

105TH CONGRESS
2D SESSION

S. 1705

To amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools.

IN THE SENATE OF THE UNITED STATES

MARCH 4, 1998

Ms. MOSELEY-BRAUN (for herself, Mr. MOYNIHAN, Mrs. MURRAY, Mr. KENNEDY, Mr. GRAHAM, Mr. DASCHLE, Mr. REID, Mr. GLENN, Mr. LAUTENBERG, Mr. LEVIN, Mr. KERRY, and Mr. REED) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools.

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 “Public School Mod-
5 ernization Act of 1998”.

6 **SEC. 2. EXPANSION OF INCENTIVES FOR PUBLIC SCHOOLS.**

7 (a) IN GENERAL.—Part IV of subchapter U of chap-
8 ter 1 of the Internal Revenue Code of 1986 (relating to

1 incentives for education zones) is amended to read as fol-
 2 lows:

3 **“PART IV—INCENTIVES FOR QUALIFIED PUBLIC**
 4 **SCHOOL MODERNIZATION BONDS**

“Sec. 1397E. Credit to holders of qualified public school mod-
 ernization bonds.

“Sec. 1397F. Qualified zone academy bonds.

“Sec. 1397G. Qualified school construction bonds.

5 **“SEC. 1397E. CREDIT TO HOLDERS OF QUALIFIED PUBLIC**
 6 **SCHOOL MODERNIZATION BONDS.**

7 “(a) ALLOWANCE OF CREDIT.—In the case of a tax-
 8 payer who holds a qualified public school modernization
 9 bond on the credit allowance date of such bond which oc-
 10 curs during the taxable year, there shall be allowed as a
 11 credit against the tax imposed by this chapter for such
 12 taxable year the amount determined under subsection (b).

13 “(b) AMOUNT OF CREDIT.—

14 “(1) IN GENERAL.—The amount of the credit
 15 determined under this subsection with respect to any
 16 qualified public school modernization bond is the
 17 amount equal to the product of—

18 “(A) the credit rate determined by the Sec-
 19 retary under paragraph (2) for the month in
 20 which such bond was issued, multiplied by

21 “(B) the face amount of the bond held by
 22 the taxpayer on the credit allowance date.

1 “(2) DETERMINATION.—During each calendar
2 month, the Secretary shall determine a credit rate
3 which shall apply to bonds issued during the follow-
4 ing calendar month. The credit rate for any month
5 is the percentage which the Secretary estimates will
6 on average permit the issuance of qualified public
7 school modernization bonds without discount and
8 without interest cost to the issuer.

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

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

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

16 “(B) the sum of the credits allowable
17 under part IV of subchapter A (other than sub-
18 part C thereof, relating to refundable credits).

19 “(2) CARRYOVER OF UNUSED CREDIT.—If the
20 credit allowable under subsection (a) exceeds the
21 limitation imposed by paragraph (1) for such taxable
22 year, such excess shall be carried to the succeeding
23 taxable year and added to the credit allowable under
24 subsection (a) for such taxable year.

1 “(d) QUALIFIED PUBLIC SCHOOL MODERNIZATION
2 BOND; CREDIT ALLOWANCE DATE.—For purposes of this
3 section—

4 “(1) QUALIFIED PUBLIC SCHOOL MODERNIZA-
5 TION BOND.—The term ‘qualified public school mod-
6 ernization bond’ means—

7 “(A) a qualified zone academy bond, and

8 “(B) a qualified school construction bond.

9 “(2) CREDIT ALLOWANCE DATE.—The term
10 ‘credit allowance date’ means, with respect to any
11 issue, the last day of the 1-year period beginning on
12 the date of issuance of such issue and the last day
13 of each successive 1-year period thereafter.

14 “(e) OTHER DEFINITIONS.—For purposes of this
15 part—

16 “(1) LOCAL EDUCATIONAL AGENCY.—The term
17 ‘local educational agency’ has the meaning given to
18 such term by section 14101 of the Elementary and
19 Secondary Education Act of 1965. Such term in-
20 cludes the local educational agency that serves the
21 District of Columbia but does not include any other
22 State agency.

