

117TH CONGRESS  
2D SESSION

# H. R. 9668

To amend the Internal Revenue Code of 1986 to provide for school infrastructure finance and innovation tax credit bonds.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 21, 2022

Ms. SEWELL (for herself and Ms. PLASKETT) introduced the following bill;  
which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide for school infrastructure finance and innovation tax credit bonds.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “School Infrastructure  
5       Finance and Innovation Act” or the “SIFIA Act”.

6       **SEC. 2. SIFIA BONDS.**

7       (a) IN GENERAL.—Part IV of subchapter A of chap-  
8       ter 1 is amended by adding at the end the following new  
9       subpart:

1                   **“Subpart K—SIFIA Bonds**

“Sec. 54BB. SIFIA bonds.

2   **“SEC. 54BB. SIFIA BONDS.**

3           “(a) IN GENERAL.—If a taxpayer holds a SIFIA  
4 bond on one or more interest payment dates of the bond  
5 during any taxable year, there shall be allowed as a credit  
6 against the tax imposed by this chapter for the taxable  
7 year an amount equal to the sum of the credits determined  
8 under subsection (b) with respect to such dates.

9           “(b) AMOUNT OF CREDIT.—The amount of the credit  
10 determined under this subsection with respect to any in-  
11 terest payment date for a SIFIA bond is 100 percent of  
12 the amount of interest payable by the issuer with respect  
13 to such date.

14          “(c) LIMITATION BASED ON AMOUNT OF TAX.—

15               “(1) IN GENERAL.—The credit allowed under  
16 subsection (a) for any taxable year shall not exceed  
17 the excess of—

18                       “(A) the sum of the regular tax liability  
19                       (as defined in section 26(b)) plus the tax im-  
20                       posed by section 55, over

21                       “(B) the sum of the credits allowable  
22                       under this part (other than subpart C and this  
23                       subpart).

24               “(2) CARRYOVER OF UNUSED CREDIT.—If the  
25 credit allowable under subsection (a) exceeds the

1 limitation imposed by paragraph (1) for such taxable  
2 year, such excess shall be carried to the succeeding  
3 taxable year and added to the credit allowable under  
4 subsection (a) for such taxable year (determined be-  
5 fore the application of paragraph (1) for such suc-  
6 ceeding taxable year).

7 “(d) INTEREST PAYMENT DATE.—For purposes of  
8 this section, the term ‘interest payment date’ means any  
9 date on which the holder of record of the SIFIA bond is  
10 entitled to a payment of interest under such bond.

11 “(e) SIFIA BONDS.—

12 “(1) IN GENERAL.—For purposes of this sec-  
13 tion, the term ‘SIFIA bond’ means any bond issued  
14 as part of an issue if—

15 “(A) 100 percent of the available project  
16 proceeds of such issue are to be used for the de-  
17 sign, construction, expansion, renovation, fur-  
18 nishing, or equipping of qualified school facili-  
19 ties (as defined in paragraph (5) of this sub-  
20 section) pursuant to an agreement under which  
21 a private, for-profit entity agrees with a State  
22 or local educational agency—

23 “(i) to construct, expand, or renovate  
24 one or more buildings constituting the  
25 qualified school facilities (together with

1 any related design, furnishing, and equip-  
2 ping of such buildings),

3 “(ii) to operate the facilities at least  
4 until the date the facilities are first placed  
5 in service and operating substantially at  
6 their design level, and

7 “(iii) at or before the end of the  
8 agreement, to transfer the facilities to such  
9 agency for no additional consideration,

10 “(B) all buildings whose construction, ex-  
11 pansion, or renovations is included in the quali-  
12 fied school facilities being financed with pro-  
13 ceeds of a SIFIA bond are reasonably expected  
14 to be net-zero energy buildings as defined in  
15 section 410(20) of the Energy Independence  
16 and Security Act of 2007 (42 U.S.C.  
17 17061(20), treating school buildings as ‘com-  
18 mercial buildings’ for purposes of that section),

19 “(C) the interest on such bond would (but  
20 for this section and section 141) be excludable  
21 from gross income under section 103,

22 “(D) the issuer designates such bond as a  
23 SIFIA bond for purposes of this subsection,

24 “(E) the bond is not issued with more than  
25 a de minimis amount of premium (determined

1 under rules similar to the rules of section  
2 1273(a)(3)) over the stated principal amount of  
3 the bond,

4 “(F) the issue of which such bond is a part  
5 satisfies the expenditure period requirements of  
6 paragraph (2), and

7 “(G) the bond is issued before January 1,  
8 2027.

