

106TH CONGRESS  
1ST SESSION

# H. R. 2955

To establish a partnership to rebuild and modernize America's school facilities.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 1999

Mrs. LOWEY (for herself and Mrs. MALONEY of New York) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To establish a partnership to rebuild and modernize  
America's school facilities.

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; TABLE OF CONTENTS.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Partnership To Rebuild America's Schools Act of 1999”.

6       (b) **TABLE OF CONTENTS.**—The table of contents for  
7       this Act is as follows:

Sec. 1. Short title; table of contents.

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## 1 **TITLE I—SCHOOL CONSTRUCTION ASSISTANCE PROGRAM**

### 3 **PART 1—PROGRAM AUTHORIZED**

#### 4 **SEC. 101. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—The Congress finds as follows:

6 (1) According to the General Accounting Office,  
 7 one-third of all elementary and secondary schools in  
 8 the United States, serving 14,000,000 students,  
 9 need extensive repair or renovation.

1           (2) School infrastructure problems exist across  
2           the country, but are most severe in central cities and  
3           in schools with high proportions of poor and minor-  
4           ity children.

5           (3) Many States and school districts will need  
6           to build new schools in order to accommodate in-  
7           creasing student enrollments; the Department of  
8           Education has predicted that the Nation will need  
9           6,000 more schools by the year 2006.

10          (4) Many schools do not have the physical in-  
11          frastructure to take advantage of computers and  
12          other technology needed to meet the challenges of  
13          the next century.

14          (5) While school construction and maintenance  
15          are primarily a State and local concern, States and  
16          communities have not, on their own, met the in-  
17          creasing burden of providing acceptable school facili-  
18          ties for all students, and the poorest communities  
19          have had the greatest difficulty meeting this need.

20          (6) The Federal Government, by providing in-  
21          terest subsidies and similar types of support, can  
22          lower the costs of State and local school infrastruc-  
23          ture investment, creating an incentive for States and  
24          localities to increase their own infrastructure im-  
25          provement efforts and helping ensure that all stu-

1       dents are able to attend schools that are equipped  
2       for the 21st century.

3       (b) PURPOSE.—The purpose of this Act is to provide  
4       Federal interest subsidies, or similar assistance, to States  
5       and localities to help them bring all public school facilities  
6       up to an acceptable standard and build the additional pub-  
7       lic schools needed to educate the additional numbers of  
8       students who will enroll in the next decade.

9       **SEC. 102. DEFINITIONS.**

10       Except as otherwise provided, as used in this Act, the  
11       following terms have the following meanings:

12               (1) CHARTER SCHOOL.—The term “charter  
13       school” has the meaning given that term in section  
14       10310(1) of the Elementary and Secondary Edu-  
15       cation Act of 1965 (20 U.S.C. 8066(1)).

16               (2) COMMUNITY SCHOOL.—The term “commu-  
17       nity school” means a school, or part of a school, that  
18       serves as a center for after-school and summer pro-  
19       grams and delivery of education, tutoring, cultural,  
20       and recreational services, and as a safe haven for all  
21       members of the community by—

22                       (A) collaborating with other public and pri-  
23       vate nonprofit agencies (including libraries and  
24       other educational, human-service, cultural, and

recreational entities) and private businesses in the provision of services;

(B) providing services such as literacy and reading programs; senior citizen programs; children's day-care services; nutrition services; services for individuals with disabilities; employment counseling, training, and placement; and other educational, health, cultural, and recreational services; and

(C) providing those services outside the normal school day and school year, such as through safe and drug-free safe havens for learning.

(3)(A) CONSTRUCTION.—The term “construction” means—

(i) the preparation of drawings and specifications for school facilities;

(ii) erecting, building, acquiring, remodeling, renovating, improving, repairing or extending school facilities;

(iii) demolition, in preparation for rebuilding school facilities; and

(iv) the inspection and supervision of the construction of school facilities.

1           (B) The term “construction” does not include  
2           the acquisition of any interest in real property.

3           (4) LOCAL EDUCATIONAL AGENCY.—The term  
4           “local educational agency” has the meaning given  
5           that term in section 14101(18) (A) and (B) of the  
6           Elementary and Secondary Education Act of 1965  
7           (20 U.S.C. 8801(18) (A) and (B)).

8           (5) SCHOOL FACILITY.—(A) Term “school facil-  
9           ity” means—

10                 (i) a public structure suitable for use as a  
11                 classroom, laboratory, library, media center, or  
12                 related facility, whose primary purpose is the  
13                 instruction of public elementary or secondary  
14                 students; and

15                 (ii) initial equipment, machinery, and utili-  
16                 ties necessary or appropriate for school pur-  
17                 poses.

