

Calendar No. 947

106TH CONGRESS
2^D SESSION

S. 2580

[Report No. 106-497]

To provide for the issuance of bonds to provide funding for the construction of schools of the Bureau of Indian Affairs of the Department of the Interior, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 17, 2000

Mr. JOHNSON (for himself, Mr. BINGAMAN, Mr. DASCHLE, Mr. INOUE, Mr. COCHRAN, Mr. CAMPBELL, Mr. BAUCUS, Mr. REID, and Mr. AKAKA) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

OCTOBER 11 (legislative day, SEPTEMBER 22), 2000

Reported by Mr. CAMPBELL, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To provide for the issuance of bonds to provide funding for the construction of schools of the Bureau of Indian Affairs of the Department of the Interior, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Indian School Con-
3 struction Act”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) BUREAU.—The term “Bureau” means the
7 Bureau of Indian Affairs of the Department of the
8 Interior.

9 (2) INDIAN.—The term “Indian” means any in-
10 dividual who is a member of a tribe.

11 (3) SECRETARY.—The term “Secretary” means
12 the Secretary of the Interior.

13 (4) TRIBAL SCHOOL.—The term “tribal school”
14 means an elementary school, secondary school, or
15 dormitory that is operated by a tribal organization
16 for the education of Indian children and that re-
17 ceives financial assistance for its operation under a
18 contract, grant, or agreement with the Bureau under
19 section 102, 103(a), or 208 of the Indian Self-Deter-
20 mination and Education Assistance Act (25 U.S.C.
21 450f, 450h(a), and 458d).

22 (5) TRIBE.—The term “tribe” means any In-
23 dian tribe, band, nation, or other organized group or
24 community, including a Native village, Regional Cor-
25 poration, or Village Corporation (as defined in or es-
26 tablished pursuant to the Alaska Native Claims Set-

1 tlement Act); that is recognized as eligible for the
2 special programs and services provided by the
3 United States to Indians because of their status as
4 Indians.

5 **SEC. 3. ISSUANCE OF BONDS.**

6 (a) **IN GENERAL.**—The Secretary shall establish a
7 pilot program under which eligible tribes have the author-
8 ity to issue tribal school modernization bonds to provide
9 funding for the improvement, repair, and new construction
10 of tribal schools.

11 (b) **ELIGIBILITY.**—

12 (1) **IN GENERAL.**—To be eligible to issue bonds
13 under the program under subsection (a), a tribe
14 shall prepare and submit to the Secretary a plan of
15 construction that meets the requirements of para-
16 graph (2).

17 (2) **PLAN OF CONSTRUCTION.**—A plan of con-
18 struction meets the requirements of this paragraph
19 if such plan—

20 (A) contains a description of the improve-
21 ments, repairs, or new construction to be un-
22 dertaken with funding provided under the bond;

23 (B) demonstrates that a comprehensive
24 survey has been undertaken concerning the con-

1 struction or renovation needs of the tribal
2 school involved;

3 (C) contains assurances that funding
4 under the bond will be used only for the activi-
5 ties described in the plan; and

6 (D) contains any other reasonable and re-
7 lated information determined appropriate by the
8 Secretary.

9 (3) PRIORITY.—In determining whether a tribe
10 is eligible to participate in the program under this
11 section, the Secretary shall give priority to tribes
12 that, as demonstrated by the relevant plans of con-
13 struction, will fund projects described in the Re-
14 placement School Construction priority list of the
15 Bureau of Indian Affairs, as maintained under the
16 Indian Self-Determination and Education Assistance
17 Act.

18 (4) APPROVAL.—Except as provided in para-
19 graph (3), the Secretary shall approve the issuance
20 of qualified tribal school modernization bonds by
21 tribes with approved plans of construction on the
22 basis of the order in which such plans were received
23 by the Secretary. Such approval shall not be unrea-
24 sonably withheld.

1 (c) PERMISSIBLE ACTIVITIES.—In addition to the
2 use of funds permitted under subsection (a), a tribe may
3 use amounts received through the issuance of a bond to—

4 (1) enter into contracts with architects, engi-
5 neers, and construction firms in order to determine
6 the needs of the tribal school and for the design and
7 engineering of the school;

8 (2) enter into contracts with financial advisors,
9 underwriters, attorneys, trustees, and other profes-
10 sionals who would be able to provide assistance to
11 the tribe in issuing bonds; and

12 (3) carry out other activities determined appro-
13 priate by the Secretary.

