

107TH CONGRESS  
1ST SESSION

# S. 471

To amend the Elementary and Secondary Education Act of 1965 to provide grants for the renovation of schools.

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## IN THE SENATE OF THE UNITED STATES

MARCH 6, 2001

Mr. HARKIN (for himself, Mr. BINGAMAN, Mr. KENNEDY, Mr. WELLSTONE, Mrs. CLINTON, and Mr. DODD) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Elementary and Secondary Education Act of 1965 to provide grants for the renovation of schools.

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 “Public School Repair  
5       and Renovation Act of 2001”.

6       **SEC. 2. GRANTS FOR SCHOOL RENOVATION.**

7       Title X of the Elementary and Secondary Education  
8       Act of 1965 (20 U.S.C. 8001 et seq.) is amended by add-  
9       ing at the end the following:

1                   **“PART L—SCHOOL RENOVATION**

2   **“SEC. 10995. GRANTS FOR SCHOOL RENOVATION.**

3           “(a) IN GENERAL.—

4                   “(1) ALLOCATION OF FUNDS.—Of the amount  
5           appropriated for each fiscal year under subsection  
6           (k), the Secretary of Education shall allocate—

7                           “(A) 6.0 percent of such amount for  
8                           grants to impacted local educational agencies  
9                           (as defined in paragraph (3)) for school repair,  
10                          renovation, and construction;

11                           “(B) 0.25 percent of such amount for  
12                           grants to outlying areas for school repair and  
13                           renovation in high-need schools and commu-  
14                           nities, allocated on such basis, and subject to  
15                           such terms and conditions, as the Secretary de-  
16                           termines appropriate;

17                           “(C) 2 percent of such amount for grants  
18                           to public entities, private nonprofit entities, and  
19                           consortia of such entities, for use in accordance  
20                           with subpart 2 of part C of this title X; and

21                           “(D) the remainder to State educational  
22                           agencies in proportion to the amount each State  
23                           received under part A of title I for fiscal year  
24                           2001, except that no State shall receive less  
25                           than 0.5 percent of the amount allocated under  
26                           this subparagraph.

1 “(2) DETERMINATION OF GRANT AMOUNT.—

2 “(A) DETERMINATION OF WEIGHTED STU-  
3 DENT UNITS.—For purposes of computing the  
4 grant amounts under paragraph (1)(A) for fis-  
5 cal year 2001, the Secretary shall determine the  
6 results obtained by the computation made  
7 under section 8003 with respect to children de-  
8 scribed in subsection (a)(1)(C) of such section  
9 and computed under subsection (a)(2)(B) of  
10 such section for such year—

11 “(i) for each impacted local edu-  
12 cational agency that receives funds under  
13 this section; and

14 “(ii) for all such agencies together.

15 “(B) COMPUTATION OF PAYMENT.—For  
16 fiscal year 2002, the Secretary shall calculate  
17 the amount of a grant to an impacted local edu-  
18 cational agency by—

19 “(i) dividing the amount described in  
20 paragraph (1)(A) by the results of the  
21 computation described in subparagraph  
22 (A)(ii); and

23 “(ii) multiplying the number derived  
24 under clause (i) by the results of the com-

1           putation described in subparagraph (A)(i)  
2           for such agency.

3           “(3) DEFINITION.—For purposes of this sec-  
4           tion, the term ‘impacted local educational agency’  
5           means, for fiscal year 2001—

6           “(A) a local educational agency that re-  
7           ceives a basic support payment under section  
8           8003(b) for such fiscal year; and

9           “(B) with respect to which the number of  
10          children determined under section  
11          8003(a)(1)(C) for the preceding school year  
12          constitutes at least 50 percent of the total stu-  
13          dent enrollment in the schools of the agency  
14          during such school year.

15          “(b) WITHIN-STATE ALLOCATIONS.—

16          “(1) ADMINISTRATIVE COSTS.—

17          “(A) STATE EDUCATIONAL AGENCY AD-  
18          MINISTRATION.—Except as provided in sub-  
19          paragraph (B), each State educational agency  
20          may reserve not more than 1 percent of its allo-  
21          cation under subsection (a)(1)(D) for the pur-  
22          pose of administering the distribution of grants  
23          under this subsection.

