

107TH CONGRESS
1ST SESSION

H. R. 771

To amend the Elementary and Secondary Education Act of 1965 to authorize grants to States for the construction, repair, renovation, and modernization of public school facilities, to amend the Internal Revenue Code of 1986 to expand the tax incentives for such undertakings, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 2001

Mr. BLAGOJEVICH introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Elementary and Secondary Education Act of 1965 to authorize grants to States for the construction, repair, renovation, and modernization of public school facilities, to amend the Internal Revenue Code of 1986 to expand the tax incentives for such undertakings, 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 “Federal School Con-
3 struction Act of 2001”. This Act may also be cited as the
4 “Schools for the 21st Century Act”.

5 **SEC. 2. FINDINGS.**

6 The Congress finds as follows:

7 (1) In 1950, the United States was suffering
8 the effects of an inadequate transportation system.

9 The conventional wisdom was that roads were a local
10 concern.

11 (2) President Dwight D. Eisenhower deter-
12 mined that a deficient transportation system was a
13 threat to our economy and our national security.

14 (3) Today, the interstate highway system
15 stands as a testament to discarding old ways of
16 thinking to meet modern demands.

17 (4) Like the interstate highway system in the
18 1950’s, the state of our public school facilities is a
19 national concern, with national consequences.

20 (5) According to the National Center for Edu-
21 cation Statistics, it will cost \$127,000,000,000 to
22 render the condition of public elementary and sec-
23 ondary school facilities in the United States ade-
24 quate.

25 (6) Of the \$112,000,000,000 that the Comp-
26 troller General of the United States estimated in

1 1996 was needed for such purpose, approximately
2 \$11,000,000,000 was deemed necessary in order to
3 comply with Federal mandates, such as asbestos re-
4 moval and ensuring access for students with disabil-
5 ities.

6 (7) According to the American Society of Civil
7 Engineers, the United States needs to spend
8 \$60,000,000,000 for new school construction to ac-
9 commodate 3,000,000 students.

10 (8) According to the National Center for Edu-
11 cation Statistics, $\frac{3}{4}$ of the schools in the United
12 States reported needing to spend money on repairs,
13 renovations, and modernization in order to put
14 school buildings into good overall condition.

15 (9) In 1999, the average age of school buildings
16 in the United States was 40, the age at which most
17 buildings can deteriorate rapidly.

18 (10) The Comptroller General of the United
19 States reported that the largest proportion of
20 schools reporting deteriorating school conditions
21 were in central cities serving more than 50 percent
22 minority students or 70 percent or more of poor stu-
23 dents. However, one of every two rural school re-
24 ported at least one inadequate school structural fea-
25 ture.

1 (11) According to the National Center for Edu-
2 cation Statistics, the average dollar amount schools
3 reported needing to spend for repair per school was
4 \$2,200,000, or approximately \$3,800 per student.

5 (12) Estimates of the cost of new construction
6 for schools vary. According to the magazine School
7 Planning and Management, in terms of the national
8 profile of new schools being constructed, the median
9 cost for an elementary school is \$8,000,000, for a
10 middle school is \$12,000,000, and for a high school
11 is \$18,900,000. According to the magazine Amer-
12 ican School and University such median costs are
13 \$9,200,000, \$14,300,000, and \$21,500,000, respec-
14 tively. There are regional variations in costs as well.

15 (13) In examining trends in annual State school
16 construction expenditures since 1990, it becomes evi-
17 dent that they range from \$37 per student to \$934
18 per student, with a national average of \$473.

19 (14) According to the National Center for Edu-
20 cation Statistics, approximately $\frac{1}{4}$ of public schools
21 are overcrowded and, of those, the larger schools
22 with higher minority enrollments are more seriously
23 overcrowded, that is, are more than 25 percent over-
24 enrolled.

1 **SEC. 3. GRANTS FOR SCHOOL CONSTRUCTION AND REN-**
2 **OVATION.**

3 Title XII of the Elementary and Secondary Edu-
4 cation Act of 1965 (20 U.S.C. 8501 et seq.) is amended
5 to read as follows:

6 **“TITLE XII—SCHOOL FACILITIES**
7 **INFRASTRUCTURE IMPROVE-**
8 **MENT**

9 **“SEC. 12001. GRANTS FOR SCHOOL CONSTRUCTION, RE-**
10 **PAIR, RENOVATION, AND MODERNIZATION.**

11 **“(a) PROGRAM AUTHORITY.—**

12 **“(1) RESERVATION FOR NATIVE AMERICAN AND**
13 **ALASKA NATIVE CHILDREN IN SCHOOL.—**

14 **“(A) IN GENERAL.—**From the amount ap-
15 propriated under each of subsections (b) and
16 (c) of section 12003 to carry out this title for
17 any fiscal year, the Secretary shall reserve 1
18 percent to provide Federal financial assistance
19 to elementary and secondary schools operated
20 predominately for Native American or Alaska
21 Native children and youth, an Indian tribe, a
22 tribally sanctioned educational authority, or an
23 elementary or secondary school that is operated
24 or funded by the Bureau of Indian Affairs.

