

107TH CONGRESS
1ST SESSION

S. 905

To provide incentives for school construction, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 16 (legislative day, MAY 15), 2001

Mr. HARKIN (for himself, Mr. KERRY, Mr. DASCHLE, Mr. KENNEDY, Mr. REID, Mr. JOHNSON, and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide incentives for school construction, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “America’s Better
5 Classrooms Act of 2001”.

6 **SEC. 2. EXPANSION OF INCENTIVES FOR PUBLIC SCHOOLS.**

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

1 **“Subchapter Y—Public School Modernization**
 2 **Provisions**

“Sec. 1400K. Credit to holders of qualified public school modernization bonds.

“Sec. 1400L. Qualified school construction bonds.

“Sec. 1400M. Qualified zone academy bonds.

3 **“SEC. 1400K. CREDIT TO HOLDERS OF QUALIFIED PUBLIC**
 4 **SCHOOL MODERNIZATION BONDS.**

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

13 “(b) AMOUNT OF CREDIT.—

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

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

22 “(A) the applicable credit rate, multiplied
 23 by

1 “(B) the outstanding face amount of the
2 bond.

3 “(3) APPLICABLE CREDIT RATE.—For purposes
4 of paragraph (1), the applicable credit rate with re-
5 spect to an issue is the rate equal to an average
6 market yield (as of the day before the date of
7 issuance of the issue) on outstanding long-term cor-
8 porate debt obligations (determined under regula-
9 tions prescribed by the Secretary).

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

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

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

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

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

7 “(2) CARRYOVER OF UNUSED CREDIT.—If the
8 credit allowable under subsection (a) exceeds the
9 limitation imposed by paragraph (1) for such taxable
10 year, such excess shall be carried to the succeeding
11 taxable year and added to the credit allowable under
12 subsection (a) for such taxable year.

13 “(d) QUALIFIED PUBLIC SCHOOL MODERNIZATION
14 BOND; CREDIT ALLOWANCE DATE.—For purposes of this
15 section—

16 “(1) QUALIFIED PUBLIC SCHOOL MODERNIZA-
17 TION BOND.—The term ‘qualified public school mod-
18 ernization bond’ means—

19 “(A) a qualified zone academy bond, and

20 “(B) a qualified school construction bond.

21 “(2) CREDIT ALLOWANCE DATE.—The term
22 ‘credit allowance date’ means—

23 “(A) March 15,

24 “(B) June 15,

25 “(C) September 15, and

1 “(D) December 15.

2 Such term includes the last day on which the bond
3 is outstanding.

4 “(e) OTHER DEFINITIONS.—For purposes of this
5 subchapter—

6 “(1) LOCAL EDUCATIONAL AGENCY.—The term
7 ‘local educational agency’ has the meaning given to
8 such term by section 14101 of the Elementary and
9 Secondary Education Act of 1965. Such term in-
10 cludes the local educational agency that serves the
11 District of Columbia but does not include any other
12 State agency.

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

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

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

20 “(A) any stadium or other facility pri-
21 marily used for athletic contests or exhibitions
22 or other events for which admission is charged
23 to the general public, or

1 “(B) any facility which is not owned by a
2 State or local government or any agency or in-
3 strumentality of a State or local government.

4 “(f) CREDIT INCLUDED IN GROSS INCOME.—Gross
5 income includes the amount of the credit allowed to the
6 taxpayer under this section (determined without regard to
7 subsection (c)) and the amount so included shall be treat-
8 ed as interest income.

9 “(g) BONDS HELD BY REGULATED INVESTMENT
10 COMPANIES.—If any qualified public school modernization
11 bond is held by a regulated investment company, the credit
12 determined under subsection (a) shall be allowed to share-
13 holders of such company under procedures prescribed by
14 the Secretary.

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

17 “(1) IN GENERAL.—There may be a separation
18 (including at issuance) of the ownership of a quali-
19 fied public school modernization bond and the enti-
20 tlement to the credit under this section with respect
21 to such bond. In case of any such separation, the
22 credit under this section shall be allowed to the per-
23 son who on the credit allowance date holds the in-
24 strument evidencing the entitlement to the credit
25 and not to the holder of the bond.

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

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

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

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

20 “(l) TERMINATION.—This section shall not apply to
21 any bond issued after September 30, 2006.

22 **“SEC. 1400L. QUALIFIED SCHOOL CONSTRUCTION BONDS.**

23 “(a) QUALIFIED SCHOOL CONSTRUCTION BOND.—
24 For purposes of this subchapter, the term ‘qualified school

1 construction bond' means any bond issued as part of an
 2 issue if—

3 “(1) 95 percent or more of the proceeds of such
 4 issue are to be used for the construction, rehabilita-
 5 tion, or repair of a public school facility or for the
 6 acquisition of land on which such a facility is to be
 7 constructed with part of the proceeds of such issue,

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

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

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

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

20 “(1) the limitation amount allocated under sub-
 21 section (d) for such calendar year to such issuer,
 22 and

23 “(2) if such issuer is a large local educational
 24 agency (as defined in subsection (e)(4)) or is issuing
 25 on behalf of such an agency, the limitation amount

1 allocated under subsection (e) for such calendar year
2 to such agency.

