prior authorization involving medical necessity, "the Medical Director [of the health care insurer] shall individually review the denial." In reviewing claims, "the Medical Director shall exercise independent medical judgment and may not rely solely on recommendations from any other source." The new law will be codified at A.R.S. §§ 20-3103 and 20-3107.

With the removal of the express reference to AI, the final version of the law likely allows the use of AI during the claims review process. However, an AI program cannot make the final decision or be the sole basis for denying a claim.

The law mandates that a health insurer's medical director review claims and exercise independent medical judgment, which provides reassurance for those concerned about the use of AI. Whereas an AI program is not subject to oversight by the state medical licensing boards, licensed healthcare providers acting as medical directors for health insurance carriers are. Additionally, Arizona courts have confirmed that the Arizona Medical Board has jurisdiction to investigate complaints arising from decisions an

Arizona licensed physician makes as a medical director for a health insurance company. *Murphy v. Board of Medical Examiners of the State of Arizona*, 190 Ariz. 441 (App. 1997).

Arizona's new law stemmed from growing concern about the use of AI in the claims review process. In 2022, one national carrier allegedly used AI to deny more than 300,000 pre-approved claims in a two-month period. The average time spent on each claim was 1.2 seconds. Concerns about the use of AI have only grown in recent years.

Some states have moved toward regulating or banning AI in the claims review process. California recently passed a similar law that went into effect at the beginning of 2025. However, only eleven states have introduced similar bills. Arizona's legislation is among the first of its kind in the United States.

Robert C. Stultz | 602.257.7448 | rstultz@gustlaw.com
Bob focuses his practice on health care institutions and providers in medical malpractice, employment law, and other civil and commercial litigation matters.

Turquoise Alert System Signed Into Law

In May, Arizona tribal leaders and Governor Hobbs participated in a ceremonial signing of a new bill to implement the Turquoise Alert system. This bill establishes a state-wide alert system for missing and endangered persons using the Emergency Alert System authorized by the federal government.

Tribal organizations have supported the bill for recognizing the specific vulnerabilities faced by Indigenous communities and facilitating cooperation between tribal, state and local authorities. The technology will be used to alert the public during critical times.

The alert applies to individuals younger than 65, including members of federally recognized Indian tribes, who do not meet the Amber or Silver Alert criteria. This system aims to address some concerns for Indigenous communities regarding jurisdictional issues and resource limitations on tribal lands.

The Department of Public Safety (DPS) will oversee the alert system, which can only be issued at the request of law enforcement investigating a missing persons report. DPS will approve and issue the alert if the missing person is an endangered individual under the age of 65, whether Indigenous or non-Indigenous.

Arizona joins California, Washington, Colorado, and New Mexico in implementing such an alert system.



Governor Katie Hobbs signs HB2281 "Emily's Law" during a ceremonial bill signing on May 21, 2025. With the help of the Turquoise Alert system, it will allow law enforcement to respond quickly when an Indigenous person goes missing.

Photo credit: Cheryl Evans/The Arizona Republic

Claire DeChambre | 928.213.8758 | cdechambre@gustlaw.com
Claire focuses her practice on education law, employment matters and general representation of private and public entities.

HOV Lanes and Alt-Fuel Vehicles: End of Solo Usage

Arizona's HOV lanes (High-Occupancy Vehicles), meant to promote carpooling during rush hours (6-9 a.m. and 3-7 p.m.), also allowed solo drivers of alternative-fuel vehicles (AFVs) identified by blue AFV license plates. This exception for AFVs is set to expire in September 2025. Unless Congress intervenes, only vehicles with multiple occupants will be allowed in HOV lanes during rush hour, treating AFVs the same as gasoline cars.

Christopher M. McNichol | 602.257.7496 | mcnichol@gustlaw.com

Chris concentrates his practice on commercial and real estate transactions and related litigation in these areas.



NEW FACES

Meet Our Summer Associates

Gust Rosenfeld's Summer Associate program is a ten-week program that offers law students an opportunity to gain experience working under the supervision of experienced attorneys. This year, the firm welcomes two Summer Associates, Lydia Hans and Amanda Lombard.



Lydia Hans

Lydia attends the James E. Rogers College of Law at the University of Arizona in Tucson. While in law school, she has primarily worked in education and immigration law. Lydia has served as a member of the Immigration

Law Student Association's governing board and a University of Arizona Education Clinic advocate for students in special education and school disciplinary matters. Additionally, she spent a semester externing at the Governor's Office of General Counsel and is currently the Senior Online Editor for the Arizona Journal of Environmental Law & Policy.