9 “(2) 6-YEAR EXPENDITURE PERIOD.—

10 “(A) IN GENERAL.—An issue shall be  
11 treated as meeting the requirements of this  
12 paragraph if, as of the date of issuance, the  
13 issuer reasonably expects 100 percent of the  
14 available project proceeds to be spent for pur-  
15 poses described in subparagraphs (1)(A) and  
16 (1)(B) within the 6-year period beginning on  
17 such date of issuance.

18 “(B) FAILURE TO SPEND REQUIRED  
19 AMOUNT OF BOND PROCEEDS WITHIN 6  
20 YEARS.—To the extent that less than 100 per-  
21 cent of the available project proceeds of the  
22 issue are expended at the close of the period de-  
23 scribed in subparagraph (A) with respect to  
24 such issue, the issuer shall redeem all of the  
25 nonqualified bonds within 90 days after the end

1 of such period. For purposes of this paragraph,  
2 the amount of the nonqualified bonds required  
3 to be redeemed shall be determined in the same  
4 manner as under section 141.

5 “(3) LIMITATION ON AMOUNT OF SIFIA BONDS  
6 DESIGNATED.—

7 “(A) OVERALL LIMITATION.—The max-  
8 imum aggregate face amount of SIFIA bonds  
9 issued under this subsection that may be des-  
10 ignated under subparagraph (2)(D) is  
11 \$200,000,000,000.

12 “(B) SET-ASIDE FOR RURAL AREAS.—Sub-  
13 ject to the provisions of this subparagraph,  
14 \$45,000,000,000 of the overall limitation de-  
15 scribed in subparagraph (A) shall be set aside  
16 for projects located in rural areas. As used in  
17 this section, the term ‘rural area’ means any  
18 area which is—

19 “(i) outside of a metropolitan statis-  
20 tical area (as such area is defined by the  
21 Secretary of Commerce), or

22 “(ii) determined by the Secretary of  
23 Agriculture, after consultation with the  
24 Secretary of Commerce, to be a rural area.

1           “(4) ALLOCATION OF LIMITATION.—The au-  
2           thority to issue SIFIA bonds within the limitations  
3           set forth in paragraph (3) shall be allocated by the  
4           Secretary to prospective issuers on a first come-first  
5           served basis, under rules to be prescribed by the  
6           Secretary, provided that—

7                   “(A) no issuer (together with any entities  
8                   that would be aggregated with such issuer  
9                   under section 265(b)(3)(E)) shall be allocated  
10                  the authority to issue more than  
11                  \$15,000,000,000 in aggregate face amount of  
12                  SIFIA bonds under this subsection,

13                  “(B) an issuer applying for an allocation  
14                  shall certify (based on the certifications of any  
15                  conduit borrower of bond proceeds where appli-  
16                  cable) that it reasonably expects to commence  
17                  the project to be financed with proceeds of the  
18                  bonds within 6 months of the issue date of the  
19                  bonds, and to expend all of the available project  
20                  proceeds within 6 years of the issue date of the  
21                  bonds,

22                  “(C) in making such allocations, the Sec-  
23                  retary shall give preference to the financing of  
24                  projects that are reasonably expected to be com-  
25                  menced and completed as early as possible,

1 based on definite, non-contingent plans and ar-  
2 rangements to proceed as expeditiously as pos-  
3 sible with the construction, expansion, or ren-  
4 ovation of the project facilities upon the receipt  
5 of financing, and

6 “(D) in making such allocations, the Sec-  
7 retary shall also give preference to the financing  
8 of projects for which either (i) at least 10 per-  
9 cent of the equity investment is provided by one  
10 or more preferred concerns, (ii) the general con-  
11 tractor is a preferred concern, or (iii) at least  
12 30 percent of the amounts paid to building  
13 trade subcontractors will be paid to subcontrac-  
14 tors that are preferred concerns.

15 “(5) QUALIFIED SCHOOL FACILITIES.—For  
16 purposes of this subsection, the term ‘qualified  
17 school facilities’ means one or more school buildings  
18 for a public elementary school or public secondary  
19 school (as such terms are defined in section 14101  
20 of the Elementary and Secondary Education Act of  
21 1965 (20 U.S.C. 8801)), or for administrative or  
22 support facilities relating to such school facilities, to-  
23 gether with related furnishings and equipment.

