

106TH CONGRESS  
1ST SESSION

# H. R. 2514

To amend the Internal Revenue Code of 1986 to allow issuance of tax-exempt private activity bonds to finance public-private partnership activities relating to school facilities in public elementary and secondary schools, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 14, 1999

Mr. SHAW 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 allow issuance of tax-exempt private activity bonds to finance public-private partnership activities relating to school facilities in public elementary and secondary schools, and for other purposes.

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 Con-  
5       struction Partnership Act”.

1 **SEC. 2. TREATMENT OF QUALIFIED PUBLIC EDUCATIONAL**  
 2 **FACILITY BONDS AS EXEMPT FACILITY**  
 3 **BONDS.**

4 (a) TREATMENT AS EXEMPT FACILITY BOND.—Sub-  
 5 section (a) of section 142 of the Internal Revenue Code  
 6 of 1986 (relating to exempt facility bond) is amended by  
 7 striking “or” at the end of paragraph (11), by striking  
 8 the period at the end of paragraph (12) and inserting  
 9 “, or”, and by adding at the end the following:

10 “(13) qualified public educational facilities.”

11 (b) QUALIFIED PUBLIC EDUCATIONAL FACILI-  
 12 TIES.—Section 142 of the Internal Revenue Code of 1986  
 13 (relating to exempt facility bond) is amended by adding  
 14 at the end the following new subsection:

15 “(k) QUALIFIED PUBLIC EDUCATIONAL FACILI-  
 16 TIES.—

17 “(1) IN GENERAL.—For purposes of subsection  
 18 (a)(13), the term ‘qualified public educational facil-  
 19 ity’ means any school facility which is—

20 “(A) part of a public elementary school or  
 21 a public secondary school, and

22 “(B) owned by a private, for-profit cor-  
 23 poration pursuant to a public-private partner-  
 24 ship agreement with a State or local edu-  
 25 cational agency described in paragraph (2).

1           “(2) PUBLIC-PRIVATE PARTNERSHIP AGREE-  
2           MENT DESCRIBED.—A public-private partnership  
3           agreement is described in this paragraph if it is an  
4           agreement—

5                   “(A) under which the corporation agrees—

6                           “(i) to do 1 or more of the following:  
7                           construct, rehabilitate, refurbish, or equip  
8                           a school facility, and

9                           “(ii) at the end of the term of the  
10                          agreement, to transfer the school facility to  
11                          such agency for no additional consider-  
12                          ation, and

13                   “(B) the term of which does not exceed the  
14                   term of the issue to be used to provide the  
15                   school facility.

16           “(3) SCHOOL FACILITY.—For purposes of this  
17           subsection, the term ‘school facility’ means—

18                   “(A) school buildings,

19                   “(B) functionally related and subordinate  
20                   facilities and land with respect to such build-  
21                   ings, including any stadium or other facility pri-  
22                   marily used for school events, and

23                   “(C) any property, to which section 168  
24                   applies (or would apply but for section 179), for  
25                   use in the facility.

1           “(4) PUBLIC SCHOOLS.—For purposes of this  
 2           subsection, the terms ‘elementary school’ and ‘sec-  
 3           ondary school’ have the meanings given such terms  
 4           by section 14101 of the Elementary and Secondary  
 5           Education Act of 1965 (20 U.S.C. 8801), as in ef-  
 6           fect on the date of the enactment of this subsection.

7           “(5) ANNUAL AGGREGATE FACE AMOUNT OF  
 8           TAX-EXEMPT FINANCING.—

9           “(A) IN GENERAL.—An issue shall not be  
 10          treated as an issue described in subsection  
 11          (a)(13) if the aggregate face amount of bonds  
 12          issued by the State pursuant thereto (when  
 13          added to the aggregate face amount of bonds  
 14          previously so issued during the calendar year)  
 15          exceeds an amount equal to the greater of—

16                 “(i) \$10 multiplied by the State popu-  
 17                 lation, or

18                 “(ii) \$5,000,000.