3 “(c) NATIONAL LIMITATION ON AMOUNT OF BONDS
4 DESIGNATED.—There is a national qualified school con-
5 struction bond limitation for each calendar year. Such lim-
6 itation is—

7 “(1) \$11,000,000,000 for 2002,

8 “(2) \$11,000,000,000 for 2003, and

9 “(3) except as provided in subsection (f), zero
10 after 2003.

11 “(d) 60 PERCENT OF LIMITATION ALLOCATED
12 AMONG STATES.—

13 “(1) IN GENERAL.—60 percent of the limitation
14 applicable under subsection (c) for any calendar year
15 shall be allocated by the Secretary among the States
16 in proportion to the respective numbers of children
17 in each State who have attained age 5 but not age
18 18 for the most recent fiscal year ending before such
19 calendar year. The limitation amount allocated to a
20 State under the preceding sentence shall be allocated
21 by the State to issuers within such State.

22 “(2) MINIMUM ALLOCATIONS TO STATES.—

23 “(A) IN GENERAL.—The Secretary shall
24 adjust the allocations under this subsection for

1 any calendar year for each State to the extent
2 necessary to ensure that the sum of—

3 “(i) the amount allocated to such
4 State under this subsection for such year,
5 and

6 “(ii) the aggregate amounts allocated
7 under subsection (e) to large local edu-
8 cational agencies in such State for such
9 year,

10 is not less than an amount equal to such
11 State’s minimum percentage of the amount to
12 be allocated under paragraph (1) for the cal-
13 endar year.

14 “(B) MINIMUM PERCENTAGE.—A State’s
15 minimum percentage for any calendar year is
16 the minimum percentage described in section
17 1124(d) of the Elementary and Secondary Edu-
18 cation Act of 1965 (20 U.S.C. 6334(d)) for
19 such State for the most recent fiscal year end-
20 ing before such calendar year.

21 “(3) ALLOCATIONS TO CERTAIN POSSES-
22 SIONS.—The amount to be allocated under para-
23 graph (1) to any possession of the United States
24 other than Puerto Rico shall be the amount which
25 would have been allocated if all allocations under

1 paragraph (1) were made on the basis of respective
2 populations of individuals below the poverty line (as
3 defined by the Office of Management and Budget).
4 In making other allocations, the amount to be allo-
5 cated under paragraph (1) shall be reduced by the
6 aggregate amount allocated under this paragraph to
7 possessions of the United States.

8 “(4) ALLOCATIONS FOR INDIAN SCHOOLS.—The
9 provisions of section 1400N shall apply with respect
10 to the construction, rehabilitation, and repair of
11 schools funded by the Bureau of Indian Affairs. No
12 funds may be allocated under this section for such
13 schools.

14 “(e) 40 PERCENT OF LIMITATION ALLOCATED
15 AMONG LARGEST SCHOOL DISTRICTS.—

16 “(1) IN GENERAL.—40 percent of the limitation
17 applicable under subsection (c) for any calendar year
18 shall be allocated under paragraph (2) by the Sec-
19 retary among local educational agencies which are
20 large local educational agencies for such year.

21 “(2) ALLOCATION FORMULA.—The amount to
22 be allocated under paragraph (1) for any calendar
23 year shall be allocated among large local educational
24 agencies in proportion to the respective amounts
25 each such agency received for Basic Grants under

1 subpart 2 of part A of title I of the Elementary and
2 Secondary Education Act of 1965 (20 U.S.C. 6331
3 et seq.) for the most recent fiscal year ending before
4 such calendar year.

5 “(3) ALLOCATION OF UNUSED LIMITATION TO
6 STATE.—The amount allocated under this subsection
7 to a large local educational agency for any calendar
8 year may be reallocated by such agency to the State
9 in which such agency is located for such calendar
10 year. Any amount reallocated to a State under the
11 preceding sentence may be allocated as provided in
12 subsection (d)(1).

13 “(4) LARGE LOCAL EDUCATIONAL AGENCY.—
14 For purposes of this section, the term ‘large local
15 educational agency’ means, with respect to a cal-
16 endar year, any local educational agency if such
17 agency is—

18 “(A) among the 100 local educational
19 agencies with the largest numbers of children
20 aged 5 through 17 from families living below
21 the poverty level, as determined by the Sec-
22 retary using the most recent data available
23 from the Department of Commerce that are
24 satisfactory to the Secretary, or

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

10 “(f) CARRYOVER OF UNUSED LIMITATION.—If for
11 any calendar year—

12 “(1) the amount allocated under subsection (d)
13 to any State, exceeds

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

17 the limitation amount under such subsection for such
18 State for the following calendar year shall be increased
19 by the amount of such excess. A similar rule shall apply
20 to the amounts allocated under subsection (d)(5) or (e).