25 **“(B) DEFINITIONS.—**For purposes of this
26 paragraph:

1 “(i) INDIAN TRIBE.—The term ‘In-
2 dian tribe’ means any Indian tribe, band,
3 nation, or other organized group or com-
4 munity, including any Alaska Native vil-
5 lage or regional or village corporation as
6 defined in or established pursuant to the
7 Alaska Native Claims Settlement Act (43
8 U.S.C. 1601 et seq.), that is recognized for
9 the special programs and services provided
10 by the United States to Indians because of
11 their status as Indians.

12 “(ii) TRIBALLY SANCTIONED EDU-
13 CATIONAL AUTHORITY.—The term ‘tribally
14 sanctioned educational authority’ means—

15 “(I) any department or division
16 of education operating within the ad-
17 ministrative structure of the duly con-
18 stituted governing body of an Indian
19 tribe; and

20 “(II) any nonprofit institution or
21 organization that is chartered by the
22 governing body of an Indian tribe to
23 operate any such school or otherwise
24 to oversee the delivery of educational
25 services to members of that tribe and

1 approved by the Secretary for the pur-
2 pose of this paragraph.

3 “(2) GRANTS TO LOCAL EDUCATIONAL AGEN-
4 CIES.—From the funds appropriated to carry out
5 this title for each fiscal year and not reserved under
6 paragraph (1), the Secretary shall award grants to
7 local educational agencies in each of the following
8 categories:

9 “(A) Local educational agencies in which
10 the number of students enrolled is less than
11 2,500.

12 “(B) Such agencies in which such number
13 is 2,500 or greater but less than 5,000.

14 “(C) Such agencies in which such number
15 is 5,000 or greater but less than 10,000.

16 “(D) Such agencies in which such number
17 is 10,000 or greater but less than 25,000.

18 “(E) Such agencies in which such number
19 is 25,000 or greater but less than 50,000.

20 “(F) Such agencies in which such number
21 is 50,000 or greater.

22 “(3) MAXIMUM AWARD AMOUNTS.—The Sec-
23 retary shall annually set the maximum award
24 amounts for each category described in subsection
25 paragraph (2).

1 “(4) ALLOCATION AMONG CATEGORIES.—The
2 Secretary shall allocate funds under this title among
3 each of the categories described in paragraph (2) on
4 such basis as the Secretary determines is appro-
5 priate, including the relative costs of carrying out
6 activities under this title in eligible local educational
7 agencies in each such category.

8 “(5) CRITERIA TO BE USED IN AWARDING
9 GRANTS.—

10 “(A) IN GENERAL.—The Secretary shall
11 award grants to local educational agencies
12 under this title primarily on the basis of the
13 need of the agency for the school construction,
14 repair, renovation, or modernization, as dem-
15 onstrated by the condition of its public school
16 facilities.

17 “(B) OTHER CRITERIA.—The Secretary
18 may also take into account—

19 “(i) the extent to which the local edu-
20 cational agency lacks the fiscal capacity,
21 including the ability to raise funds through
22 the full use of such agency’s bonding ca-
23 pacity and otherwise, to undertake the
24 project without Federal assistance; and

1 “(ii) such other criteria as the Sec-
2 retary may prescribe by regulation.

3 “(C) GUARANTEED STATE MINIMUM.—To
4 the maximum extent practicable, local edu-
5 cational agencies from each State collectively
6 shall receive at least 0.5 percent of the amount
7 awarded under this title for each fiscal year.

8 “(b) USES OF FUNDS.—

9 “(1) IN GENERAL.—Each eligible local edu-
10 cational agency receiving a grant under this title—

11 “(A) for new construction shall use the
12 grant funds only for—

13 “(i) constructing new public elemen-
14 tary and secondary school structures—

15 “(I) suitable for classrooms, lab-
16 oratories, libraries, media centers, or
17 related facilities; and

18 “(II) whose primary purpose is
19 the academic or vocational instruction
20 of public elementary and secondary
21 school students; or

22 “(ii) acquiring the land on which such
23 a structure is to be constructed; and

1 “(B) for repair, renovation, or moderniza-
2 tion shall use the grant funds only for such ac-
3 tivities with respect to such a structure.

