

105TH CONGRESS
1ST SESSION

H. R. 1104

To establish a partnership to rebuild and modernize America's school facilities.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 1997

Mrs. LOWEY (for herself, Mr. KENNEDY of Massachusetts, Mr. CLAY, Mrs. MALONEY of New York, Mr. SCHUMER, Ms. DELAURO, Mr. MILLER of California, Mr. KILDEE, Mr. MARTINEZ, Mr. SAWYER, Mr. GREEN, Ms. WATERS, Ms. NORTON, Mr. KUCINICH, Mr. DIXON, Mr. ANDREWS, Mr. HASTINGS of Florida, Ms. PELOSI, Mr. HINOJOSA, Mr. LEWIS of Georgia, Ms. SANCHEZ, Ms. CHRISTIAN-GREEN, Mrs. MCCARTHY of New York, Mr. MCGOVERN, Mr. NEAL of Massachusetts, Ms. MCCARTHY of Missouri, Mr. MATSUI, Mrs. MINK of Hawaii, Mr. STOKES, Mr. CONYERS, Mr. FROST, Mr. MCDERMOTT, Mr. BENTSEN, Mr. FORD, Mr. ETHERIDGE, Mr. UNDERWOOD, Mr. BALDACCI, Mr. FATTAH, Ms. MCKINNEY, Mr. GONZALEZ, Mr. MARKEY, and Mr. GUTIERREZ) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To establish a partnership to rebuild and modernize
America's school facilities.

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 "Partnership to Rebuild
5 America's Schools Act of 1997".

1 TITLE I—SCHOOL CONSTRUCTION ASSISTANCE
2 PROGRAM

3 TABLE OF CONTENTS

4 SEC. 101. The table of contents for this Act is as
5 follows:

TITLE I—SCHOOL CONSTRUCTION ASSISTANCE PROGRAM

Sec. 101. Table of contents.

PART 1—PROGRAM AUTHORIZED

Sec. 102. Findings and purpose.

Sec. 103. Definitions.

Sec. 104. Funds appropriated.

Sec. 105. Allocation of funds.

PART 2—GRANTS TO STATES

Sec. 111. Allocation of funds.

Sec. 112. Eligible State agency.

Sec. 113. Allowable uses of funds.

Sec. 114. Eligible construction projects; period for initiation.

Sec. 115. Selection of localities and projects.

Sec. 116. State applications.

Sec. 117. Amount of Federal subsidy.

Sec. 118. Separate funds or accounts; prudent investment.

Sec. 119. State reports.

PART 3—DIRECT GRANTS TO LOCAL EDUCATIONAL AGENCIES

Sec. 121. Eligible local educational agencies.

Sec. 122. Grantees.

Sec. 123. Allowable uses of funds.

Sec. 124. Eligible construction projects; redistribution.

Sec. 125. Local applications.

Sec. 126. Formula grants.

Sec. 127. Competitive grants.

Sec. 128. Amount of Federal subsidy.

Sec. 129. Separate funds or accounts; prudent investment.

Sec. 130. Local reports.

TITLE II—GENERAL PROVISIONS

Sec. 201. Technical employees.

Sec. 202. Wage rates.

Sec. 203. No liability of Federal Government.

Sec. 204. Consultation with Secretary of the Treasury.

1 PART 1—PROGRAM AUTHORIZED

2 FINDINGS AND PURPOSE

3 SEC. 102. (a) FINDINGS.—The Congress finds as fol-
4 lows:

5 (1) According to the General Accounting Office,
6 one-third of all elementary and secondary schools in
7 the United States, serving 14,000,000 students,
8 need extensive repair or renovation.

9 (2) School infrastructure problems exist across
10 the country, but are most severe in central cities and
11 in schools with high proportions of poor and minor-
12 ity children.

13 (3) Many States and school districts will need
14 to build new schools in order to accommodate in-
15 creasing student enrollments; the Department of
16 Education has predicted that the Nation will need
17 6,000 more schools by the year 2006.

18 (4) Many schools do not have the physical in-
19 frastructure to take advantage of computers and
20 other technology needed to meet the challenges of
21 the next century.

22 (5) While school construction and maintenance
23 are primarily a State and local concern, States and
24 communities have not, on their own, met the in-
25 creasing burden of providing acceptable school facili-

1 ties for all students, and the poorest communities
2 have had the greatest difficulty meeting this need.