23 “(2) BOND.—The term ‘bond’ includes any ob-
24 ligation.

1 “(3) STATE.—The term ‘State’ includes the
2 District of Columbia and any possession of the
3 United States.

4 “(4) PUBLIC SCHOOL FACILITY.—The term
5 ‘public school facility’ shall not include any stadium
6 or other facility primarily used for athletic contests
7 or exhibitions or other events for which admission is
8 charged to the general public.

9 “(f) CREDIT INCLUDED IN GROSS INCOME.—Gross
10 income includes the amount of the credit allowed to the
11 taxpayer under this section and the amount so included
12 shall be treated as interest income.

13 “(g) BONDS HELD BY REGULATED INVESTMENT
14 COMPANIES.—If any qualified public school modernization
15 bond is held by a regulated investment company, the credit
16 determined under subsection (a) shall be allowed to share-
17 holders of such company under procedures prescribed by
18 the Secretary.

19 **“SEC. 1397F. QUALIFIED ZONE ACADEMY BONDS.**

20 “(a) QUALIFIED ZONE ACADEMY BOND.—For pur-
21 poses of this part—

22 “(1) IN GENERAL.—The term ‘qualified zone
23 academy bond’ means any bond issued as part of an
24 issue if—

1 “(A) 95 percent or more of the proceeds of
2 such issue are to be used for a qualified pur-
3 pose with respect to a qualified zone academy
4 established by a local educational agency,

5 “(B) the bond is issued by a State or local
6 government within the jurisdiction of which
7 such academy is located,

8 “(C) the issuer—

9 “(i) designates such bond for purposes
10 of this section,

11 “(ii) certifies that it has written as-
12 surances that the private business con-
13 tribution requirement of paragraph (2) will
14 be met with respect to such academy, and

15 “(iii) certifies that it has the written
16 approval of the local educational agency
17 for such bond issuance, and

18 “(D) the term of each bond which is part
19 of such issue does not exceed 15 years.

20 “(2) PRIVATE BUSINESS CONTRIBUTION RE-
21 QUIREMENT.—

22 “(A) IN GENERAL.—For purposes of para-
23 graph (1), the private business contribution re-
24 quirement of this paragraph is met with respect
25 to any issue if the local educational agency that

1 established the qualified zone academy has writ-
2 ten commitments from private entities to make
3 qualified contributions having a present value
4 (as of the date of issuance of the issue) of not
5 less than 10 percent of the proceeds of the
6 issue.

7 “(B) QUALIFIED CONTRIBUTIONS.—For
8 purposes of subparagraph (A), the term ‘quali-
9 fied contribution’ means any contribution (of a
10 type and quality acceptable to the local edu-
11 cational agency) of—

12 “(i) equipment for use in the qualified
13 zone academy (including state-of-the-art
14 technology and vocational equipment),

15 “(ii) technical assistance in developing
16 curriculum or in training teachers in order
17 to promote appropriate market driven tech-
18 nology in the classroom,

19 “(iii) services of employees as volun-
20 teer mentors,

21 “(iv) internships, field trips, or other
22 educational opportunities outside the acad-
23 emy for students, or

24 “(v) any other property or service
25 specified by the local educational agency.

1 “(3) QUALIFIED ZONE ACADEMY.—The term
2 ‘qualified zone academy’ means any public school (or
3 academic program within a public school) which is
4 established by and operated under the supervision of
5 a local educational agency to provide education or
6 training below the postsecondary level if—

7 “(A) such public school or program (as the
8 case may be) is designed in cooperation with
9 business to enhance the academic curriculum,
10 increase graduation and employment rates, and
11 better prepare students for the rigors of college
12 and the increasingly complex workforce,

13 “(B) students in such public school or pro-
14 gram (as the case may be) will be subject to the
15 same academic standards and assessments as
16 other students educated by the local educational
17 agency,

18 “(C) the comprehensive education plan of
19 such public school or program is approved by
20 the local educational agency, and

21 “(D)(i) such public school is located in an
22 empowerment zone or enterprise community
23 (including any such zone or community des-
24 ignated after the date of the enactment of this
25 section), or

1 “(ii) there is a reasonable expectation (as
2 of the date of issuance of the bonds) that at
3 least 35 percent of the students attending such
4 school or participating in such program (as the
5 case may be) will be eligible for free or reduced-
6 cost lunches under the school lunch program es-
7 tablished under the National School Lunch Act.