4 “(2) IMPERMISSIBLE USES OF FUNDS.—No
5 funds received under this title may be used for—

6 “(A) payment of maintenance costs in con-
7 nection with any projects constructed in whole
8 or part with Federal funds provided under this
9 title; or

10 “(B) stadiums or other facilities primarily
11 used for athletic contests or exhibitions or other
12 events for which admission is charged to the
13 general public.

14 **“SEC. 12002. GENERAL PROVISIONS.**

15 “(a) CHARTER SCHOOLS.—A public charter school
16 that constitutes a local educational agency under State law
17 shall be eligible for assistance under this title under the
18 same terms and conditions as any other local educational
19 agency.

20 “(b) SUPPLEMENT, NOT SUPPLANT.—A local edu-
21 cational agency shall use Federal funds subject to this title
22 only to supplement the amount of funds that would, in
23 the absence of such Federal funds, be made available from
24 non-Federal sources.

1 “(c) SPECIAL RULE.—Each local educational agency
2 that receives funds under this title shall ensure that, if
3 it carries out construction, repair, renovation, or mod-
4 ernization through a contract, any such contract process
5 ensures the maximum number of qualified bidders, includ-
6 ing small, minority, and women-owned businesses, through
7 full and open competition.

8 “(d) PUBLIC COMMENT.—Each local educational
9 agency receiving funds under this title—

10 “(1) shall provide parents, educators, and all
11 other interested members of the community the op-
12 portunity to consult on the use of funds;

13 “(2) shall provide the public with adequate and
14 efficient notice of the opportunity described in para-
15 graph (1) in a widely read and distributed medium;
16 and

17 “(3) shall provide the opportunity described in
18 paragraph (1) in accordance with any applicable
19 State and local law specifying how the comments
20 may be received and how the comments may be re-
21 viewed by any member of the public.

22 “(e) REPORTING.—Each local educational agency re-
23 ceiving funds under this title shall submit a report to the
24 Secretary, at such time as the Secretary may require, de-
25 scribing the use of such funds.

1 **“SEC. 12003. AUTHORIZATION OF APPROPRIATIONS.**

2 “(a) IN GENERAL.—There are authorized to be ap-
3 propriated to carry out this title \$26,600,000,000 for each
4 of fiscal years 2002 through 2006.

5 “(b) SCHOOL CONSTRUCTION.—Of such total
6 amount, \$8,400,000,000 are authorized to be appro-
7 priated for each such fiscal year for grants for con-
8 structing new public elementary and secondary school fa-
9 cilities and acquiring the land on which such facilities are
10 to be constructed.

11 “(c) SCHOOL REPAIR, RENOVATION, AND MOD-
12 ERNIZATION.—Of such total amount, \$18,200,000,000
13 are authorized to be appropriated for each such fiscal year
14 for grants for repair, renovation, and modernization of
15 public elementary and secondary school facilities.”.

16 **SEC. 4. EXPANSION OF INCENTIVES FOR PUBLIC SCHOOLS.**

17 (a) IN GENERAL.—Chapter 1 of the Internal Rev-
18 enue Code of 1986 is amended by adding at the end the
19 following new subchapter:

20 **“Subchapter XI—Public School**
21 **Modernization Provisions**

“Sec. 1400K. Credit to holders of qualified public school mod-
ernization bonds.

“Sec. 1400L. Qualified school modernization bonds.

1 **“SEC. 1400K. CREDIT TO HOLDERS OF QUALIFIED PUBLIC**
2 **SCHOOL MODERNIZATION BONDS.**

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

11 “(b) AMOUNT OF CREDIT.—

12 “(1) IN GENERAL.—The amount of the credit
13 determined under this subsection with respect to any
14 credit allowance date for a qualified public school
15 modernization bond is 25 percent of the annual
16 credit determined with respect to such bond.

17 “(2) ANNUAL CREDIT.—The annual credit de-
18 termined with respect to any qualified public school
19 modernization bond is the product of—

20 “(A) the applicable credit rate, multiplied
21 by

22 “(B) the outstanding face amount of the
23 bond.

24 “(3) APPLICABLE CREDIT RATE.—For purposes
25 of paragraph (1), the applicable credit rate with re-
26 spect to an issue is the rate equal to an average

1 market yield (as of the day before the date of
2 issuance of the issue) on outstanding long-term cor-
3 porate debt obligations (determined under regula-
4 tions prescribed by the Secretary).