3 (6) The Federal Government, by providing in-
4 terest subsidies and similar types of support, can
5 lower the costs of State and local school infrastruc-
6 ture investment, creating an incentive for States and
7 localities to increase their own infrastructure im-
8 provement efforts and helping ensure that all stu-
9 dents are able to attend schools that are equipped
10 for the 21st century.

11 (b) PURPOSE.—The purpose of this Act is to provide
12 Federal interest subsidies, or similar assistance, to States
13 and localities to help them bring all public school facilities
14 up to an acceptable standard and build the additional pub-
15 lic schools needed to educate the additional numbers of
16 students who will enroll in the next decade.

17 DEFINITIONS

18 SEC. 103. Except as otherwise provided, as used in
19 this Act, the following terms have the following meanings:

20 (1) CHARTER SCHOOL.—The term “charter
21 school” has the meaning given that term in section
22 10306(1) of the Elementary and Secondary Edu-
23 cation Act of 1965 (20 U.S.C. 8066(1)).

24 (2) COMMUNITY SCHOOL.—The term “commu-
25 nity school” means a school, or part of a school, that
26 serves as a center for after-school and summer pro-

1 grams and delivery of education, tutoring, cultural,
2 and recreational services, and as a safe haven for all
3 members of the community by—

4 (A) collaborating with other public and pri-
5 vate nonprofit agencies (including libraries and
6 other educational, human-service, cultural, and
7 recreational entities) and private businesses in
8 the provision of services;

9 (B) providing services such as literacy and
10 reading programs; senior citizen programs; chil-
11 dren’s day-care services; nutrition services; serv-
12 ices for individuals with disabilities; employ-
13 ment counseling, training, and placement; and
14 other educational, health, cultural, and rec-
15 reational services; and

16 (C) providing those services outside the
17 normal school day and school year, such as
18 through safe and drug-free safe havens for
19 learning.

20 (3)(A) CONSTRUCTION.—The term “construc-
21 tion” means—

22 (i) the preparation of drawings and speci-
23 fications for school facilities;

1 (ii) erecting, building, acquiring, remodel-
2 ing, renovating, improving, repairing or extend-
3 ing school facilities;

4 (iii) demolition, in preparation for rebuild-
5 ing school facilities; and

6 (iv) the inspection and supervision of the
7 construction of school facilities.

8 (B) The term “construction” does not include
9 the acquisition of any interest in real property.

10 (4) LOCAL EDUCATIONAL AGENCY.—The term
11 “local educational agency” has the meaning given
12 that term in section 14101(18) (A) and (B) of the
13 Elementary and Secondary Education Act of 1965
14 (20 U.S.C. 8801(18) (A) and (B)).

15 (5) SCHOOL FACILITY.—(A) Term “school facil-
16 ity” means—

17 (i) a public structure suitable for use as a
18 classroom, laboratory, library, media center, or
19 related facility, whose primary purpose is the
20 instruction of public elementary or secondary
21 students; and

22 (ii) initial equipment, machinery, and utili-
23 ties necessary or appropriate for school pur-
24 poses.

1 (A) provide assistance to the Secretary of
2 the Interior, which the Secretary of the Interior
3 shall use for the school construction priorities
4 described in section 1125(c) of the Education
5 Amendments of 1978 (25 U.S.C. 2005(e)); and

6 (B) make grants to American Samoa,
7 Guam, the Virgin Islands, and the Common-
8 wealth of the Northern Mariana Islands, in ac-
9 cordance with their respective needs, as deter-
10 mined by the Secretary.

11 (2) Grants provided under paragraph (1)(B)
12 shall be used for activities that the Secretary deter-
13 mines best meet the school infrastructure needs of
14 the areas identified in that paragraph, subject to the
15 terms and conditions, consistent with the purpose of
16 this Act, that the Secretary may establish.

17 (b) ALLOCATION OF REMAINING FUNDS.—Of the re-
18 maining funds appropriated by section 104—

19 (1) 50 percent shall be used for formula grants
20 to States under section 111;

21 (2) 35 percent shall be used for direct formula
22 grants to local educational agencies under section
23 126; and

1 (3) 15 percent shall be used for competitive
2 grants to local educational agencies under section
3 127.

4 PART 2—GRANTS TO STATES

5 ALLOCATION OF FUNDS

6 SEC. 111. (a) FORMULA GRANTS TO STATES.—Sub-
7 ject to subsection (b), the Secretary shall allocate the
8 funds available under section 105(b)(1) among the States
9 in proportion to the relative amounts each State would
10 have received for Basic Grants under subpart 2 of part
11 A of title I of the Elementary and Secondary Education
12 Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent
13 fiscal year if the Secretary had disregarded the numbers
14 of children counted under that subpart who were enrolled
15 in schools of local educational agencies that are eligible
16 to receive direct grants under section 126 of this Act.