8 “(4) QUALIFIED PURPOSE.—The term ‘quali-
9 fied purpose’ means, with respect to any qualified
10 zone academy—

11 “(A) constructing, rehabilitating, or repair-
12 ing the public school facility in which the acad-
13 emy is established,

14 “(B) providing equipment for use at such
15 academy,

16 “(C) developing course materials for edu-
17 cation to be provided at such academy, and

18 “(D) training teachers and other school
19 personnel in such academy.

20 “(5) TEMPORARY PERIOD EXCEPTION.—A bond
21 shall not be treated as failing to meet the require-
22 ment of paragraph (1)(A) solely by reason of the
23 fact that the proceeds of the issue of which such
24 bond is a part are invested for a reasonable tem-
25 porary period (but not more than 36 months) until

1 such proceeds are needed for the purpose for which
2 such issue was issued. Any earnings on such pro-
3 ceeds during such period shall be treated as proceeds
4 of the issue for purposes of applying paragraph
5 (1)(A).

6 “(b) LIMITATIONS ON AMOUNT OF BONDS DES-
7 IGNATED.—

8 “(1) IN GENERAL.—There is a national zone
9 academy bond limitation for each calendar year.
10 Such limitation is—

11 “(A) \$400,000,000 for 1998,

12 “(B) \$1,400,000,000 for 1999,

13 “(C) \$1,400,000,000 for 2000, and

14 “(D) except as provided in paragraph (3),
15 zero after 2000.

16 “(2) ALLOCATION OF LIMITATION.—

17 “(A) ALLOCATION AMONG STATES.—

18 “(i) 1998 LIMITATION.—The national
19 zone academy bond limitation for calendar
20 year 1998 shall be allocated by the Sec-
21 retary among the States on the basis of
22 their respective populations of individuals
23 below the poverty line (as defined by the
24 Office of Management and Budget).

1 “(ii) LIMITATION AFTER 1998.—The
2 national zone academy bond limitation for
3 any calendar year after 1998 shall be allo-
4 cated by the Secretary among the States in
5 the manner prescribed by section
6 1397G(d); except that, in making the allo-
7 cation under this clause, the Secretary
8 shall take into account Basic Grants at-
9 tributable to large local educational agen-
10 cies (as defined in section 1397G(e)).

11 “(B) ALLOCATION TO LOCAL EDU-
12 CATIONAL AGENCIES.—The limitation amount
13 allocated to a State under subparagraph (A)
14 shall be allocated by the State education agency
15 to qualified zone academies within such State.

16 “(C) DESIGNATION SUBJECT TO LIMITA-
17 TION AMOUNT.—The maximum aggregate face
18 amount of bonds issued during any calendar
19 year which may be designated under subsection
20 (a) with respect to any qualified zone academy
21 shall not exceed the limitation amount allocated
22 to such academy under subparagraph (B) for
23 such calendar year.

24 “(3) CARRYOVER OF UNUSED LIMITATION.—If
25 for any calendar year—

1 “(A) the limitation amount under this sub-
2 section for any State, exceeds

3 “(B) the amount of bonds issued during
4 such year which are designated under sub-
5 section (a) with respect to qualified zone acad-
6 emies within such State,

7 the limitation amount under this subsection for such
8 State for the following calendar year shall be in-
9 creased by the amount of such excess. The preceding
10 sentence shall not apply if such following calendar
11 year is after 2002.