5 “(4) SPECIAL RULE FOR ISSUANCE AND RE-
6 DEMPTION.—In the case of a bond which is issued
7 during the 3-month period ending on a credit allow-
8 ance date, the amount of the credit determined
9 under this subsection with respect to such credit al-
10 lowance date shall be a ratable portion of the credit
11 otherwise determined based on the portion of the 3-
12 month period during which the bond is outstanding.
13 A similar rule shall apply when the bond is re-
14 deemed.

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

16 “(1) IN GENERAL.—The credit allowed under
17 subsection (a) for any taxable year shall not exceed
18 the excess of—

19 “(A) the sum of the regular tax liability
20 (as defined in section 26(b)) plus the tax im-
21 posed by section 55, over

22 “(B) the sum of the credits allowable
23 under part IV of subchapter A (other than sub-
24 part C thereof, relating to refundable credits).

1 “(2) CARRYOVER OF UNUSED CREDIT.—If the
2 credit allowable under subsection (a) exceeds the
3 limitation imposed by paragraph (1) for such taxable
4 year, such excess shall be carried to the succeeding
5 taxable year and added to the credit allowable under
6 subsection (a) for such taxable year.

7 “(d) CREDIT ALLOWANCE DATE.—For purposes of
8 this section, the term ‘credit allowance date’ means—

9 “(1) March 15,

10 “(2) June 15,

11 “(3) September 15, and

12 “(4) December 15.

13 Such term includes the last day on which the bond is out-
14 standing.

15 “(e) OTHER DEFINITIONS.—For purposes of this
16 subchapter—

17 “(1) LOCAL EDUCATIONAL AGENCY.—The term
18 ‘local educational agency’ has the meaning given to
19 such term by section 14101 of the Elementary and
20 Secondary Education Act of 1965. Such term in-
21 cludes the local educational agency that serves the
22 District of Columbia but does not include any other
23 State agency.

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

1 “(3) STATE.—The term ‘State’ includes the
2 District of Columbia and any possession of the
3 United States.

4 “(4) PUBLIC SCHOOL FACILITY.—The term
5 ‘public school facility’ shall not include—

6 “(A) any stadium or other facility pri-
7 marily used for athletic contests or exhibitions
8 or other events for which admission is charged
9 to the general public, or

10 “(B) any facility which is not owned by a
11 State or local government or any agency or in-
12 strumentality of a State or local government.

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

18 “(g) BONDS HELD BY REGULATED INVESTMENT
19 COMPANIES.—If any qualified public school modernization
20 bond is held by a regulated investment company, the credit
21 determined under subsection (a) shall be allowed to share-
22 holders of such company under procedures prescribed by
23 the Secretary.

24 “(h) CREDITS MAY BE STRIPPED.—Under regula-
25 tions prescribed by the Secretary—

1 “(1) IN GENERAL.—There may be a separation
2 (including at issuance) of the ownership of a quali-
3 fied public school modernization bond and the enti-
4 tlement to the credit under this section with respect
5 to such bond. In case of any such separation, the
6 credit under this section shall be allowed to the per-
7 son who on the credit allowance date holds the in-
8 strument evidencing the entitlement to the credit
9 and not to the holder of the bond.

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

16 “(i) TREATMENT FOR ESTIMATED TAX PURPOSES.—
17 Solely for purposes of sections 6654 and 6655, the credit
18 allowed by this section to a taxpayer by reason of holding
19 a qualified public school modernization bonds on a credit
20 allowance date shall be treated as if it were a payment
21 of estimated tax made by the taxpayer on such date.

22 “(j) CREDIT MAY BE TRANSFERRED.—Nothing in
23 any law or rule of law shall be construed to limit the trans-
24 ferability of the credit allowed by this section through sale
25 and repurchase agreements.

1 “(k) REPORTING.—Issuers of qualified public school
2 modernization bonds shall submit reports similar to the
3 reports required under section 149(e).

4 “(l) TERMINATION.—This section shall not apply to
5 any bond issued after September 30, 2007.

6 **“SEC. 1400L. QUALIFIED PUBLIC SCHOOL MODERNIZATION**
7 **BONDS.**

8 “(a) QUALIFIED SCHOOL CONSTRUCTION BOND.—
9 For purposes of this subchapter, the term ‘qualified school
10 modernization bond’ means any bond issued as part of an
11 issue if—

12 “(1) 95 percent or more of the proceeds of such
13 issue are to be used for the construction, rehabilita-
14 tion, repair, or modernization of a public school fa-
15 cility or for the acquisition of land on which such a
16 facility is to be constructed with part of the proceeds
17 of such issue,

18 “(2) the bond is issued by a State or local gov-
19 ernment within the jurisdiction of which such school
20 is located,

21 “(3) the issuer designates such bond for pur-
22 poses of this section, and

23 “(4) the term of each bond which is part of
24 such issue does not exceed 15 years.