14 (d) BOND TRUSTEE.—

15 (1) IN GENERAL.—Notwithstanding any other
16 provision of law, any tribal school construction bond
17 issued by a tribe under this section shall be subject
18 to a trust agreement between the tribe and a trust-
19 ee.

20 (2) TRUSTEE.—Any bank or trust company
21 that meets requirements established by the Secretary
22 by regulation may be designated as a trustee under
23 paragraph (1).

24 (3) CONTENT OF TRUST AGREEMENT.—A trust
25 agreement entered into by a tribe under this sub-

1 section shall specify that the trustee, with respect to
 2 bonds issued under this section shall—

3 (A) act as a repository for the proceeds of
 4 the bond;

5 (B) make payments to bondholders;

6 (C) from any amounts in excess of the
 7 amounts necessary to make payments to bond-
 8 holders, in accordance with the requirements of
 9 paragraph (4), make direct payments to con-
 10 tractors with the governing body of the tribe for
 11 facility improvement, repair, or new construc-
 12 tion pursuant to this section; and

13 (D) invest in the tribal school moderniza-
 14 tion escrow account established under sub-
 15 section (f)(2) such amounts of the proceeds as
 16 the trustee determines not to be necessary to
 17 make payments under subparagraphs (B) and
 18 (C).

19 (4) REQUIREMENTS FOR MAKING DIRECT PAY-
 20 MENTS.—

21 (A) IN GENERAL.—Notwithstanding any
 22 other provision of law, only the trustee shall
 23 make the direct payments referred to in para-
 24 graph (3)(C) in accordance with requirements
 25 that the tribe shall prescribe in the agreement

1 entered into under paragraph (3). The tribe
 2 shall require the trustee, prior to making a pay-
 3 ment to a contractor under paragraph (3)(C),
 4 to inspect the project that is the subject of the
 5 contract, or provide for an inspection of that
 6 project by a local financial institution, to ensure
 7 the completion of the project.

8 (B) CONTRACTS.—Each contract referred
 9 to in paragraph (3)(C) shall specify, or be re-
 10 negotiated to specify, that payments under the
 11 contract shall be made in accordance with this
 12 subsection.

13 (c) PAYMENTS OF PRINCIPAL AND INTEREST.—

14 (1) PRINCIPAL.—Qualified tribal school mod-
 15 ernization bonds shall be issued under this section as
 16 interest only for a period of 15 years from the date
 17 of issuance. Upon the expiration of such 15-year pe-
 18 riod, the entire outstanding principal under the bond
 19 shall become due and payable.

20 (2) INTEREST.—Interest on a qualified tribal
 21 school modernization bond shall be in the form of a
 22 tax credit under section 1400F of the Internal Rev-
 23 enue Code of 1986.

24 (f) BOND GUARANTEES.—

1 (1) IN GENERAL.—Payment of the principal
 2 portion of a qualified tribal school modernization
 3 bond issued under this section shall be guaranteed
 4 by amounts deposited in the tribal school moderniza-
 5 tion escrow account established under paragraph
 6 (2).

7 (2) ESTABLISHMENT OF ACCOUNT.—

8 (A) IN GENERAL.—Notwithstanding any
 9 other provision of law, subject to the availability
 10 of amounts made available under an appropria-
 11 tions Act, beginning in fiscal year 2001, the
 12 Secretary may deposit not more than
 13 \$30,000,000 of unobligated funds into a tribal
 14 school modernization escrow account.

15 (B) PAYMENTS.—The Secretary shall use
 16 any amounts deposited in the escrow account
 17 under subparagraph (A) and subsection
 18 (d)(3)(D) to make payments to holders of quali-
 19 fied tribal school modernization bonds issued
 20 under this section.

21 (g) LIMITATIONS.—

22 (1) OBLIGATION OF TRIBES.—Notwithstanding
 23 any other provision of law, a tribe that issues a
 24 qualified tribal school modernization bond under this

1 section shall not be obligated to repay the principal
2 on the bond.

3 (2) **LAND AND FACILITIES.**—Any land or facili-
4 ties purchased or improved with amounts derived
5 from qualified tribal school modernization bonds
6 issued under this section shall not be mortgaged or
7 used as collateral for such bonds.