12 **“SEC. 1397G. QUALIFIED SCHOOL CONSTRUCTION BONDS.**

13 “(a) **QUALIFIED SCHOOL CONSTRUCTION BOND.—**
14 For purposes of this part, the term ‘qualified school con-
15 struction bond’ means any bond issued as part of an issue
16 if—

17 “(1) 95 percent or more of the proceeds of such
18 issue are to be used for the construction, rehabilita-
19 tion, or repair of a public school facility,

20 “(2) the bond is issued by a State or local gov-
21 ernment within the jurisdiction of which such school
22 is located,

23 “(3) the issuer designates such bond for pur-
24 poses of this section, and

1 “(4) the term of each bond which is part of
2 such issue does not exceed 15 years.

3 Rules similar to the rules of section 1397F(a)(5) shall
4 apply for purposes of paragraph (1).

5 “(b) LIMITATION ON AMOUNT OF BONDS DES-
6 IGNATED.—The maximum aggregate face amount of
7 bonds issued during any calendar year which may be des-
8 ignated under subsection (a) by any issuer shall not exceed
9 the sum of—

10 “(1) the limitation amount allocated under sub-
11 section (d) for such calendar year to such issuer,
12 and

13 “(2) if such issuer is a large local educational
14 agency (as defined in subsection (e)) or is issuing on
15 behalf of such an agency, the limitation amount allo-
16 cated under subsection (e) for such calendar year to
17 such agency.

18 “(c) NATIONAL LIMITATION ON AMOUNT OF BONDS
19 DESIGNATED.—There is a national qualified school con-
20 struction bond limitation for each calendar year. Such lim-
21 itation is—

22 “(1) \$9,700,000,000 for 1999,

23 “(2) \$9,700,000,000 for 2000, and

24 “(3) except as provided in subsection (f), zero
25 after 2000.

1 “(d) HALF OF LIMITATION ALLOCATED AMONG
2 STATES.—

3 “(1) IN GENERAL.—One-half of the limitation
4 applicable under subsection (c) for any calendar year
5 shall be allocated among the States under paragraph
6 (2) by the Secretary. The limitation amount allo-
7 cated to a State under the preceding sentence shall
8 be allocated by the State education agency to issuers
9 within such State and such allocations may be made
10 only if there is an approved State application.

11 “(2) ALLOCATION FORMULA.—The amount to
12 be allocated under paragraph (1) for any calendar
13 year shall be allocated among the States in propor-
14 tion to the respective amounts each such State re-
15 ceived for Basic Grants under subpart 2 of part A
16 of title I of the Elementary and Secondary Edu-
17 cation Act of 1965 (20 U.S.C. 6331 et seq.) for the
18 most recent fiscal year ending before such calendar
19 year. For purposes of the preceding sentence, Basic
20 Grants attributable to large local educational agen-
21 cies (as defined in subsection (e)) shall be dis-
22 regarded.

23 “(3) MINIMUM ALLOCATIONS TO STATES.—

24 “(A) IN GENERAL.—The Secretary shall
25 adjust the allocations under this subsection for

1 any calendar year for each State to the extent
2 necessary to ensure that the sum of—

3 “(i) the amount allocated to such
4 State under this subsection for such year,
5 and

6 “(ii) the aggregate amounts allocated
7 under subsection (e) to large local edu-
8 cational agencies in such State for such
9 year,

10 is not less than an amount equal to such
11 State’s minimum percentage of one-half of the
12 national qualified school construction bond limi-
13 tation under subsection (c) for the calendar
14 year.

15 “(B) MINIMUM PERCENTAGE.—A State’s
16 minimum percentage for any calendar year is
17 the minimum percentage described in section
18 1124(d) of the Elementary and Secondary Edu-
19 cation Act of 1965 (20 U.S.C. 6334(d)) for
20 such State for the most recent fiscal year end-
21 ing before such calendar year.