18           (B) The term “school facility” does not include  
19           an athletic stadium, or any other structure or facil-  
20           ity intended primarily for athletic exhibitions, con-  
21           tests, games, or events for which admission is  
22           charged to the general public.

23           (6) SECRETARY.—The term “Secretary” means  
24           the Secretary of Education.

1           (7) STATE.—The term “State” means each of  
 2           the 50 States and the Commonwealth of Puerto  
 3           Rico.

4           (8) STATE EDUCATIONAL AGENCY.—The term  
 5           “State educational agency” has the meaning given  
 6           that term in section 14101(28) of the Elementary  
 7           and Secondary Education Act of 1965 (20 U.S.C.  
 8           8801(28)).

9   **SEC. 103. FUNDS APPROPRIATED.**

10          There are appropriated \$5,000,000,000 for the pur-  
 11          pose of carrying out this Act, which shall be available for  
 12          obligation by the Secretary of Education from October 1,  
 13          1999, until September 30, 2003.

14   **SEC. 104. ALLOCATION OF FUNDS.**

15          (a) RESERVATION FOR THE SECRETARY OF THE IN-  
 16          TERIOR AND THE OUTLYING AREAS.—

17               (1) The Secretary shall reserve up to 2 percent  
 18          of the funds appropriated by section 104 to—

19                       (A) provide assistance to the Secretary of  
 20                       the Interior, which the Secretary of the Interior  
 21                       shall use for the school construction priorities  
 22                       described in section 1125(c) of the Education  
 23                       Amendments of 1978 (25 U.S.C. 2005(c)); and

24                       (B) make grants to American Samoa,  
 25                       Guam, the Virgin Islands, and the Common-

1           wealth of the Northern Mariana Islands, in ac-  
 2           cordance with their respective needs, as deter-  
 3           mined by the Secretary.

4           (2) Grants provided under paragraph (1)(B)  
 5           shall be used for activities that the Secretary deter-  
 6           mines best meet the school infrastructure needs of  
 7           the areas identified in that paragraph, subject to the  
 8           terms and conditions, consistent with the purpose of  
 9           this Act, that the Secretary may establish.

10          (b) ALLOCATION OF REMAINING FUNDS.—Of the re-  
 11         maining funds appropriated by section 104—

12                 (1) 50 percent shall be used for formula grants  
 13                 to States under section 111;

14                 (2) 35 percent shall be used for direct formula  
 15                 grants to local educational agencies under section  
 16                 126; and

17                 (3) 15 percent shall be used for competitive  
 18                 grants to local educational agencies under section  
 19                 127.

## 20                         PART 2—GRANTS TO STATES

### 21         **SEC. 111. ALLOCATION OF FUNDS.**

22           (a) FORMULA GRANTS TO STATES.—Subject to sub-  
 23         section (b), the Secretary shall allocate the funds available  
 24         under section 105(b)(1) among the States in proportion  
 25         to the relative amounts each State would have received



1 for Basic Grants under subpart 2 of part A of title I of  
2 the Elementary and Secondary Education Act of 1965 (20  
3 U.S.C. 6331 et seq.) for the most recent fiscal year if the  
4 Secretary had disregarded the numbers of children count-  
5 ed under that subpart who were enrolled in schools of local  
6 educational agencies that are eligible to receive direct  
7 grants under section 126 of this Act.

8 (b) ADJUSTMENTS TO ALLOCATIONS.—The Sec-  
9 retary shall adjust the allocations under subsection (a),  
10 as necessary, to ensure that, of the total amount allocated  
11 to States under subsection (a) and to local educational  
12 agencies under section 126, the percentage allocated to a  
13 State under this section and to localities in the State  
14 under section 126 is at least the minimum percentage for  
15 the State described in section 1124(d) of the Elementary  
16 and Secondary Education Act of 1965 (20 U.S.C.  
17 6334(d)) for the previous fiscal year.

18 (c) REALLOCATIONS.—If a State does not apply for  
19 its allocation, applies for less than its full allocation, or  
20 fails to submit an approvable application, the Secretary  
21 may reallocate all or a portion of the State's allocation,  
22 as the case may be, to the remaining States in the same  
23 proportions as the original allocations were made to those  
24 States under subsections (a) and (b).

1 **SEC. 112. ELIGIBLE STATE AGENCY.**

2       The Secretary shall award each State's grant to the  
3 State agency, such as a State educational agency, a State  
4 school construction agency, or a State bond bank, that the  
5 Governor, with the agreement of the chief State school of-  
6 ficer, designates as best able to administer the grant.