17 (b) ADJUSTMENTS TO ALLOCATIONS.—The Sec-
18 retary shall adjust the allocations under subsection (a),
19 as necessary, to ensure that, of the total amount allocated
20 to States under subsection (a) and to local educational
21 agencies under section 126, the percentage allocated to a
22 State under this section and to localities in the State
23 under section 126 is at least the minimum percentage for
24 the State described in section 1124(d) of the Elementary

1 and Secondary Education Act of 1965 (20 U.S.C.
2 6334(d)) for the previous fiscal year.

3 (c) REALLOCATIONS.—If a State does not apply for
4 its allocation, applies for less than its full allocation, or
5 fails to submit an approvable application, the Secretary
6 may reallocate all or a portion of the State’s allocation,
7 as the case may be, to the remaining States in the same
8 proportions as the original allocations were made to those
9 States under subsections (a) and (b).

10 ELIGIBLE STATE AGENCY

11 SEC. 112. The Secretary shall award each State’s
12 grant to the State agency, such as a State educational
13 agency, a State school construction agency, or a State
14 bond bank, that the Governor, with the agreement of the
15 chief State school officer, designates as best able to admin-
16 ister the grant.

17 ALLOWABLE USES OF FUNDS

18 SEC. 113. Each State shall use its grant under this
19 part only for one or more of the following activities to sub-
20 sidize the cost of eligible school construction projects de-
21 scribed in section 114:

22 (1) Providing a portion of the interest cost (or
23 of another financing cost approved by the Secretary)
24 on bonds, certificates of participation, purchase or
25 lease arrangements, or other forms of indebtedness

1 issued or entered into by a State or its instrumental-
2 ity for the purpose of financing eligible projects.

3 (2) State-level expenditures approved by the
4 Secretary for credit enhancement for the debt or fi-
5 nancing instruments described in paragraph (1).

6 (3) Making subgrants, or making loans through
7 a State revolving fund, to local educational agencies
8 or (with the agreement of the affected local edu-
9 cational agency) to other qualified public agencies to
10 subsidize—

11 (A) the interest cost (or another financing
12 cost approved by the Secretary) of bonds, cer-
13 tificates of participation, purchase or lease ar-
14 rangements, or other forms of indebtedness is-
15 sued or entered into by a local educational
16 agency or other agency or unit of local govern-
17 ment for the purpose of financing eligible
18 projects; or

19 (B) local expenditures approved by the
20 Secretary for credit enhancement for the debt
21 or financing instruments described in subpara-
22 graph (A).

23 (4) Other State and local expenditures approved
24 by the Secretary that leverage funds for additional
25 school construction.

1 ELIGIBLE CONSTRUCTION PROJECTS; PERIOD FOR
2 INITIATION

3 SEC. 114. (a) ELIGIBLE PROJECTS.—States and
4 their subgrantees may use funds under this part, in ac-
5 cordance with section 113, to subsidize the cost of—

6 (1) construction of elementary and secondary
7 school facilities in order to ensure the health and
8 safety of all students, which may include the removal
9 of environmental hazards; improvements in air qual-
10 ity, plumbing, lighting, heating and air conditioning,
11 electrical systems, or basic school infrastructure; and
12 building improvements that increase school safety;

13 (2) construction activities needed to meet the
14 requirements of section 504 of the Rehabilitation
15 Act of 1973 (29 U.S.C. 794) or of the Americans
16 with Disabilities Act of 1990 (42 U.S.C. 12101 et
17 seq.);

18 (3) construction activities that increase the en-
19 ergy efficiency of school facilities;

20 (4) construction that facilitates the use of mod-
21 ern educational technologies;

22 (5) construction of new school facilities that are
23 needed to accommodate growth in school enroll-
24 ments; or

1 (6) construction projects needed to facilitate the
2 establishment of charter schools and community
3 schools.

4 (b) PERIOD FOR INITIATION OF PROJECT.—(1) Each
5 State shall use its grant under this part only to subsidize
6 construction projects described in subsection (a) that the
7 State or its localities have chosen to initiate, through the
8 vote of a school board, passage of a bond issue, or similar
9 public decision, made between July 11, 1996 and Septem-
10 ber 30, 2001.

