

106TH CONGRESS
1ST SESSION

H. R. 1842

To provide matching grants for the construction, renovation, and repair of school facilities in areas affected by Federal activities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 1999

Mr. HAYWORTH (for himself and Mr. POMEROY) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Armed Services, 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 provide matching grants for the construction, renovation, and repair of school facilities in areas affected by Federal activities, 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; FINDINGS; PURPOSE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Federally Impacted School Improvement Act”.

6 (b) FINDINGS.—Congress makes the following find-
7 ings:

1 (1) In 1950 Congress recognized its obligation,
2 through the passage of Public Law 81–815, to pro-
3 vide school construction funding for local educational
4 agencies impacted by the presence of Federal activi-
5 ties.

6 (2) The conditions of federally impacted school
7 facilities providing educational programs to children
8 in areas where the Federal Government is present
9 have deteriorated to such an extent that the health
10 and safety of the children served by such agencies
11 is being compromised, and the school conditions
12 have not kept pace with the increase in student pop-
13 ulation causing classrooms to become severely over-
14 crowded and children to be educated in trailers.

15 (3) Local educational agencies in areas where
16 there exists a significant Federal presence have little
17 if any capacity to raise local funds for purposes of
18 capital construction, renovation and repair due to
19 the nontaxable status of Federal land.

20 (4) The need for renewed support by the Fed-
21 eral Government to help federally connected local
22 educational agencies modernize their school facilities
23 is far greater in 2000 than at any time since 1950.

24 (5) Federally connected local educational agen-
25 cies and the communities the agencies serve are will-

1 ing to commit local resources when available to mod-
2 ernize and replace existing facilities, but do not al-
3 ways have the resources available to meet their total
4 facility needs due to the nontaxable presence of the
5 Federal Government.

6 (6) Due to the conditions described in para-
7 graphs (1) through (5) there is in 1999, as there
8 was in 1950, a need for Congress to renew its obli-
9 gation to assist federally connected local educational
10 agencies with their facility needs.

11 (c) PURPOSE.—The purpose of this Act is to provide
12 matching grants to local educational agencies for the mod-
13 ernization of minimum school facilities that are urgently
14 needed because—

15 (1) the existing school facilities of the agency
16 are in such disrepair that the health and safety of
17 the students served by the agency is threatened; and

18 (2) increased enrollment results in a need for
19 additional classroom space.

20 **SEC. 2. DEFINITIONS.**

21 In this Act:

22 (1) MODERNIZATION.—The term “moderniza-
23 tion” means the repair, renovation, alteration, or
24 construction of a facility, including—

1 (A) the concurrent installation of equip-
2 ment; and

3 (B) the complete or partial replacement of
4 an existing facility, but only if such replacement
5 is less expensive and more cost-effective than
6 repair, renovation, or alteration of the facility.

7 (2) FACILITY.—The term “facility” means a
8 public structure suitable for use as a classroom, lab-
9 oratory, library, media center, or related facility, the
10 primary purpose of which is the instruction of public
11 elementary school or secondary school students.

12 (3) LOCAL EDUCATIONAL AGENCY.—The term
13 “local educational agency” has the meaning given
14 the term in section 14101 of the Elementary and
15 Secondary Education Act of 1965.

16 (4) SECRETARY.—The term “Secretary”
17 means—

18 (A) with respect to funds made available
19 under paragraph (1) or (3) of section 4(a) for
20 grants under section 6 or 8, respectively, the
21 Secretary of Education; and

22 (B) with respect to funds made available
23 under paragraph (2) of section (4)(a) for grants
24 under section 6, the Secretary of Defense.

1 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—There are authorized to be appro-
3 priated to the Department of Education to carry out this
4 Act \$50,000,000 for fiscal year 2001 and such sums as
5 may be necessary for each of the 4 succeeding fiscal years.

6 (b) PROHIBITION.—None of the funds authorized to
7 be appropriated under subsection (a) shall be available to
8 a local educational agency to pay the cost of administra-
9 tion of the activities assisted under this Act.