7 **SEC. 113. ALLOWABLE USES OF FUNDS.**

8       Each State shall use its grant under this part only  
9 for one or more of the following activities to subsidize the  
10 cost of eligible school construction projects described in  
11 section 114:

12           (1) Providing a portion of the interest cost (or  
13       of another financing cost approved by the Secretary)  
14       on bonds, certificates of participation, purchase or  
15       lease arrangements, or other forms of indebtedness  
16       issued or entered into by a State or its instrumen-  
17       tality for the purpose of financing eligible projects.

18           (2) State-level expenditures approved by the  
19       Secretary for credit enhancement for the debt or fi-  
20       nancing instruments described in paragraph (1).

21           (3) Making subgrants, or making loans through  
22       a State revolving fund, to local educational agencies  
23       or (with the agreement of the affected local edu-  
24       cational agency) to other qualified public agencies to  
25       subsidize—

1 (A) the interest cost (or another financing  
2 cost approved by the Secretary) of bonds, cer-  
3 tificates of participation, purchase or lease ar-  
4 rangements, or other forms of indebtedness  
5 issued or entered into by a local educational  
6 agency or other agency or unit of local govern-  
7 ment for the purpose of financing eligible  
8 projects; or

9 (B) local expenditures approved by the  
10 Secretary for credit enhancement for the debt  
11 or financing instruments described in subpara-  
12 graph (A).

13 (4) Other State and local expenditures approved  
14 by the Secretary that leverage funds for additional  
15 school construction.

16 **SEC. 114. ELIGIBLE CONSTRUCTION PROJECTS; PERIOD**  
17 **FOR INITIATION.**

18 (a) **ELIGIBLE PROJECTS.**—States and their sub-  
19 grantees may use funds under this part, in accordance  
20 with section 113, to subsidize the cost of—

21 (1) construction of elementary and secondary  
22 school facilities in order to ensure the health and  
23 safety of all students, which may include the removal  
24 of environmental hazards; improvements in air qual-  
25 ity, plumbing, lighting, heating and air conditioning,

1       electrical systems, or basic school infrastructure; and  
2       building improvements that increase school safety;

3           (2) construction activities needed to meet the  
4       requirements of section 504 of the Rehabilitation  
5       Act of 1973 (29 U.S.C. 794) or of the Americans  
6       with Disabilities Act of 1990 (42 U.S.C. 12101 et  
7       seq.);

8           (3) construction activities that increase the en-  
9       ergy efficiency of school facilities;

10          (4) construction that facilitates the use of mod-  
11       ern educational technologies;

12          (5) construction of new school facilities that are  
13       needed to accommodate growth in school enroll-  
14       ments; or

15          (6) construction projects needed to facilitate the  
16       establishment of charter schools and community  
17       schools.

18       (b) PERIOD FOR INITIATION OF PROJECT.—(1) Each  
19       State shall use its grant under this part only to subsidize  
20       construction projects described in subsection (a) that the  
21       State or its localities have chosen to initiate, through the  
22       vote of a school board, passage of a bond issue, or similar  
23       public decision, made between July 11, 1999, and Sep-  
24       tember 30, 2004.

1       (2) If a State determines, after September 30, 2004,  
2 that an eligible project for which it has obligated funds  
3 under this part will not be carried out, the State may use  
4 those funds (or any available portion of those funds) for  
5 other eligible projects selected in accordance with this  
6 part.

7       (c) REALLOCATION.—If the Secretary determines, by  
8 a date before September 30, 2004, selected by the Sec-  
9 retary, that a State is not making satisfactory progress  
10 in carrying out its plan for the use of the funds allocated  
11 to it under this part, the Secretary may reallocate all or  
12 part of those funds, including any interest earned by the  
13 State on those funds, to one or more other States that  
14 are making satisfactory progress.

15 **SEC. 115. SELECTION OF LOCALITIES AND PROJECTS.**

16       (a) PRIORITIES.—In determining which localities and  
17 activities to support with grant funds, each State shall  
18 give the highest priority to—

19               (1) localities with the greatest needs, as dem-  
20 onstrated by inadequate educational facilities, cou-  
21 pled with a low level of resources available to meet  
22 school construction needs; and

23               (2) localities that will achieve the greatest  
24 leveraging effect on school construction from assist-  
25 ance under this part.

1 (b) ADDITIONAL CRITERIA.—In addition to the prior-  
2 ities required by subsection (a), each State shall consider  
3 each of the following in determining the use of its grant  
4 funds under this part:

5 (1) The condition of the school facilities in dif-  
6 ferent communities in the State.

7 (2) The energy efficiency and the effect on the  
8 environment of projects proposed by communities,  
9 and the extent to which these projects use cost-effi-  
10 cient architectural design.

11 (3) The commitment of communities to finance  
12 school construction and renovation projects with as-  
13 sistance from the State's grant, as demonstrated by  
14 their incurring indebtedness or by similar public or  
15 private commitments for the purposes described in  
16 section 114(a).

