

117TH CONGRESS  
1ST SESSION

# H. R. 2634

To amend the Internal Revenue Code of 1986 to provide a credit for American infrastructure bonds, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 16, 2021

Ms. SEWELL 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 provide a credit for American infrastructure bonds, 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 “Local Infrastructure  
5       Financing Tools Act”, or the “LIFT Act”.

6       **SEC. 2. CREDIT TO ISSUER FOR CERTAIN INFRASTRUC-**  
7       **TURE BONDS.**

8       (a) IN GENERAL.—Subchapter B of chapter 65 is  
9       amended by adding at the end the following new section:

1 **“SEC. 6431A. CREDIT ALLOWED TO ISSUER FOR AMERICAN**  
 2 **INFRASTRUCTURE BONDS.**

3 “(a) IN GENERAL.—In the case of an American in-  
 4 frastructure bond, the issuer of such bond shall be allowed  
 5 a credit with respect to each interest payment under such  
 6 bond which shall be payable by the Secretary as provided  
 7 in subsection (b).

8 “(b) PAYMENT OF CREDIT.—

9 “(1) IN GENERAL.—The Secretary shall pay  
 10 (contemporaneously with each date on which interest  
 11 is so payable) to the issuer of such bond (or to any  
 12 person who makes such interest payments on behalf  
 13 of such issuer) an amount equal to the applicable  
 14 percentage of such interest so payable.

15 “(2) APPLICABLE PERCENTAGE.—For purposes  
 16 of this subsection, except as provided in subsection  
 17 (d), the applicable percentage with respect to any  
 18 bond shall be determined under the following table:

<b>“In the case of a bond issued during calendar year:</b>	<b>The applicable percentage is:</b>
2020 through 2024 .....	42%
2025 .....	38%
2026 .....	34%
2027 and thereafter .....	30%.

19 “(3) LIMITATION.—

20 “(A) IN GENERAL.—The amount of any  
 21 interest payment taken into account under  
 22 paragraph (1) with respect to a bond for any

1 payment date shall not exceed the amount of  
2 interest which would have been payable under  
3 such bond on such date if such interest were  
4 determined at the rate which the Secretary esti-  
5 mates will permit the issuance of American in-  
6 frastructure bonds with a specified maturity or  
7 redemption date without discount and without  
8 additional interest cost.

9 “(B) DATE OF RATE DETERMINATION  
10 WITH RESPECT TO BOND.—Such rate with re-  
11 spect to any American infrastructure bond shall  
12 be determined as of the first day on which there  
13 is a binding, written contract for the sale or ex-  
14 change of the bond.

15 “(c) AMERICAN INFRASTRUCTURE BOND.—

16 “(1) IN GENERAL.—For purposes of this sec-  
17 tion, the term ‘American infrastructure bond’ means  
18 any bond (other than a private activity bond) issued  
19 as part of an issue if—

20 “(A) 100 percent of the available project  
21 proceeds of such issue are to be used for capital  
22 expenditures or operations and maintenance ex-  
23 penditures in connection with property the ac-  
24 quisition, construction, or improvement of  
25 which would be a capital expenditure,

1           “(B) the interest on such bond would (but  
2           for this section) be excludable from gross in-  
3           come under section 103,

4           “(C) the issue price has not more than a  
5           de minimis amount (determined under rules  
6           similar to the rules of section 1273(a)(3)) of  
7           premium over the stated principal amount of  
8           the bond, and

9           “(D) prior to the issuance of such bond,  
10          the issuer makes an irrevocable election to have  
11          this section apply.

12          “(2) APPLICABLE RULES.—For purposes of ap-  
13          plying paragraph (1)—

14               “(A) NOT TREATED AS FEDERALLY GUAR-  
15               ANTEED.—For purposes of section 149(b), an  
16               American infrastructure bond shall not be  
17               treated as federally guaranteed by reason of the  
18               credit allowed under this section.