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

22 “(1) IN GENERAL.—A bond shall not be treated
23 as failing to meet the requirement of subsection
24 (a)(1) solely by reason of the fact that the proceeds
25 of the issue of which such bond is a part are in-

1 vested for a temporary period (but not more than 36
2 months) until such proceeds are needed for the pur-
3 pose for which such issue was issued.

4 “(2) **BINDING COMMITMENT REQUIREMENT.**—
5 Paragraph (1) shall apply to an issue only if, as of
6 the date of issuance, there is a reasonable expecta-
7 tion that—

8 “(A) at least 10 percent of the proceeds of
9 the issue will be spent within the 6-month pe-
10 riod beginning on such date for the purpose for
11 which such issue was issued, and

12 “(B) the remaining proceeds of the issue
13 will be spent with due diligence for such pur-
14 pose.

15 “(3) **EARNINGS ON PROCEEDS.**—Any earnings
16 on proceeds during the temporary period shall be
17 treated as proceeds of the issue for purposes of ap-
18 plying subsection (a)(1) and paragraph (1) of this
19 subsection.

20 **“SEC. 1400M. QUALIFIED ZONE ACADEMY BONDS.**

21 “(a) **QUALIFIED ZONE ACADEMY BOND.**—For pur-
22 poses of this subchapter—

23 “(1) **IN GENERAL.**—The term ‘qualified zone
24 academy bond’ means any bond issued as part of an
25 issue if—

1 “(A) 95 percent or more of the proceeds of
2 such issue are to be used for a qualified pur-
3 pose with respect to a qualified zone academy
4 established by a local educational agency,

5 “(B) the bond is issued by a State or local
6 government within the jurisdiction of which
7 such academy is located,

8 “(C) the issuer—

9 “(i) designates such bond for purposes
10 of this section,

11 “(ii) certifies that it has written as-
12 surances that the private business con-
13 tribution requirement of paragraph (2) will
14 be met with respect to such academy, and

15 “(iii) certifies that it has the written
16 approval of the local educational agency
17 for such bond issuance, and

18 “(D) the term of each bond which is part
19 of such issue does not exceed 15 years.

20 Rules similar to the rules of section 1400L(g) shall
21 apply for purposes of paragraph (1).

22 “(2) PRIVATE BUSINESS CONTRIBUTION RE-
23 QUIREMENT.—

24 “(A) IN GENERAL.—For purposes of para-
25 graph (1), the private business contribution re-

1 requirement of this paragraph is met with respect
2 to any issue if the local educational agency that
3 established the qualified zone academy has writ-
4 ten commitments from private entities to make
5 qualified contributions having a present value
6 (as of the date of issuance of the issue) of not
7 less than 10 percent of the proceeds of the
8 issue.

9 “(B) QUALIFIED CONTRIBUTIONS.—For
10 purposes of subparagraph (A), the term ‘quali-
11 fied contribution’ means any contribution (of a
12 type and quality acceptable to the local edu-
13 cational agency) of—

14 “(i) equipment for use in the qualified
15 zone academy (including state-of-the-art
16 technology and vocational equipment),

17 “(ii) technical assistance in developing
18 curriculum or in training teachers in order
19 to promote appropriate market driven tech-
20 nology in the classroom,

21 “(iii) services of employees as volun-
22 teer mentors,

23 “(iv) internships, field trips, or other
24 educational opportunities outside the acad-
25 emy for students, or

1 “(v) any other property or service
2 specified by the local educational agency.

3 “(3) QUALIFIED ZONE ACADEMY.—The term
4 ‘qualified zone academy’ means any public school (or
5 academic program within a public school) which is
6 established by and operated under the supervision of
7 a local educational agency to provide education or
8 training below the postsecondary level if—

9 “(A) such public school or program (as the
10 case may be) is designed in cooperation with
11 business to enhance the academic curriculum,
12 increase graduation and employment rates, and
13 better prepare students for the rigors of college
14 and the increasingly complex workforce,

15 “(B) students in such public school or pro-
16 gram (as the case may be) will be subject to the
17 same academic standards and assessments as
18 other students educated by the local educational
19 agency,

20 “(C) the comprehensive education plan of
21 such public school or program is approved by
22 the local educational agency, and

23 “(D)(i) such public school is located in an
24 empowerment zone or enterprise community
25 (including any such zone or community des-

1 ignated after the date of the enactment of this
2 section), or

3 “(ii) there is a reasonable expectation (as
4 of the date of issuance of the bonds) that at
5 least 35 percent of the students attending such
6 school or participating in such program (as the
7 case may be) will be eligible for free or reduced-
8 cost lunches under the school lunch program es-
9 tablished under the National School Lunch Act.