17 (4) The ability of communities to repay bonds  
18 or other forms of indebtedness supported with grant  
19 funds.

20 (5) The particular needs, if any, of rural com-  
21 munities in the State for assistance under this Act.

22 (6) The receipt by local educational agencies in  
23 the State of grants under part 3, except that a local  
24 educational agency is not ineligible for a subgrant

1       under this part solely because it receives such a  
2       grant.

3   **SEC. 116. STATE APPLICATIONS.**

4       (a) APPLICATION REQUIRED.—A State that wishes  
5   to receive a grant under this part shall submit an applica-  
6   tion to the Secretary, in the manner the Secretary may  
7   require, not later than two years after the date of enact-  
8   ment of this Act.

9       (b) DEVELOPMENT OF APPLICATION.—(1) The State  
10   agency designated under section 112 shall develop the  
11   State’s application under this part only after broadly con-  
12   sulting with the State board of education, and representa-  
13   tives of local school boards, school administrators, the  
14   business community, parents, and teachers in the State  
15   about the best means of carrying out this part.

16       (2) If the State educational agency is not the State  
17   agency designated under section 112, the designated agen-  
18   cy shall consult with the State educational agency and ob-  
19   tain its approval before submitting the State’s application.

20       (c) STATE SURVEY.—(1) Before submitting the  
21   State’s application, the State agency designated under sec-  
22   tion 112, with the involvement of local school officials and  
23   experts in building construction and management, shall  
24   survey the needs throughout the State (including in local-

ities receiving grants under part 3) for construction and renovation of school facilities, including, at a minimum—

(A) the overall condition of school facilities in the State, including health and safety problems;

(B) the capacity of the schools in the State to house projected enrollments; and

(C) the extent to which the schools in the State offer the physical infrastructure needed to provide a high-quality education to all students.

(2) A State need not conduct a new survey under paragraph (1) if it has previously completed a survey that meets the requirements of that paragraph and that the Secretary finds is sufficiently recent for the purpose of carrying out this part.

(d) APPLICATION CONTENTS.—Each State application under this part shall include—

(1) an identification of the State agency designated by the Governor under section 112 to receive the State’s grant under this part;

(2) a summary of the results of the State’s survey of its school facility needs, as described in subsection (c);

(3) a description of how the State will implement its program under this part;



1           (4) a description of how the State will allocate  
2           its grant funds, including a description of how the  
3           State will implement the priorities and criteria de-  
4           scribed in section 115;

5           (5)(A) a description of the mechanisms that will  
6           be used to finance construction projects supported  
7           by grant funds; and

8           (B) a statement of how the State will determine  
9           the amount of the Federal subsidy to be applied, in  
10          accordance with section 117(a), to each local project  
11          that the State will support;

12          (6) a description of how the State will ensure  
13          that the requirements of this part are met by sub-  
14          grantees under this part;

15          (7) a description of the steps the State will take  
16          to ensure that local educational agencies will ade-  
17          quately maintain the facilities that are constructed  
18          or improved with funds under this part;

19          (8) an assurance that the State will use its  
20          grant only to supplement the funds that the State,  
21          and the localities receiving subgrants, would spend  
22          on school construction and renovation in the absence  
23          of a grant under this part, and not to supplant those  
24          funds;

1           (9) an assurance that, during the four-year pe-  
 2       riod beginning with the year the State receives its  
 3       grant, the combined expenditures for school con-  
 4       struction by the State and the localities that benefit  
 5       from the State's program under this part (which, at  
 6       the State's option, may include private contribu-  
 7       tions) will be at least 125 percent of those combined  
 8       expenditures for that purpose for the four preceding  
 9       years; and

10           (10) other information and assurances that the  
 11       Secretary may require.

12       (e) **WAIVER OF REQUIREMENT TO INCREASE EX-**  
 13 **PENDITURES.**—The Secretary may waive or modify the re-  
 14 quirement of subsection (d)(9) for a particular State if  
 15 the State demonstrates to the Secretary's satisfaction that  
 16 that requirement is unduly burdensome because the State  
 17 or its localities have incurred a particularly high level of  
 18 school construction expenditures during the previous four  
 19 years.

20 **SEC. 117. AMOUNT OF FEDERAL SUBSIDY.**

21       (a) **PROJECTS FUNDED WITH SUBGRANTS.**—For  
 22 each construction project assisted by a State through a  
 23 subgrant to a locality, the State shall determine the  
 24 amount of the Federal subsidy under this part, taking into  
 25 account the number or percentage of children from low-

1 income families residing in the locality, subject to the fol-  
2 lowing limits:

3 (1) If the locality will use the subgrant to help  
4 meet the costs of repaying bonds issued for a school  
5 construction project, the Federal subsidy shall be  
6 not more than one-half of the total interest cost of  
7 those bonds, determined in accordance with para-  
8 graph (4).