1 “(b) LIMITATION ON AMOUNT OF BONDS DES-
2 IGNATED.—The maximum aggregate face amount of
3 bonds issued during any calendar year which may be des-
4 ignated under subsection (a) by any issuer shall not exceed
5 the sum of—

6 “(1) the limitation amounts allocated under
7 subsection (d) for such calendar year to such issuer,
8 and

9 “(2) if such issuer is a large local educational
10 agency (as defined in subsection (e)(4)) or is issuing
11 on behalf of such an agency, the limitation amounts
12 allocated under subsection (e) for such calendar year
13 to such agency.

14 “(c) NATIONAL LIMITATIONS ON AMOUNT OF BONDS
15 DESIGNATED.—

16 “(1) SCHOOL CONSTRUCTION.—In the case of
17 bonds issued as part of an issue where 95 percent
18 or more of the proceeds of such issue are to be used
19 for the construction of a public school facility or for
20 the acquisition of land on which such a facility is to
21 be constructed, there is a national qualified school
22 construction bond limitation for each calendar year.
23 Such limitation is—

24 “(A) \$1,584,000,000 for 2002,

25 “(B) \$1,584,000,000 for 2003,

1 “(C) \$1,584,000,000 for 2004,
2 “(D) \$1,584,000,000 for 2005,
3 “(E) \$1,584,000,000 for 2006, and
4 “(F) except as provided in subsection (f),
5 zero after 2006.

6 “(2) SCHOOL REHABILITATION, REPAIR, OR
7 MODERNIZATION.—In the case of bonds issued as
8 part of an issue where 95 percent or more of the
9 proceeds of such issue are to be used for the reha-
10 bilitation, repair, or modernization of a public school
11 facility, there is a national qualified school mod-
12 ernization bond limitation for each calendar year.
13 Such limitation is—

14 “(A) \$7,722,000,000 for 2002,
15 “(B) \$7,722,000,000 for 2003,
16 “(C) \$7,722,000,000 for 2004,
17 “(D) \$7,722,000,000 for 2005,
18 “(E) \$7,722,000,000 for 2006, and
19 “(F) except as provided in subsection (f),
20 zero after 2006.

21 “(d) 60 PERCENT OF LIMITATIONS ALLOCATED
22 AMONG STATES.—

23 “(1) IN GENERAL.—60 percent of each of the
24 limitations applicable under subsection (c) for any
25 calendar year shall be allocated by the Secretary

1 among the States in proportion to the respective
2 numbers of children in each State who have attained
3 age 5 but not age 18 for the most recent fiscal year
4 ending before such calendar year, except that no
5 State shall receive less than 0.5 percent of any such
6 limitation. The limitation amounts allocated to a
7 State under the preceding sentence shall be allocated
8 by the State to issuers within such State and such
9 allocations may be made only if there is an approved
10 State application.

11 “(2) ALLOCATIONS TO CERTAIN POSSES-
12 SIONS.—The amounts to be allocated under para-
13 graph (1) to any possession of the United States
14 other than Puerto Rico shall be the amounts which
15 would have been allocated if all allocations under
16 paragraph (1) were made on the basis of respective
17 populations of individuals below the poverty line (as
18 defined by the Office of Management and Budget).
19 In making other allocations, the amounts to be allo-
20 cated under paragraph (1) shall be reduced by the
21 aggregate amount allocated under this paragraph to
22 possessions of the United States.

23 “(3) ALLOCATIONS FOR INDIAN SCHOOLS.—

24 “(A) SCHOOL CONSTRUCTION.—In addi-
25 tion to the amounts otherwise allocated under

1 this subsection, \$16,000,000 for each of cal-
2 endar years 2002 through 2006 shall be allo-
3 cated by the Secretary of the Interior for pur-
4 poses of the construction of schools funded by
5 the Bureau of Indian Affairs.

6 “(B) SCHOOL REHABILITATION, REPAIR,
7 OR MODERNIZATION.—In addition to the
8 amounts otherwise allocated under this sub-
9 section, \$78,000,000 for each of calendar years
10 2002 through 2006 shall be allocated by the
11 Secretary of the Interior for purposes of the re-
12 habilitation, repair, and modernization of
13 schools funded by the Bureau of Indian Affairs.