10 “(4) QUALIFIED PURPOSE.—The term ‘quali-
11 fied purpose’ means, with respect to any qualified
12 zone academy—

13 “(A) constructing, rehabilitating, or repair-
14 ing the public school facility in which the acad-
15 emy is established,

16 “(B) acquiring the land on which such fa-
17 cility is to be constructed with part of the pro-
18 ceeds of such issue,

19 “(C) providing equipment for use at such
20 academy,

21 “(D) developing course materials for edu-
22 cation to be provided at such academy, and

23 “(E) training teachers and other school
24 personnel in such academy.

1 “(b) LIMITATIONS ON AMOUNT OF BONDS DES-
2 IGNATED.—

3 “(1) IN GENERAL.—There is a national zone
4 academy bond limitation for each calendar year.
5 Such limitation is—

6 “(A) \$400,000,000 for 1999,

7 “(B) \$400,000,000 for 2000,

8 “(C) \$400,000,000 for 2001,

9 “(D) \$1,400,000,000 for 2002,

10 “(E) \$1,400,000,000 for 2003, and

11 “(F) except as provided in paragraph (3),
12 zero after 2003.

13 “(2) ALLOCATION OF LIMITATION.—

14 “(A) ALLOCATION AMONG STATES.—

15 “(i) 1999, 2000, AND 2001 LIMITA-
16 TIONS.—The national zone academy bond
17 limitations for calendar years 1999, 2000,
18 and 2001 shall be allocated by the Sec-
19 retary among the States on the basis of
20 their respective populations of individuals
21 below the poverty line (as defined by the
22 Office of Management and Budget).

23 “(ii) LIMITATION AFTER 2001.—The
24 national zone academy bond limitation for
25 any calendar year after 2001 shall be allo-

1 cated by the Secretary among the States in
 2 proportion to the respective amounts each
 3 such State received for Basic Grants under
 4 subpart 2 of part A of title I of the Ele-
 5 mentary and Secondary Education Act of
 6 1965 (20 U.S.C. 6331 et seq.) for the
 7 most recent fiscal year ending before such
 8 calendar year.

9 “(B) ALLOCATION TO LOCAL EDU-
 10 CATIONAL AGENCIES.—The limitation amount
 11 allocated to a State under subparagraph (A)
 12 shall be allocated by the State to qualified zone
 13 academies within such State.

14 “(C) DESIGNATION SUBJECT TO LIMITA-
 15 TION AMOUNT.—The maximum aggregate face
 16 amount of bonds issued during any calendar
 17 year which may be designated under subsection
 18 (a) with respect to any qualified zone academy
 19 shall not exceed the limitation amount allocated
 20 to such academy under subparagraph (B) for
 21 such calendar year.

22 “(3) CARRYOVER OF UNUSED LIMITATION.—If
 23 for any calendar year—

24 “(A) the limitation amount under this sub-
 25 section for any State, exceeds

1 “(B) the amount of bonds issued during
 2 such year which are designated under sub-
 3 section (a) (or the corresponding provisions of
 4 prior law) with respect to qualified zone acad-
 5 emies within such State,

6 the limitation amount under this subsection for such
 7 State for the following calendar year shall be in-
 8 creased by the amount of such excess.”

9 (b) REPORTING.—Subsection (d) of section 6049 of
 10 the Internal Revenue Code of 1986 (relating to returns
 11 regarding payments of interest) is amended by adding at
 12 the end the following new paragraph:

13 “(8) REPORTING OF CREDIT ON QUALIFIED
 14 PUBLIC SCHOOL MODERNIZATION BONDS.—

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

21 “(B) REPORTING TO CORPORATIONS,
 22 ETC.—Except as otherwise provided in regula-
 23 tions, in the case of any interest described in
 24 subparagraph (A) of this paragraph, subsection
 25 (b)(4) of this section shall be applied without

1 regard to subparagraphs (A), (H), (I), (J), (K),
2 and (L)(i).

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

9 (c) CONFORMING AMENDMENTS.—

10 (1) Subchapter U of chapter 1 of the Internal
11 Revenue Code of 1986 is amended by striking part
12 IV, by redesignating part V as part IV, and by re-
13 designating section 1397F as section 1397E.

14 (2) The table of subchapters for chapter 1 of
15 the Internal Revenue Code of 1986 is amended by
16 adding at the end the following new item:

“Subchapter Y. Public school modernization provisions.”