Amanda Lombard

Amanda attends the Sandra Day O'Connor College of Law at Arizona State University. Amanda is an active Women's Law Student Association (WLSA) member has just completed her position as the WLSA Director of

Professional Development. She is also a member of the Arizona State Law Journal.

Amanda spent a summer externing at the Consumer Protection Section of the Arizona Attorney General's Office and most recently externing for Judge Cynthia Bailey at the Arizona Court of Appeals, Division One. Before law school, Amanda graduated *summa cum laude* from Barrett, The Honors College at Arizona State University.

Newest Attorney at Gust Rosenfeld



Kimberly Campbell

We are pleased to welcome Kimberly Campbell, a returning Gust Rosenfeld attorney. Kim joins the firm as a member and works with the public law group. She has 15 years of experience, including representing municipalities, school districts, community facilities districts and other special districts as bond counsel and issuer's counsel. She also provides legal advice on general municipal

law, including open meetings, budget, local taxes, contracts, and procurement law. She has counseled on numerous transactions involving general obligation bonds, assessment bonds, revenue bonds, lease financing, and bond and school district override elections.

Before rejoining Gust Rosenfeld in early 2025, Kim was a Senior Assistant City Attorney for the City of Scottsdale, AZ. She advised city departments on legal issues, including municipal finance, budget law, state and local taxes, constitutional law, contract law, and public records. She was the legal advisor for city-appointed boards, commissions and task forces.

ET·Y·MOL·O·GY COR·NER

Days of Summer

Children look forward to summer (Middle English "somer," from Old English "sumar"), as a time of freedom from school. Summer begins on the summer solstice (Latin "sol" for "sun" and "sistere" meaning "to stand still"), the longest day of the year (generally June 21). It is followed by dry, hot days known as "the dog days" (from Latin "dies caniculares" or "puppy days"), lasting from July 3 to August 11. This time coincides with the rising of the star Canis Majoris (Latin for "the greater dog"), known by the Greeks as Sirius ("Scorcher"). Summer then ends on the autumnal equinox (Latin meaning "equality of day and night") (September 21). By then, children are back in school, to the delight of parents. Happy Summer!

Richard B. Hood | 602.257.7470 | rbhood@gustlaw.com
Rick, our etymologist, practices in the areas of commercial law and litigation.

Awards & Celebrations

James T. Giel presented at the February Stifel, Nicolaus & Company school election seminar regarding the school bond and override election process. Jim also presented on the same topic at the Arizona Association of School Business Officials (AASBO) Cohort Seminar in April, sharing election process do's and don'ts with attendees.

In May, **Scott Malm** participated in a State Bar of Arizona advanced continuing legal education panel on the topic of real estate liens.

In April, the Arizona State Bar's Environmental and Natural Resources Law Section awarded **Barbara Pashkowski** the Michael J. Brophy Distinguished Service Award.

According to the State Bar, the award recipient is one who exemplifies the qualities and commitment of service to the profession that were valued and shown by Mike Brophy, a distinguished lawyer and family man. The Brophy Award is presented to a lawyer who approached personal and professional demands with honesty, integrity, courage, and compassion. The award was created to recognize a lawyer who thinks creatively about client issues and solutions. The award is presented to a lawyer who takes the long view and keeps in mind the community of which we are all a part.

United Way of Northern Arizona awarded special recognition to **Nathan Schott** for his commitment to the community during the Community Impact Luncheon and Annual Meeting in Flagstaff, where Nathan received the Helping Hands Award.

At the Native American Schools Insurance Programs (NASIP) Conference in April, **Claire DeChambre** and **John Austin Gaylord** presented on the Basics and Best Practices of School Board Governance. Also, Claire presented on workplace investigations at the Heinfeld Meech Grant School Conference in May.

At the Arizona City Attorneys Association (ACAA) Annual Conference held in Flagstaff, **Andrew McGuire** presented on middle housing and accessory dwelling units (ADUs) in "The Demise of Local Legislative Discretion."

In April 2025, **Carrie L. O'Brien** presented a three-part series on school finance issues to emerging Arizona Association of School Business Officials leaders. Carrie also presented on Advanced Issues in School Law for Human Resources Administrators to the Arizona School Personnel Administrators Association in February and June 2025.

Gust Rosenfeld received recognition in the 2025 edition of AZ Big Media's Ranking Arizona: The Best of Arizona Business in the category "Law Firms: 40 Attorneys or More."