11 (2) If a State determines, after September 30, 2001,
12 that an eligible project for which it has obligated funds
13 under this part will not be carried out, the State may use
14 those funds (or any available portion of those funds) for
15 other eligible projects selected in accordance with this
16 part.

17 (c) REALLOCATION.—If the Secretary determines, by
18 a date before September 30, 2001 selected by the Sec-
19 retary, that a State is not making satisfactory progress
20 in carrying out its plan for the use of the funds allocated
21 to it under this part, the Secretary may reallocate all or
22 part of those funds, including any interest earned by the
23 State on those funds, to one or more other States that
24 are making satisfactory progress.

1 SELECTION OF LOCALITIES AND PROJECTS

2 SEC. 115. (a) PRIORITIES.—In determining which lo-
3 calities and activities to support with grant funds, each
4 State shall give the highest priority to—

5 (1) localities with the greatest needs, as dem-
6 onstrated by inadequate educational facilities, cou-
7 pled with a low level of resources available to meet
8 school construction needs; and

9 (2) localities that will achieve the greatest
10 leveraging effect on school construction from assist-
11 ance under this part.

12 (b) ADDITIONAL CRITERIA.—In addition to the prior-
13 ities required by subsection (a), each State shall consider
14 each of the following in determining the use of its grant
15 funds under this part:

16 (1) The condition of the school facilities in dif-
17 ferent communities in the State.

18 (2) The energy efficiency and the effect on the
19 environment of projects proposed by communities,
20 and the extent to which these projects use cost-effi-
21 cient architectural design.

22 (3) The commitment of communities to finance
23 school construction and renovation projects with as-
24 sistance from the State's grant, as demonstrated by
25 their incurring indebtedness or by similar public or

1 private commitments for the purposes described in
2 section 114(a).

3 (4) The ability of communities to repay bonds
4 or other forms of indebtedness supported with grant
5 funds.

6 (5) The particular needs, if any, of rural com-
7 munities in the State for assistance under this Act.

8 (6) The receipt by local educational agencies in
9 the State of grants under part 3, except that a local
10 educational agency is not ineligible for a subgrant
11 under this part solely because it receives such a
12 grant.

13 STATE APPLICATIONS

14 SEC. 116. (a) APPLICATION REQUIRED.—A State
15 that wishes to receive a grant under this part shall submit
16 an application to the Secretary, in the manner the Sec-
17 retary may require, not later than two years after the date
18 of enactment of this Act.

19 (b) DEVELOPMENT OF APPLICATION.—(1) The State
20 agency designated under section 112 shall develop the
21 State's application under this part only after broadly con-
22 sulting with the State board of education, and representa-
23 tives of local school boards, school administrators, the
24 business community, parents, and teachers in the State
25 about the best means of carrying out this part.

1 (2) If the State educational agency is not the State
2 agency designated under section 112, the designated agen-
3 cy shall consult with the State educational agency and ob-
4 tain its approval before submitting the State’s application.

5 (c) STATE SURVEY.—(1) Before submitting the
6 State’s application, the State agency designated under sec-
7 tion 112, with the involvement of local school officials and
8 experts in building construction and management, shall
9 survey the needs throughout the State (including in local-
10 ities receiving grants under part 3) for construction and
11 renovation of school facilities, including, at a minimum—

12 (A) the overall condition of school facilities in
13 the State, including health and safety problems;

14 (B) the capacity of the schools in the State to
15 house projected enrollments; and

16 (C) the extent to which the schools in the State
17 offer the physical infrastructure needed to provide a
18 high-quality education to all students.

19 (2) A State need not conduct a new survey under
20 paragraph (1) if it has previously completed a survey that
21 meets the requirements of that paragraph and that the
22 Secretary finds is sufficiently recent for the purpose of
23 carrying out this part.

24 (d) APPLICATION CONTENTS.—Each State applica-
25 tion under this part shall include—

1 (1) an identification of the State agency des-
2 ignated by the Governor under section 112 to receive
3 the State's grant under this part;

4 (2) a summary of the results of the State's sur-
5 vey of its school facility needs, as described in sub-
6 section (c);

7 (3) a description of how the State will imple-
8 ment its program under this part;

9 (4) a description of how the State will allocate
10 its grant funds, including a description of how the
11 State will implement the priorities and criteria de-
12 scribed in section 115;

13 (5)(A) a description of the mechanisms that will
14 be used to finance construction projects supported
15 by grant funds; and

16 (B) a statement of how the State will determine
17 the amount of the Federal subsidy to be applied, in
18 accordance with section 117(a), to each local project
19 that the State will support;

