

106TH CONGRESS  
1ST SESSION

# H. R. 1767

To amend the Elementary and Secondary Education Act of 1965 to provide for the allocation of any limitation imposed on school construction bonds with respect to which the holders are allowed a credit under the Internal Revenue Code of 1986, and to apply the wage requirements of the Davis-Bacon Act to projects financed with such bonds.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 12, 1999

Mr. ANDREWS introduced the following bill; which was referred to the  
Committee on Education and the Workforce

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## A BILL

To amend the Elementary and Secondary Education Act of 1965 to provide for the allocation of any limitation imposed on school construction bonds with respect to which the holders are allowed a credit under the Internal Revenue Code of 1986, and to apply the wage requirements of the Davis-Bacon Act to projects financed with such bonds.

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

1 **SECTION 1. ALLOCATION OF NATIONAL LIMITATION ON**  
 2 **QUALIFIED SCHOOL CONSTRUCTION BONDS;**  
 3 **APPLICATION OF DAVIS-BACON ACT TO**  
 4 **PROJECTS FINANCED WITH BONDS.**

5 (a) IN GENERAL.—Title XII of the Elementary and  
 6 Secondary Education Act of 1965 (20 U.S.C. 8501 et  
 7 seq.) is amended—

8 (1) by redesignating sections 12004 through  
 9 12013 as sections 12101 through 12110, respec-  
 10 tively;

11 (2) by inserting before section 12101 (as so re-  
 12 designated) the following:

13 **“PART A—GRANTS FOR IMPROVEMENT OF PUB-**  
 14 **LIC ELEMENTARY AND SECONDARY EDU-**  
 15 **CATION FACILITIES”;**

16 and

17 (3) by adding at the end the following:

18 **“PART B—QUALIFIED SCHOOL CONSTRUCTION**  
 19 **BONDS**

20 **“SEC. 12201. ALLOCATION WITH RESPECT TO QUALIFIED**  
 21 **SCHOOL CONSTRUCTION BONDS.**

22 **“(a) QUALIFIED SCHOOL CONSTRUCTION BOND.—**

23 **“(1) IN GENERAL.—For purposes of this part,**  
 24 **the term ‘qualified school construction bond’ means**  
 25 **any bond issued as part of an issue if—**

1           “(A) a taxpayer who holds the bond is al-  
2           lowed a credit under the Internal Revenue Code  
3           of 1986;

4           “(B) 95 percent or more of the proceeds of  
5           such issue are to be used for the construction,  
6           rehabilitation, or repair of a public school facil-  
7           ity;

8           “(C) the bond is issued by a State or local  
9           government within the jurisdiction of which  
10          such school is located; and

11          “(D) the issuer designates such bond for  
12          purposes of this section and the Internal Rev-  
13          enue Code of 1986.

14          “(2) TEMPORARY PERIOD EXCEPTION.—A bond  
15          shall not be treated as failing to meet the require-  
16          ment of paragraph (1)(B) solely by reason of the  
17          fact that the proceeds of the issue of which such  
18          bond is a part are invested for a reasonable tem-  
19          porary period (but not more than 36 months) until  
20          such proceeds are needed for the purpose for which  
21          such issue was issued. Any earnings on such pro-  
22          ceeds during such period shall be treated as proceeds  
23          of the issue for purposes of applying paragraph  
24          (1)(B).

1       “(b) NATIONAL LIMITATION ON AMOUNT OF BONDS  
2 DESIGNATED.—In any case in which there is imposed a  
3 national limitation on the maximum aggregate face  
4 amount of bonds issued during any calendar year which  
5 may be designated as qualified school construction bonds,  
6 such limitation shall be allocated in accordance with this  
7 section.

8       “(c) ONE-THIRD OF LIMITATION ALLOCATED  
9 AMONG STATES.—

10           “(1) IN GENERAL.—One-third of the limitation  
11 applicable under subsection (b) for any calendar  
12 year shall be allocated among the States under para-  
13 graph (2) by the Secretary. The limitation amount  
14 allocated to a State under the preceding sentence  
15 shall be allocated by the State educational agency to  
16 issuers within such State and such allocations may  
17 be made only if there is an approved State applica-  
18 tion.

19           “(2) ALLOCATION FORMULA.—The amount to  
20 be allocated under paragraph (1) for any calendar  
21 year shall be allocated among the States in propor-  
22 tion to the respective amounts each such State re-  
23 ceived for Basic Grants under subpart 2 of part A  
24 of title I of this Act for the most recent fiscal year  
25 ending before such calendar year. For purposes of

the preceding sentence, Basic Grants attributable to large local educational agencies (as defined in subsection (d)), and Basic Grants attributable to high-growth local educational agencies (as defined in subsection (e)), shall be disregarded.