9 (2) If the bonds to be subsidized are general ob-  
10 ligation bonds issued to finance more than one type  
11 of activity (including school construction), the Fed-  
12 eral subsidy shall be not more than one-half of the  
13 interest cost for that portion of the bonds that will  
14 be used for school construction purposes, determined  
15 in accordance with paragraph (4).

16 (3) If the locality elects to use its subgrant for  
17 an allowable activity not described in paragraph (1)  
18 or (2), such as for certificates of participation, pur-  
19 chase or lease arrangements, reduction of the  
20 amount of principal to be borrowed, or credit en-  
21 hancements for individual construction projects, the  
22 Federal subsidy shall be not more than one-half of  
23 the interest cost, as determined by the State in ac-  
24 cordance with paragraph (4), that would have been

1 incurred if bonds had been used to finance the  
2 project.

3 (4) The interest cost referred to in paragraphs  
4 (1), (2), and (3) shall be—

5 (A) calculated on the basis of net present  
6 value; and

7 (B) determined in accordance with an am-  
8 ortization schedule and any other criteria and  
9 conditions the Secretary considers necessary, in-  
10 cluding provisions to ensure comparable treat-  
11 ment of different financing mechanisms.

12 (b) STATE-FUNDED PROJECTS.—For a construction  
13 project under this part funded directly by the State  
14 through the use of State-issued bonds or other financial  
15 instruments, the Secretary shall determine the Federal  
16 subsidy in accordance with subsection (a).

17 (c) NON-FEDERAL SHARE.—A State, and localities  
18 in the State receiving subgrants under this part, may use  
19 any non-Federal funds, including State, local, and private-  
20 sector funds, for the financing costs that are not covered  
21 by the Federal subsidy under subsection (a).

22 **SEC. 118. SEPARATE FUNDS OR ACCOUNTS; PRUDENT IN-**  
23 **VESTMENT.**

24 (a) SEPARATE FUNDS OR ACCOUNTS REQUIRED.—  
25 Each State that receives a grant, and each recipient of

1 a subgrant under this part, shall deposit the grant or  
2 subgrant proceeds in a separate fund or account, from  
3 which it shall make bond repayments and pay other ex-  
4 penses allowable under this part.

5 (b) PRUDENT INVESTMENT REQUIRED.—Each State  
6 that receives a grant, and each recipient of a subgrant  
7 under this part, shall—

8 (1) invest the grant or subgrant in a fiscally pru-  
9 dent manner, in order to generate amounts needed  
10 to make repayments on bonds and other forms of in-  
11 debtedness described in section 113; and

12 (2) notwithstanding section 6503 of title 31,  
13 United States Code or any other law, use the pro-  
14 ceeds of that investment to carry out this part.

15 **SEC. 119. STATE REPORTS.**

16 (a) REPORTS REQUIRED.—

17 (1) Each State receiving a grant under this  
18 part shall report to the Secretary on its activities  
19 under this part, in the form and manner the Sec-  
20 retary may prescribe.

21 (2) If the State educational agency is not the  
22 State agency designated under section 112, the  
23 State's report shall include the approval of the State  
24 educational agency or its comments on the report.

25 (b) CONTENTS.—Each report shall—

(2) Each State shall submit an annual report for each of the three years after submitting its first report, and subsequently shall submit periodic reports as long as the State or localities in the State are using grant funds.

**22 SEC. 121. ELIGIBLE LOCAL EDUCATIONAL AGENCIES.**

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1 petitive grants under section 127 from the Secretary are  
2 the 100 local educational agencies with the largest num-  
3 bers of children aged 5 through 17 from families living  
4 below the poverty level, as determined by the Secretary  
5 using the most recent data available from the Department  
6 of Commerce that are satisfactory to the Secretary.

7 (b) CERTAIN JURISDICTIONS INELIGIBLE.—For the  
8 purpose of this part, the local educational agencies for Ha-  
9 waii and the Commonwealth of Puerto Rico are not eligi-  
10 ble local educational agencies.

11 **SEC. 122. GRANTEES.**

12 For each local educational agency described in section  
13 121(a) for which an approvable application is submitted,  
14 the Secretary shall make any grant under this part to the  
15 local educational agency or to another public agency, on  
16 behalf of the local educational agency, if the Secretary de-  
17 termines, on the basis of the local educational agency's  
18 recommendation, that the other agency is better able to  
19 carry out activities under this part.