20 (6) a description of how the State will ensure
21 that the requirements of this part are met by sub-
22 grantees under this part;

23 (7) a description of the steps the State will take
24 to ensure that local educational agencies will ade-

1 quately maintain the facilities that are constructed
2 or improved with funds under this part;

3 (8) an assurance that the State will use its
4 grant only to supplement the funds that the State,
5 and the localities receiving subgrants, would spend
6 on school construction and renovation in the absence
7 of a grant under this part, and not to supplant those
8 funds;

9 (9) an assurance that, during the four-year pe-
10 riod beginning with the year the State receives its
11 grant, the combined expenditures for school con-
12 struction by the State and the localities that benefit
13 from the State's program under this part (which, at
14 the State's option, may include private contribu-
15 tions) will be at least 125 percent of those combined
16 expenditures for that purpose for the four preceding
17 years; and

18 (10) other information and assurances that the
19 Secretary may require.

20 (e) WAIVER OF REQUIREMENT TO INCREASE EX-
21 PENDITURES.—The Secretary may waive or modify the re-
22 quirement of subsection (d)(9) for a particular State if
23 the State demonstrates to the Secretary's satisfaction that
24 that requirement is unduly burdensome because the State
25 or its localities have incurred a particularly high level of

1 school construction expenditures during the previous four
2 years.

3 AMOUNT OF FEDERAL SUBSIDY

4 SEC. 117. (a) PROJECTS FUNDED WITH SUB-
5 GRANTS.—For each construction project assisted by a
6 State through a subgrant to a locality, the State shall de-
7 termine the amount of the Federal subsidy under this
8 part, taking into account the number or percentage of chil-
9 dren from low-income families residing in the locality, sub-
10 ject to the following limits:

11 (1) If the locality will use the subgrant to help
12 meet the costs of repaying bonds issued for a school
13 construction project, the Federal subsidy shall be
14 not more than one-half of the total interest cost of
15 those bonds, determined in accordance with para-
16 graph (4).

17 (2) If the bonds to be subsidized are general ob-
18 ligation bonds issued to finance more than one type
19 of activity (including school construction), the Fed-
20 eral subsidy shall be not more than one-half of the
21 interest cost for that portion of the bonds that will
22 be used for school construction purposes, determined
23 in accordance with paragraph (4).

24 (3) If the locality elects to use its subgrant for
25 an allowable activity not described in paragraph (1)
26 or (2), such as for certificates of participation, pur-

1 chase or lease arrangements, reduction of the
2 amount of principal to be borrowed, or credit en-
3 hancements for individual construction projects, the
4 Federal subsidy shall be not more than one-half of
5 the interest cost, as determined by the State in ac-
6 cordance with paragraph (4), that would have been
7 incurred if bonds had been used to finance the
8 project.

9 (4) The interest cost referred to in paragraphs
10 (1), (2), and (3) shall be—

11 (A) calculated on the basis of net present
12 value; and

13 (B) determined in accordance with an am-
14 ortization schedule and any other criteria and
15 conditions the Secretary considers necessary, in-
16 cluding provisions to ensure comparable treat-
17 ment of different financing mechanisms.

18 (b) STATE-FUNDED PROJECTS.—For a construction
19 project under this part funded directly by the State
20 through the use of State-issued bonds or other financial
21 instruments, the Secretary shall determine the Federal
22 subsidy in accordance with subsection (a).

23 (c) NON-FEDERAL SHARE.—A State, and localities
24 in the State receiving subgrants under this part, may use
25 any non-Federal funds, including State, local, and private-

1 sector funds, for the financing costs that are not covered
2 by the Federal subsidy under subsection (a).

3 SEPARATE FUNDS OR ACCOUNTS; PRUDENT INVESTMENT

4 SEC. 118. (a) SEPARATE FUNDS OR ACCOUNTS RE-
5 QUIRED.—Each State that receives a grant, and each re-
6 cipient of a subgrant under this part, shall deposit the
7 grant or subgrant proceeds in a separate fund or account,
8 from which it shall make bond repayments and pay other
9 expenses allowable under this part.

10 (b) PRUDENT INVESTMENT REQUIRED.—Each State
11 that receives a grant, and each recipient of a subgrant
12 under this part, shall—

13 (1) invest the grant or subgrant in a fiscally pru-
14 dent manner, in order to generate amounts needed
15 to make repayments on bonds and other forms of in-
16 debtedness described in section 113; and

17 (2) notwithstanding section 6503 of title 31,
18 United States Code or any other law, use the pro-
19 ceeds of that investment to carry out this part.