“(3) 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 subsections (d) and (e) to local educational agencies in such State for such year;

is not less than an amount equal to such State’s minimum percentage of one-third of the national qualified school construction bond limitation referred to in subsection (b) for the calendar year.

“(B) MINIMUM PERCENTAGE.—A State’s minimum percentage for any calendar year is the minimum percentage described in section

1           1124(d) for such State for the most recent fis-  
2           cal year ending before such calendar year.

3           “(4) ALLOCATIONS TO CERTAIN POSSES-  
4           SIONS.—The amount to be allocated under para-  
5           graph (1) to any possession of the United States (as  
6           such term is used in the Internal Revenue Code of  
7           1986) other than Puerto Rico shall be the amount  
8           which would have been allocated if all allocations  
9           under paragraph (1) were made on the basis of re-  
10          spective populations of individuals below the poverty  
11          line (as defined by the Office of Management and  
12          Budget). In making other allocations, the amount to  
13          be allocated under paragraph (1) shall be reduced by  
14          the aggregate amount allocated under this para-  
15          graph to possessions of the United States.

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

20                 “(A) the results of a recent publicly avail-  
21                 able survey (undertaken by the State with the  
22                 involvement of local education officials, mem-  
23                 bers of the public, and experts in school con-  
24                 struction and management) of such State’s

1 needs for public school facilities, including de-  
2 scriptions of—

3 “(i) health and safety problems at  
4 such facilities;

5 “(ii) the capacity of public schools in  
6 the State to house projected enrollments;  
7 and

8 “(iii) the extent to which the public  
9 schools in the State offer the physical in-  
10 frastructure needed to provide a high-qual-  
11 ity education to all students; and

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

18 “(i) give highest priority to localities  
19 with the greatest needs, as demonstrated  
20 by inadequate school facilities coupled with  
21 a low level of resources to meet those  
22 needs;

23 “(ii) use its allocation under this sub-  
24 section to assist localities that lack the fis-

1 cal capacity to issue bonds on their own;  
 2 and

3 “(iii) ensure that its allocation under  
 4 this subsection is used only to supplement,  
 5 and not supplant, the amount of school  
 6 construction, rehabilitation, and repair in  
 7 the State that would have occurred in the  
 8 absence of such allocation.

9 Any allocation under paragraph (1) by a State edu-  
 10 cation agency shall be binding if such agency reason-  
 11 ably determined that the allocation was in accord-  
 12 ance with the plan approved under this paragraph.

13 “(d) ONE-THIRD OF LIMITATION ALLOCATED  
 14 AMONG LARGEST SCHOOL DISTRICTS.—

15 “(1) IN GENERAL.—One-third of the limitation  
 16 applicable under subsection (b) for any calendar  
 17 year shall be allocated under paragraph (2) by the  
 18 Secretary among local educational agencies which  
 19 are large local educational agencies for such year.  
 20 No qualified school construction bond may be issued  
 21 by reason of an allocation to a large local edu-  
 22 cational agency under the preceding sentence unless  
 23 such agency has an approved local application.

24 “(2) ALLOCATION FORMULA.—The amount to  
 25 be allocated under paragraph (1) for any calendar



1 year shall be allocated among large local educational  
2 agencies in proportion to the respective amounts  
3 each such agency received for Basic Grants under  
4 subpart 2 of part A of title I of this Act for the  
5 most recent fiscal year ending before such calendar  
6 year.

7 “(3) LARGE LOCAL EDUCATIONAL AGENCY.—  
8 For purposes of this section, the term ‘large local  
9 educational agency’ means, with respect to a cal-  
10 endar year, any local educational agency (other than  
11 a high-growth local educational agency, as defined in  
12 subsection (e)) if such agency is—

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

20 “(B) 1 of not more than 25 local edu-  
21 cational agencies (other than those described in  
22 clause (i)) that the Secretary determines (based  
23 on the most recent data available satisfactory to  
24 the Secretary) are in particular need of assist-  
25 ance, based on a low level of resources for

1 school construction, a high level of enrollment  
2 growth, or such other factors as the Secretary  
3 deems appropriate.

4 “(4) APPROVED LOCAL APPLICATION.—For  
5 purposes of paragraph (1), the term ‘approved local  
6 application’ means an application which is approved  
7 by the Secretary and which includes—

8 “(A) the results of a recent publicly-avail-  
9 able survey (undertaken by the local educational  
10 agency with the involvement of school officials,  
11 members of the public, and experts in school  
12 construction and management) of such agency’s  
13 needs for public school facilities, including de-  
14 scriptions of—

15 “(i) the overall condition of the local  
16 educational agency’s school facilities, in-  
17 cluding health and safety problems;

18 “(ii) the capacity of the agency’s  
19 schools to house projected enrollments; and

20 “(iii) the extent to which the agency’s  
21 schools offer the physical infrastructure  
22 needed to provide a high-quality education  
23 to all students;

24 “(B) a description of how the local edu-  
25 cational agency will use its allocation under this

1 subsection to address the needs identified under  
2 subparagraph (A); and

3 “(C) a description of how the local edu-  
4 cational agency will ensure that its allocation  
5 under this subsection is used only to supple-  
6 ment, and not supplant, the amount of school  
7 construction, rehabilitation, or repair in the lo-  
8 cality that would have occurred in the absence  
9 of such allocation.