24          “(B) STATE ENTITY ADMINISTRATION.—If  
25          the State educational agency transfers funds to

1 a State entity described in paragraph (2)(A),  
2 the agency shall transfer to such entity 0.75 of  
3 the amount reserved under this paragraph for  
4 the purpose of administering the distribution of  
5 grants under this subsection.

6 “(2) RESERVATION FOR COMPETITIVE SCHOOL  
7 REPAIR AND RENOVATION GRANTS TO LOCAL EDU-  
8 CATIONAL AGENCIES.—

9 “(A) IN GENERAL.—Subject to the res-  
10 ervation under paragraph (1), of the funds allo-  
11 cated to a State educational agency under sub-  
12 section (a)(1)(D), the State educational agency  
13 shall distribute 75 percent of such funds to  
14 local educational agencies or, if such State edu-  
15 cational agency is not responsible for the fi-  
16 nancing of education facilities, the agency shall  
17 transfer such funds to the State entity respon-  
18 sible for the financing of education facilities (re-  
19 ferred to in this section as the ‘State entity’)  
20 for distribution by such entity to local edu-  
21 cational agencies in accordance with this para-  
22 graph, to be used, consistent with subsection  
23 (c), for school repair and renovation.

24 “(B) COMPETITIVE GRANTS TO LOCAL  
25 EDUCATIONAL AGENCIES.—

1           “(i) IN GENERAL.—The State edu-  
2           cational agency or State entity shall carry  
3           out a program of competitive grants to  
4           local educational agencies for the purpose  
5           described in subparagraph (A). Of the  
6           total amount available for distribution to  
7           such agencies under this paragraph, the  
8           State educational agency or State entity,  
9           shall, in carrying out the competition—

10           “(I) award to high poverty local  
11           educational agencies described in  
12           clause (ii), in the aggregate, at least  
13           an amount which bears the same rela-  
14           tionship to such total amount as the  
15           aggregate amount such local edu-  
16           cational agencies received under part  
17           A of title I for fiscal year 2002 bears  
18           to the aggregate amount received for  
19           such fiscal year under such part by all  
20           local educational agencies in the  
21           State;

22           “(II) award to rural local edu-  
23           cational agencies in the State, in the  
24           aggregate, at least an amount which  
25           bears the same relationship to such

1 total amount as the aggregate amount  
 2 such rural local educational agencies  
 3 received under part A of title I for fis-  
 4 cal year 2001 bears to the aggregate  
 5 amount received for such fiscal year  
 6 under such part by all local edu-  
 7 cational agencies in the State; and

8 “(III) award the remaining funds  
 9 to local educational agencies not re-  
 10 ceiving an award under subclause (I)  
 11 or (II), including high poverty and  
 12 rural local educational agencies that  
 13 did not receive such an award.

14 “(ii) HIGH POVERTY LOCAL EDU-  
 15 CATIONAL AGENCIES.—A local educational  
 16 agency is described in this clause if—

17 “(I) the percentage described in  
 18 subparagraph (C)(i) with respect to  
 19 the agency is 30 percent or greater; or

20 “(II) the number of children de-  
 21 scribed in such subparagraph with re-  
 22 spect to the agency is at least 10,000.

23 “(C) CRITERIA FOR AWARDING GRANTS.—  
 24 In awarding competitive grants under this para-

1 graph, a State educational agency or State enti-  
2 ty shall take into account the following criteria:

3 “(i) The percentage of poor children 5  
4 to 17 years of age, inclusive, in a local  
5 educational agency.

6 “(ii) The need of a local educational  
7 agency for school repair and renovation, as  
8 demonstrated by the condition of its public  
9 school facilities.

10 “(iii) The fiscal capacity of a local  
11 educational agency to meet its needs for  
12 repair and renovation of public school fa-  
13 cilities without assistance under this sec-  
14 tion, including its ability to raise funds  
15 through the use of local bonding capacity  
16 and otherwise.

17 “(iv) In the case of a local educational  
18 agency that proposes to fund a repair or  
19 renovation project for a charter school or  
20 schools, the extent to which the school or  
21 schools have access to funding for the  
22 project through the financing methods  
23 available to other public schools or local  
24 educational agencies in the State.