14 “(C) TREATMENT OF INDIAN TRIBAL GOV-
15 ERNMENTS.—In the case of amounts allocated
16 under this paragraph, Indian tribal govern-
17 ments (as defined in section 7871) shall be
18 treated as qualified issuers for purposes of this
19 subchapter.

20 “(4) APPROVED STATE APPLICATION.—For
21 purposes of paragraph (1), the term ‘approved State
22 application’ means an application which is approved
23 by the Secretary of Education and which includes—

24 “(A) the results of a recent publicly-avail-
25 able survey (undertaken by the State with the

1 involvement of local education officials, mem-
2 bers of the public, and experts in school con-
3 struction and management) of such State’s
4 needs for public school facilities, including de-
5 scriptions of—

6 “(i) health and safety problems at
7 such facilities,

8 “(ii) the capacity of public schools in
9 the State to house projected enrollments,
10 and

11 “(iii) the extent to which the public
12 schools in the State offer the physical in-
13 frastructure needed to provide a high-qual-
14 ity education to all students, and

15 “(B) a description of how the State will al-
16 locate to local educational agencies, or other-
17 wise use, its allocation under this subsection to
18 address the needs identified under subpara-
19 graph (A), including a description of how it
20 will—

21 “(i) ensure that the needs of both
22 rural and urban areas will be recognized,

23 “(ii) give highest priority to localities
24 with the greatest needs, as demonstrated
25 by inadequate school facilities coupled with

1 a low level of resources to meet those
2 needs,

3 “(iii) use its allocations under this
4 subsection to assist localities that lack the
5 fiscal capacity to issue bonds on their own,
6 and

7 “(iv) ensure that its allocations under
8 this subsection are used only to supple-
9 ment, and not supplant, the amount of
10 school construction, rehabilitation, repair,
11 and modernization in the State that would
12 have occurred in the absence of such allo-
13 cation.

14 Any allocation under paragraph (1) by a State shall
15 be binding if such State reasonably determined that
16 the allocation was in accordance with the plan ap-
17 proved under this paragraph.

18 “(e) 40 PERCENT OF LIMITATIONS ALLOCATED
19 AMONG LARGEST SCHOOL DISTRICTS.—

20 “(1) IN GENERAL.—40 percent of each of the
21 limitations applicable under subsection (c) for any
22 calendar year shall be allocated under paragraph (2)
23 by the Secretary among local educational agencies
24 which are large local educational agencies for such
25 year. No qualified school modernization bond may be

1 issued by reason of an allocation to a large local
2 educational agency under the preceding sentence un-
3 less such agency has an approved local application.

4 “(2) ALLOCATION FORMULA.—The amount to
5 be allocated under paragraph (1) for any calendar
6 year shall be allocated among large local educational
7 agencies in proportion to the respective amounts
8 each such agency received for Basic Grants under
9 subpart 2 of part A of title I of the Elementary and
10 Secondary Education Act of 1965 (20 U.S.C. 6331
11 et seq.) for the most recent fiscal year ending before
12 such calendar year.

13 “(3) ALLOCATION OF UNUSED LIMITATION TO
14 STATE.—The amount allocated under this subsection
15 to a large local educational agency for any calendar
16 year may be reallocated by such agency to the State
17 in which such agency is located for such calendar
18 year. Any amount reallocated to a State under the
19 preceding sentence may be allocated as provided in
20 subsection (d)(1).

21 “(4) LARGE LOCAL EDUCATIONAL AGENCY.—
22 For purposes of this section, the term ‘large local
23 educational agency’ means, with respect to a cal-
24 endar year, any local educational agency if such
25 agency is—

1 “(A) among the 100 local educational
2 agencies with the largest numbers of children
3 aged 5 through 17 from families living below
4 the poverty level, as determined by the Sec-
5 retary using the most recent data available
6 from the Department of Commerce that are
7 satisfactory to the Secretary, or

8 “(B) 1 of not more than 25 local edu-
9 cational agencies (other than those described in
10 subparagraph (A)) that the Secretary of Edu-
11 cation determines (based on the most recent
12 data available satisfactory to the Secretary) are
13 in particular need of assistance, based on a low
14 level of resources for school construction, a high
15 level of enrollment growth, or such other factors
16 as the Secretary deems appropriate.