19               “(B) APPLICATION OF ARBITRAGE  
20               RULES.—For purposes of section 148, the yield  
21               on an American infrastructure bond shall be re-  
22               duced by the credit allowed under this section.

23          “(d) DEFINITION AND SPECIAL RULES.—For pur-  
24          poses of this section—

1           “(1) INTEREST INCLUDIBLE IN GROSS IN-  
2 COME.—For purposes of this title, interest on any  
3 American infrastructure bond shall be includible in  
4 gross income.

5           “(2) AVAILABLE PROJECT PROCEEDS.—The  
6 term ‘available project proceeds’ means—

7               “(A) the excess of—

8                   “(i) the proceeds from the sale of an  
9 issue, over

10                  “(ii) the sum of—

11                       “(I) issuance costs financed by  
12 the issue (the extent that such costs  
13 do not exceed 2 percent of such pro-  
14 ceeds), and

15                       “(II) amounts in a reasonably re-  
16 quired reserve (within the meaning of  
17 section 150(a)(3)) with respect to  
18 such issue), and

19               “(B) the proceeds from any investment of  
20 the excess described in clause (i).

21           “(3) CURRENT REFUNDINGS ALLOWED.—

22               “(A) IN GENERAL.—In the case of a bond  
23 issued to refund an American infrastructure  
24 bond, such refunding bond shall be treated as

1 an American infrastructure bond for purposes  
2 of this section if—

3 “(i) the average maturity date of the  
4 issue of which the refunding bond is a part  
5 is not later than the average maturity date  
6 of the bonds to be refunded by such issue,

7 “(ii) the amount of the refunding  
8 bond does not exceed the outstanding  
9 amount of the refunded bond,

10 “(iii) the refunded bond is redeemed  
11 not later than 90 days after the date of the  
12 issuance of the refunding bond, and

13 “(iv) the refunded bond was issued  
14 more than 30 days after the date of the  
15 enactment of this section.

16 “(B) APPLICABLE PERCENTAGE LIMITA-  
17 TION.—The applicable percentage with respect  
18 to any bond to which subparagraph (A) applies  
19 shall be 30 percent.

20 “(C) DETERMINATION OF AVERAGE MATU-  
21 RITY.—For purposes of subparagraph (A)(i),  
22 average maturity shall be determined in accord-  
23 ance with section 147(b)(2)(A).

24 “(D) APPLICATION OF DAVIS-BACON ACT  
25 REQUIREMENTS WITH RESPECT TO AMERICAN

1           INFRASTRUCTURE BONDS.—Subchapter IV of  
 2           chapter 31 of the title 40, United States Code,  
 3           shall apply to projects financed with the pro-  
 4           ceeds of American infrastructure bonds.

5           “(e) REGULATIONS.—The Secretary may prescribe  
 6 such regulations and other guidance as may be necessary  
 7 or appropriate to carry out this section.”.

8           (b) CONFORMING AMENDMENTS.—

9           (1) Section 1324(b)(2) of title 31, United  
 10          States Code, is amended by striking “or 6431” and  
 11          inserting “6431, or 6431A”.

12          (2) The table of sections for subchapter B of  
 13          chapter 65 is amended by adding at the end the fol-  
 14          lowing new item:

“Sec. 6431A. Credit allowed to issuer for American infrastructure bonds.”.

15          (c) EFFECTIVE DATE.—The amendments made by  
 16 this section shall apply to bonds issued more than 30 days  
 17 after the date of the enactment of this Act.

18 **SEC. 3. ADVANCE REFUNDING BONDS.**

19          (a) IN GENERAL.—Section 149(d) is amended—

20           (1) by striking “to advance refund another  
 21          bond.” in paragraph (1) and inserting “as part of  
 22          an issue described in paragraph (2), (3), or (4).”,

23           (2) by redesignating paragraphs (2) and (3) as  
 24          paragraphs (5) and (7), respectively,

1           (3) by inserting after paragraph (1) the fol-  
 2           lowing new paragraphs:

3           “(2) CERTAIN PRIVATE ACTIVITY BONDS.—An  
 4           issue is described in this paragraph if any bond  
 5           (issued as part of such issue) is issued to advance  
 6           refund a private activity bond (other than a qualified  
 7           501(c)(3) bond).