In this year's edition of Ranking Arizona, **Gust Rosenfeld** was named one of the **100 Best Places to Work**. This firm earned this honor through votes from Gust Rosenfeld employees, clients, community members and competitors.

Chambers and Partners, a worldwide firm ranking the best law firms and lawyers, has again ranked **Charles (Chas) Wirken** for his achievement in his appellate practice for Gust Rosenfeld. Also, **James T. Giel** received first-time honors from the firm, noting Jim "has vast experience acting in public finance transactions and has noted expertise representing Arizona special districts." The rankings in the London-based Global 2025 guide by Chambers and Partners are based on the level of work, feedback from clients, and peers from other firms.

Craig Keller relocated to Gust Rosenfeld's Tucson office in May. His new phone number is **520.205.4742**, and the email address remains **ckeller@gustlaw.com**.

Craig will continue meeting with clients in the Phoenix and Wickenburg offices.



Nathan Schott, back row center, received a special recognition award from United Way of Northern Arizona (UWNA). With Nathan are, front row: Northern Arizona University President Dr. José Luis Cruz Rivera with spouse and NAU professor Rima Brusi. In the back row are UWNA Board Chair Armando Ruiz (l.) and UWNA executive director Liz Archuleta.

MUNICIPAL BONDS FROM FRONT PAGE

The implications of this potential policy shift are profound. If municipal bond interest becomes taxable, especially on a retroactive basis, it could destabilize the market, erode investor confidence, and increase borrowing costs for local governments. Investors might demand higher yields to compensate for the loss of tax benefits, making infrastructure financing more expensive and less accessible for smaller municipalities, school districts and special districts.

Retroactive taxation, while rare, is not without precedent. The U.S. Supreme Court has upheld retroactive tax laws in certain circumstances, provided they serve a legitimate legislative purpose and do not violate due process. However, applying such a change to municipal bond interest would likely invite legal challenges, particularly from bondholders who argue that retroactive taxation undermines settled expectations and constitutes an impermissible taking under the Fifth Amendment.

It is important to note that any change to the tax treatment of municipal bonds would likely face strong opposition from a broad coalition of stakeholders, including state and local governments, financial institutions and public finance advocates. Similar proposals have been floated in past budget negotiations but ultimately set aside due to political resistance and the vital role municipal bonds play in public infrastructure investment.

As budget negotiations unfold in Congress, preserving the tax-exempt status of municipal bonds, long considered a settled matter, may soon be at the heart of a high-stakes fiscal debate.

*James T. Giel | 602.257.7495 | jgiel@gustlaw.com
Jim has a broad range of experience in public finance.*

Gust Rosenfeld Attorneys Recognized by Super Lawyers® 2025

Gust Rosenfeld is pleased to announce that four of its attorneys have been selected for inclusion on the 2025 Southwest Super Lawyers list. Each year, no more than 5 percent of the lawyers in Arizona and New Mexico receive this honor.



Scott A. Malm



Séan P. O'Brien



Charles W. Wirken



Brittany J. Reed

- **Scott A. Malm**, Real Estate
- **Séan P. O'Brien**, Bankruptcy: Business
- **Charles W. Wirken**, Appellate

Also, **Brittany J. Reed**, Schools & Education, was named a Super Lawyers Southwest Rising Star.

**GUST
ROSENFELD**
OVER 100 YEARS OF SERVICE
Results. Relationships. Reputation.

PHOENIX OFFICE

One E. Washington St.
Suite 1600
Phoenix, AZ 85004
Telephone: 602.257.7422
Facsimile: 602.254.4878

TUCSON OFFICE

One S. Church Ave.
Suite 1900
Tucson, AZ 85701
Telephone: 520.628.7070
Facsimile: 520.624.3849

FLAGSTAFF OFFICE

125 E. Elm Avenue,
PO Box B
Flagstaff, AZ 86001
Telephone: 928.226.0000
Facsimile: 928.779.3621

WICKENBURG OFFICE

579 W. Wickenburg Way,
Suite 4
Wickenburg, AZ 85390
Telephone: 928.684.7833
Facsimile: 602.254.4878

This newsletter is published twice a year by the law firm of Gust Rosenfeld P.L.C. as a service to our clients and friends. It is intended to provide general information only, not advice on specific legal questions. Portions may be reproduced with attribution. For change of address, additional copies, or a complimentary subscription, contact our receptionist at the Phoenix office. We invite your comments. SUMMER 2025, ISSUE NO. 87 ©2025 Gust Rosenfeld P.L.C. www.gustlaw.com