H. R. 717

To amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools.

IN THE HOUSE OF REPRESENTATIVES

February 12, 2003

Mr. Rangel introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, 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 Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “America’s Better Classroom Act of 2003”.

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SEC. 2. EXPANSION OF INCENTIVES FOR PUBLIC SCHOOLS.

(a) IN GENERAL.—Chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subchapter:

“Subchapter Z—Public School Modernization Provisions

“Sec. 1400N. Credit to holders of qualified public school modernization bonds.
“Sec. 1400O. Qualified school construction bonds.
“Sec. 1400P. Qualified zone academy bonds.

“Sec. 1400N. CREDIT TO HOLDERS OF QUALIFIED PUBLIC SCHOOL MODERNIZATION BONDS.

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

“(b) AMOUNT OF CREDIT.—

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

“(A) the applicable credit rate, multiplied by

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

“(3) Applicable credit rate.—For purposes of paragraph (1), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of issuance of the issue) on outstanding long-term corporate debt obligations (determined under regulations prescribed by the Secretary).

“(4) Special rule for issuance and redemption.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

“(e) Limitation based on amount of tax.—
“(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

“(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(B) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits).

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

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

“(1) QUALIFIED PUBLIC SCHOOL MODERNIZATION BOND.—The term ‘qualified public school modernization bond’ means—

“(A) a qualified zone academy bond, and

“(B) a qualified school construction bond.

“(2) CREDIT ALLOWANCE DATE.—The term ‘credit allowance date’ means—
“(A) March 15,
“(B) June 15,
“(C) September 15, and
“(D) December 15.

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

“(e) Other Definitions.—For purposes of this subchapter—

“(1) Local Educational Agency.—The term ‘local educational agency’ has the meaning given to such term by section 14101 of the Elementary and Secondary Education Act of 1965. Such term includes the local educational agency that serves the District of Columbia but does not include any other State agency.

“(2) Bond.—The term ‘bond’ includes any obligation.

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

“(4) Public School Facility.—The term ‘public school facility’ shall not include—

“(A) any stadium or other facility primarily used for athletic contests or exhibitions
or other events for which admission is charged
to the general public, or

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

“(f) Credit Included in Gross Income.—Gross
income includes the amount of the credit allowed to the
taxpayer under this section (determined without regard to
subsection (c)) and the amount so included shall be treat-
ed as interest income.

“(g) Recapture of Portion of Credit Where
Cessation of Compliance.—

“(1) In general.—If any bond which when
issued purported to be a qualified public school mod-
ernization bond ceases to be a qualified public school
modernization bond, the issuer shall pay to the
United States (at the time required by the Sec-
retary) an amount equal to the sum of—

“(A) the aggregate of the credits allowable
under this section with respect to such bond
(determined without regard to subsection (c))
for taxable years ending during the calendar
year in which such cessation occurs and the 2
preceding calendar years, and
“(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

“(2) Failure to Pay.—If the issuer fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

“(3) Special Rules.—

“(A) Tax Benefit Rule.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards
and carrybacks under section 39 shall be appropriately adjusted.

“(B) NO CREDITS AGAINST TAX.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

“(i) the amount of any credit allowable under this part, or

“(ii) the amount of the tax imposed by section 55.

“(h) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified public school modernization bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

“(i) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

“(1) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a qualified public school modernization bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the in-
instrument evidencing the entitlement to the credit and not to the holder of the bond.

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

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

“(k) CREDIT MAY BE TRANSFERRED.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit allowed by this section through sale and repurchase agreements.

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

“(m) TERMINATION.—This section shall not apply to any bond issued after September 30, 2008.
SEC. 14000. QUALIFIED SCHOOL CONSTRUCTION BONDS.

(a) Qualified School Construction Bond.—For purposes of this subchapter, the term ‘qualified school construction bond’ means any bond issued as part of an issue if—

“(1) 95 percent or more of the proceeds of such issue are to be used for the construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue,

“(2) the bond is issued by a State or local government within the jurisdiction of which such school is located,

“(3) the issuer designates such bond for purposes of this section, and

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

(b) Limitation on Amount of Bonds Designated.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) by any issuer shall not exceed the sum of—

“(1) the limitation amount allocated under subsection (d) for such calendar year to such issuer, and
“(2) if such issuer is a large local educational agency (as defined in subsection (e)(4)) or is issuing on behalf of such an agency, the limitation amount allocated under subsection (e) for such calendar year to such agency.

“(e) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified school construction bond limitation for each calendar year. Such limitation is—

“(1) $11,000,000,000 for 2004,

“(2) $11,000,000,000 for 2005, and

“(3) except as provided in subsection (f), zero after 2005.