10 **SEC. 4. FEDERAL DISTRIBUTION OF FUNDING.**

11 (a) IN GENERAL.—From amounts appropriated
12 under section 3(a) for a fiscal year the Secretary of
13 Education—

14 (1) shall use 45 percent to award grants under
15 section 6 to local educational agencies—

16 (A) that are eligible for assistance under
17 section 8002(a) of the Elementary and Sec-
18 ondary Education Act of 1965; and

19 (B) for which the number of children de-
20 termined under section 8003(a)(1)(C) of the El-
21 ementary and Secondary Education Act of 1965
22 constitutes at least 25 percent of the number of
23 children who were in average daily attendance
24 in the schools of such local educational agency
25 during the school year preceding the school year
26 for which the determination is made;

(2) shall make available to the Secretary of Defense 45 percent to enable the Secretary of Defense to award grants under section 6 to local educational agencies for which the number of children determined under subparagraphs (A), (B), and (D) of section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 constitutes at least 25 percent of the number of children who were in average daily attendance in the schools of such local educational agency during the school year preceding the school year for which the determination is made; and

(3) shall use 10 percent to award grants under section 8.

(b) DEPARTMENT OF DEFENSE FUNDING.—

(1) IN GENERAL.—Not later than 30 days after the date the Secretary of Education receives funds appropriated under section 3(a) for a fiscal year, the Secretary of Education shall make available to the Secretary of Defense from such funds the portion of such funds described in subsection (a)(2) for the fiscal year. The Secretary of Defense shall use the portion to award grants under section 6 through the Office of Economic Adjustment of the Department of Defense.

(2) LIMITATIONS.—

1 (A) ADMINISTRATIVE EXPENSES.—No
 2 funds made available under subsection (a)(2)
 3 shall be used by the Secretary of Defense to
 4 pay the costs of administration of the activities
 5 assisted under this Act.

6 (B) SPECIAL RATE.—No funds made avail-
 7 able under subsection (a)(2) shall be used to re-
 8 place Federal funds provided to enhance the
 9 quality of life of dependents of members of the
 10 Armed Forces as determined by the Secretary
 11 of Defense.

12 **SEC. 5. ELIGIBILITY REQUIREMENTS.**

13 (a) IN GENERAL.—A local educational agency shall
 14 be eligible to receive funds under this Act if—

15 (1) the local educational agency is described in
 16 paragraph (1) or (2) of section 4(a); and

17 (2) the local educational agency—

18 (A) received a payment under section 8002
 19 of the Elementary and Secondary Education
 20 Act of 1965 during the fiscal year preceding the
 21 fiscal year for which the determination is made,
 22 and the assessed value of taxable property per
 23 student in the school district of the local edu-
 24 cational agency is less than the average of the
 25 assessed value of taxable property per student

1 in the State in which the local educational
2 agency is located; or

3 (B) received a basic payment under section
4 8003(b) of the Elementary and Secondary Edu-
5 cation Act of 1965 during the fiscal year pre-
6 ceding the fiscal year for which the determina-
7 tion is made, and for which the number of chil-
8 dren determined under subparagraphs (A), (B),
9 (C), and (D) of section 8003(a)(1) of the Ele-
10 mentary and Secondary Education Act of 1965
11 constituted at least 25 percent of the number of
12 children who were in average daily attendance
13 in the schools of such local educational agency
14 during the school year preceding the school year
15 for which the determination is made.

16 (b) SPECIAL RULE.—Any local educational agency
17 described in subsection (a)(2)(B) may apply for funds
18 under this section for the modernization of a facility lo-
19 cated on Federal property (as defined in section 8013 of
20 the Elementary and Secondary Education Act of 1965)
21 only if the Secretary determines that the number of chil-
22 dren determined under section 8003(a)(1) of the Elemen-
23 tary and Secondary Education Act of 1965 who were in
24 average daily attendance in such facility constituted at
25 least 50 percent of the number of children who were in

1 average daily attendance in the facilities of the local edu-
2 cational agency during the school year preceding the
3 school year for which the determination is made.