10 A rule similar to the rule of the last sentence of sub-  
11 section (c)(5) shall apply for purposes of this sub-  
12 section.

13 “(e) ONE-THIRD OF LIMITATION ALLOCATED  
14 AMONG HIGH-GROWTH SCHOOL DISTRICTS.—

15 “(1) IN GENERAL.—One-third of the limitation  
16 applicable under subsection (b) for any calendar  
17 year shall be allocated under paragraph (2) by the  
18 Secretary among local educational agencies which  
19 are high-growth local educational agencies for such  
20 year. No qualified school construction bond may be  
21 issued by reason of an allocation to a high-growth  
22 local educational agency under the preceding sen-  
23 tence unless such agency has an approved local ap-  
24 plication (as defined in subsection (d)(4)). A rule

1 similar to the rule of the last sentence of subsection  
2 (c)(5) shall apply for purposes of this subsection.

3 “(2) ALLOCATION FORMULA.—The amount to  
4 be allocated under paragraph (1) for any calendar  
5 year shall be allocated among high-growth local edu-  
6 cational agencies in proportion to the respective  
7 amounts each such agency received for Basic Grants  
8 under subpart 2 of part A of title I of this Act for  
9 the most recent fiscal year ending before such cal-  
10 endar year.

11 “(3) HIGH-GROWTH LOCAL EDUCATIONAL  
12 AGENCY.—For purposes of this section, the term  
13 ‘high-growth local educational agency’ means, with  
14 respect to a calendar year, any local educational  
15 agency if—

16 “(A) there has been at least a 7.5 percent  
17 increase in such agency’s enrollment during the  
18 5-year period ending with the preceding cal-  
19 endar year; and

20 “(B) such enrollment increase exceeds 150  
21 students.

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

24 “(1) the amount allocated under subsection (c)  
25 to any State; exceeds

1           “(2) the amount of bonds issued during such  
2       year which are designated as qualified school con-  
3       struction bonds pursuant to such allocation;  
4 the limitation amount under such subsection for such  
5 State for the following calendar year shall be increased  
6 by the amount of such excess. A similar rule shall apply  
7 to the amounts allocated under subsections (d) and (e).

8       “(g) OTHER DEFINITIONS.—For purposes of this  
9 section:

10           “(1) LOCAL EDUCATIONAL AGENCY.—The term  
11       ‘local educational agency’ has the meaning given to  
12       such term by section 14101. Such term includes the  
13       local educational agency that serves the District of  
14       Columbia but does not include any other State agen-  
15       cy.

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

18           “(3) PUBLIC SCHOOL FACILITY.—The term  
19       ‘public school facility’ shall not include any stadium  
20       or other facility primarily used for athletic contests  
21       or exhibitions or other events for which admission is  
22       charged to the general public.

1 **“SEC. 12202. APPLICATION OF DAVIS-BACON ACT TO**  
2 **PROJECTS FINANCED WITH QUALIFIED**  
3 **SCHOOL CONSTRUCTION BONDS.**

4 “The wage requirements of the Act of March 3, 1931  
5 (40 U.S.C. 276a et seq.) (commonly referred to as the  
6 ‘Davis-Bacon Act’) shall apply with respect to individuals  
7 employed on school construction, rehabilitation, or repair  
8 projects financed with the proceeds from an issuance of  
9 qualified school construction bonds.”.

10 (b) CONFORMING AMENDMENTS.—Title XII of such  
11 Act is amended—

12 (1) in sections 12101 through 12110 (as so re-  
13 designated), by striking “this title” each place it ap-  
14 pears and inserting “this part”;

15 (2) in section 12101(a)(1) (as so redesign-  
16 nated)—

17 (A) by striking “section 12013” and in-  
18 serting “section 12110”;

19 (B) by striking “section 12005” and in-  
20 serting “section 12102”; and

21 (C) by striking “section 12007” and in-  
22 serting “section 12104”;

23 (3) in section 12101(a)(2) (as so redesignated),  
24 by striking “section 12013” and inserting “section  
25 12110”; and

1           (4) in section 12109(3)(C) (as so redesignated),  
2       by striking “section 12006” and inserting “section  
3       12103”.

○