8           “(3) OTHER BONDS.—

9           “(A) IN GENERAL.—An issue is described  
 10          in this paragraph if any bond (issued as part of  
 11          such issue), hereinafter in this paragraph re-  
 12          ferred to as the ‘refunding bond’, is issued to  
 13          advance refund a bond unless—

14                 “(i) the refunding bond is only—

15                         “(I) the first advance refunding  
 16                         of the original bond if the original  
 17                         bond is issued after 1985, or

18                         “(II) the first or second advance  
 19                         refunding of the original bond if the  
 20                         original bond was issued before 1986,

21                         “(ii) in the case of refunded bonds  
 22                         issued before 1986, the refunded bond is  
 23                         redeemed not later than the earliest date  
 24                         on which such bond may be redeemed at  
 25                         par or at a premium of 3 percent or less,



1 “(iii) in the case of refunded bonds  
2 issued after 1985, the refunded bond is re-  
3 deemed not later than the earliest date on  
4 which such bond may be redeemed,

5 “(iv) the initial temporary period  
6 under section 148(c) ends—

7 “(I) with respect to the proceeds  
8 of the refunding bond not later than  
9 30 days after the date of issue of such  
10 bond, and

11 “(II) with respect to the proceeds  
12 of the refunded bond on the date of  
13 issue of the refunding bond, and

14 “(v) in the case of refunded bonds to  
15 which section 148(e) did not apply, on and  
16 after the date of issue of the refunding  
17 bond, the amount of proceeds of the re-  
18 funded bond invested in higher yielding in-  
19 vestments (as defined in section 148(b))  
20 which are nonpurpose investments (as de-  
21 fined in section 148(f)(6)(A)) does not ex-  
22 ceed—

23 “(I) the amount so invested as  
24 part of a reasonably required reserve

1 or replacement fund or during an al-  
2 lowable temporary period, and

3 “(II) the amount which is equal  
4 to the lesser of 5 percent of the pro-  
5 ceeds of the issue of which the re-  
6 funded bond is a part or \$100,000 (to  
7 the extent such amount is allocable to  
8 the refunded bond).

9 “(B) SPECIAL RULES FOR REDEMP-  
10 TIONS.—

11 “(i) ISSUER MUST REDEEM ONLY IF  
12 DEBT SERVICE SAVINGS.—Clause (ii) and  
13 (iii) of subparagraph (A) shall apply only  
14 if the issuer may realize present value debt  
15 service savings (determined without regard  
16 to administrative expenses) in connection  
17 with the issue of which the refunding bond  
18 is a part.

19 “(ii) REDEMPTIONS NOT REQUIRED  
20 BEFORE 90TH DAY.—For purposes of  
21 clauses (ii) and (iii) of subparagraph (A),  
22 the earliest date referred to in such clauses  
23 shall not be earlier than the 90th day after  
24 the date of issuance of the refunding bond.

1           “(4) ABUSIVE TRANSACTIONS PROHIBITED.—  
 2       An issue is described in this paragraph if any bond  
 3       (issued as part of such issue) is issued to advance  
 4       refund another bond and a device is employed in  
 5       connection with the issuance of such issue to obtain  
 6       a material financial advantage (based on arbitrage)  
 7       apart from savings attributable to lower interest  
 8       rates.”, and

9           (4) by inserting after paragraph (5) (as so re-  
 10      designated) the following new paragraph:

11           “(6) SPECIAL RULES FOR PURPOSES OF PARA-  
 12      GRAPH (3).—For purposes of paragraph (3), bonds  
 13      issued before October 22, 1986, shall be taken into  
 14      account under subparagraph (A)(i) thereof except—

15           “(A) a refunding which occurred before  
 16      1986 shall be treated as an advance refunding  
 17      only if the refunding bond was issued more  
 18      than 180 days before the redemption of the re-  
 19      funded bond, and

20           “(B) a bond issued before 1986, shall be  
 21      treated as advance refunded no more than once  
 22      before March 15, 1986.”.

