

118TH CONGRESS
2D SESSION

H. R. 9698

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

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 19, 2024

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

A BILL

To amend the Internal Revenue Code of 1986 to provide
for school infrastructure finance and innovation tax cred-
it 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 credit allowance 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.—

10 “(1) IN GENERAL.—The amount of the credit
11 determined under this subsection with respect to any
12 credit allowance date for a SIFIA bond is 25 percent
13 of the annual credit determined for such bond.

14 “(2) ANNUAL CREDIT.—For purposes of this
15 subsection, the term ‘annual credit’ means an
16 amount equal to the product of—

17 “(A) the applicable credit rate, multiplied
18 by

19 “(B) the face amount of the bond.

20 “(3) APPLICABLE CREDIT RATE.—For purposes
21 of paragraph (2), the term ‘applicable credit rate’
22 means the rate which the Secretary estimates will
23 permit the issuance of each such bond with a speci-
24 fied maturity or redemption date without discount
25 and without interest cost to the issuer. The applica-

1 ble credit rate with respect to any such bond shall
2 be determined as of the first day on which there is
3 a binding, written contract for the sale or exchange
4 of the bond.

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

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

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

12 “(B) the sum of the credits allowable
13 under this part (other than subpart C and this
14 subpart).

15 “(2) CARRYOVER OF UNUSED CREDIT.—If the
16 credit allowable under subsection (a) exceeds the
17 limitation imposed by paragraph (1) for such taxable
18 year, such excess shall be carried to the succeeding
19 taxable year and added to the credit allowable under
20 subsection (a) for such taxable year (determined be-
21 fore the application of paragraph (1) for such suc-
22 ceeding taxable year).

23 “(d) CREDIT ALLOWANCE DATE.—For purposes of
24 this section, the term ‘credit allowance date’ means, with

1 respect to a bond during the taxable year, any of the fol-
2 lowing dates:

3 “(1) March 15.

4 “(2) June 15.

5 “(3) September 15.

6 “(4) December 15.

7 Such term includes the last day on which the bond is out-
8 standing.

9 “(e) SIFIA BONDS.—

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

13 “(A) 100 percent of the available project
14 proceeds of such issue are to be used for the de-
15 sign, construction, expansion, renovation, fur-
16 nishing, or equipping of qualified school facili-
17 ties (as defined in paragraph (7)(A) of this sub-
18 section) pursuant to an agreement under which
19 a private, for-profit entity agrees with a State
20 or local educational agency—

21 “(i) to construct, expand, or renovate
22 one or more buildings constituting the
23 qualified school facilities (together with
24 any related design, furnishing, and equip-
25 ping of such buildings),

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

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

8 “(B) all buildings whose construction, ex-
9 pansion, or renovations is included in the quali-
10 fied school facilities being financed with pro-
11 ceeds of a SIFIA bond are reasonably expected
12 to be net-zero energy buildings,

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

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

18 “(E) the bond is not issued with more than
19 a de minimis amount of premium (determined
20 under rules similar to the rules of section
21 1273(a)(3)) over the stated principal amount of
22 the bond,

23 “(F) the issue of which such bond is a part
24 satisfies the expenditure period requirements of
25 paragraph (2),

“(G) the private, for-profit entity described in subparagraph (A) meets the allocation requirements of paragraph (5) and the reporting requirements of paragraph (6), and

“(H) the bond is issued before January 1, 2030.

“(2) 6-YEAR EXPENDITURE PERIOD.—

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

“(B) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 6 YEARS.—To the extent that less than 100 percent of the available project proceeds of the issue are expended at the close of the period described in subparagraph (A) with respect to such issue, the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required

1 to be redeemed shall be determined in the same
2 manner as under section 141.

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

5 “(A) OVERALL LIMITATION.—The max-
6 imum aggregate face amount of SIFIA bonds
7 issued under this subsection that may be des-
8 ignated under subparagraph (1)(D) is
9 \$10,000,000,000.

10 “(B) ANNUAL LIMITATION.—The max-
11 imum aggregate face amount of SIFIA bonds
12 issued under this subsection that may be des-
13 ignated under subparagraph (1)(D) in any cal-
14 endar year is \$2,500,000,000.