22 “(4) ALLOCATIONS TO CERTAIN POSSES-
23 SIONS.—The amount to be allocated under para-
24 graph (1) to any possession of the United States
25 other than Puerto Rico shall be the amount which

1 would have been allocated if all allocations under
2 paragraph (1) were made on the basis of respective
3 populations of individuals below the poverty line (as
4 defined by the Office of Management and Budget).
5 In making other allocations, the amount to be allo-
6 cated under paragraph (1) shall be reduced by the
7 aggregate amount allocated under this paragraph to
8 possessions of the United States.

9 “(5) APPROVED STATE APPLICATION.—For
10 purposes of paragraph (1), the term ‘approved State
11 application’ means an application which is approved
12 by the Secretary of Education and which includes—

13 “(A) the results of a recent publicly-avail-
14 able survey (undertaken by the State with the
15 involvement of local education officials, mem-
16 bers of the public, and experts in school con-
17 struction and management) of such State’s
18 needs for public school facilities, including de-
19 scriptions of—

20 “(i) health and safety problems at
21 such facilities,

22 “(ii) the capacity of public schools in
23 the State to house projected enrollments,
24 and

1 “(iii) the extent to which the public
2 schools in the State offer the physical in-
3 frastructure needed to provide a high-qual-
4 ity education to all students, and

5 “(B) a description of how the State will al-
6 locate to local educational agencies, or other-
7 wise use, its allocation under this subsection to
8 address the needs identified under subpara-
9 graph (A), including a description of how it
10 will—

11 “(i) give highest priority to localities
12 with the greatest needs, as demonstrated
13 by inadequate school facilities coupled with
14 a low level of resources to meet those
15 needs,

16 “(ii) use its allocation under this sub-
17 section to assist localities that lack the fis-
18 cal capacity to issue bonds on their own,
19 and

20 “(iii) ensure that its allocation under
21 this subsection is used only to supplement,
22 and not supplant, the amount of school
23 construction, rehabilitation, and repair in
24 the State that would have occurred in the
25 absence of such allocation.

1 Any allocation under paragraph (1) by a State edu-
2 cation agency shall be binding if such agency reason-
3 ably determined that the allocation was in accord-
4 ance with the plan approved under this paragraph.

5 “(e) HALF OF LIMITATION ALLOCATED AMONG
6 LARGEST SCHOOL DISTRICTS.—

7 “(1) IN GENERAL.—One-half of the limitation
8 applicable under subsection (c) for any calendar year
9 shall be allocated under paragraph (2) by the Sec-
10 retary among local educational agencies which are
11 large local educational agencies for such year. No
12 qualified school construction bond may be issued by
13 reason of an allocation to a large local educational
14 agency under the preceding sentence unless such
15 agency has an approved local application.

16 “(2) ALLOCATION FORMULA.—The amount to
17 be allocated under paragraph (1) for any calendar
18 year shall be allocated among large local educational
19 agencies in proportion to the respective amounts
20 each such agency received for Basic Grants under
21 subpart 2 of part A of title I of the Elementary and
22 Secondary Education Act of 1965 (20 U.S.C. 6331
23 et seq.) for the most recent fiscal year ending before
24 such calendar year.

1 “(3) LARGE LOCAL EDUCATIONAL AGENCY.—

2 For purposes of this section, the term ‘large local
3 educational agency’ means, with respect to a cal-
4 endar year, any local educational agency if such
5 agency is—

6 “(A) among the 100 local educational
7 agencies with the largest numbers of children
8 aged 5 through 17 from families living below
9 the poverty level, as determined by the Sec-
10 retary using the most recent data available
11 from the Department of Commerce that are
12 satisfactory to the Secretary, or

13 “(B) 1 of not more than 25 local edu-
14 cational agencies (other than those described in
15 clause (i)) that the Secretary of Education de-
16 termines (based on the most recent data avail-
17 able satisfactory to the Secretary) are in par-
18 ticular need of assistance, based on a low level
19 of resources for school construction, a high level
20 of enrollment growth, or such other factors as
21 the Secretary deems appropriate.