20 STATE REPORTS

21 SEC. 119. (a) REPORTS REQUIRED.—

22 (1) Each State receiving a grant under this
23 part shall report to the Secretary on its activities
24 under this part, in the form and manner the Sec-
25 retary may prescribe.

1 (2) If the State educational agency is not the
2 State agency designated under section 112, the
3 State's report shall include the approval of the State
4 educational agency or its comments on the report.

5 (b) CONTENTS.—Each report shall—

6 (1) describe the State's implementation of this
7 part, including how the State has met the require-
8 ments of this part;

9 (2) identify the specific school facilities con-
10 structed, renovated, or modernized with support
11 from the grant, and the mechanisms used to finance
12 those activities;

13 (3) identify the level of Federal subsidy pro-
14 vided to each construction project carried out with
15 support from the State's grant; and

16 (4) include any other information the Secretary
17 may require.

18 (c) FREQUENCY.—(1) Each State shall submit its
19 first report under this section not later than 24 months
20 after it receives its grant under this part.

21 (2) Each State shall submit an annual report for each
22 of the three years after submitting its first report, and
23 subsequently shall submit periodic reports as long as the
24 State or localities in the State are using grant funds.

1 ALLOWABLE USES OF FUNDS

2 SEC. 123. Each grantee under this part shall use its
3 grant only for one or more of the following activities to
4 reduce the cost of financing eligible school construction
5 projects described in section 124:

6 (1) Providing a portion of the interest cost (or
7 of any other financing cost approved by the Sec-
8 retary) on bonds, certificates of participation, pur-
9 chase or lease arrangements, or other forms of in-
10 debtedness issued or entered into by a local edu-
11 cational agency or other unit or agency of local gov-
12 ernment for the purpose of financing eligible school
13 construction projects.

14 (2) Local expenditures approved by the Sec-
15 retary for credit enhancement for the debt or financ-
16 ing instruments described in paragraph (1).

17 (3) Other local expenditures approved by the
18 Secretary that leverage funds for additional school
19 construction.

20 ELIGIBLE CONSTRUCTION PROJECTS; REDISTRIBUTION

21 SEC. 124. (a) ELIGIBLE PROJECTS.—A grantee
22 under this part may use its grant, in accordance with sec-
23 tion 123, to subsidize the cost of the activities described
24 in section 114(a) for projects that the local educational
25 agency has chosen to initiate, through the vote of the
26 school board, passage of a bond issue, or similar public

1 decision, made between July 11, 1996 and September 30,
2 2001.

3 (b) REDISTRIBUTION.—If the Secretary determines,
4 by a date before September 30, 2001 selected by the Sec-
5 retary, that a local educational agency is not making satis-
6 factory progress in carrying out its plan for the use of
7 funds awarded to it under this part, the Secretary may
8 redistribute all or part of those funds, and any interest
9 earned by that agency on those funds, to one or more
10 other local educational agencies that are making satisfac-
11 tory progress.

12 LOCAL APPLICATIONS

13 SEC. 125. (a) APPLICATION REQUIRED.—A local
14 educational agency, or an alternative agency described in
15 section 122 (both referred to in this part as the “local
16 agency”), that wishes to receive a grant under this part
17 shall submit an application to the Secretary, in the man-
18 ner the Secretary may require, not later than two years
19 after the date of enactment of this Act.

20 (b) DEVELOPMENT OF APPLICATION.—(1) The local
21 agency shall develop the local application under this part
22 only after broadly consulting with parents, administrators,
23 teachers, the business community, and other members of
24 the local community about the best means of carrying out
25 this part.

1 (2) If the local educational agency is not the appli-
2 cant, the applicant shall consult with the local educational
3 agency, and shall obtain its approval before submitting its
4 application to the Secretary.

5 (c) LOCAL SURVEY.—(1) Before submitting its appli-
6 cation, the local agency, with the involvement of local
7 school officials and experts in building construction and
8 management, shall survey the local need for construction
9 and renovation of school facilities, including, at a mini-
10 mum—

11 (A) the overall condition of school facilities in
12 the local educational agency, including health and
13 safety problems;

14 (B) the capacity of the local educational agen-
15 cy's schools to house projected enrollments; and

16 (C) the extent to which the local educational
17 agency's schools offer the physical infrastructure
18 needed to provide a high-quality education to all stu-
19 dents.