17 “(5) APPROVED LOCAL APPLICATION.—For
18 purposes of paragraph (1), the term ‘approved local
19 application’ means an application which is approved
20 by the Secretary of Education and which includes—

21 “(A) the results of a recent publicly-avail-
22 able survey (undertaken by the local educational
23 agency or the State with the involvement of
24 school officials, members of the public, and ex-
25 perts in school construction and management)

1 of such agency’s needs for public school facili-
2 ties, including descriptions of—

3 “(i) the overall condition of the local
4 educational agency’s school facilities, in-
5 cluding health and safety problems,

6 “(ii) the capacity of the agency’s
7 schools to house projected enrollments, and

8 “(iii) the extent to which the agency’s
9 schools offer the physical infrastructure
10 needed to provide a high-quality education
11 to all students,

12 “(B) a description of how the local edu-
13 cational agency will use its allocations under
14 this subsection to address the needs identified
15 under subparagraph (A), and

16 “(C) a description of how the local edu-
17 cational agency will ensure that its allocations
18 under this subsection are used only to supple-
19 ment, and not supplant, the amount of school
20 construction, rehabilitation, repair, and mod-
21 ernization in the locality that would have oc-
22 curred in the absence of such allocations.

23 A rule similar to the rule of the last sentence of sub-
24 section (d)(4) shall apply for purposes of this para-
25 graph.

1 “(f) CARRYOVER OF UNUSED LIMITATION.—If for
2 any calendar year—

3 “(1) any amount allocated under subsection (d)
4 to any State, exceeds

5 “(2) the amount of bonds issued during such
6 year which are designated under subsection (a) pur-
7 suant to such allocation,

8 the limitation amount under such subsection for such
9 State for the following calendar year shall be increased
10 by the amount of such excess. A similar rule shall apply
11 to the amounts allocated under subsection (d)(3) or (e).

12 “(g) SPECIAL RULES RELATING TO ARBITRAGE.—

13 “(1) IN GENERAL.—A bond shall not be treated
14 as failing to meet the requirement of subsection
15 (a)(1) solely by reason of the fact that the proceeds
16 of the issue of which such bond is a part are in-
17 vested for a temporary period (but not more than 36
18 months) until such proceeds are needed for the pur-
19 pose for which such issue was issued.

20 “(2) BINDING COMMITMENT REQUIREMENT.—

21 Paragraph (1) shall apply to an issue only if, as of
22 the date of issuance, there is a reasonable expecta-
23 tion that—

24 “(A) at least 10 percent of the proceeds of
25 the issue will be spent within the 6-month pe-

1 riod beginning on such date for the purpose for
2 which such issue was issued, and

3 “(B) the remaining proceeds of the issue
4 will be spent with due diligence for such pur-
5 pose.

6 “(3) EARNINGS ON PROCEEDS.—Any earnings
7 on proceeds during the temporary period shall be
8 treated as proceeds of the issue for purposes of ap-
9 plying subsection (a)(1) and paragraph (1) of this
10 subsection.”.

11 (b) REPORTING.—Subsection (d) of section 6049 of
12 such Code (relating to returns regarding payments of in-
13 terest) is amended by adding at the end the following new
14 paragraph:

15 “(8) REPORTING OF CREDIT ON QUALIFIED
16 PUBLIC SCHOOL MODERNIZATION BONDS.—

17 “(A) IN GENERAL.—For purposes of sub-
18 section (a), the term ‘interest’ includes amounts
19 includible in gross income under section
20 1400K(f) and such amounts shall be treated as
21 paid on the credit allowance date (as defined in
22 section 1400K(d)(2)).

23 “(B) REPORTING TO CORPORATIONS,
24 ETC.—Except as otherwise provided in regula-
25 tions, in the case of any interest described in

1 subparagraph (A) of this paragraph, subsection
 2 (b)(4) of this section shall be applied without
 3 regard to subparagraphs (A), (H), (I), (J), (K),
 4 and (L)(i).

5 “(C) REGULATORY AUTHORITY.—The Sec-
 6 retary may prescribe such regulations as are
 7 necessary or appropriate to carry out the pur-
 8 poses of this paragraph, including regulations
 9 which require more frequent or more detailed
 10 reporting.”

11 (c) CONFORMING AMENDMENTS.—

12 (1) Subchapter U of chapter 1 of such Code is
 13 amended by striking part IV, by redesignating part
 14 V as part IV, and by redesignating section 1397F
 15 as section 1397E.

16 (2) The table of subchapters for chapter 1 of
 17 such Code is amended by adding at the end the fol-
 18 lowing new item:

 “Subchapter XI. Public school modernization provisions.”

19 (3) The table of parts of subchapter U of chap-
 20 ter 1 of such Code is amended by striking the last
 21 2 items and inserting the following item:

 “Part IV. Regulations.”

22 (d) EFFECTIVE DATES.—

23 (1) IN GENERAL.—Except as otherwise pro-
 24 vided in this subsection, the amendments made by

1 this section shall apply to obligations issued after
2 December 31, 2001.