1           “(v) The likelihood that the local edu-  
2           cational agency will maintain, in good con-  
3           dition, any facility whose repair or renova-  
4           tion is assisted under this section.

5           “(D) POSSIBLE MATCHING REQUIRE-  
6           MENT.—

7           “(i) IN GENERAL.—A State edu-  
8           cational agency or State entity may require  
9           local educational agencies to match funds  
10          awarded under this subsection.

11          “(ii) MATCH AMOUNT.—The amount  
12          of a match described in clause (i) may be  
13          established by using a sliding scale that  
14          takes into account the relative poverty of  
15          the population served by the local edu-  
16          cational agency.

17          “(3) RESERVATION FOR COMPETITIVE IDEA OR  
18          TECHNOLOGY GRANTS TO LOCAL EDUCATIONAL  
19          AGENCIES.—

20          “(A) IN GENERAL.—Subject to the res-  
21          ervation under paragraph (1), of the funds allo-  
22          cated to a State educational agency under sub-  
23          section (a)(1)(D), the State educational agency  
24          shall distribute 25 percent of such funds to

1 local educational agencies through competitive  
2 grant processes, to be used for the following:

3 “(i) To carry out activities under part  
4 B of the Individuals with Disabilities Edu-  
5 cation Act (20 U.S.C. 1411 et seq.).

6 “(ii) For technology activities that are  
7 carried out in connection with school repair  
8 and renovation, including—

9 “(I) wiring;

10 “(II) acquiring hardware and  
11 software;

12 “(III) acquiring connectivity link-  
13 ages and resources; and

14 “(IV) acquiring microwave, fiber  
15 optics, cable, and satellite trans-  
16 mission equipment.

17 “(B) CRITERIA FOR AWARDING IDEA  
18 GRANTS.—In awarding competitive grants  
19 under subparagraph (A) to be used to carry out  
20 activities under part B of the Individuals with  
21 Disabilities Education Act (20 U.S.C. 1411 et  
22 seq.), a State educational agency shall take into  
23 account the following criteria:

24 “(i) The need of a local educational  
25 agency for additional funds for a student

1 whose individually allocable cost for ex-  
2 penses related to the Individuals with Dis-  
3 abilities Education Act substantially ex-  
4 ceeds the State’s average per-pupil expend-  
5 iture (as defined in section 14101(2)).

6 “(ii) The need of a local educational  
7 agency for additional funds for special edu-  
8 cation and related services under part B of  
9 the Individuals with Disabilities Education  
10 Act (20 U.S.C. 1411 et seq.).

11 “(iii) The need of a local educational  
12 agency for additional funds for assistive  
13 technology devices (as defined in section  
14 602 of the Individuals with Disabilities  
15 Education Act (20 U.S.C. 1401)) or assist-  
16 ive technology services (as so defined) for  
17 children being served under part B of the  
18 Individuals with Disabilities Education Act  
19 (20 U.S.C. 1411 et seq.).

20 “(iv) The need of a local educational  
21 agency for additional funds for activities  
22 under part B of the Individuals with Dis-  
23 abilities Education Act (20 U.S.C. 1411 et  
24 seq.) in order for children with disabilities  
25 to make progress toward meeting the per-

1 formance goals and indicators established  
2 by the State under section 612(a)(16) of  
3 such Act (20 U.S.C. 1412).

4 “(C) CRITERIA FOR AWARDING TECH-  
5 NOLOGY GRANTS.—In awarding competitive  
6 grants under subparagraph (A) to be used for  
7 technology activities that are carried out in con-  
8 nection with school repair and renovation, a  
9 State educational agency shall take into account  
10 the need of a local educational agency for addi-  
11 tional funds for such activities, including the  
12 need for the activities described in subclauses  
13 (I) through (IV) of subparagraph (A)(ii).