8 **SEC. 4. EXPANSION OF INCENTIVES FOR TRIBAL SCHOOLS.**

9 Chapter 1 of the Internal Revenue Code of 1986 is
10 amended by adding at the end the following new sub-
11 chapter:

12 **“Subchapter X—Tribal School Modernization**
13 **Provisions**

“Sec. 1400F. Credit to holders of qualified tribal school modernization bonds.

14 **“SEC. 1400F. CREDIT TO HOLDERS OF QUALIFIED TRIBAL**
15 **SCHOOL MODERNIZATION BONDS.**

16 “(a) **ALLOWANCE OF CREDIT.**—In the case of a tax-
17 payer who holds a qualified tribal school modernization
18 bond on a credit allowance date of such bond which occurs
19 during the taxable year, there shall be allowed as a credit
20 against the tax imposed by this chapter for such taxable
21 year an amount equal to the sum of the credits determined
22 under subsection (b) with respect to credit allowance dates
23 during such year on which the taxpayer holds such bond.

24 “(b) **AMOUNT OF CREDIT.**—

1 “(1) IN GENERAL.—The amount of the credit
2 determined under this subsection with respect to any
3 credit allowance date for a qualified tribal school
4 modernization bond is 25 percent of the annual
5 credit determined with respect to such bond.

6 “(2) ANNUAL CREDIT.—The annual credit de-
7 termined with respect to any qualified tribal school
8 modernization bond is the product of—

9 “(A) the applicable credit rate, multiplied

10 by

11 “(B) the outstanding face amount of the

12 bond.

13 “(3) APPLICABLE CREDIT RATE.—For purposes
14 of paragraph (1), the applicable credit rate with re-
15 spect to an issue is the rate equal to an average
16 market yield (as of the day before the date of
17 issuance of the issue) on outstanding long-term cor-
18 porate debt obligations (determined under regula-
19 tions prescribed by the Secretary).

20 “(4) SPECIAL RULE FOR ISSUANCE AND RE-
21 DEMPTION.—In the case of a bond which is issued
22 during the 3-month period ending on a credit allow-
23 ance date, the amount of the credit determined
24 under this subsection with respect to such credit al-
25 lowance date shall be a ratable portion of the credit

1 otherwise determined based on the portion of the 3-
 2 month period during which the bond is outstanding.
 3 A similar rule shall apply when the bond is re-
 4 deemed.

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 part IV of subchapter A (other than sub-~~
 14 ~~part C thereof, relating to refundable credits).~~

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.~~

21 ~~“(d) QUALIFIED TRIBAL SCHOOL MODERNIZATION~~
 22 ~~BOND; OTHER DEFINITIONS.—For purposes of this~~
 23 ~~section—~~

24 ~~“(1) QUALIFIED TRIBAL SCHOOL MODERNIZA-~~
 25 ~~TION BOND.—~~

1 “(A) IN GENERAL.—The term ‘qualified
2 school modernization bond’ means, subject to
3 subparagraph (B), any bond issued as part of
4 an issue under section 3 of the Indian School
5 Construction Act if—

6 “(i) 95 percent or more of the pro-
7 ceeds of such issue are to be used for the
8 construction, rehabilitation, or repair of a
9 tribal school facility or for the acquisition
10 of land on which such a facility is to be
11 constructed with part of the proceeds of
12 such issue;

13 “(ii) the bond is issued by an Indian
14 tribe;

15 “(iii) the issuer designates such bond
16 for purposes of this section; and

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

20 “(B) NATIONAL LIMITATION ON AMOUNT
21 OF BONDS DESIGNATED.—There is a national
22 qualified tribal school modernization bond limi-
23 tation for each calendar year. Such limitation
24 is—

25 “(i) \$200,000,000 for 2001,

1 “(ii) \$200,000,000 for 2002, and

2 “(iii) zero after 2002.

3 “(2) CREDIT ALLOWANCE DATE.—The term
4 ‘credit allowance date’ means—

5 “(A) March 15,

6 “(B) June 15,

7 “(C) September 15, and

8 “(D) December 15.

9 Such term includes the last day on which the bond
10 is outstanding.

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

13 “(4) TRIBE.—The term ‘tribe’ has the meaning
14 given such term by section 2 of the Indian School
15 Construction Act.

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

21 “(f) BONDS HELD BY REGULATED INVESTMENT
22 COMPANIES.—If any qualified tribal school modernization
23 bond is held by a regulated investment company, the credit
24 determined under subsection (a) shall be allowed to share-

1 holders of such company under procedures prescribed by
2 the Secretary.