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

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

“(2) MINIMUM ALLOCATIONS TO STATES.—
“(A) IN GENERAL.—The Secretary shall adjust the allocations under this subsection for any calendar year for each State to the extent necessary to ensure that the sum of—

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

“(ii) the aggregate amounts allocated under subsection (e) to large local educational agencies in such State for such year,

is not less than an amount equal to such State’s minimum percentage of the amount to be allocated under paragraph (1) for the calendar year.

“(B) MINIMUM PERCENTAGE.—A State’s minimum percentage for any calendar year is the minimum percentage described in section 1124(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6334(d)) for such State for the most recent fiscal year ending before such calendar year.

“(3) ALLOCATIONS TO CERTAIN POSSESSIONS.—The amount to be allocated under paragraph (1) to any possession of the United States
other than Puerto Rico shall be the amount which would have been allocated if all allocations under paragraph (1) were made on the basis of respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). In making other allocations, the amount to be allocated under paragraph (1) shall be reduced by the aggregate amount allocated under this paragraph to possessions of the United States.

"(4) ALLOCATIONS FOR INDIAN SCHOOLS.—In addition to the amounts otherwise allocated under this subsection, $200,000,000 for calendar year 2004, and $200,000,000 for calendar year 2005, shall be allocated by the Secretary of the Interior for purposes of the construction, rehabilitation, and repair of schools funded by the Bureau of Indian Affairs. In the case of amounts allocated under the preceding sentence, Indian tribal governments (as defined in section 7871) shall be treated as qualified issuers for purposes of this subchapter.

"(e) 40 PERCENT OF LIMITATION ALLOCATED AMONG LARGEST SCHOOL DISTRICTS.—

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

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

“(3) Allocation of Unused Limitation to
State.—The amount allocated under this subsection
to a large local educational agency for any calendar
year may be reallocated by such agency to the State
in which such agency is located for such calendar
year. Any amount reallocated to a State under the
preceding sentence may be allocated as provided in
subsection (d)(1).

“(4) Large Local Educational Agency.—
For purposes of this section, the term ‘large local
educational agency’ means, with respect to a cal-
endar year, any local educational agency if such
agency is—
“(A) among the 100 local educational agencies with the largest numbers of children aged 5 through 17 from families living below the poverty level, as determined by the Secretary using the most recent data available from the Department of Commerce that are satisfactory to the Secretary, or

“(B) 1 of not more than 25 local educational agencies (other than those described in subparagraph (A)) that the Secretary of Education determines (based on the most recent data available satisfactory to the Secretary) are in particular need of assistance, based on a low level of resources for school construction, a high level of enrollment growth, or such other factors as the Secretary deems appropriate.

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

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

“(2) the amount of bonds issued during such year which are designated under subsection (a) pursuant to such allocation,

the limitation amount under such subsection for such State for the following calendar year shall be increased
by the amount of such excess. A similar rule shall apply
to the amounts allocated under subsection (d)(4) or (e).

“(g) Special Rules Relating to Arbitrage.—

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

“(2) Binding Commitment Requirement.—
Paragraph (1) shall apply to an issue only if, as of
the date of issuance, there is a reasonable expecta-
tion that—

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

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

“(3) Earnings on Proceeds.—Any earnings
on proceeds during the temporary period shall be
treated as proceeds of the issue for purposes of ap-
plying subsection (a)(1) and paragraph (1) of this subsection.

**SEC. 1400P. QUALIFIED ZONE ACADEMY BONDS.**

“(a) QUALIFIED ZONE ACADEMY BOND.—For purposes of this subchapter—

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

“(A) 95 percent or more of the proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by a local educational agency,

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

“(C) the issuer—

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

“(ii) certifies that it has written assurances that the private business contribution requirement of paragraph (2) will be met with respect to such academy, and

“(iii) certifies that it has the written approval of the local educational agency for such bond issuance, and
“(D) the term of each bond which is part of such issue does not exceed 15 years.

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

“(2) PRIVATE BUSINESS CONTRIBUTION REQUIREMENT.—

“(A) IN GENERAL.—For purposes of paragraph (1), the private business contribution requirement of this paragraph is met with respect to any issue if the local educational agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the issue.