4 **SEC. 6. BASIC GRANTS.**

5 (a) AWARD BASIS.—From the amounts made avail-
6 able under paragraphs (1) and (2) of section 4(a) the Sec-
7 retary shall award grants to local educational agencies on
8 such basis as the Secretary determines appropriate,
9 including—

10 (1) in the case of a local educational agency de-
11 scribed in section 5(a)(2)(A), a high percentage of
12 the property in the school district of the local edu-
13 cational agency is nontaxable due to the presence of
14 the Federal Government;

15 (2) in the case of a local educational agency de-
16 scribed in section 5(a)(2)(B), a high number or per-
17 centage of children determined under subparagraphs
18 (A), (B), (C), and (D) of section 8003(a)(1) of the
19 Elementary and Secondary Education Act of 1965;

20 (3) the extent to which the local educational
21 agency lacks the fiscal capacity, including the ability
22 to raise funds through the full use of the local edu-
23 cational agency's bonding capacity and otherwise, to
24 undertake the modernization project without Federal
25 assistance;

1 (4) the need for modernization to meet—

2 (A) the threat the condition of the facility
3 poses to the safety and well-being of students;

4 (B) the requirements of the Americans
5 with Disabilities Act of 1990;

6 (C) the costs associated with asbestos re-
7 moval, energy conservation, and technology up-
8 grading; and

9 (D) overcrowding conditions as evidenced
10 by the use of trailers and portable buildings and
11 the potential for future overcrowding because of
12 increased enrollment;

13 (5) the facility needs of the local educational
14 agency resulting from the acquisition or construction
15 of military family housing under subchapter IV of
16 chapter 169 of title 10, United States Code, and
17 other actions of the Federal Government that cause
18 an adverse impact on the facility needs of the local
19 educational agency; and

20 (6) the age of the facility to be modernized re-
21 gardless of whether the facility was originally con-
22 structed with funds authorized under Public Law
23 81–815.

24 (b) GRANT AMOUNT.—In determining the amount of
25 a grant the Secretary shall—

1 (1) consider the relative costs of the moderniza-
2 tion;

3 (2) determine the cost of a project based on the
4 local prevailing cost of the project;

5 (3) require that the Federal share of the cost
6 of the project shall not exceed 50 percent of the
7 total cost of the project;

8 (4) not provide a grant in an amount greater
9 than \$3,000,000 over any 5-year period; and

10 (5) take into consideration the amount of cash
11 available to the local educational agency.

12 (c) ADMINISTRATION OF GRANTS.—In awarding
13 grants under this section the Secretary shall—

14 (1) establish by regulation the date by which all
15 applications are to be received;

16 (2) consider in-kind contributions when calcu-
17 lating the 50 percent matching funds requirement
18 described in subsection (b)(3); and

19 (3) subject all applications to a review process.

20 (d) SECTION 8007 FUNDING.—In awarding grants
21 under this section, the Secretary shall not take into con-
22 sideration any funds received under section 8007 of the
23 Elementary and Secondary Education Act of 1965.

1 **SEC. 7. APPLICATIONS REQUIRED.**

2 (a) IN GENERAL.—Each local educational agency de-
3 siring a grant under this Act shall submit an application
4 to the Secretary.

5 (b) CONTENTS.—Each application shall contain—

6 (1) a listing of the school facilities to be mod-
7 ernized, including the number and percentage of
8 children determined under section 8003(a)(1) of the
9 Elementary and Secondary Education Act of 1965
10 in average daily attendance in each facility;

11 (2) a description of the ownership of the prop-
12 erty on which the current facility is located or on
13 which the planned facility will be located;

14 (3) a description of each architectural, civil,
15 structural, mechanical, or electrical deficiency to be
16 corrected with funds provided under this Act, includ-
17 ing the priority for the repair of the deficiency;

18 (4) a description of any facility deficiency that
19 poses a health or safety hazard to the occupants of
20 the facility and a description of how that deficiency
21 will be repaired;

22 (5) a description of the criteria used by the
23 local educational agency to determine the type of
24 corrective action necessary to meet the purposes of
25 this Act;

1 (6) a description of the modernization to be
2 supported with funds provided under this Act;

3 (7) a cost estimate of the proposed moderniza-
4 tion;

5 (8) an identification of other resources (such as
6 unused bonding capacity), if applicable, that are
7 available to carry out the modernization, and an as-
8 surance that such resources will be used for the
9 modernization;

10 (9) a description of how activities assisted with
11 funds provided under this Act will promote energy
12 conservation; and

13 (10) such other information and assurances as
14 the Secretary may reasonably require.