3 “(g) CREDITS MAY BE STRIPPED.—Under regula-
4 tions prescribed by the Secretary—

5 “(1) IN GENERAL.—There may be a separation
6 (including at issuance) of the ownership of a quali-
7 fied tribal school modernization bond and the entitle-
8 ment to the credit under this section with respect to
9 such bond. In case of any such separation, the credit
10 under this section shall be allowed to the person who
11 on the credit allowance date holds the instrument ev-
12 idencing the entitlement to the credit and not to the
13 holder of the bond.

14 “(2) CERTAIN RULES TO APPLY.—In the case
15 of a separation described in paragraph (1), the rules
16 of section 1286 shall apply to the qualified tribal
17 school modernization bond as if it were a stripped
18 bond and to the credit under this section as if it
19 were a stripped coupon.

20 “(h) TREATMENT FOR ESTIMATED TAX PUR-
21 POSES.—Solely for purposes of sections 6654 and 6655,
22 the credit allowed by this section to a taxpayer by reason
23 of holding a qualified tribal school modernization bonds
24 on a credit allowance date shall be treated as if it were

1 a payment of estimated tax made by the taxpayer on such
2 date.

3 “(i) CREDIT MAY BE TRANSFERRED.—Nothing in
4 any law or rule of law shall be construed to limit the trans-
5 ferability of the credit allowed by this section through sale
6 and repurchase agreements.

7 “(j) CREDIT TREATED AS ALLOWED UNDER PART
8 IV OF SUBCHAPTER A.—For purposes of subtitle F, the
9 credit allowed by this section shall be treated as a credit
10 allowable under part IV of subchapter A of this chapter.

11 “(k) REPORTING.—Issuers of qualified tribal school
12 modernization bonds shall submit reports similar to the
13 reports required under section 149(e).”.

14 **SEC. 5. SOVEREIGN IMMUNITY.**

15 This Act and the amendments made by this Act shall
16 not be construed to impact, limit, or affect the sovereign
17 immunity of the Federal Government or any State or trib-
18 al government.

19 **SECTION 1. SHORT TITLE.**

20 *This Act may be cited as the “Indian School Construc-*
21 *tion Act”.*

22 **SEC. 2. DEFINITIONS.**

23 *In this Act:*

1 (1) *BUREAU*.—The term “Bureau” means the
2 Bureau of Indian Affairs of the Department of the In-
3 terior.

4 (2) *INDIAN*.—The term “Indian” means any in-
5 dividual who is a member of a tribe.

6 (3) *SECRETARY*.—The term “Secretary” means
7 the Secretary of the Interior.

8 (4) *TRIBAL SCHOOL*.—The term “tribal school”
9 means an elementary school, secondary school, or dor-
10 mitory that is operated by a tribal organization or
11 the Bureau for the education of Indian children and
12 that receives financial assistance for its operation
13 under a contract, grant, or agreement with the Bu-
14 reau under section 102, 103(a), or 208 of the Indian
15 Self-Determination and Education Assistance Act (25
16 U.S.C. 450f, 450h(a), and 458d) or under the Trib-
17 ally Controlled Schools Act of 1988 (25 U.S.C. 2501
18 et seq.).

19 (5) *TRIBE*.—The term “tribe” has the meaning
20 given the term “Indian tribal government” by section
21 7701(a)(40) of the Internal Revenue Code of 1986, in-
22 cluding the application of section 7871(d) of such
23 Code.

1 **SEC. 3. ISSUANCE OF BONDS.**

2 (a) *IN GENERAL.*—*The Secretary shall establish a*
3 *pilot program under which eligible tribes have the authority*
4 *to issue qualified tribal school modernization bonds to pro-*
5 *vide funding for the advance planning, design, and con-*
6 *struction for the replacement of tribal schools.*

7 (b) *ELIGIBILITY.*—

8 (1) *IN GENERAL.*—*To be eligible to issue any*
9 *qualified tribal school modernization bond under the*
10 *program under subsection (a), a tribe shall—*

11 (A) *prepare and submit to the Secretary a*
12 *plan of construction that meets the requirements*
13 *of paragraph (2);*

14 (B) *provide for quarterly and final inspec-*
15 *tion of the project by the Bureau; and*

16 (C) *pledge that the facilities financed by*
17 *such bond will be used primarily for elementary*
18 *and secondary educational purposes for not less*
19 *than the period such bond remains outstanding.*