15 “(C) SET-ASIDE FOR RURAL AREAS.—

16 “(i) \$1,000,000,000 of the overall lim-
17 itation described in subparagraph (A) shall
18 be set aside for projects located in rural
19 areas.

20 “(ii) For purposes of this section, the
21 term ‘rural area’ means any area which
22 is—

23 “(I) outside of a metropolitan
24 statistical area (as such area is de-

1 fined by the Secretary of Commerce)
2 or
3 “(II) determined by the Sec-
4 retary of Agriculture, after consulta-
5 tion with the Secretary of Commerce,
6 to be a rural area.

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

13 “(A) no school district shall be allocated
14 more than \$1,500,000,000 in aggregate face
15 amount of SIFIA bonds under this subsection,

16 “(B) no more than \$500,000,000 in aggre-
17 gate face amount of SIFIA bonds shall be allo-
18 cated under this subsection for the construc-
19 tion, expansion, renovation, furnishing, or
20 equipping of qualified school facilities that are
21 operated by a nonprofit organization under a
22 charter or other agreement between the applica-
23 ble school district and such nonprofit organiza-
24 tion,

1 “(C) an issuer applying for an allocation
2 shall certify (based on the certifications of any
3 conduit borrower of bond proceeds where appli-
4 cable) that it reasonably expects to commence
5 the project to be financed with proceeds of the
6 bonds within 6 months of the issue date of the
7 bonds, and to expend all of the available project
8 proceeds within 6 years of the issue date of the
9 bonds, and

10 “(D) in making such allocations, the Sec-
11 retary shall give preference to the financing of
12 projects for which the private for-profit devel-
13 oper is a preferred concern.

14 “(5) REQUIREMENTS RELATING TO PRIVATE,
15 FOR-PROFIT ENTITIES.—A private, for-profit entity
16 meets the requirements of this paragraph if such en-
17 tity—

18 “(A) has experience developing, owning,
19 and operating public schools leased to public
20 school districts that are net-zero buildings, and

21 “(B) demonstrates to the Secretary (in
22 such manner as the Secretary may provide)
23 that such entity has experience leasing public
24 school buildings to a local education agency, in-

1 including at least two projects with respect to
2 which—

3 “(i) such entity (or a related person)
4 developed, owned, and was responsible
5 for—

6 “(I) maintenance of—

7 “(aa) the heating, ventila-
8 tion, and air conditioning system,
9 or

10 “(bb) the solar photovoltaic
11 system, and

12 “(ii) the electrical service was in the
13 name of such entity for a minimum of four
14 years.

15 “(6) REPORTING REQUIREMENTS.—A private
16 entity meets the requirements of this paragraph if
17 such entity, in cooperation with the applicable school
18 district, periodically submits such reports as the Sec-
19 retary shall prescribe relating to the costs and bene-
20 fits of the financing, including—

21 “(A) tax benefits to the Federal Govern-
22 ment and cost savings to the school district,
23 and

1 “(B) information related to any improve-
2 ments in student performance or teacher reten-
3 tion.

4 “(7) DEFINITIONS.—For purposes of this sub-
5 section—

6 “(A) QUALIFIED SCHOOL FACILITIES.—
7 The term ‘qualified school facilities’ means one
8 or more school buildings for a public elementary
9 school or public secondary school or for admin-
10 istrative or support facilities relating to such
11 school facilities, together with related fur-
12 nishings and equipment.

13 “(B) SCHOOL DISTRICT.—The term ‘school
14 district’ means a public board of education or
15 other public authority legally constituted within
16 a State for administrative control or direction
17 of public elementary or secondary schools in the
18 State or political subdivision of a State.

19 “(C) PREFERRED CONCERN.—The term
20 ‘preferred concern’ means either a small busi-
21 ness concern, a minority owned concern, or a
22 woman owned concern.

23 “(D) SMALL BUSINESS CONCERN.—

24 “(i) IN GENERAL.—Subject to the
25 provisions of clause (ii), the term ‘small

1 business concern’ means an entity which,
2 together with any related person, has fewer
3 than 500 employees.

4 “(ii) SMALL BUSINESS SIZE STAND-
5 ARDS.—For purposes of clause (i), the de-
6 termination of number of employees shall
7 be made in a manner consistent with—

8 “(I) section 3 of the Small Busi-
9 ness Act (15 U.S.C. 632), and

10 “(II) part 121 of title 13, Code
11 of Federal Regulations.