19          “(B) ALLOCATION RULES.—

20                 “(i) IN GENERAL.—Except as other-  
 21                 wise provided in this subparagraph, the  
 22                 State may allocate in a calendar year the  
 23                 amount described in subparagraph (A) for  
 24                 such year in such manner as the State de-  
 25                 termines appropriate.

1                   “(ii) RULES FOR CARRYFORWARD OF  
 2                   UNUSED AMOUNT.—With respect to any  
 3                   calendar year, a State may make an elec-  
 4                   tion under rules similar to the rules of sec-  
 5                   tion 146(f), except that the sole  
 6                   carryforward purpose with respect to such  
 7                   election is the issuance of exempt facility  
 8                   bonds described in section 142(a)(13).”

9           (c) EXEMPTION FROM GENERAL STATE VOLUME  
 10 CAPS.—Paragraph (3) of section 146(g) of the Internal  
 11 Revenue Code of 1986 (relating to exception for certain  
 12 bonds) is amended—

13                   (1) by striking “or (12)” and inserting “(12),  
 14                   or (13)”, and

15                   (2) by striking “and environmental enhance-  
 16                   ments of hydroelectric generating facilities” and in-  
 17                   serting “environmental enhancements of hydro-  
 18                   electric generating facilities, and qualified public  
 19                   educational facilities”.

20           (d) EXEMPTION FROM LIMITATION ON USE FOR  
 21 LAND ACQUISITION.—Section 147(h) of the Internal Rev-  
 22 enue Code of 1986 (relating to certain rules not to apply  
 23 to mortgage revenue bonds, qualified student loan bonds,  
 24 and qualified 501(c)(3) bonds) is amended by adding at  
 25 the end the following new paragraph:

1           “(3) EXEMPT FACILITY BONDS FOR QUALIFIED  
 2       PUBLIC-PRIVATE SCHOOLS.—Subsection (c) shall not  
 3       apply to any exempt facility bond issued as part of  
 4       an issue described in section 142(a)(13) (relating to  
 5       qualified public-private schools).”

6       (e) CONFORMING AMENDMENT.—The heading of sec-  
 7       tion 147(h) of the Internal Revenue Code of 1986 is  
 8       amended by striking “MORTGAGE REVENUE BONDS,  
 9       QUALIFIED STUDENT LOAN BONDS, AND QUALIFIED  
 10      501(c)(3) BONDS” in the heading and inserting “CERTAIN  
 11      BONDS”.

12      (f) EFFECTIVE DATE.—The amendments made by  
 13      this section shall apply to bonds issued after December  
 14      31, 1999.

15   **SEC. 3. ADDITIONAL INCREASE IN ARBITRAGE REBATE EX-**  
 16                           **CEPTION FOR GOVERNMENTAL BONDS USED**  
 17                           **TO FINANCE EDUCATION FACILITIES.**

18      (a) SPENDING REQUIREMENT FOR PUBLIC SCHOOL  
 19      CONSTRUCTION ISSUE.—Paragraph (4)(C) of section  
 20      148(f) of the Internal Revenue Code of 1986 (relating to  
 21      required rebate to the United States) is amended by add-  
 22      ing at the end the following new clause:

23                           “(xviii) 4-YEAR SPENDING REQUIRE-  
 24                           MENT FOR PUBLIC SCHOOL CONSTRUCTION  
 25                           ISSUE.—

1                   “(I) IN GENERAL.—In the case  
2 of a public school construction issue,  
3 the spending requirements of clause  
4 (ii) shall be treated as met if at least  
5 10 percent of the available construc-  
6 tion proceeds of the construction issue  
7 are spent for the governmental pur-  
8 poses of the issue within the 1-year  
9 period beginning on the date the  
10 bonds are issued, 30 percent of such  
11 proceeds are spent for such purposes  
12 within the 2-year period beginning on  
13 such date, 50 percent of such pro-  
14 ceeds are spent for such purposes  
15 within the 3-year period beginning on  
16 such date, and 100 percent of such  
17 proceeds are spent for such purposes  
18 within the 4-year period beginning on  
19 such date.