24 “(6) PREFERRED CONCERN.—For purposes of  
25 this subsection, the term ‘preferred concern’ means



1       either a small business concern, a minority owned  
2       concern, or a woman owned concern.

3           “(7) SMALL BUSINESS CONCERN.—For pur-  
4       poses of this subsection, the term ‘small business  
5       concern’ means an entity determined to be a small  
6       business concern under 15 U.S.C. 632(a).

7           “(8) MINORITY OWNED.—For purposes of this  
8       subsection, the term ‘minority owned’ with respect to  
9       an entity means an entity not less than 51 percent  
10      of which is owned by 1 or more individuals who are  
11      citizens of the United States and who are Asian  
12      American, Native Hawaiian, Pacific Islander, Afri-  
13      can American, Hispanic, Puerto Rican, Native  
14      American, or Alaska Native.

15          “(9) WOMAN OWNED.—For purposes of this  
16      subsection, the term ‘woman owned’ with respect to  
17      an entity means an entity not less than 51 percent  
18      of which is owned by 1 or more women.

19          “(f) OTHER APPLICABLE RULES.—

20           “(1) INTEREST INCLUDIBLE IN GROSS IN-  
21      COME.—For purposes of this title, interest on any  
22      SIFIA bond shall be includible in gross income.

23           “(2) CREDIT TREATED AS INTEREST.—For  
24      purposes of this subtitle, the credit determined

1 under subsection (a) shall be treated as interest  
2 which is includible in gross income.

3 “(3) S CORPORATIONS AND PARTNERSHIPS.—In  
4 the case of a tax credit bond held by an S corpora-  
5 tion or partnership, the allocation of credit allowed  
6 by this section to the shareholders of such corpora-  
7 tion or partners of such partnership shall be treated  
8 as a distribution.

9 “(4) BONDS HELD BY REAL ESTATE INVEST-  
10 MENT TRUSTS.—If any qualified tax credit bond is  
11 held by a real estate investment trust the credit de-  
12 termined under subsection (a) shall be allowed to  
13 beneficiaries of such trust (and any gross income in-  
14 cluded under paragraph (2) with respect to such  
15 credit shall be distributed to such beneficiaries)  
16 under procedures prescribed by the Secretary (simi-  
17 lar to the procedures prescribed by the Secretary  
18 under section 54A(h) (as in effect before its repeal  
19 by Public Law 115–97)).

20 “(5) CREDITS MAY BE STRIPPED.—Under regu-  
21 lations prescribed by the Secretary (similar to regu-  
22 lations prescribed under section 54A(i) (as in effect  
23 before its repeal by Public Law 115–97))—

24 “(A) IN GENERAL.—There may be a sepa-  
25 ration (including at issuance) of the ownership

1 of a qualified tax credit bond and the entitle-  
2 ment to the credit under this section with re-  
3 spect to such bond. In case of any such separa-  
4 tion, the credit under this section shall be al-  
5 lowed to the person who on the credit allowance  
6 date holds the instrument evidencing the enti-  
7 tlement to the credit and not to the holder of  
8 the bond.

9 “(B) CERTAIN RULES TO APPLY.—In the  
10 case of a separation described in subparagraph  
11 (A), the rules of section 1286 shall apply to the  
12 qualified tax credit bond as if it were a stripped  
13 bond and to the credit under this section as if  
14 it were a stripped coupon.

15 “(6) NOT TREATED AS FEDERALLY GUARAN-  
16 TEED.—For purposes of section 149(b), a SIFIA  
17 bond shall not be treated as federally guaranteed by  
18 reason of the credit allowed under subsection (g).

19 “(7) YIELD DETERMINATION.—For purposes of  
20 section 148, the yield on a SIFIA bond shall be de-  
21 termined without regard to the credit allowed under  
22 subsection (a).

23 “(8) MAXIMUM INTEREST RATE.—An issue  
24 shall be treated as meeting the requirements of this  
25 section if the rate of interest payable on any bond

1       which is part of such issue is no greater than the  
2       rate which the Secretary estimates will permit the  
3       issuance of each such bond with a specified maturity  
4       or redemption date without discount and without in-  
5       terest cost to the issuer. The applicable interest rate  
6       with respect to any such bond shall be determined  
7       as of the first day on which there is a binding, writ-  
8       ten contract for the sale or exchange of the bond.