20 (2) A local educational agency need not conduct a
21 new survey under paragraph (1) if it has previously com-
22 pleted a survey that meets the requirements of that para-
23 graph and that the Secretary finds is sufficiently recent
24 for the purpose of carrying out this part.

1 (d) APPLICATION CONTENTS.—Each local applica-
2 tion under this part shall include—

3 (1) an identification of the local agency to re-
4 ceive the grant under this part;

5 (2) a summary of the results of the survey of
6 school facility needs, as described in subsection (c);

7 (3) a description of how the local agency will
8 implement its program under this part;

9 (4) a description of the criteria the local agency
10 has used to determine which construction projects to
11 support with grant funds;

12 (5) a description of the construction projects
13 that will be supported with grant funds;

14 (6) a description of the mechanisms that will be
15 used to finance construction projects supported by
16 grant funds;

17 (7) a requested level of Federal subsidy, with a
18 justification for that level, for each construction
19 project to be supported by the grant, in accordance
20 with section 128(a), including the financial and de-
21 mographic information the Secretary may require;

22 (8) a description of the steps the agency will
23 take to ensure that facilities constructed or improved
24 with funds under this part will be adequately main-
25 tained;

1 1124 of the Elementary and Secondary Education Act of
2 1965 (20 U.S.C. 6333) in the most recent year for which
3 that information is available to the Secretary.

4 (b) REALLOCATIONS.—If a local educational agency
5 does not apply for its allocation, applies for less than its
6 full allocation, or fails to submit an approvable applica-
7 tion, the Secretary may reallocate all or a portion of its
8 allocation, as the case may be, to the remaining local edu-
9 cational agencies in the same proportions as the original
10 allocations were made to those agencies under subsection
11 (a).

12 COMPETITIVE GRANTS

13 SEC. 127. (a) GRANTS AUTHORIZED.—The Secretary
14 shall use funds available under section 105(b)(3) to make
15 additional grants, on a competitive basis, to recipients of
16 formula grants under section 126.

17 (b) ADDITIONAL APPLICATION MATERIALS.—Any el-
18 igible applicant under section 126 that wishes to receive
19 additional funds under this section shall include in its ap-
20 plication under section 125 the following additional infor-
21 mation:

22 (1) The amount of funds requested under this
23 section, in accordance with ranges or limits that the
24 Secretary may establish based on factors such as rel-
25 ative size of the eligible applicants.

1 (2) A description of the additional construction
2 activities that the applicant would carry out with
3 those funds.

4 (3) Information on the current financial effort
5 the applicant is making for elementary and second-
6 ary education, including support from private
7 sources, relative to its resources.

8 (4) Information on the extent to which the ap-
9 plicant will increase its own (or other public or pri-
10 vate) spending for school construction in the year in
11 which it receives a grant under this section, above
12 the average annual amount for construction activity
13 during the preceding four years.

14 (5) A description of the energy efficiency and
15 the effect on the environment of the projects that
16 the applicant will undertake, both with its grant
17 under this section and its grant under section 126,
18 and of the extent to which those projects will use
19 cost-efficient architectural design.

20 (6) Other information that the Secretary may
21 require.

22 (c) SELECTION OF GRANTEES.—The Secretary shall
23 select grantees under this section on the basis of criteria,
24 consistent with the purpose of this Act, that the Secretary
25 may establish, which shall include—

1 (1) the relative need of applicants, as dem-
2 onstrated by inadequate educational facilities and a
3 low level of resources to meet their school construc-
4 tion needs;

5 (2) the commitment of applicants to meet their
6 school construction needs and the leveraging effect
7 that assistance under this part would have, as dem-
8 onstrated by the additional resources that they will
9 provide, from non-Federal sources, to meet those
10 needs, in accordance with subsection (b)(4).

11 AMOUNT OF FEDERAL SUBSIDY

12 SEC. 128. (a) AMOUNT OF FEDERAL SUBSIDY.—For
13 each construction project assisted under this part, the Sec-
14 retary shall determine the amount of the Federal subsidy
15 in accordance with section 117(a).

16 (b) NON-FEDERAL SHARE.—A grantee under this
17 part may use any non-Federal funds, including State,
18 local, and private-sector funds, for the financing costs that
19 are not covered by the Federal subsidy under subsection
20 (a).

21 SEPARATE FUNDS OR ACCOUNTS; PRUDENT INVESTMENT

22 SEC. 129. (a) SEPARATE FUNDS OR ACCOUNTS RE-
23 QUIRED.—Each grantee under this part shall deposit the
24 grant proceeds in a separate fund or account, from which
25 it shall make bond repayments and pay other expenses al-
26 lowable under this part.