12 “(E) MINORITY OWNED.—The term ‘mi-
13 nority owned’ with respect to an entity means
14 an entity not less than 51 percent of which is
15 owned by 1 or more individuals who are citizens
16 of the United States and who are Asian Amer-
17 ican, Native Hawaiian, Pacific Islander, African
18 American, Hispanic, Puerto Rican, Native
19 American, or Alaska Native.

20 “(F) WOMAN OWNED.—The term ‘woman
21 owned’ with respect to an entity means an enti-
22 ty not less than 51 percent of which is owned
23 by 1 or more women.

24 “(G) NONPROFIT ORGANIZATION.—The
25 term ‘nonprofit organization’ means an organi-

1 zation described in section 501(c) and exempt
2 from tax under section 501(a).

3 “(H) NET-ZERO ENERGY BUILDING.—The
4 term ‘net-zero building’ has the meaning given
5 such term under section 410(20) of the Energy
6 Independence and Security Act of 2007 (42
7 U.S.C. 17061(20)), applied by substituting
8 ‘school building’ for ‘commercial building’.

9 “(I) RELATED PERSON.—The term ‘re-
10 lated person’ has the meaning given such term
11 in section 144(a)(3).

12 “(f) OTHER APPLICABLE RULES.—

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

16 “(2) CREDIT TREATED AS INTEREST.—For
17 purposes of this subtitle, the credit determined
18 under subsection (a) shall be treated as interest
19 which is includible in gross income.

20 “(3) S CORPORATIONS AND PARTNERSHIPS.—In
21 the case of a tax credit bond held by an S corpora-
22 tion or partnership, the allocation of credit allowed
23 by this section to the shareholders of such corpora-
24 tion or partners of such partnership shall be treated
25 as a distribution.

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

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

16 “(A) IN GENERAL.—There may be a sepa-
17 ration (including at issuance) of the ownership
18 of a qualified tax credit bond and the entitle-
19 ment to the credit under this section with re-
20 spect to such bond. In case of any such separa-
21 tion, the credit under this section shall be al-
22 lowed to the person who on the credit allowance
23 date holds the instrument evidencing the enti-
24 tlement to the credit and not to the holder of
25 the bond.

1 “(B) CERTAIN RULES TO APPLY.—In the
2 case of a separation described in subparagraph
3 (A), the rules of section 1286 shall apply to the
4 qualified tax credit bond as if it were a stripped
5 bond and to the credit under this section as if
6 it were a stripped coupon.

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

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

15 “(8) MATURITY LIMITATION.—

16 “(A) IN GENERAL.—An issue shall be
17 treated as meeting the requirements of this sec-
18 tion if the maturity of any bond which is part
19 of such issue does not exceed the maximum
20 term determined by the Secretary under sub-
21 paragraph (B).

22 “(B) MAXIMUM TERM.—During each cal-
23 endar month, the Secretary shall determine the
24 maximum term permitted under this paragraph
25 for bonds issued during the following calendar

1 month. Such maximum term shall be the term
2 which the Secretary estimates will result in the
3 present value of the obligation to repay the
4 principal on the bond being equal to 20 percent
5 of the face amount of such bond. Such present
6 value shall be determined using as a discount
7 rate the average annual interest rate of tax-ex-
8 empt obligations having a term of 10 years or
9 more which are issued during the month. If the
10 term as so determined is not a multiple of a
11 whole year, such term shall be rounded to the
12 next highest whole year.

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

1 the person elects not to claim depreciation under
 2 this paragraph, the basis of the financed property
 3 shall not be reduced under section 1016 or otherwise
 4 for the depreciation that could have been claimed.”.

5 (b) TREATMENT OF INTEREST AS UNRELATED BUSI-
 6 NESS TAXABLE INCOME.—Section 512(b)(1) of such Code
 7 is amended by inserting “(other than interest of SIFIA
 8 bonds issued under section 54BB)” after “interest”.

9 (c) CLERICAL AMENDMENTS.—The table of subparts
 10 for part IV of subchapter A of chapter 1 is amended by
 11 adding at the end the following:

“SUBPART K—SIFIA BONDS”.

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

20 (e) EFFECTIVE DATE.—The amendments made by
 21 this section shall apply to obligations issued after Decem-
 22 ber 31, 2024.

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