20 (2) *PLAN OF CONSTRUCTION.*—*A plan of con-*
21 *struction meets the requirements of this paragraph if*
22 *such plan—*

23 (A) *contains a description of the construc-*
24 *tion to be undertaken with funding provided*
25 *under a qualified tribal school modernization*
26 *bond;*

1 (B) demonstrates that a comprehensive sur-
2 vey has been undertaken concerning the construc-
3 tion needs of the tribal school involved;

4 (C) contains assurances that funding under
5 the bond will be used only for the activities de-
6 scribed in the plan;

7 (D) contains response to the evaluation cri-
8 teria contained in *Instructions and Application*
9 *for Replacement School Construction, Revision 6,*
10 *dated February 6, 1999; and*

11 (E) contains any other reasonable and re-
12 lated information determined appropriate by the
13 Secretary.

14 (3) *PRIORITY.*—*In determining whether a tribe*
15 *is eligible to participate in the program under this*
16 *section, the Secretary shall give priority to tribes*
17 *that, as demonstrated by the relevant plans of con-*
18 *struction, will fund projects—*

19 (A) *described in the Education Facilities*
20 *Replacement Construction Priorities List as of*
21 *FY 2000 of the Bureau of Indian Affairs (65*
22 *Fed. Reg. 4623–4624);*

23 (B) *described in any subsequent priorities*
24 *list published in the Federal Register; or*

1 (C) which meet the criteria for ranking
2 schools as described in Instructions and Applica-
3 tion for Replacement School Construction, Revi-
4 sion 6, dated February 6, 1999.

5 (4) ADVANCE PLANNING AND DESIGN FUNDING.—
6 A tribe may propose in its plan of construction to re-
7 ceive advance planning and design funding from the
8 tribal school modernization escrow account established
9 under subsection (f)(2), if, once a qualified tribal
10 school modernization bond has been issued by the
11 tribe, the tribe agrees as a condition of approval of
12 its plan that it will reimburse such escrow account an
13 amount equal to the amount of such funding received
14 from such escrow account.

15 (c) PERMISSIBLE ACTIVITIES.—In addition to the use
16 of funds permitted under subsection (a), a tribe may use
17 amounts received through the issuance of a qualified tribal
18 school modernization bond to—

19 (1) enter into and make payments under con-
20 tracts with licensed and bonded architects, engineers,
21 and construction firms in order to determine the
22 needs of the tribal school and for the design and engi-
23 neering of the school;

24 (2) enter into and make payments under con-
25 tracts with financial advisors, underwriters, attor-

1 *neys, trustees, and other professionals who would be*
2 *able to provide assistance to the tribe in issuing*
3 *bonds; and*

4 *(3) carry out other activities determined appro-*
5 *priate by the Secretary.*

6 *(d) BOND TRUSTEE.—*

7 *(1) IN GENERAL.—Notwithstanding any other*
8 *provision of law, any qualified tribal school mod-*
9 *ernization bond issued by a tribe under this section*
10 *shall be subject to a trust agreement between the tribe*
11 *and a trustee.*

12 *(2) TRUSTEE.—Any bank or trust company that*
13 *meets requirements established by the Secretary may*
14 *be designated as a trustee under paragraph (1).*

15 *(3) CONTENT OF TRUST AGREEMENT.—A trust*
16 *agreement entered into by a tribe under this sub-*
17 *section shall specify that the trustee, with respect to*
18 *any bond issued under this section shall—*

19 *(A) act as a repository for the proceeds of*
20 *the bond;*

21 *(B) make payments to bondholders;*

22 *(C) receive, as a condition to the issuance*
23 *of such bond, a transfer of funds from the tribal*
24 *school modernization escrow account established*
25 *under subsection (f)(2) or from other funds fur-*

1 nished by or on behalf of the tribe in an amount,
 2 which together with interest earnings from the
 3 investment of such funds in obligations of or
 4 fully guaranteed by the United States or from
 5 other investments authorized by subsection (j),
 6 will produce moneys sufficient to timely pay in
 7 full the entire principal amount of such bond on
 8 the stated maturity date therefor;

9 (D) invest the funds received pursuant to
 10 subparagraph (C) as provided by such subpara-
 11 graph; and

12 (E) hold and invest the funds in a seg-
 13 regated fund or account under the agreement,
 14 which fund or account shall be applied solely to
 15 the payment of the costs of items described in
 16 subsection (c).