17 (3) The table of parts of subchapter U of chap-
18 ter 1 of the Internal Revenue Code of 1986 is
19 amended by striking the last 2 items and inserting
20 the following item:

“Part IV. Regulations.”

21 (d) EFFECTIVE DATES.—

22 (1) IN GENERAL.—Except as otherwise pro-
23 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. 3. 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) (20 U.S.C. 1232b) is
17 amended—

18 (1) by inserting “(a)” before “All laborers and
19 mechanics”; and

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

21 “(b)(1) For purposes of this section, the term ‘appli-
22 cable program’ also includes the qualified zone academy
23 bond provisions enacted by section 226 of the Taxpayer
24 Relief Act of 1997 and the program established by section
25 322 of the America’s Better Classroom 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. 4. 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”.

23 **SEC. 5. INDIAN SCHOOL CONSTRUCTION.**

24 (a) DEFINITIONS.—In this section:

1 (1) BUREAU.—The term “Bureau” means the
2 Bureau of Indian Affairs of the Department of the
3 Interior.

4 (2) INDIAN.—The term “Indian” means any in-
5 dividual who is a member of a tribe.

6 (3) SECRETARY.—The term “Secretary” means
7 the Secretary of the Interior.

8 (4) TRIBAL SCHOOL.—The term “tribal school”
9 means an elementary school, secondary school, or
10 dormitory that is operated by a tribal organization
11 or the Bureau for the education of Indian children
12 and that receives financial assistance for its oper-
13 ation under an appropriation for the Bureau under
14 section 102, 103(a), or 208 of the Indian Self-Deter-
15 mination and Education Assistance Act (25 U.S.C.
16 450f, 450h(a), and 458d) or under the Tribally Con-
17 trolled Schools Act of 1988 (25 U.S.C. 2501 et seq.)
18 under a contract, a grant, or an agreement, or for
19 a Bureau-operated school.

20 (5) TRIBE.—The term “tribe” has the meaning
21 given the term “Indian tribal government” by sec-
22 tion 7701(a)(40) of the Internal Revenue Code of
23 1986, including the application of section 7871(d) of
24 such Code. Such term includes any consortium of
25 tribes approved by the Secretary.

1 (b) ISSUANCE OF BONDS.—

2 (1) IN GENERAL.—The Secretary shall establish
3 a pilot program under which eligible tribes have the
4 authority to issue qualified tribal school moderniza-
5 tion bonds to provide funding for the construction,
6 rehabilitation, or repair of tribal schools, including
7 the advance planning and design thereof.

8 (2) ELIGIBILITY.—

9 (A) IN GENERAL.—To be eligible to issue
10 any qualified tribal school modernization bond
11 under the program under paragraph (1), a tribe
12 shall—

13 (i) prepare and submit to the Sec-
14 retary a plan of construction that meets
15 the requirements of subparagraph (B);

16 (ii) provide for quarterly and final in-
17 spection of the project by the Bureau; and

18 (iii) pledge that the facilities financed
19 by such bond will be used primarily for ele-
20 mentary and secondary educational pur-
21 poses for not less than the period such
22 bond remains outstanding.

23 (B) PLAN OF CONSTRUCTION.—A plan of
24 construction meets the requirements of this
25 subparagraph if such plan—

1 (i) contains a description of the con-
2 struction to be undertaken with funding
3 provided under a qualified tribal school
4 modernization bond;

5 (ii) demonstrates that a comprehen-
6 sive survey has been undertaken con-
7 cerning the construction needs of the tribal
8 school involved;

9 (iii) contains assurances that funding
10 under the bond will be used only for the
11 activities described in the plan;

12 (iv) contains response to the evalua-
13 tion criteria contained in Instructions and
14 Application for Replacement School Con-
15 struction, Revision 6, dated February 6,
16 1999; and

17 (v) contains any other reasonable and
18 related information determined appropriate
19 by the Secretary.

20 (C) PRIORITY.—In determining whether a
21 tribe is eligible to participate in the program
22 under this subsection, the Secretary shall give
23 priority to tribes that, as demonstrated by the
24 relevant plans of construction, will fund
25 projects—

1 (i) described in the Education Facili-
2 ties Replacement Construction Priorities
3 List as of FY 2000 of the Bureau of In-
4 dian Affairs (65 Fed. Reg. 4623–4624);

5 (ii) described in any subsequent prior-
6 ities list published in the Federal Register;
7 or

8 (iii) which meet the criteria for rank-
9 ing schools as described in Instructions
10 and Application for Replacement School
11 Construction, Revision 6, dated February
12 6, 1999.

