

116TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to provide that certain contributions by government entities are treated as contributions to capital.

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IN THE SENATE OF THE UNITED STATES

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Mrs. SHAHEEN introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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## A BILL

To amend the Internal Revenue Code of 1986 to provide that certain contributions by government entities are treated as contributions to capital.

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. TREATMENT OF CERTAIN CONTRIBUTIONS BY**  
4                               **GOVERNMENT ENTITIES AS CONTRIBUTIONS**  
5                               **TO CAPITAL.**

6       (a) IN GENERAL.—Section 118 of the Internal Rev-  
7       enue Code of 1986 is amended—

8               (1) by redesignating subsection (d) as sub-  
9       section (e), and

1           (2) by striking subsections (b) and (c) and in-  
2           serting the following:

3           “(b) CONTRIBUTIONS IN AID OF CONSTRUCTION,  
4           ETC.—For purposes of subsection (a), except as provided  
5           in subsection (e), the term ‘contribution to the capital of  
6           the taxpayer’ does not include any contribution in aid of  
7           construction or any other contribution as a customer or  
8           potential customer.

9           “(c) SPECIAL RULES FOR WATER AND SEWERAGE  
10          DISPOSAL UTILITIES.—

11           “(1) GENERAL RULE.—For purposes of this  
12          section, the term ‘contribution to the capital of the  
13          taxpayer’ includes any amount of money or other  
14          property received from any person (whether or not  
15          a shareholder) by a regulated public utility which  
16          provides water or sewerage disposal services if—

17                   “(A) such amount is a contribution in aid  
18                   of construction,

19                   “(B) in the case of contribution of prop-  
20                   erty other than water or sewerage disposal fa-  
21                   cilities, such amount meets the requirements of  
22                   the expenditure rule of paragraph (2), and

23                   “(C) such amount (or any property ac-  
24                   quired or constructed with such amount) is not

1 included in the taxpayer's rate base for rate-  
2 making purposes.

3 “(2) EXPENDITURE RULE.—An amount meets  
4 the requirements of this paragraph if—

5 “(A) an amount equal to such amount is  
6 expended for the acquisition or construction of  
7 tangible property described in section  
8 1231(b)—

9 “(i) which is the property for which  
10 the contribution was made or is of the  
11 same type as such property, and

12 “(ii) which is used predominantly in  
13 the trade or business of furnishing water  
14 or sewerage disposal services,

15 “(B) the expenditure referred to in sub-  
16 paragraph (A) occurs before the end of the sec-  
17 ond taxable year after the year in which such  
18 amount was received, and

19 “(C) accurate records are kept of the  
20 amounts contributed and expenditures made,  
21 the expenditures to which contributions are al-  
22 located, and the year in which the contributions  
23 and expenditures are received and made.

24 “(3) DEFINITIONS.—For purposes of this sub-  
25 section—

1           “(A) CONTRIBUTION IN AID OF CONSTRUC-  
2           TION.—The term ‘contribution in aid of con-  
3           struction’ shall be defined by regulations pre-  
4           scribed by the Secretary, except that such term  
5           shall not include amounts paid as service  
6           charges for starting or stopping services.

7           “(B) PREDOMINANTLY.—The term ‘pre-  
8           dominantly’ means 80 percent or more.

9           “(C) REGULATED PUBLIC UTILITY.—The  
10          term ‘regulated public utility’ has the meaning  
11          given such term by section 7701(a)(33), except  
12          that such term shall not include any utility  
13          which is not required to provide water or sewer-  
14          age disposal services to members of the general  
15          public in its service area.

16          “(4) DISALLOWANCE OF DEDUCTIONS AND  
17          CREDITS; ADJUSTED BASIS.—Notwithstanding any  
18          other provision of this subtitle, no deduction or cred-  
19          it shall be allowed for, or by reason of, any expendi-  
20          ture which constitutes a contribution in aid of con-  
21          struction to which this subsection applies. The ad-  
22          justed basis of any property acquired with contribu-  
23          tions in aid of construction to which this subsection  
24          applies shall be zero.

1       “(d) STATUTE OF LIMITATIONS.—If the taxpayer for  
2 any taxable year treats an amount as a contribution to  
3 the capital of the taxpayer described in subsection (c),  
4 then—

5               “(1) the statutory period for the assessment of  
6 any deficiency attributable to any part of such  
7 amount shall not expire before the expiration of 3  
8 years from the date the Secretary is notified by the  
9 taxpayer (in such manner as the Secretary may pre-  
10 scribe) of—

11                       “(A) the amount of the expenditure re-  
12 ferred to in subparagraph (A) of subsection  
13 (c)(2),

14                       “(B) the taxpayer’s intention not to make  
15 the expenditures referred to in such subpara-  
16 graph, or

17                       “(C) a failure to make such expenditure  
18 within the period described in subparagraph  
19 (B) of subsection (c)(2), and

20               “(2) such deficiency may be assessed before the  
21 expiration of such 3-year period notwithstanding the  
22 provisions of any other law or rule of law which  
23 would otherwise prevent such assessment.”.

1           (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to contributions made after De-  
3 cember 22, 2017.