20                   “(II) PUBLIC SCHOOL CON-  
21 STRUCTION ISSUE.—For purposes of  
22 this clause, the term ‘public school  
23 construction issue’ means any con-  
24 struction issue if no bond which is  
25 part of such issue is a private activity

1 bond and all of the available construc-  
 2 tion proceeds of such issue are to be  
 3 used for the construction (as defined  
 4 in clause (iv)) of public school facili-  
 5 ties to provide education or training  
 6 below the postsecondary level or for  
 7 the acquisition of land that is func-  
 8 tionally related and subordinate to  
 9 such facilities.

10 “(III) OTHER RULES TO  
 11 APPLY.—Rules similar to the rules of  
 12 the preceding provisions of this sub-  
 13 paragraph which apply to clause (ii)  
 14 shall apply to this clause.”

15 (b) INCREASE IN ARBITRAGE REBATE EXCEPTION  
 16 FOR GOVERNMENTAL BONDS USED TO FINANCE EDU-  
 17 CATION FACILITIES.—Section 148(f)(4)(D)(vii) of the In-  
 18 ternal Revenue Code of 1986 (relating to increase in ex-  
 19 ception for bonds financing public school capital expendi-  
 20 tures) is amended by striking “\$5,000,000” the second  
 21 place it appears and inserting “\$10,000,000”.

22 (c) EFFECTIVE DATE.—The amendment made by  
 23 this section shall apply to obligations issued after Decem-  
 24 ber 31, 1999.



1 **SEC. 4. TREATMENT OF PUBLIC SCHOOL CONSTRUCTION**  
 2 **BONDS AS QUALIFIED TAX-EXEMPT OBLIGA-**  
 3 **TIONS.**

4 (a) IN GENERAL.—Clause (i) of subsection (b)(3)(B)  
 5 of section 265 of the Internal Revenue Code of 1986 (re-  
 6 lating to expenses and interest relating to tax-exempt in-  
 7 come) is amended to read as follows:

8 “(i) IN GENERAL.—For purposes of  
 9 subparagraph (A), the term ‘qualified tax-  
 10 exempt obligation’ means a tax-exempt  
 11 obligation—

12 “(I) which is issued after August  
 13 7, 1986, by a qualified small issuer, is  
 14 not a private activity bond (as defined  
 15 in section 141), and is designated by  
 16 the issuer for purposes of this para-  
 17 graph, or

18 “(II) which is a public school  
 19 construction bond (within the mean-  
 20 ing of section 148(f)(4)(C)(xviii))  
 21 issued by a qualified small education  
 22 bond issuer (as defined in subpara-  
 23 graph (F)).”

24 (b) DEFINITION OF QUALIFIED SMALL EDUCATION  
 25 BOND ISSUER.—Subsection (b)(3) of section 265 of the

1 Internal Revenue Code of 1986 is amended by adding at  
2 the end the following new subparagraph:

3                   “(F) QUALIFIED SMALL EDUCATION BOND  
4           ISSUER.—For purposes of subparagraph  
5           (B)(i)(II), the term ‘qualified small education  
6           bond issuer’ means, with respect to bonds  
7           issued during any calendar year, any issuer if  
8           the reasonably anticipated amount of public  
9           school construction bonds which will be issued  
10          by such issuer during such calendar year does  
11          not exceed \$25,000,000.”

12          (c)       CONFORMING        AMENDMENT.—Section  
13 265(b)(3)(B)(ii) of such Code is amended by striking  
14 “(i)(II)” in the matter preceding subclause (I) and insert-  
15 ing “(i)”.

16          (d) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to obligations issued after Decem-  
18 ber 31, 1999.

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