14 “(c) RULES APPLICABLE TO SCHOOL REPAIR AND  
15 RENOVATION.—With respect to funds made available  
16 under this section that are used for school repair and ren-  
17 ovation, the following rules shall apply:

18 “(1) PERMISSIBLE USES OF FUNDS.—School  
19 repair and renovation shall be limited to one or more  
20 of the following:

21 “(A) Emergency repairs or renovations to  
22 public school facilities only to ensure the health  
23 and safety of students and staff, including—

1           “(i) repairing, replacing, or installing  
2           roofs, electrical wiring, plumbing systems,  
3           or sewage systems;

4           “(ii) repairing, replacing, or installing  
5           heating, ventilation, or air conditioning  
6           systems (including insulation); and

7           “(iii) bringing public schools into com-  
8           pliance with fire and safety codes.

9           “(B) School facilities modifications nec-  
10          essary to render public school facilities acces-  
11          sible in order to comply with the Americans  
12          with Disabilities Act of 1990 (42 U.S.C. 12101  
13          et seq.).

14          “(C) School facilities modifications nec-  
15          essary to render public school facilities acces-  
16          sible in order to comply with section 504 of the  
17          Rehabilitation Act of 1973 (29 U.S.C. 794).

18          “(D) Asbestos abatement or removal from  
19          public school facilities.

20          “(E) Renovation, repair, and acquisition  
21          needs related to the building infrastructure of a  
22          charter school.

23          “(2) IMPERMISSIBLE USES OF FUNDS.—No  
24          funds received under this section may be used for—

1           “(A) payment of maintenance costs in con-  
2           nection with any projects constructed in whole  
3           or part with Federal funds provided under this  
4           section;

5           “(B) the construction of new facilities, ex-  
6           cept for facilities for an impacted local edu-  
7           cational agency (as defined in subsection  
8           (a)(3)); or

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

13          “(3) CHARTER SCHOOLS.—A public charter  
14          school that constitutes a local educational agency  
15          under State law shall be eligible for assistance under  
16          the same terms and conditions as any other local  
17          educational agency (as defined in section  
18          14101(18)).

19          “(4) SUPPLEMENT, NOT SUPPLANT.—Excluding  
20          the uses described in subparagraphs (B) and (C) of  
21          paragraph (1), a local educational agency shall use  
22          Federal funds subject to this subsection only to sup-  
23          plement the amount of funds that would, in the ab-  
24          sence of such Federal funds, be made available from

1 non-Federal sources for school repair and renova-  
2 tion.

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

9 “(e) PUBLIC COMMENT.—Each local educational  
10 agency receiving funds under paragraph (2) or (3) of sub-  
11 section (b)—

12 “(1) shall provide parents, educators, and all  
13 other interested members of the community the op-  
14 portunity to consult on the use of funds received  
15 under such paragraph;

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

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

25 “(f) REPORTING.—

1           “(1) LOCAL REPORTING.—Each local edu-  
2           cational agency receiving funds under subsection  
3           (a)(1)(D) shall submit a report to the State edu-  
4           cational agency, at such time as the State edu-  
5           cational agency may require, describing the use of  
6           such funds for—

7                   “(A) school repair and renovation (and  
8                   construction, in the case of an impacted local  
9                   educational agency (as defined in subsection  
10                  (a)(3)));

11                  “(B) activities under part B of the Individ-  
12                  uals with Disabilities Education Act (20 U.S.C.  
13                  1411 et seq.); and

14                  “(C) technology activities that are carried  
15                  out in connection with school repair and renova-  
16                  tion, including the activities described in sub-  
17                  clauses (I) through (IV) of subsection  
18                  (b)(3)(A)(ii).

19           “(2) STATE REPORTING.—Each State edu-  
20           cational agency shall submit to the Secretary of  
21           Education, not later than December 31, 2003, a re-  
22           port on the use of funds received under subsection  
23           (a)(1)(D) by local educational agencies for—

24                   “(A) school repair and renovation (and  
25                   construction, in the case of an impacted local

1 educational agency (as defined in subsection  
2 (a)(3));

3 “(B) activities under part B of the Individ-  
4 uals with Disabilities Education Act (20 U.S.C.  
5 1411 et seq.); and

6 “(C) technology activities that are carried  
7 out in connection with school repair and renova-  
8 tion, including the activities described in sub-  
9 clauses (I) through (IV) of subsection  
10 (b)(3)(A)(ii).

