

108TH CONGRESS
2D SESSION

S. 2919

To amend the Internal Revenue Code of 1986 to provide funding for Indian tribal prison facilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 7, 2004

Mr. BAUCUS (for himself and Mr. DASCHLE) 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 provide funding for Indian tribal prison facilities, 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. CREDIT TO HOLDERS OF INDIAN TRIBAL PRIS-**
4 **ON FACILITY BONDS.**

5 (a) IN GENERAL.—Part IV of subchapter A of chap-
6 ter 1 of the Internal Revenue Code of 1986 (relating to
7 credits against tax) is amended by adding at the end the
8 following new subpart:

1 **“Subpart H—Nonrefundable Credit for Holders of**
2 **Indian Tribal Prison Facility Bonds**

“Sec. 54. Credit to holders of Indian tribal prison facility bonds.

3 **“SEC. 54. CREDIT TO HOLDERS OF INDIAN TRIBAL PRISON**
4 **FACILITY BONDS.**

5 “(a) ALLOWANCE OF CREDIT.—In the case of a tax-
6 payer who holds an Indian tribal prison facility bond on
7 a credit allowance date of such bond which occurs during
8 the taxable year, there shall be allowed as a credit against
9 the tax imposed by this chapter for such taxable year an
10 amount equal to the sum of the credits determined under
11 subsection (b) with respect to credit allowance dates dur-
12 ing such year on which the taxpayer holds such bond.

13 “(b) AMOUNT OF CREDIT.—

14 “(1) IN GENERAL.—The amount of the credit
15 determined under this subsection with respect to any
16 Indian tribal prison facility bond is the amount
17 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.

23 “(2) DETERMINATION.—During each calendar
24 month, the Secretary shall determine a credit rate
25 which shall apply to bonds issued during the fol-

1 lowing calendar month. The credit rate for any
2 month is the percentage which the Secretary esti-
3 mates will permit the issuance of Indian tribal pris-
4 on facility bonds without discount and without inter-
5 est cost to the issuer.

6 “(c) LIMITATION BASED ON AMOUNT OF TAX.—The
7 credit allowed under subsection (a) for any taxable year
8 shall not exceed the excess of—

9 “(1) the sum of the regular tax liability (as de-
10 fined in section 26(b)) plus the tax imposed by sec-
11 tion 55, over

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

14 “(d) CREDIT INCLUDED IN GROSS INCOME.—Gross
15 income includes the amount of the credit allowed to the
16 taxpayer under this section (determined without regard to
17 subsection (c)) and the amount so included shall be treat-
18 ed as interest income.

19 “(e) INDIAN TRIBAL PRISON FACILITY BOND.—For
20 purposes of this part, the term ‘Indian tribal prison facil-
21 ity bond’ means any bond issued as part of an issue if—

22 “(1) 95 percent or more of the proceeds of such
23 issue are to be invested in investment grade obliga-
24 tions and the proceeds from such investment are
25 used for the construction, acquisition, rehabilitation,

1 expansion, or operating expenses of a qualified In-
2 dian tribal prison facility,

3 “(2) the bond is issued by the Indian tribe
4 within the jurisdiction of which such facility is lo-
5 cated,

6 “(3) the bond is issued pursuant to a plan de-
7 veloped by the Indian tribe,

8 “(4) the issuer designates such bond for pur-
9 poses of this section,

10 “(5) the term of each bond which is part of
11 such issue does not exceed 10 years, and

12 “(6) no amount of proceeds of such issue (in-
13 cluding proceeds from any investment under para-
14 graph (1)) may be used to pay the costs of issuance
15 to the extent such amount exceeds 2 percent of the
16 sale proceeds of such issue.

17 “(f) QUALIFIED INDIAN TRIBAL PRISON FACIL-
18 ITY.—For purposes of this section, the term ‘qualified In-
19 dian tribal prison facility’ means any residential correc-
20 tional or detention facility located on the qualified Indian
21 land of the issuing Indian tribe substantially all of the in-
22 mates of which are adult or juvenile members of such In-
23 dian tribe.

24 “(g) LIMITATION ON AMOUNT OF BONDS DES-
25 IGNATED; ALLOCATION OF BONDS.—

1 “(1) NATIONAL LIMITATION.—There is an In-
2 dian tribal prison facility bond limitation for each
3 calendar year. Such limitation is—

4 “(A) \$200,000,000 for 2005,

5 “(B) \$200,000,000 for 2006,

6 “(C) \$200,000,000 for 2007, and

7 “(D) except as provided in paragraph (3),
8 zero thereafter.

9 “(2) ALLOCATION OF BONDS.—

10 “(A) IN GENERAL.—The Secretary, after
11 consultation with the Secretary of the Interior,
12 shall allocate the Indian tribal prison facility
13 bond limitation among those Indian tribes
14 which submit a plan which contains a descrip-
15 tion of the proposed use of investment proceeds,
16 assurances that such proceeds will be used only
17 for such use, a proposed expenditure schedule,
18 information relevant to the criteria described in
19 subparagraph (B), and any other information
20 determined appropriate by the Secretary.