15 (c) CONTINUING CONSIDERATION.—A local edu-
16 cational agency that applies for assistance under this Act
17 (other than section 8) for any fiscal year and does not
18 receive the assistance shall have the application for the
19 assistance considered for the following 5 fiscal years.

20 **SEC. 8. EMERGENCY GRANTS.**

21 (a) WAIVER OF MATCHING REQUIREMENT.—From
22 the amount made available under section 4(a)(3) the Sec-
23 retary shall award grants to any local educational agency
24 for which the number of children determined under section
25 8003(a)(1)(C) constituted at least 50 percent of the num-

1 ber of children who were in average daily attendance in
2 the schools of such agency during the school year pre-
3 ceding the school year for which the determination is
4 made, if the Secretary determines a facility emergency ex-
5 ists that poses a health or safety hazard to the students
6 and school personnel assigned to the facility.

7 (b) CERTIFICATION OF EMERGENCY.—In addition to
8 meeting the requirements of section 7, a local educational
9 agency desiring funds under this section shall include in
10 the application submitted under section 7 a signed state-
11 ment from a State official certifying that a health or safe-
12 ty deficiency exists.

13 (c) GRANT AMOUNT; PRIORITIZATION RULES; CON-
14 TINUING CONSIDERATION.—

15 (1) GRANT AMOUNT.—In determining the
16 amount of grant awards under this section, the Sec-
17 retary shall make every effort to fully meet the facil-
18 ity needs of the local educational agencies applying
19 for funds under this section.

20 (2) PRIORITIZATION RULE.—If the Secretary
21 receives more than 1 application under this section
22 for any fiscal year, the Secretary shall prioritize the
23 applications based on when an application was re-
24 ceived and the severity of the emergency as deter-
25 mined by the Secretary.

1 (3) CONTINUING CONSIDERATION.—A local
2 educational agency that applies for assistance under
3 this section for any fiscal year and does not receive
4 the assistance shall have the application for the as-
5 sistance considered for the following fiscal year, sub-
6 ject to the prioritization requirement described in
7 paragraph (2).

8 **SEC. 9. REQUIREMENTS.**

9 (a) MAINTENANCE OF EFFORT.—A local educational
10 agency may receive a grant under this Act for any fiscal
11 year only if the Secretary finds that either the combined
12 fiscal effort per student or the aggregate expenditures of
13 that agency and the State with respect to the provision
14 of free public education by such local educational agency
15 for the preceding fiscal year was not less than 90 percent
16 of such combined fiscal effort or aggregate expenditures
17 for the fiscal year for which the determination is made.

18 (b) SUPPLEMENT NOT SUPPLANT.—An eligible local
19 educational agency shall use funds received under this
20 subsection only to supplement the amount of funds that
21 would, in the absence of such Federal funds, be made
22 available from non-Federal sources for the modernization
23 of school facilities used for educational purposes, and not
24 to supplant such funds.

1 **SEC. 10. GENERAL LIMITATIONS.**

2 (a) REAL PROPERTY.—No part of any grant funds
3 awarded under this Act shall be used for the acquisition
4 of any interest in real property.

5 (b) MAINTENANCE.—Nothing in this Act shall be
6 construed to authorize the payment of maintenance costs
7 in connection with any facilities modernized in whole or
8 in part with Federal funds provided under this Act.

9 (c) ENVIRONMENTAL SAFEGUARDS.—All projects
10 carried out with Federal funds provided under this Act
11 shall comply with all relevant Federal, State, and local en-
12 vironmental laws and regulations.

13 (d) ATHLETIC AND SIMILAR FACILITIES.—No funds
14 received under this Act shall be used for outdoor stadiums
15 or other facilities that are primarily used for athletic con-
16 tests or exhibitions, or other events, for which admission
17 is charged to the general public.

○