11 “(3) ADDITIONAL REPORTS.—Each entity re-  
12 ceiving funds allocated under subsection (a)(1) (A)  
13 or (B) shall submit to the Secretary, not later than  
14 December 31, 2003, a report on its uses of funds  
15 under this section, in such form and containing such  
16 information as the Secretary may require.

17 “(g) APPLICABILITY OF PART B OF IDEA.—If a  
18 local educational agency uses funds received under this  
19 section to carry out activities under part B of the Individ-  
20 uals with Disabilities Education Act (20 U.S.C. 1411 et  
21 seq.), such part (including provisions respecting the par-  
22 ticipation of private school children), and any other provi-  
23 sion of law that applies to such part, shall apply to such  
24 use.

1       “(h) REALLOCATION.—If a State educational agency  
2 does not apply for an allocation of funds under subsection  
3 (a)(1)(D) for fiscal year 2002, or does not use its entire  
4 allocation for such fiscal year, the Secretary may reallo-  
5 cate the amount of the State educational agency’s alloca-  
6 tion (or the remainder thereof, as the case may be) to the  
7 remaining State educational agencies in accordance with  
8 subsection (a)(1)(D).

9       “(i) PARTICIPATION OF PRIVATE SCHOOLS.—

10           “(1) IN GENERAL.—Section 6402 shall apply to  
11 subsection (b)(2) in the same manner as it applies  
12 to activities under title VI, except that—

13                   “(A) such section shall not apply with re-  
14 spect to the title to any real property renovated  
15 or repaired with assistance provided under this  
16 section;

17                   “(B) the term ‘services’ as used in section  
18 6402 with respect to funds under this section  
19 shall be provided only to private, nonprofit ele-  
20 mentary or secondary schools with a rate of  
21 child poverty of at least 40 percent and may in-  
22 clude for purposes of subsection (b)(2) only—

23                           “(i) modifications of school facilities  
24 necessary to meet the standards applicable  
25 to public schools under the Americans with

1 Disabilities Act of 1990 (42 U.S.C. 12101  
2 et seq.);

3 “(ii) modifications of school facilities  
4 necessary to meet the standards applicable  
5 to public schools under section 504 of the  
6 Rehabilitation Act of 1973 (29 U.S.C.  
7 794); and

8 “(iii) asbestos abatement or removal  
9 from school facilities; and

10 “(C) notwithstanding the requirements of  
11 section 6402(b), expenditures for services pro-  
12 vided using funds made available under sub-  
13 section (b)(2) shall be considered equal for pur-  
14 poses of such section if the per-pupil expendi-  
15 tures for services described in subparagraph  
16 (B) for students enrolled in private nonprofit el-  
17 elementary and secondary schools that have child  
18 poverty rates of at least 40 percent are con-  
19 sistent with the per-pupil expenditures under  
20 this section for children enrolled in the public  
21 schools in the school district of the local edu-  
22 cational agency receiving funds under this sec-  
23 tion.

24 “(2) REMAINING FUNDS.—If the expenditure  
25 for services described in paragraph (1)(B) is less

1 than the amount calculated under paragraph (1)(C)  
2 because of insufficient need for such services, the re-  
3 mainder shall be available to the local educational  
4 agency for renovation and repair of public school fa-  
5 cilities.

6 “(3) APPLICATION.—If any provision of this  
7 section, or the application thereof, to any person or  
8 circumstances is judicially determined to be invalid,  
9 the provisions of the remainder of the section and  
10 the application to other persons or circumstances  
11 shall not be affected thereby.

12 “(j) DEFINITIONS.—For purposes of this section:

13 “(1) CHARTER SCHOOL.—The term ‘charter  
14 school’ has the meaning given such term in section  
15 10310(1).

16 “(2) POOR CHILDREN AND CHILD POVERTY.—  
17 The terms ‘poor children’ and ‘child poverty’ refer to  
18 children 5 to 17 years of age, inclusive, who are  
19 from families with incomes below the poverty line  
20 (as defined by the Office of Management and Budg-  
21 et and revised annually in accordance with section  
22 673(2) of the Community Services Block Grant (42  
23 U.S.C. 9902(2)) applicable to a family of the size in-  
24 volved for the most recent fiscal year for which data  
25 satisfactory to the Secretary are available.