22 “(4) APPROVED LOCAL APPLICATION.—For
23 purposes of paragraph (1), the term ‘approved local
24 application’ means an application which is approved
25 by the Secretary of Education and which includes—

1 “(A) the results of a recent publicly-avail-
2 able survey (undertaken by the local educational
3 agency with the involvement of school officials,
4 members of the public, and experts in school
5 construction and management) of such agency’s
6 needs for public school facilities, including de-
7 scriptions of—

8 “(i) the overall condition of the local
9 educational agency’s school facilities, in-
10 cluding health and safety problems,

11 “(ii) the capacity of the agency’s
12 schools to house projected enrollments, and

13 “(iii) the extent to which the agency’s
14 schools offer the physical infrastructure
15 needed to provide a high-quality education
16 to all students,

17 “(B) a description of how the local edu-
18 cational agency will use its allocation under this
19 subsection to address the needs identified under
20 subparagraph (A), and

21 “(C) a description of how the local edu-
22 cational agency will ensure that its allocation
23 under this subsection is used only to supple-
24 ment, and not supplant, the amount of school
25 construction, rehabilitation, or repair in the lo-

1 cality that would have occurred in the absence
2 of such allocation.

3 A rule similar to the rule of the last sentence of sub-
4 section (d)(5) shall apply for purposes of this para-
5 graph.

6 “(f) CARRYOVER OF UNUSED LIMITATION.—If for
7 any calendar year—

8 “(1) the amount allocated under subsection (d)
9 to any State, exceeds

10 “(2) the amount of bonds issued during such
11 year which are designated under subsection (a) pur-
12 suant to such allocation,

13 the limitation amount under such subsection for such
14 State for the following calendar year shall be increased
15 by the amount of such excess. A similar rule shall apply
16 to the amounts allocated under subsection (e). The sub-
17 section shall not apply if such following calendar year is
18 after 2002.”.

19 (b) REPORTING.—Subsection (d) of section 6049 of
20 such Code (relating to returns regarding payments of in-
21 terest) is amended by adding at the end the following new
22 paragraph:

23 “(8) REPORTING OF CREDIT ON QUALIFIED
24 PUBLIC SCHOOL MODERNIZATION BONDS.—

1 “(A) IN GENERAL.—For purposes of sub-
2 section (a), the term ‘interest’ includes amounts
3 includible in gross income under section
4 1397E(f) and such amounts shall be treated as
5 paid on the credit allowance date (as defined in
6 section 1397E(d)(2)).

7 “(B) REPORTING TO CORPORATIONS,
8 ETC.—Except as otherwise provided in regula-
9 tions, in the case of any interest described in
10 subparagraph (A) of this paragraph, subsection
11 (b)(4) of this section shall be applied without
12 regard to subparagraphs (A), (H), (I), (J), (K),
13 and (L)(i).

14 “(C) REGULATORY AUTHORITY.—The Sec-
15 retary may prescribe such regulations as are
16 necessary or appropriate to carry out the pur-
17 poses of this paragraph, including regulations
18 which require more frequent or more detailed
19 reporting.”

20 (c) CLERICAL AMENDMENTS.—

21 (1) The table of parts for subchapter U of
22 chapter 1 of such Code is amended by striking the
23 item relating to part IV and inserting the following
24 new item:

 “Part IV. Incentives for qualified public school modernization
 bonds.”.

1 (2) Part V of subchapter U of chapter 1 of
2 such Code is amended by redesignating both section
3 1397F and the item relating thereto in the table of
4 sections for such part as section 1397H.

5 (d) EFFECTIVE DATES.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), the amendments made by this section
8 shall apply to obligations issued after December 31,
9 1998.

10 (2) REPEAL OF RESTRICTION ON ZONE ACAD-
11 EMY BOND HOLDERS.—The repeal of the limitation
12 of section 1397E of the Internal Revenue Code of
13 1986 (as in effect on the day before the date of the
14 enactment of this Act) to eligible taxpayers (as de-
15 fined in subsection (d)(6) of such section) shall
16 apply to obligations issued after December 31, 1997.

○