

106TH CONGRESS
1ST SESSION

S. 897

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 SENATE OF THE UNITED STATES

APRIL 28, 1999

Mr. BAUCUS (for himself and Mr. HAGEL) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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:

8 (1) In 1950 Congress recognized its obligation,
9 through the passage of Public Law 81–815, to pro-

1 vide school construction funding for local educational
2 agencies impacted by the presence of Federal activi-
3 ties.

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

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

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

22 (5) Federally connected local educational agen-
23 cies and the communities the agencies serve are will-
24 ing to commit local resources when available to mod-
25 ernize and replace existing facilities, but do not al-

1 ways have the resources available to meet their total
2 facility needs due to the nontaxable presence of the
3 Federal Government.

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

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

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

16 (2) increased enrollment results in a need for
17 additional classroom space.

18 **SEC. 2. DEFINITIONS.**

19 In this Act:

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

23 (A) the concurrent installation of equip-
24 ment; and

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

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

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

14 (4) SECRETARY.—The term “Secretary”
 15 means—

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

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

23 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

24 (a) IN GENERAL.—There are authorized to be appro-
 25 priated to the Department of Education to carry out this

1 Act \$50,000,000 for fiscal year 2001 and such sums as
2 may be necessary for each of the 4 succeeding fiscal years.

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

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

8 (a) IN GENERAL.—From amounts appropriated
9 under section 3(a) for a fiscal year the Secretary of
10 Education—

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

13 (A) that are eligible for assistance under
14 section 8002(a); and

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

23 (2) shall make available to the Secretary of De-
24 fense 45 percent to enable the Secretary of Defense
25 to award grants under section 6 to local educational

1 agencies for which the number of children deter-
 2 mined under subparagraphs (A), (B), and (D) of
 3 section 8003(a)(1) of the Elementary and Secondary
 4 Education Act of 1965 constitutes at least 25 per-
 5 cent of the number of children who were in average
 6 daily attendance in the schools of such local edu-
 7 cational agency during the school year preceding the
 8 school year for which the determination is made; and

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

11 (b) DEPARTMENT OF DEFENSE FUNDING.—

12 (1) IN GENERAL.—Not later than 30 days after
 13 the date the Secretary of Education receives funds
 14 appropriated under section 3(a) for a fiscal year, the
 15 Secretary of Education shall make available to the
 16 Secretary of Defense from such funds the portion of
 17 such funds described in subsection (a)(2) for the fis-
 18 cal year. The Secretary of Defense shall use the por-
 19 tion to award grants under section 6 through the
 20 Office of Economic Adjustment of the Department
 21 of Defense.

22 (2) LIMITATIONS.—

23 (A) ADMINISTRATIVE EXPENSES.—No
 24 funds made available under subsection (a)(2)
 25 shall be used by the Secretary of Defense to

1 pay the costs of administration of the activities
2 assisted under this Act.

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

9 **SEC. 5. ELIGIBILITY REQUIREMENTS.**

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

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

14 (2) the local educational agency—

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

1 (B) received a basic payment under section
2 8003(b) of the Elementary and Secondary Edu-
3 cation Act of 1965 during the fiscal year pre-
4 ceding the fiscal year for which the determina-
5 tion is made, and for which the number of chil-
6 dren determined under subparagraphs (A), (B),
7 (C), and (D) of section 8003(a)(1) of the Ele-
8 mentary and Secondary Education Act of 1965
9 constituted at least 25 percent of the number of
10 children who were in average daily attendance
11 in the schools of such local educational agency
12 during the school year preceding the school year
13 for which the determination is made.

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

1 cational agency during the school year preceding the
 2 school year for which the determination is made.

3 **SEC. 6. BASIC GRANTS.**

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

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

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

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

25 (4) the need for modernization to meet—

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

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

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

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

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

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

23 (b) GRANT AMOUNT.—In determining the amount of
24 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-

ber of children who were in average daily attendance in the schools of such agency during the school year preceding the school year for which the determination is made, if the Secretary determines a facility emergency exists that poses a health or safety hazard to the students and school personnel assigned to the facility.

(b) CERTIFICATION OF EMERGENCY.—In addition to meeting the requirements of section 7, a local educational agency desiring funds under this section shall include in the application submitted under section 7 a signed statement from a State official certifying that a health or safety deficiency exists.

(c) GRANT AMOUNT; PRIORITIZATION RULES; CONTINUING CONSIDERATION.—

(1) GRANT AMOUNT.—In determining the amount of grant awards under this section, the Secretary shall make every effort to fully meet the facility needs of the local educational agencies applying for funds under this section.

(2) PRIORITIZATION RULE.—If the Secretary receives more than 1 application under this section for any fiscal year, the Secretary shall prioritize the applications based on when an application was received and the severity of the emergency as determined 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.

○