13 (D) ADVANCE PLANNING AND DESIGN
14 FUNDING.—A tribe may propose in its plan of
15 construction to receive advance planning and
16 design funding from the tribal school mod-
17 ernization escrow account established under
18 paragraph (6)(B). Before advance planning and
19 design funds are allocated from the escrow ac-
20 count, the tribe shall agree to issue qualified
21 tribal school modernization bonds after the re-
22 ceipt of such funds and agree as a condition of
23 each bond issuance that the tribe will deposit
24 into such account or a fund managed by the
25 trustee as described in paragraph (4)(C) an

1 amount equal to the amount of such funds re-
2 ceived from the escrow account.

3 (3) PERMISSIBLE ACTIVITIES.—In addition to
4 the use of funds permitted under paragraph (1), a
5 tribe may use amounts received through the issuance
6 of a qualified tribal school modernization bond to—

7 (A) enter into and make payments under
8 contracts with licensed and bonded architects,
9 engineers, and construction firms in order to
10 determine the needs of the tribal school and for
11 the design and engineering of the school;

12 (B) enter into and make payments under
13 contracts with financial advisors, underwriters,
14 attorneys, trustees, and other professionals who
15 would be able to provide assistance to the tribe
16 in issuing bonds; and

17 (C) carry out other activities determined
18 appropriate by the Secretary.

19 (4) BOND TRUSTEE.—

20 (A) IN GENERAL.—Notwithstanding any
21 other provision of law, any qualified tribal
22 school modernization bond issued by a tribe
23 under this subsection shall be subject to a trust
24 agreement between the tribe and a trustee.

1 (B) TRUSTEE.—Any bank or trust com-
2 pany that meets requirements established by
3 the Secretary may be designated as a trustee
4 under subparagraph (A).

5 (C) CONTENT OF TRUST AGREEMENT.—A
6 trust agreement entered into by a tribe under
7 this paragraph shall specify that the trustee,
8 with respect to any bond issued under this sub-
9 section shall—

10 (i) act as a repository for the proceeds
11 of the bond;

12 (ii) make payments to bondholders;

13 (iii) receive, as a condition to the
14 issuance of such bond, a transfer of funds
15 from the tribal school modernization es-
16 crow account established under paragraph
17 (6)(B) or from other funds furnished by or
18 on behalf of the tribe in an amount, which
19 together with interest earnings from the
20 investment of such funds in obligations of
21 or fully guaranteed by the United States or
22 from other investments authorized by para-
23 graph (10), will produce moneys sufficient
24 to timely pay in full the entire principal

1 amount of such bond on the stated matu-
2 rity date therefore;

3 (iv) invest the funds received pursuant
4 to clause (iii) as provided by such clause;
5 and

6 (v) hold and invest the funds in a seg-
7 regated fund or account under the agree-
8 ment, which fund or account shall be ap-
9 plied solely to the payment of the costs of
10 items described in paragraph (3).

11 (D) REQUIREMENTS FOR MAKING DIRECT
12 PAYMENTS.—

13 (i) IN GENERAL.—Notwithstanding
14 any other provision of law, the trustee
15 shall make any payment referred to in sub-
16 paragraph (C)(v) in accordance with re-
17 quirements that the tribe shall prescribe in
18 the trust agreement entered into under
19 subparagraph (C). Before making a pay-
20 ment to a contractor under subparagraph
21 (C)(v), the trustee shall require an inspec-
22 tion of the project by a local financial in-
23 stitution or an independent inspecting ar-
24 chitect or engineer, to ensure the comple-
25 tion of the project.

1 (ii) CONTRACTS.—Each contract re-
2 ferred to in paragraph (3) shall specify, or
3 be renegotiated to specify, that payments
4 under the contract shall be made in ac-
5 cordance with this paragraph.

6 (5) PAYMENTS OF PRINCIPAL AND INTEREST.—

7 (A) PRINCIPAL.—No principal payments
8 on any qualified tribal school modernization
9 bond shall be required until the final, stated
10 maturity of such bond, which stated maturity
11 shall be within 15 years from the date of
12 issuance. Upon the expiration of such period,
13 the entire outstanding principal under the bond
14 shall become due and payable.

15 (B) INTEREST.—In lieu of interest on a
16 qualified tribal school modernization bond there
17 shall be awarded a tax credit under section
18 1400K of the Internal Revenue Code of 1986.

19 (6) BOND GUARANTEES.—

20 (A) IN GENERAL.—Payment of the prin-
21 cipal portion of a qualified tribal school mod-
22 ernization bond issued under this subsection
23 shall be guaranteed solely by amounts deposited
24 with each respective bond trustee as described
25 in paragraph (4)(C)(iii).

1 (B) ESTABLISHMENT OF ACCOUNT.—

2 (i) IN GENERAL.—Notwithstanding
3 any other provision of law, beginning in
4 fiscal year 2002, from amounts made
5 available for school replacement under the
6 construction account of the Bureau, the
7 Secretary is authorized to deposit not more
8 than \$30,000,000 each fiscal year into a
9 tribal school modernization escrow account.