17 (4) REQUIREMENTS FOR MAKING DIRECT PAY-
 18 MENTS.—

19 (A) IN GENERAL.—Notwithstanding any
 20 other provision of law, the trustee shall make
 21 any payment referred to in paragraph (3)(E) in
 22 accordance with requirements that the tribe shall
 23 prescribe in the trust agreement entered into
 24 under paragraph (3). Before making a payment
 25 to a contractor under paragraph (3)(E), the

1 trustee shall require an inspection of the project
2 by a local financial institution or an inde-
3 pendent inspecting architect or engineer, to en-
4 sure the completion of the project.

5 (B) CONTRACTS.—Each contract referred to
6 in subsection (c) shall specify, or be renegotiated
7 to specify, that payments under the contract
8 shall be made in accordance with this subsection.

9 (e) PAYMENTS OF PRINCIPAL AND INTEREST.—

10 (1) PRINCIPAL.—No principal payments on any
11 qualified tribal school modernization bond shall be re-
12 quired until the final, stated maturity of such bond,
13 which stated maturity shall be within 15 years from
14 the date of issuance. Upon the expiration of such pe-
15 riod, the entire outstanding principal under the bond
16 shall become due and payable.

17 (2) INTEREST.—In lieu of interest on a qualified
18 tribal school modernization bond there shall be
19 awarded a tax credit under section 1400F of the In-
20 ternal Revenue Code of 1986.

21 (f) BOND GUARANTEES.—

22 (1) IN GENERAL.—Payment of the principal por-
23 tion of a qualified tribal school modernization bond
24 issued under this section shall be guaranteed solely by

1 *amounts deposited with each respective bond trustee*
2 *as described in subsection (d)(3)(C).*

3 (2) *ESTABLISHMENT OF ACCOUNT.—*

4 (A) *IN GENERAL.—Notwithstanding any*
5 *other provision of law, subject to the availability*
6 *of amounts made available under any appro-*
7 *priations Act, beginning in fiscal year 2001, the*
8 *Secretary may deposit not more than*
9 *\$30,000,000 into a tribal school modernization*
10 *escrow account.*

11 (B) *PAYMENTS.—The Secretary shall use*
12 *any amounts deposited in the escrow account*
13 *under subparagraphs (A) and (C) to make pay-*
14 *ments to trustees appointed and acting pursuant*
15 *to subsection (d) or to make payments described*
16 *in subsection (b)(4).*

17 (C) *TRANSFERS OF EXCESS PROCEEDS.—*
18 *Excess proceeds held under any trust agreement*
19 *that are not needed for any of the purposes de-*
20 *scribed in subparagraphs (C) and (E) of sub-*
21 *section (d)(3) shall be transferred, from time to*
22 *time, by the trustee for deposit into the tribal*
23 *school modernization escrow account.*

24 (g) *LIMITATIONS.—*

1 (1) *OBLIGATION OF TRIBES.*—*Notwithstanding*
2 *any other provision of law, a tribe that issues a*
3 *qualified tribal school modernization bond under this*
4 *section shall not be obligated to repay the principal*
5 *on the bond, except to the extent of any escrowed*
6 *funds furnished by the tribe under subsection*
7 *(d)(3)(C).*

8 (2) *LAND AND FACILITIES.*—*Any land or facili-*
9 *ties purchased or improved with amounts derived*
10 *from qualified tribal school modernization bonds*
11 *issued under this section shall not be mortgaged or*
12 *used as collateral for such bonds.*

13 (h) *SALE OF BONDS.*—*Qualified tribal school mod-*
14 *ernization bonds may be sold at a purchase price equal to,*
15 *in excess of, or at a discount from the par amount thereof.*

16 (i) *TREATMENT OF TRUST AGREEMENT EARNINGS.*—
17 *Any amounts earned through the investment of funds under*
18 *the control of a trustee under any trust agreement described*
19 *in subsection (d) shall not be subject to Federal income tax.*

20 (j) *INVESTMENT OF SINKING FUNDS.*—*Any sinking*
21 *fund established for the purpose of the payment of principal*
22 *on a qualified tribal school modernization bond shall be in-*
23 *vested in obligations issued by or guaranteed by the United*
24 *States or in such other assets as the Secretary of the Treas-*
25 *ury may by regulation allow.*

1 **SEC. 4. EXPANSION OF INCENTIVES FOR TRIBAL SCHOOLS.**

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

4 **“Subchapter X—Tribal School Modernization**
5 **Provisions**

“Sec. 1400F. Credit to holders of qualified tribal school modernization bonds.