23           (b)       CONFORMING        AMENDMENT.—Section  
 24      148(f)(4)(C) is amended by redesignating clauses (xiv)

1 through (xvi) as clauses (xv) to (xvii), respectively, and  
 2 by inserting after clause (xiii) the following new clause:

3                   “(xiv) DETERMINATION OF INITIAL  
 4                   TEMPORARY PERIOD.—For purposes of  
 5                   this subparagraph, the end of the initial  
 6                   section temporary period shall be deter-  
 7                   mined without regard to section  
 8                   149(d)(3)(A)(iv).”.

9           (c) EFFECTIVE DATE.—The amendments made by  
 10 this section shall apply to advance refunding bonds issued  
 11 more than 30 days after the date of the enactment of this  
 12 Act.

13 **SEC. 4. PERMANENT MODIFICATION OF SMALL ISSUER EX-**  
 14 **CEPTION TO TAX-EXEMPT INTEREST EX-**  
 15 **PENSE ALLOCATION RULES FOR FINANCIAL**  
 16 **INSTITUTIONS.**

17           (a) PERMANENT INCREASE IN LIMITATION.—Sub-  
 18 paragraphs (C)(i), (D)(i), and (D)(iii)(II) of section  
 19 265(b)(3) are each amended by striking “\$10,000,000”  
 20 and inserting “\$30,000,000”.

21           (b) PERMANENT MODIFICATION OF OTHER SPECIAL  
 22 RULES.—Section 265(b)(3) is amended—

23                   (1) by redesignating clauses (iv), (v), and (vi)  
 24                   of subparagraph (G) as clauses (ii), (iii), and (iv),

1       respectively, and moving such clauses to the end of  
2       subparagraph (H) (as added by paragraph (2)), and  
3       (2) by striking so much of subparagraph (G) as  
4       precedes such clauses and inserting the following:

5               “(G) QUALIFIED 501(c)(3) BONDS TREATED  
6       AS ISSUED BY EXEMPT ORGANIZATION.—In the  
7       case of a qualified 501(c)(3) bond (as defined  
8       in section 145), this paragraph shall be applied  
9       by treating the 501(c)(3) organization for  
10      whose benefit such bond was issued as the  
11      issuer.

12              “(H) SPECIAL RULE FOR QUALIFIED  
13      FINANCINGS.—

14              “(i) IN GENERAL.—In the case of a  
15      qualified financing issue—

16              “(I) subparagraph (F) shall not  
17      apply, and

18              “(II) any obligation issued as a  
19      part of such issue shall be treated as  
20      a qualified tax-exempt obligation if  
21      the requirements of this paragraph  
22      are met with respect to each qualified  
23      portion of the issue (determined by  
24      treating each qualified portion as a  
25      separate issue which is issued by the

1 qualified borrower with respect to  
2 which such portion relates).”.

3 (c) INFLATION ADJUSTMENT.—Section 265(b)(3), as  
4 amended by subsection (b), is amended by adding at the  
5 end the following new subparagraph:

6 “(I) INFLATION ADJUSTMENT.—In the  
7 case of any calendar year after 2020, the  
8 \$30,000,000 amounts contained in subpara-  
9 graphs (C)(i), (D)(i), and (D)(iii)(II) shall each  
10 be increased by an amount equal to—

11 “(i) such dollar amount, multiplied by

12 “(ii) the cost-of-living adjustment de-  
13 termined under section 1(f)(3) for such  
14 calendar year, determined by substituting  
15 ‘calendar year 2019’ for ‘calendar year  
16 2016’ in subparagraph (A)(ii) thereof.

17 Any increase determined under the preceding  
18 sentence shall be rounded to the nearest mul-  
19 tiple of \$100,000.”.

20 (d) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to obligations issued after the date  
22 of the enactment of this Act.

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