20 **SEC. 123. ALLOWABLE USES OF FUNDS.**

21 Each grantee under this part shall use its grant only  
22 for one or more of the following activities to reduce the  
23 cost of financing eligible school construction projects de-  
24 scribed in section 124:

1           (1) Providing a portion of the interest cost (or  
 2           of any other financing cost approved by the Sec-  
 3           retary) on bonds, certificates of participation, pur-  
 4           chase or lease arrangements, or other forms of in-  
 5           debtedness issued or entered into by a local edu-  
 6           cational agency or other unit or agency of local gov-  
 7           ernment for the purpose of financing eligible school  
 8           construction projects.

9           (2) Local expenditures approved by the Sec-  
 10          retary for credit enhancement for the debt or financ-  
 11          ing instruments described in paragraph (1).

12          (3) Other local expenditures approved by the  
 13          Secretary that leverage funds for additional school  
 14          construction.

15 **SEC. 124. ELIGIBLE CONSTRUCTION PROJECTS; REDIS-**  
 16 **TRIBUTION.**

17          (a) **ELIGIBLE PROJECTS.**—A grantee under this part  
 18          may use its grant, in accordance with section 123, to sub-  
 19          sidize the cost of the activities described in section 114(a)  
 20          for projects that the local educational agency has chosen  
 21          to initiate, through the vote of the school board, passage  
 22          of a bond issue, or similar public decision, made between  
 23          July 11, 1999, and September 30, 2004.

24          (b) **REDISTRIBUTION.**—If the Secretary determines,  
 25          by a date before September 30, 2004, selected by the Sec-



1   retary, that a local educational agency is not making satis-  
2   factory progress in carrying out its plan for the use of  
3   funds awarded to it under this part, the Secretary may  
4   redistribute all or part of those funds, and any interest  
5   earned by that agency on those funds, to one or more  
6   other local educational agencies that are making satisfac-  
7   tory progress.

8   **SEC. 125. LOCAL APPLICATIONS.**

9       (a) APPLICATION REQUIRED.—A local educational  
10   agency, or an alternative agency described in section 122  
11   (both referred to in this part as the “local agency”), that  
12   wishes to receive a grant under this part shall submit an  
13   application to the Secretary, in the manner the Secretary  
14   may require, not later than two years after the date of  
15   enactment of this Act.

16       (b) DEVELOPMENT OF APPLICATION.—(1) The local  
17   agency shall develop the local application under this part  
18   only after broadly consulting with parents, administrators,  
19   teachers, the business community, and other members of  
20   the local community about the best means of carrying out  
21   this part.

22       (2) If the local educational agency is not the appli-  
23   cant, the applicant shall consult with the local educational  
24   agency, and shall obtain its approval before submitting its  
25   application to the Secretary.

1       (c) LOCAL SURVEY.—(1) Before submitting its appli-  
2 cation, the local agency, with the involvement of local  
3 school officials and experts in building construction and  
4 management, shall survey the local need for construction  
5 and renovation of school facilities, including, at a  
6 minimum—

7           (A) the overall condition of school facilities in  
8 the local educational agency, including health and  
9 safety problems;

10          (B) the capacity of the local educational agen-  
11 cy's schools to house projected enrollments; and

12          (C) the extent to which the local educational  
13 agency's schools offer the physical infrastructure  
14 needed to provide a high-quality education to all stu-  
15 dents.

16       (2) A local educational agency need not conduct a  
17 new survey under paragraph (1) if it has previously com-  
18 pleted a survey that meets the requirements of that para-  
19 graph and that the Secretary finds is sufficiently recent  
20 for the purpose of carrying out this part.

21       (d) APPLICATION CONTENTS.—Each local applica-  
22 tion under this part shall include—

23           (1) an identification of the local agency to re-  
24 ceive the grant under this part;

1           (2) a summary of the results of the survey of  
2       school facility needs, as described in subsection (c);

3           (3) a description of how the local agency will  
4       implement its program under this part;

5           (4) a description of the criteria the local agency  
6       has used to determine which construction projects to  
7       support with grant funds;

8           (5) a description of the construction projects  
9       that will be supported with grant funds;

10          (6) a description of the mechanisms that will be  
11       used to finance construction projects supported by  
12       grant funds;

13          (7) a requested level of Federal subsidy, with a  
14       justification for that level, for each construction  
15       project to be supported by the grant, in accordance  
16       with section 128(a), including the financial and de-  
17       mographic information the Secretary may require;

18          (8) a description of the steps the agency will  
19       take to ensure that facilities constructed or improved  
20       with funds under this part will be adequately main-  
21       tained;

22          (9) an assurance that the agency will use its  
23       grant only to supplement the funds that the locality  
24       would spend on school construction and renovation

1 in the absence of a grant under this part, and not  
 2 to supplant those funds;

3 (10) an assurance that, during the four-year  
 4 period beginning with the year the local educational  
 5 agency receives its grant, its expenditures for school  
 6 construction (which, at that agency's option, may in-  
 7 clude private contributions) will be at least 125 per-  
 8 cent of its expenditures for that purpose for the four  
 9 preceding years; and

10 (11) other information and assurances that the  
 11 Secretary may require.