21 “(B) APPROVAL CRITERIA.—In allocating
22 the limitation among plan requests of Indian
23 tribes under subparagraph (A), the Secretary
24 shall consider—

1 “(i) the percentage of prison over-
2 crowding in excess of the facility occupancy
3 level as determined by the Bureau of In-
4 dian Affairs,

5 “(ii) the condition of existing facili-
6 ties,

7 “(iii) the health and safety of both in-
8 mates and prison employees,

9 “(iv) the type of offenders incarcer-
10 ated, and

11 “(v) other financial resources available
12 to the Indian tribe.

13 “(3) CARRYOVER OF UNUSED ISSUANCE LIM-
14 TATION.—If for any calendar year the limitation
15 amount imposed by paragraph (1) exceeds the
16 amount of Indian tribal prison facility bonds issued
17 during such year, such excess shall be carried for-
18 ward to one or more succeeding calendar years as an
19 addition to the limitation imposed by paragraph (1)
20 and until used by issuance of such bonds.

21 “(h) OTHER DEFINITIONS AND SPECIAL RULES.—

22 For purposes of this section—

23 “(1) CREDIT ALLOWANCE DATE.—The term
24 ‘credit allowance date’ means, with respect to any
25 issue, the last day of the 1-year period beginning on

1 the date of the issuance of such issue and the last
2 day of each successive 1-year period thereafter.

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

5 “(3) INDIAN TRIBE.—The term ‘Indian tribe’
6 has the meaning given such term by section
7 7871(c)(3)(E)(ii).

8 “(4) QUALIFIED INDIAN LANDS.—The term
9 ‘qualified Indian lands’ has the meaning given such
10 term by section 7871(c)(3)(E)(i).

11 “(5) PARTNERSHIP; S CORPORATION; AND
12 OTHER PASS-THRU ENTITIES.—In the case of a
13 partnership, trust, S corporation, or other pass-thru
14 entity, rules similar to the rules of section 41(g)
15 shall apply with respect to the credit allowable under
16 subsection (a).

17 “(6) BONDS HELD BY REGULATED INVEST-
18 MENT COMPANIES.—If any Indian tribal prison facil-
19 ity bond is held by a regulated investment company,
20 the credit determined under subsection (a) shall be
21 allowed to shareholders of such company under pro-
22 cedures prescribed by the Secretary.

23 “(7) REPORTING.—Each Indian tribe with an
24 allocation of Indian tribal prison facility bonds under

1 an approved plan shall submit reports similar to the
2 reports required under section 149(e).”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) REPORTING.—Subsection (d) of section
5 6049 of the Internal Revenue Code of 1986 (relating
6 to returns regarding payments of interest) is amend-
7 ed by adding at the end the following new para-
8 graph:

9 “(8) REPORTING OF CREDIT ON INDIAN TRIBAL
10 PRISON FACILITY BONDS.—

11 “(A) IN GENERAL.—For purposes of sub-
12 section (a), the term ‘interest’ includes amounts
13 includible in gross income under section 54(d)
14 and such amounts shall be treated as paid on
15 the credit allowance date (as defined in section
16 54(h)(1)).

17 “(B) REPORTING TO CORPORATIONS,
18 ETC.—Except as otherwise provided in regula-
19 tions, in the case of any interest described in
20 subparagraph (A), subsection (b)(4) shall be
21 applied without regard to subparagraphs (A),
22 (H), (I), (J), (K), and (L)(i) of such subsection.

23 “(C) REGULATORY AUTHORITY.—The Sec-
24 retary may prescribe such regulations as are
25 necessary or appropriate to carry out the pur-

1 poses of this paragraph, including regulations
2 which require more frequent or more detailed
3 reporting.”.

4 (2) TREATMENT FOR ESTIMATED TAX PUR-
5 POSES.—

6 (A) INDIVIDUAL.—Section 6654 of such
7 Code (relating to failure by individual to pay es-
8 timated income tax) is amended by redesignig-
9 nating subsection (m) as subsection (n) and by
10 inserting after subsection (l) the following new
11 subsection:

12 “(m) SPECIAL RULE FOR HOLDERS OF INDIAN
13 TRIBAL PRISON FACILITY BONDS.—For purposes of this
14 section, the credit allowed by section 54 to a taxpayer by
15 reason of holding an Indian tribal prison facility bond on
16 a credit allowance date shall be treated as if it were a
17 payment of estimated tax made by the taxpayer on such
18 date.”.

19 (B) CORPORATE.—Subsection (g) of sec-
20 tion 6655 of such Code (relating to failure by
21 corporation to pay estimated income tax) is
22 amended by adding at the end the following
23 new paragraph:

24 “(5) SPECIAL RULE FOR HOLDERS OF INDIAN
25 TRIBAL PRISON FACILITY BONDS.—For purposes of

1 this section, the credit allowed by section 54 to a
2 taxpayer by reason of holding an Indian tribal pris-
3 on facility bond on a credit allowance date shall be
4 treated as if it were a payment of estimated tax
5 made by the taxpayer on such date.”.

6 (c) CLERICAL AMENDMENTS.—

7 (1) The table of subparts for part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code
9 of 1986 is amended by adding at the end the fol-
10 lowing new item:

“Subpart H. Nonrefundable Credit for Holders of Indian Tribal
Prison Facility Bonds.”.

11 (2) Section 6401(b)(1) of such Code is amend-
12 ed by striking “and G” and inserting “G, and H”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to obligations issued after Decem-
15 ber 31, 2004.

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