10 (ii) PAYMENTS.—The Secretary shall
11 use any amounts deposited in the escrow
12 account under clauses (i) and (iii) to make
13 payments to trustees appointed and acting
14 pursuant to paragraph (4) or to make pay-
15 ments described in paragraph (2)(D).

16 (iii) TRANSFERS OF EXCESS PRO-
17 CEEDS.—Excess proceeds held under any
18 trust agreement that are not needed for
19 any of the purposes described in clauses
20 (iii) and (v) of paragraph (4)(C) shall be
21 transferred, from time to time, by the
22 trustee for deposit into the tribal school
23 modernization escrow account.

24 (7) LIMITATIONS.—

1 (A) OBLIGATION TO REPAY.—Notwith-
2 standing any other provision of law, the prin-
3 cipal amount on any qualified tribal school
4 modernization bond issued under this sub-
5 section shall be repaid only to the extent of any
6 escrowed funds furnished under paragraph
7 (4)(C)(iii). No qualified tribal school moderniza-
8 tion bond issued by a tribe shall be an obliga-
9 tion of, nor shall payment of the principal
10 thereof be guaranteed by, the United States.

11 (B) LAND AND FACILITIES.—Any land or
12 facilities purchased or improved with amounts
13 derived from qualified tribal school moderniza-
14 tion bonds issued under this subsection shall
15 not be mortgaged or used as collateral for such
16 bonds.

17 (8) SALE OF BONDS.—Qualified tribal school
18 modernization bonds may be sold at a purchase price
19 equal to, in excess of, or at a discount from the par
20 amount thereof.

21 (9) TREATMENT OF TRUST AGREEMENT EARN-
22 INGS.—Any amounts earned through the investment
23 of funds under the control of a trustee under any
24 trust agreement described in paragraph (4) shall not
25 be subject to Federal income tax.

1 “(1) IN GENERAL.—The amount of the credit
2 determined under this subsection with respect to any
3 credit allowance date for a qualified tribal school
4 modernization bond is 25 percent of the annual
5 credit determined with respect to such bond.

6 “(2) ANNUAL CREDIT.—The annual credit de-
7 termined with respect to any qualified tribal school
8 modernization bond is the product of—

9 “(A) the applicable credit rate, multiplied
10 by

11 “(B) the outstanding face amount of the
12 bond.

13 “(3) APPLICABLE CREDIT RATE.—For purposes
14 of paragraph (1), the applicable credit rate with re-
15 spect to an issue is the rate equal to an average
16 market yield (as of the date of sale of the issue) on
17 outstanding long-term corporate obligations (as de-
18 termined by the Secretary).

19 “(4) SPECIAL RULE FOR ISSUANCE AND RE-
20 DEMPTION.—In the case of a bond which is issued
21 during the 3-month period ending on a credit allow-
22 ance date, the amount of the credit determined
23 under this subsection with respect to such credit al-
24 lowance date shall be a ratable portion of the credit
25 otherwise determined based on the portion of the 3-

1 month period during which the bond is outstanding.
2 A similar rule shall apply when the bond is re-
3 deemed.

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

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

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

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

14 “(2) CARRYOVER OF UNUSED CREDIT.—If the
15 credit allowable under subsection (a) exceeds the
16 limitation imposed by paragraph (1) for such taxable
17 year, such excess shall be carried to the succeeding
18 taxable year and added to the credit allowable under
19 subsection (a) for such taxable year.

20 “(d) QUALIFIED TRIBAL SCHOOL MODERNIZATION
21 BOND; OTHER DEFINITIONS.—For purposes of this
22 section—

23 “(1) QUALIFIED TRIBAL SCHOOL MODERNIZA-
24 TION BOND.—

1 “(A) IN GENERAL.—The term ‘qualified
2 tribal school modernization bond’ means, sub-
3 ject to subparagraph (B), any bond issued as
4 part of an issue under section 2(c) of the In-
5 dian School Construction Act, as in effect on
6 the date of the enactment of this section, if—

7 “(i) 95 percent or more of the pro-
8 ceeds of such issue are to be used for the
9 construction, rehabilitation, or repair of a
10 school facility funded by the Bureau of In-
11 dian Affairs of the Department of the Inte-
12 rior or for the acquisition of land on which
13 such a facility is to be constructed with
14 part of the proceeds of such issue,

15 “(ii) the bond is issued by a tribe,

16 “(iii) the issuer designates such bond
17 for purposes of this section, and

18 “(iv) the term of each bond which is
19 part of such issue does not exceed 15
20 years.

21 “(B) NATIONAL LIMITATION ON AMOUNT
22 OF BONDS DESIGNATED.—

23 “(i) NATIONAL LIMITATION.—There is
24 a national qualified tribal school mod-

1 ernization bond limitation for each cal-
2 endar year. Such limitation is—

3 “(I) \$200,000,000 for 2002,

4 “(II) \$200,000,000 for 2003,

5 and

6 “(III) zero after 2003.