6 **“SEC. 1400F. CREDIT TO HOLDERS OF QUALIFIED TRIBAL**
7 **SCHOOL MODERNIZATION BONDS.**

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

16 “(b) *AMOUNT OF CREDIT.—*

17 “(1) *IN GENERAL.—The amount of the credit de-*
18 *termined under this subsection with respect to any*
19 *credit allowance date for a qualified tribal school*
20 *modernization bond is 25 percent of the annual credit*
21 *determined with respect to such bond.*

22 “(2) *ANNUAL CREDIT.—The annual credit deter-*
23 *mined with respect to any qualified tribal school*
24 *modernization bond is the product of—*

1 “(A) the applicable credit rate, multiplied
2 by

3 “(B) the outstanding face amount of the
4 bond.

5 “(3) *APPLICABLE CREDIT RATE.*—For purposes
6 of paragraph (1), the applicable credit rate with re-
7 spect to an issue is the rate equal to an average mar-
8 ket yield (as of the day before the date of issuance of
9 the issue) on outstanding long-term corporate debt ob-
10 ligations (determined monthly by the Secretary).

11 “(4) *SPECIAL RULE FOR ISSUANCE AND REDEMP-*
12 *TION.*—In the case of a bond which is issued during
13 the 3-month period ending on a credit allowance date,
14 the amount of the credit determined under this sub-
15 section with respect to such credit allowance date
16 shall be a ratable portion of the credit otherwise deter-
17 mined based on the portion of the 3-month period
18 during which the bond is outstanding. A similar rule
19 shall apply when the bond is redeemed.

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

21 “(1) *IN GENERAL.*—The credit allowed under
22 subsection (a) for any taxable year shall not exceed
23 the excess of—

1 “(A) the sum of the regular tax liability (as
2 defined in section 26(b)) plus the tax imposed by
3 section 55, over

4 “(B) the sum of the credits allowable under
5 part IV of subchapter A (other than subpart C
6 thereof, relating to refundable credits).

7 “(2) CARRYOVER OF UNUSED CREDIT.—If the
8 credit allowable under subsection (a) exceeds the limi-
9 tation imposed by paragraph (1) for such taxable
10 year, such excess shall be carried to the succeeding
11 taxable year and added to the credit allowable under
12 subsection (a) for such taxable year.

13 “(d) QUALIFIED TRIBAL SCHOOL MODERNIZATION
14 BOND; OTHER DEFINITIONS.—For purposes of this
15 section—

16 “(1) QUALIFIED TRIBAL SCHOOL MODERNIZA-
17 TION BOND.—

18 “(A) IN GENERAL.—The term ‘qualified
19 tribal school modernization bond’ means, subject
20 to subparagraph (B), any bond issued as part of
21 an issue under section 3 of the Indian School
22 Construction Act, as in effect on the date of the
23 enactment of this section, if—

24 “(i) 95 percent or more of the proceeds
25 of such issue are to be used for the construc-

1 *tion, rehabilitation, or repair of a school fa-*
 2 *ility funded by the Bureau of Indian Af-*
 3 *airs of the Department of the Interior or*
 4 *for the acquisition of land on which such a*
 5 *facility is to be constructed with part of the*
 6 *proceeds of such issue,*

7 *“(ii) the bond is issued by a tribe,*

8 *“(iii) the issuer designates such bond*
 9 *for purposes of this section, and*

10 *“(iv) the term of each bond which is*
 11 *part of such issue does not exceed 15 years.*

12 *“(B) NATIONAL LIMITATION ON AMOUNT OF*
 13 *BONDS DESIGNATED.—*

14 *“(i) NATIONAL LIMITATION.—There is*
 15 *a national qualified tribal school mod-*
 16 *ernization bond limitation for each cal-*
 17 *endar year. Such limitation is—*

18 *“(I) \$200,000,000 for 2001,*

19 *“(II) \$200,000,000 for 2002, and*

20 *“(III) zero after 2002.*

21 *“(ii) ALLOCATION OF LIMITATION.—*
 22 *The national qualified tribal school mod-*
 23 *ernization bond limitation shall be allocated*
 24 *to tribes by the Secretary of the Interior*
 25 *subject to the provisions of the Indian*

1 *School Construction Act, as in effect on the*
2 *date of the enactment of this section.*