12 (e) WAIVER OF REQUIREMENT TO INCREASE EX-  
 13 PENDITURES.—The Secretary may waive or modify the re-  
 14 quirement of subsection (d)(10) for a local educational  
 15 agency that demonstrates to the Secretary's satisfaction  
 16 that that requirement is unduly burdensome because that  
 17 agency has incurred a particularly high level of school con-  
 18 struction expenditures during the previous four years.

19 **SEC. 126. FORMULA GRANTS.**

20 (a) ALLOCATIONS.—The Secretary shall allocate the  
 21 funds available under section 105(b)(2) to the local edu-  
 22 cational agencies identified under section 121(a) on the  
 23 basis of their relative allocations under section 1124 of  
 24 the Elementary and Secondary Education Act of 1965 (20

1 U.S.C. 6333) in the most recent year for which that infor-  
2 mation is available to the Secretary.

3 (b) REALLOCATIONS.—If a local educational agency  
4 does not apply for its allocation, applies for less than its  
5 full allocation, or fails to submit an approvable applica-  
6 tion, the Secretary may reallocate all or a portion of its  
7 allocation, as the case may be, to the remaining local edu-  
8 cational agencies in the same proportions as the original  
9 allocations were made to those agencies under subsection  
10 (a).

11 **SEC. 127. COMPETITIVE GRANTS.**

12 (a) GRANTS AUTHORIZED.—The Secretary shall use  
13 funds available under section 105(b)(3) to make additional  
14 grants, on a competitive basis, to recipients of formula  
15 grants under section 126.

16 (b) ADDITIONAL APPLICATION MATERIALS.—Any el-  
17 igible applicant under section 126 that wishes to receive  
18 additional funds under this section shall include in its ap-  
19 plication under section 125 the following additional infor-  
20 mation:

21 (1) The amount of funds requested under this  
22 section, in accordance with ranges or limits that the  
23 Secretary may establish based on factors such as rel-  
24 ative size of the eligible applicants.

1           (2) A description of the additional construction  
2           activities that the applicant would carry out with  
3           those funds.

4           (3) Information on the current financial effort  
5           the applicant is making for elementary and sec-  
6           ondary education, including support from private  
7           sources, relative to its resources.

8           (4) Information on the extent to which the ap-  
9           plicant will increase its own (or other public or pri-  
10          vate) spending for school construction in the year in  
11          which it receives a grant under this section, above  
12          the average annual amount for construction activity  
13          during the preceding four years.

14          (5) A description of the energy efficiency and  
15          the effect on the environment of the projects that  
16          the applicant will undertake, both with its grant  
17          under this section and its grant under section 126,  
18          and of the extent to which those projects will use  
19          cost-efficient architectural design.

20          (6) Other information that the Secretary may  
21          require.

22          (c) SELECTION OF GRANTEES.—The Secretary shall  
23          select grantees under this section on the basis of criteria,  
24          consistent with the purpose of this Act, that the Secretary  
25          may establish, which shall include—

1           (1) the relative need of applicants, as dem-  
2           onstrated by inadequate educational facilities and a  
3           low level of resources to meet their school construc-  
4           tion needs;

5           (2) the commitment of applicants to meet their  
6           school construction needs and the leveraging effect  
7           that assistance under this part would have, as dem-  
8           onstrated by the additional resources that they will  
9           provide, from non-Federal sources, to meet those  
10          needs, in accordance with subsection (b)(4).

11 **SEC. 128. AMOUNT OF FEDERAL SUBSIDY.**

12          (a) AMOUNT OF FEDERAL SUBSIDY.—For each con-  
13          struction project assisted under this part, the Secretary  
14          shall determine the amount of the Federal subsidy in ac-  
15          cordance with section 117(a).

16          (b) NON-FEDERAL SHARE.—A grantee under this  
17          part may use any non-Federal funds, including State,  
18          local, and private-sector funds, for the financing costs that  
19          are not covered by the Federal subsidy under subsection  
20          (a).

21 **SEC. 129. SEPARATE FUNDS OR ACCOUNTS; PRUDENT IN-**  
22 **VESTMENT.**

23          (a) SEPARATE FUNDS OR ACCOUNTS REQUIRED.—  
24          Each grantee under this part shall deposit the grant pro-  
25          ceeds in a separate fund or account, from which it shall

1 make bond repayments and pay other expenses allowable  
2 under this part.