1 (b) PRUDENT INVESTMENT REQUIRED.—Each
2 grantee under this part shall—

3 (1) invest the grant funds in a fiscally prudent
4 manner, in order to generate amounts needed to
5 make repayments on bonds and other forms of in-
6 debtedness; and

7 (2) Notwithstanding section 6503 of title 31,
8 United States Code or any other law, use the pro-
9 ceeds of that investment to carry out this part.

10 LOCAL REPORTS

11 SEC. 130. (a) REPORTS REQUIRED.—(1) Each grant-
12 ee under this part shall report to the Secretary on its ac-
13 tivities under this part, in the form and manner the Sec-
14 retary may prescribe.

15 (2) If the local educational agency is not the grantee
16 under this part, the grantee's report shall include the ap-
17 proval of the local educational agency or its comments on
18 the report.

19 (b) CONTENTS.—Each report shall—

20 (1) describe the grantee's implementation of
21 this part, including how it has met the requirements
22 of this part;

23 (2) identify the specific school facilities con-
24 structed, renovated, or modernized with support
25 from the grant, and the mechanisms used to finance
26 those activities; and

1 (3) other information the Secretary may re-
2 quire.

3 (c) FREQUENCY.—(1) Each grantee shall submit its
4 first report under this section not later than 24 months
5 after it receives its grant under this part.

6 (2) Each grantee shall submit an annual report for
7 each of the three years after submitting its first report,
8 and subsequently shall submit periodic reports as long as
9 it is using grant funds.

10 TITLE II—GENERAL PROVISIONS

11 TECHNICAL EMPLOYEES

12 SEC. 201. For the purpose of carrying out this Act,
13 the Secretary, without regard to the provisions of title 5,
14 United States Code, governing appointments in the com-
15 petitive service, may appoint not more than 10 technical
16 employees who may be paid without regard to the provi-
17 sions of chapter 51 and subchapter IV of chapter 5 of
18 that title relating to classification and General Schedule
19 pay rates.

20 WAGE RATES

21 SEC. 202. (a) PREVAILING WAGE.—The Secretary
22 shall ensure that all laborers and mechanics employed by
23 contractors and subcontractors on any project assisted
24 under this Act are paid wages at rates not less than those
25 prevailing as determined by the Secretary of Labor in ac-
26 cordance with the Act of March 3, 1931, as amended (40

1 U.S.C. 276a et seq.). The Secretary of Labor has, with
2 respect to this section, the authority and functions estab-
3 lished in Reorganization Plan Numbered 14 of 1950 (ef-
4 fective May 24, 1950, 64 Stat. 1267) and section 2 of
5 the Act of June 13, 1934 (40 U.S.C. 276c).

6 (b) WAIVER FOR VOLUNTEERS.—Section 7305 of the
7 Federal Acquisition Streamlining Act of 1994 (40 U.S.C.
8 276d–3) is amended—

9 (1) in paragraph (5), by striking out the “and”
10 at the end thereof;

11 (2) in paragraph (6), by striking out the period
12 at the end thereof and inserting a semi-colon and
13 “and”; and

14 (3) by adding at the end thereof the following
15 new paragraph:

16 “(7) the Partnership to Rehabilitate America’s
17 Schools Act of 1997.”.

18 NO LIABILITY OF FEDERAL GOVERNMENT

19 SEC. 203. (a) NO FEDERAL LIABILITY.—Any finan-
20 cial instruments, including but not limited to contracts,
21 bonds, bills, notes, certificates of participation, or pur-
22 chase or lease arrangements, issued by States, localities
23 or instrumentalities thereof in connection with any assist-
24 ance provided by the Secretary under this Act are obliga-
25 tions of such States, localities or instrumentalities and not

1 obligations of the United States and are not guaranteed
2 by the full faith and credit of the United States.

3 (b) NOTICE REQUIREMENT.—Documents relating to
4 any financial instruments, including but not limited to
5 contracts, bonds, bills, notes, offering statements, certifi-
6 cates of participation, or purchase or lease arrangements,
7 issued by States, localities or instrumentalities thereof in
8 connection with any assistance provided under this Act,
9 shall include a prominent statement providing notice that
10 the financial instruments are not obligations of the United
11 States and are not guaranteed by the full faith and credit
12 of the United States.

13 CONSULTATION WITH SECRETARY OF THE TREASURY

14 SEC. 204. The Secretary shall consult with the Sec-
15 retary of the Treasury in carrying out this Act.

○