9               “(9) MATURITY LIMITATION.—

10              “(A) IN GENERAL.—An issue shall be  
11              treated as meeting the requirements of this sec-  
12              tion if the maturity of any bond which is part  
13              of such issue does not exceed the maximum  
14              term determined by the Secretary under sub-  
15              paragraph (B).

16              “(B) MAXIMUM TERM.—During each cal-  
17              endar month, the Secretary shall determine the  
18              maximum term permitted under this paragraph  
19              for bonds issued during the following calendar  
20              month. Such maximum term shall be the term  
21              which the Secretary estimates will result in the  
22              present value of the obligation to repay the  
23              principal on the bond being equal to 20 percent  
24              of the face amount of such bond. Such present  
25              value shall be determined using as a discount

1           rate the average annual interest rate of tax-ex-  
2           empt obligations having a term of 10 years or  
3           more which are issued during the month. If the  
4           term as so determined is not a multiple of a  
5           whole year, such term shall be rounded to the  
6           next highest whole year.

7           “(10) DEPRECIATION.—If the school facilities  
8           financed with proceeds of SIFIA bonds are owned by  
9           a person otherwise entitled to allowance for deprecia-  
10          tion with respect to such facility, that person may  
11          make an irrevocable election (binding on any succes-  
12          sors in interest) not to claim depreciation with re-  
13          spect to the property financed with proceeds of the  
14          SIFIA bonds for so long as the issue of which such  
15          bonds are a part is outstanding. Such election shall  
16          be deemed to have been made if the person fails to  
17          claim depreciation with respect to the property in  
18          the first tax return filed by the person in which such  
19          depreciation could have been claimed. To the extent  
20          the person elects not to claim depreciation under  
21          this paragraph, the basis of the financed property  
22          shall not be reduced under section 1016 or otherwise  
23          for the depreciation that could have been claimed.  
24          “(g) DIRECT-PAY CREDIT PAYMENTS.—

1           “(1) ELECTION.—In lieu of the tax credits oth-  
2           erwise provided for under this section, the issuer of  
3           a SIFIA bond may elect to be allowed a credit with  
4           respect to each interest payment under such bond,  
5           which shall be payable by the Secretary in the  
6           amounts and at the times set forth in paragraph (2).

7           “(2) AMOUNT AND TIMING OF CREDIT PAY-  
8           MENTS.—The Secretary shall pay (contempora-  
9           neously with each interest payment date under such  
10          bond) to the issuer of such bond (or to any person  
11          who makes interest payments on behalf of the  
12          issuer) 100 percent of the interest payable under  
13          such bond on such date.

14          “(3) ELECTION.—The election under paragraph  
15          (1) shall be made in writing before the first interest  
16          payment date with respect to the bond in such form  
17          and manner as the Secretary shall prescribe. Such  
18          election, once made, shall be irrevocable.

19          “(4) OTHER APPLICABLE RULES.—In the case  
20          of a SIFIA bond with respect to which an election  
21          is made under this subsection, the following rules  
22          shall apply:

23                  “(A) Interest on any such bond shall be in-  
24                  cludible in gross income for purposes of this  
25                  title.

1           “(B) Any payments made under this sub-  
2           section shall not be includible as income for  
3           purposes of this title.

4           “(C) The deduction otherwise allowable  
5           under this title with respect to interest paid  
6           under such bond shall be reduced by the  
7           amount of the payment made under this sub-  
8           section with respect to that interest.

9           “(D) For purposes of section 148, the  
10          yield on a SIFIA bond for which credit pay-  
11          ments have been elected under this subsection  
12          shall be reduced by the amount of such credit  
13          payments.”.

14          (b) CLERICAL AMENDMENTS.—The table of subparts  
15          for part IV of subchapter A of chapter 1 is amended by  
16          adding at the end the following:

“SUBPART K—SIFIA BONDS”.

17          (c) DIRECT PURCHASES OF SIFIA BONDS.—The  
18          Secretary shall purchase SIFIA bonds that the issuer is  
19          otherwise unable to sell, subject to procedures and credit  
20          standards to be established by the Secretary, which stand-  
21          ards and procedures shall be similar to those applicable  
22          to loans made under lines of credit under section 1503  
23          of the Transportation Infrastructure Finance and Innova-  
24          tion Act of 1998 (23 U.S.C. 184).

1       (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to obligations issued after Decem-  
3 ber 31, 2021.

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