“(B) QUALIFIED CONTRIBUTIONS.—For purposes of subparagraph (A), the term ‘qualified contribution’ means any contribution (of a type and quality acceptable to the local educational agency) of—

“(i) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment),
“(ii) technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom,

“(iii) services of employees as volunteer mentors,

“(iv) internships, field trips, or other educational opportunities outside the academy for students, or

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

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

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

“(B) students in such public school or program (as the case may be) will be subject to the
same academic standards and assessments as other students educated by the local educational agency,

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

“(D)(i) such public school is located in an empowerment zone or enterprise community (including any such zone or community designated after the date of the enactment of this section), or

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

“(4) QUALIFIED PURPOSE.—The term ‘qualified purpose’ means, with respect to any qualified zone academy—

“(A) constructing, rehabilitating, or repairing the public school facility in which the academy is established,
“(B) acquiring the land on which such fa-
cility is to be constructed with part of the pro-
ceeds of such issue,

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

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

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

“(b) Limitations on Amount of Bonds De-
ignated.—

“(1) In general.—There is a national zone
academy bond limitation for each calendar year.
Such limitation is—

“(A) $400,000,000 for 1998,
“(B) $400,000,000 for 1999,
“(C) $400,000,000 for 2000,
“(D) $400,000,000 for 2001,
“(E) $400,000,000 for 2002,
“(F) $400,000,000 for 2003,
“(G) $1,400,000,000 for 2004,
“(H) $1,400,000,000 for 2005, and
“(I) except as provided in paragraph (3),
zero after 2005.

“(2) Allocation of limitation.—
“(A) Allocation among States.—

“(i) Pre-2004 Limitations.—The national zone academy bond limitations for calendar years before 2004 shall be allocated by the Secretary among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget).

“(ii) Limitation after 2003.—The national zone academy bond limitation for any calendar year after 2003 shall be allocated by the Secretary among the States in proportion to the respective amounts each such State received for Basic Grants under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year.

“(B) Allocation to Local Educational Agencies.—The limitation amount allocated to a State under subparagraph (A) shall be allocated by the State to qualified zone academies within such State.
“(C) Designation subject to limitation amount.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under subparagraph (B) for such calendar year.

“(3) Carryover of unused limitation.—If for any calendar year—

“(A) the limitation amount under this subsection for any State, exceeds

“(B) the amount of bonds issued during such year which are designated under subsection (a) (or the corresponding provisions of prior law) with respect to qualified zone academies within such State,

the limitation amount under this subsection for such State for the following calendar year shall be increased by the amount of such excess.”

(b) Reporting.—Subsection (d) of section 6049 of such Code (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:
“(8) Reporting of credit on qualified public school modernization bonds.—

“(A) In general.—For purposes of subsection (a), the term ‘interest’ includes amounts includible in gross income under section 1400N(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 1400N(d)(2)).

“(B) Reporting to corporations, etc.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

“(C) Regulatory authority.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.”

(c) Conforming Amendments.—

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

(2) The table of subchapters for chapter 1 of such Code is amended by adding at the end the following new item:

“Subchapter Z. Public school modernization provisions.”

(3) The table of parts of subchapter U of chapter 1 of such Code is amended by striking the last 2 items and inserting the following item:

“Part IV. Regulations.”

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to obligations issued after December 31, 2003.

(2) REPEAL OF RESTRICTION ON ZONE ACADEMY BOND HOLDERS.—In the case of bonds to which section 1397E of the Internal Revenue Code of 1986 (as in effect before the date of the enactment of this Act) applies, the limitation of such section to eligible taxpayers (as defined in subsection (d)(6) of such section) shall not apply after the date of the enactment of this Act.
SEC. 3. APPLICATION OF CERTAIN LABOR STANDARDS ON
CONSTRUCTION PROJECTS FINANCED
UNDER PUBLIC SCHOOL MODERNIZATION
PROGRAM.

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

(1) by inserting “‘(a)’ before “All laborers and
mechanics”, and

(2) by adding at the end the following:

“(b)(1) For purposes of this section, the term ‘applica-
cable program’ also includes the qualified zone academy
bond provisions enacted by section 226 of the Taxpayer
Relief Act of 1997 and the program established by section

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

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

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

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

SEC. 4. EMPLOYMENT AND TRAINING ACTIVITIES RELAT-
ING TO CONSTRUCTION OR RECONSTRUCT-
TION OF PUBLIC SCHOOL FACILITIES.

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

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

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

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

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

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

“(2) COORDINATION.—The specialized program established under paragraph (1) shall be integrated with other activities under this Act, with the activities carried out under the National Apprenticeship Act of 1937 by the State Apprenticeship Council or through the Bureau of Apprenticeship and Training in the Department of Labor, as appropriate, and with activities carried out under the Carl D. Perkins Vocational and Technical Education Act of 1998. Nothing in this subsection shall be construed to require services duplicative of those referred to in the preceding sentence.

“(3) APPLICABLE PROGRAM.—In this subsection, the term ‘applicable program’ has the meaning given the term in section 439(b) of the General Education Provisions Act (relating to labor standards).”
(b) **STATE PLAN.**—Section 112(b)(17)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2822(b)(17)(A)) is amended—

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

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

and

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

“(iv) how the State will establish and carry out a specialized program of training under section 134(f); and”.