3 “(iii) *DESIGNATION SUBJECT TO LIM-*
4 *TATION AMOUNT.—The maximum aggregate*
5 *face amount of bonds issued during any cal-*
6 *endar year which may be designated under*
7 *subsection (d)(1) with respect to any tribe*
8 *shall not exceed the limitation amount allo-*
9 *cated to such government under clause (ii)*
10 *for such calendar year.*

11 “(2) *CREDIT ALLOWANCE DATE.—The term*
12 *‘credit allowance date’ means—*

13 “(A) *March 15,*

14 “(B) *June 15,*

15 “(C) *September 15, and*

16 “(D) *December 15.*

17 *Such term includes the last day on which the bond is*
18 *outstanding.*

19 “(3) *BOND.—The term ‘bond’ includes any obli-*
20 *gation.*

21 “(4) *TRIBE.—The term “tribe” has the meaning*
22 *given the term “Indian tribal government” by section*
23 *7701(a)(40), including the application of section*
24 *7871(d).*

1 “(e) *CREDIT INCLUDED IN GROSS INCOME.*—Gross in-
2 come includes the amount of the credit allowed to the tax-
3 payer under this section (determined without regard to sub-
4 section (c)) and the amount so included shall be treated as
5 interest income.

6 “(f) *BONDS HELD BY REGULATED INVESTMENT COM-*
7 *PANIES.*—If any qualified tribal school modernization bond
8 is held by a regulated investment company, the credit deter-
9 mined under subsection (a) shall be allowed to shareholders
10 of such company under procedures prescribed by the Sec-
11 retary.

12 “(g) *CREDITS MAY BE STRIPPED.*—Under regulations
13 prescribed by the Secretary—

14 “(1) *IN GENERAL.*—There may be a separation
15 (including at issuance) of the ownership of a qualified
16 tribal school modernization bond and the entitlement
17 to the credit under this section with respect to such
18 bond. In case of any such separation, the credit under
19 this section shall be allowed to the person who on the
20 credit allowance date holds the instrument evidencing
21 the entitlement to the credit and not to the holder of
22 the bond.

23 “(2) *CERTAIN RULES TO APPLY.*—In the case of
24 a separation described in paragraph (1), the rules of
25 section 1286 shall apply to the qualified tribal school

1 *modernization bond as if it were a stripped bond and*
2 *to the credit under this section as if it were a*
3 *stripped coupon.*

4 “(h) *TREATMENT FOR ESTIMATED TAX PURPOSES.—*
5 *Solely for purposes of sections 6654 and 6655, the credit*
6 *allowed by this section to a taxpayer by reason of holding*
7 *a qualified tribal school modernization bonds on a credit*
8 *allowance date shall be treated as if it were a payment of*
9 *estimated tax made by the taxpayer on such date.*

10 “(i) *CREDIT MAY BE TRANSFERRED.—Nothing in any*
11 *law or rule of law shall be construed to limit the transfer-*
12 *ability of the credit allowed by this section through sale and*
13 *repurchase agreements.*

14 “(j) *CREDIT TREATED AS ALLOWED UNDER PART IV*
15 *OF SUBCHAPTER A.—For purposes of subtitle F, the credit*
16 *allowed by this section shall be treated as a credit allowable*
17 *under part IV of subchapter A of this chapter.*

18 “(k) *REPORTING.—Issuers of qualified tribal school*
19 *modernization bonds shall submit reports similar to the re-*
20 *ports required under section 149(e).”.*

21 **SEC. 5. ADDITIONAL PROVISIONS.**

22 “(a) *SOVEREIGN IMMUNITY.—This Act and the amend-*
23 *ments made by this Act shall not be construed to impact,*
24 *limit, or affect the sovereign immunity of the Federal Gov-*
25 *ernment or any State or tribal government.*

1 **(b) APPLICATION.**—*This Act and the amendments*
2 *made by this Act shall take effect on the date of the enact-*
3 *ment of this Act with respect to bonds issued after December*
4 *31, 2000, regardless of the status of regulations promulgated*
5 *thereunder.*

Calendar No. 947

106TH CONGRESS
2D SESSION

S. 2580

[Report No. 106-497]

A BILL

To provide for the issuance of bonds to provide funding for the construction of schools of the Bureau of Indian Affairs of the Department of the Interior, and for other purposes.

OCTOBER 11 (legislative day, SEPTEMBER 22), 2000

Reported with an amendment