7 “(ii) ALLOCATION OF LIMITATION.—

8 The national qualified tribal school mod-
9 ernization bond limitation shall be allo-
10 cated to tribes by the Secretary of the In-
11 terior subject to the provisions of section 2
12 of the Indian School Construction Act, as
13 in effect on the date of the enactment of
14 this section.

15 “(iii) DESIGNATION SUBJECT TO LIM-
16 ITATION AMOUNT.—The maximum aggre-

17 gate face amount of bonds issued during
18 any calendar year which may be designated
19 under subsection (d)(1) with respect to any
20 tribe shall not exceed the limitation
21 amount allocated to such government
22 under clause (ii) for such calendar year.

23 “(iv) CARRYOVER OF UNUSED LIMITA-

24 TION.—If for any calendar year—

1 “(I) the limitation amount under
2 this subparagraph, exceeds

3 “(II) the amount of qualified
4 tribal school modernization bonds
5 issued during such year,

6 the limitation amount under this subpara-
7 graph for the following calendar year shall
8 be increased by the amount of such excess.

9 The preceding sentence shall not apply if
10 such following calendar year is after 2010.

11 “(2) CREDIT ALLOWANCE DATE.—The term
12 ‘credit allowance date’ means—

13 “(A) March 15,

14 “(B) June 15,

15 “(C) September 15, and

16 “(D) December 15.

17 Such term includes the last day on which the bond
18 is outstanding.

19 “(3) BOND.—The term ‘bond’ includes any ob-
20 ligation.

21 “(4) TRIBE.—The term “tribe” has the mean-
22 ing given the term “Indian tribal government” by
23 section 7701(a)(40), including the application of sec-
24 tion 7871(d). Such term includes any consortium of
25 tribes approved by the Secretary of the Interior.

1 “(e) CREDIT INCLUDED IN GROSS INCOME.—Gross
2 income includes the amount of the credit allowed to the
3 taxpayer under this section (determined without regard to
4 subsection (c)) and the amount so included shall be treat-
5 ed as interest income.

6 “(f) BONDS HELD BY REGULATED INVESTMENT
7 COMPANIES.—If any qualified tribal school modernization
8 bond is held by a regulated investment company, the credit
9 determined under subsection (a) shall be allowed to share-
10 holders of such company under procedures prescribed by
11 the Secretary.

12 “(g) CREDITS MAY BE STRIPPED.—Under regula-
13 tions prescribed by the Secretary—

14 “(1) IN GENERAL.—There may be a separation
15 (including at issuance) of the ownership of a quali-
16 fied tribal school modernization bond and the entitle-
17 ment to the credit under this section with respect to
18 such bond. In case of any such separation, the credit
19 under this section shall be allowed to the person who
20 on the credit allowance date holds the instrument ev-
21 idencing the entitlement to the credit and not to the
22 holder of the bond.

23 “(2) CERTAIN RULES TO APPLY.—In the case
24 of a separation described in paragraph (1), the rules
25 of section 1286 shall apply to the qualified tribal

1 school modernization bond as if it were a stripped
2 bond and to the credit under this section as if it
3 were a stripped coupon.

4 “(h) TREATMENT FOR ESTIMATED TAX PUR-
5 POSES.—Solely for purposes of sections 6654 and 6655,
6 the credit allowed by this section to a taxpayer by reason
7 of holding a qualified tribal school modernization bonds
8 on a credit allowance date shall be treated as if it were
9 a payment of estimated tax made by the taxpayer on such
10 date.

11 “(i) CREDIT MAY BE TRANSFERRED.—Nothing in
12 any law or rule of law shall be construed to limit the trans-
13 ferability of the credit allowed by this section through sale
14 and repurchase agreements.

15 “(j) CREDIT TREATED AS ALLOWED UNDER PART
16 IV OF SUBCHAPTER A.—For purposes of subtitle F, the
17 credit allowed by this section shall be treated as a credit
18 allowable under part IV of subchapter A of this chapter.

19 “(k) REPORTING.—Issuers of qualified tribal school
20 modernization bonds shall submit reports similar to the
21 reports required under section 149(e).”.

22 (d) ADDITIONAL PROVISIONS.—

23 (1) SOVEREIGN IMMUNITY.—This section and
24 the amendments made by this section shall not be
25 construed to impact, limit, or affect the sovereign

1 immunity of the Federal Government or any State
2 or tribal government.

3 (2) APPLICATION.—This section and the
4 amendments made by this section shall take effect
5 on the date of the enactment of this Act with respect
6 to bonds issued after December 31, 2001, regardless
7 of the status of regulations promulgated thereunder.

○