3 (b) PRUDENT INVESTMENT REQUIRED.—Each  
4 grantee under this part shall—

5 (1) invest the grant funds in a fiscally prudent  
6 manner, in order to generate amounts needed to  
7 make repayments on bonds and other forms of in-  
8 debtedness; and

9 (2) Notwithstanding section 6503 of title 31,  
10 United States Code or any other law, use the pro-  
11 ceeds of that investment to carry out this part.

12 **SEC. 130. LOCAL REPORTS.**

13 (a) REPORTS REQUIRED.—(1) Each grantee under  
14 this part shall report to the Secretary on its activities  
15 under this part, in the form and manner the Secretary  
16 may prescribe.

17 (2) If the local educational agency is not the grantee  
18 under this part, the grantee's report shall include the ap-  
19 proval of the local educational agency or its comments on  
20 the report.

21 (b) CONTENTS.—Each report shall—

22 (1) describe the grantee's implementation of  
23 this part, including how it has met the requirements  
24 of this part;



1           (2) identify the specific school facilities con-  
 2           structed, renovated, or modernized with support  
 3           from the grant, and the mechanisms used to finance  
 4           those activities; and

5           (3) other information the Secretary may re-  
 6           quire.

7           (c) FREQUENCY.—(1) Each grantee shall submit its  
 8           first report under this section not later than 24 months  
 9           after it receives its grant under this part.

10          (2) Each grantee shall submit an annual report for  
 11          each of the three years after submitting its first report,  
 12          and subsequently shall submit periodic reports as long as  
 13          it is using grant funds.

## 14   **TITLE II—GENERAL PROVISIONS**

### 15   **SEC. 201. TECHNICAL EMPLOYEES.**

16          For the purpose of carrying out this Act, the Sec-  
 17          retary, without regard to the provisions of title 5, United  
 18          States Code, governing appointments in the competitive  
 19          service, may appoint not more than 10 technical employees  
 20          who may be paid without regard to the provisions of chap-  
 21          ter 51 and subchapter IV of chapter 5 of that title relating  
 22          to classification and General Schedule pay rates.

### 23   **SEC. 202. WAGE RATES.**

24          (a) PREVAILING WAGE.—The Secretary shall ensure  
 25          that all laborers and mechanics employed by contractors

1 and subcontractors on any project assisted under this Act  
2 are paid wages at rates not less than those prevailing as  
3 determined by the Secretary of Labor in accordance with  
4 the Act of March 3, 1931, as amended (40 U.S.C. 276a  
5 et seq.). The Secretary of Labor has, with respect to this  
6 section, the authority and functions established in Reorga-  
7 nization Plan Numbered 14 of 1950 (effective May 24,  
8 1950, 64 Stat. 1267) and section 2 of the Act of June  
9 13, 1934 (40 U.S.C. 276c).

10 (b) WAIVER FOR VOLUNTEERS.—Section 7305 of the  
11 Federal Acquisition Streamlining Act of 1994 (40 U.S.C.  
12 276d–3) is amended—

13 (1) in paragraph (5), by striking out the “and”  
14 at the end thereof;

15 (2) in paragraph (6), by striking out the period  
16 at the end thereof and inserting a semi-colon and  
17 “and”; and

18 (3) by adding at the end thereof the following  
19 new paragraph:

20 “(7) the Partnership to Rehabilitate America’s  
21 Schools Act of 1999.”.

22 **SEC. 203. NO LIABILITY OF FEDERAL GOVERNMENT.**

23 (a) NO FEDERAL LIABILITY.—Any financial instru-  
24 ments, including but not limited to contracts, bonds, bills,  
25 notes, certificates of participation, or purchase or lease ar-

1 rangements, issued by States, localities or instrumental-  
2 ities thereof in connection with any assistance provided by  
3 the Secretary under this Act are obligations of such  
4 States, localities or instrumentalities and not obligations  
5 of the United States and are not guaranteed by the full  
6 faith and credit of the United States.

7 (b) NOTICE REQUIREMENT.—Documents relating to  
8 any financial instruments, including but not limited to  
9 contracts, bonds, bills, notes, offering statements, certifi-  
10 cates of participation, or purchase or lease arrangements,  
11 issued by States, localities or instrumentalities thereof in  
12 connection with any assistance provided under this Act,  
13 shall include a prominent statement providing notice that  
14 the financial instruments are not obligations of the United  
15 States and are not guaranteed by the full faith and credit  
16 of the United States.

17 **SEC. 204. CONSULTATION WITH SECRETARY OF THE TREAS-**  
18 **URY.**

19 The Secretary shall consult with the Secretary of the  
20 Treasury in carrying out this Act.

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