3 (2) REPEAL OF RESTRICTION ON ZONE ACAD-
4 EMY BOND HOLDERS.—In the case of bonds to
5 which section 1397E of the Internal Revenue Code
6 of 1986 (as in effect before the date of the enact-
7 ment of this Act) applies, the limitation of such sec-
8 tion to eligible taxpayers (as defined in subsection
9 (d)(6) of such section) shall not apply after the date
10 of the enactment of this Act.

11 **SEC. 5. APPLICATION OF CERTAIN LABOR STANDARDS ON**
12 **CONSTRUCTION PROJECTS FINANCED**
13 **UNDER PUBLIC SCHOOL MODERNIZATION**
14 **PROGRAM.**

15 Section 439 of the General Education Provisions Act
16 (relating to labor standards) is amended—

17 (1) by inserting “(a)” before “All laborers and
18 mechanics”, and

19 (2) by adding at the end the following:

20 “(b)(1) For purposes of this section, the term ‘appli-
21 cable program’ also includes the qualified zone academy
22 bond provisions enacted by section 226 of the Taxpayer
23 Relief Act of 1997 and the program established by section
24 4 of the Federal School Construction Act of 2001.

1 “(2) A State or local government participating in a
2 program described in paragraph (1) shall—

3 “(A) in the awarding of contracts, give priority
4 to contractors with substantial numbers of employ-
5 ees residing in the local education area to be served
6 by the school being constructed; and

7 “(B) include in the construction contract for
8 such school a requirement that the contractor give
9 priority in hiring new workers to individuals residing
10 in such local education area.

11 “(3) In the case of a program described in paragraph
12 (1), nothing in this subsection or subsection (a) shall be
13 construed to deny any tax credit allowed under such pro-
14 gram. If amounts are required to be withheld from con-
15 tractors to pay wages to which workers are entitled, such
16 amounts shall be treated as expended for construction pur-
17 poses in determining whether the requirements of such
18 program are met.”.

19 **SEC. 6. EMPLOYMENT AND TRAINING ACTIVITIES RELAT-**
20 **ING TO CONSTRUCTION OR RECONSTRUC-**
21 **TION OF PUBLIC SCHOOL FACILITIES.**

22 (a) IN GENERAL.—Section 134 of the Workforce In-
23 vestment Act of 1998 (29 U.S.C. 2864) is amended by
24 adding at the end the following:

1 “(f) LOCAL EMPLOYMENT AND TRAINING ACTIVI-
2 TIES RELATING TO CONSTRUCTION OR RECONSTRUCTION
3 OF PUBLIC SCHOOL FACILITIES.—

4 “(1) IN GENERAL.—In order to provide training
5 services related to construction or reconstruction of
6 public school facilities receiving funding assistance
7 under an applicable program, each State shall estab-
8 lish a specialized program of training meeting the
9 following requirements:

10 “(A) The specialized program provides
11 training for jobs in the construction industry.

12 “(B) The program provides trained work-
13 ers for projects for the construction or recon-
14 struction of public school facilities receiving
15 funding assistance under an applicable pro-
16 gram.

17 “(C) The program ensures that skilled
18 workers (residing in the area to be served by
19 the school facilities) will be available for the
20 construction or reconstruction work.

21 “(2) COORDINATION.—The specialized program
22 established under paragraph (1) shall be integrated
23 with other activities under this Act, with the activi-
24 ties carried out under the National Apprenticeship
25 Act of 1937 by the State Apprenticeship Council or

1 through the Bureau of Apprenticeship and Training
2 in the Department of Labor, as appropriate, and
3 with activities carried out under the Carl D. Perkins
4 Vocational and Technical Education Act of 1998.
5 Nothing in this subsection shall be construed to re-
6 quire services duplicative of those referred to in the
7 preceding sentence.

8 “(3) APPLICABLE PROGRAM.—In this sub-
9 section, the term ‘applicable program’ has the mean-
10 ing given the term in section 439(b) of the General
11 Education Provisions Act (relating to labor stand-
12 ards).”.

13 (b) STATE PLAN.—Section 112(b)(17)(A) of the
14 Workforce Investment Act of 1998 (29 U.S.C.
15 2822(b)(17)(A)) is amended—

16 (1) in clause (iii), by striking “and” at the end;

17 (2) by redesignating clause (iv) as clause (v);

18 and

19 (3) by inserting after clause (iii) the following:

20 “(iv) how the State will establish and

21 carry out a specialized program of training

22 under section 134(f); and”.

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