

107TH CONGRESS
1ST SESSION

S. 471

To amend the Elementary and Secondary Education Act of 1965 to provide grants for the renovation of schools.

IN THE SENATE OF THE UNITED STATES

MARCH 6, 2001

Mr. HARKIN (for himself, Mr. BINGAMAN, Mr. KENNEDY, Mr. WELLSTONE, Mrs. CLINTON, and Mr. DODD) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Elementary and Secondary Education Act of 1965 to provide grants for the renovation of schools.

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.**

4 This Act may be cited as the “Public School Repair
5 and Renovation Act of 2001”.

6 **SEC. 2. GRANTS FOR SCHOOL RENOVATION.**

7 Title X of the Elementary and Secondary Education
8 Act of 1965 (20 U.S.C. 8001 et seq.) is amended by add-
9 ing at the end the following:

1 **“PART L—SCHOOL RENOVATION**

2 **“SEC. 10995. GRANTS FOR SCHOOL RENOVATION.**

3 “(a) IN GENERAL.—

4 “(1) ALLOCATION OF FUNDS.—Of the amount
5 appropriated for each fiscal year under subsection
6 (k), the Secretary of Education shall allocate—

7 “(A) 6.0 percent of such amount for
8 grants to impacted local educational agencies
9 (as defined in paragraph (3)) for school repair,
10 renovation, and construction;

11 “(B) 0.25 percent of such amount for
12 grants to outlying areas for school repair and
13 renovation in high-need schools and commu-
14 nities, allocated on such basis, and subject to
15 such terms and conditions, as the Secretary de-
16 termines appropriate;

17 “(C) 2 percent of such amount for grants
18 to public entities, private nonprofit entities, and
19 consortia of such entities, for use in accordance
20 with subpart 2 of part C of this title X; and

21 “(D) the remainder to State educational
22 agencies in proportion to the amount each State
23 received under part A of title I for fiscal year
24 2001, except that no State shall receive less
25 than 0.5 percent of the amount allocated under
26 this subparagraph.

1 “(2) DETERMINATION OF GRANT AMOUNT.—

2 “(A) DETERMINATION OF WEIGHTED STU-
3 DENT UNITS.—For purposes of computing the
4 grant amounts under paragraph (1)(A) for fis-
5 cal year 2001, the Secretary shall determine the
6 results obtained by the computation made
7 under section 8003 with respect to children de-
8 scribed in subsection (a)(1)(C) of such section
9 and computed under subsection (a)(2)(B) of
10 such section for such year—11 “(i) for each impacted local edu-
12 cational agency that receives funds under
13 this section; and

14 “(ii) for all such agencies together.

15 “(B) COMPUTATION OF PAYMENT.—For
16 fiscal year 2002, the Secretary shall calculate
17 the amount of a grant to an impacted local edu-
18 cational agency by—19 “(i) dividing the amount described in
20 paragraph (1)(A) by the results of the
21 computation described in subparagraph
22 (A)(ii); and23 “(ii) multiplying the number derived
24 under clause (i) by the results of the com-

3 “(3) DEFINITION.—For purposes of this sec-
4 tion, the term ‘impacted local educational agency’
5 means, for fiscal year 2001—

15 "(b) WITHIN-STATE ALLOCATIONS.—

16 “(1) ADMINISTRATIVE COSTS.—

17 “(A) STATE EDUCATIONAL AGENCY AD-
18 MINISTRATION.—Except as provided in sub-
19 paragraph (B), each State educational agency
20 may reserve not more than 1 percent of its allo-
21 cation under subsection (a)(1)(D) for the pur-
22 pose of administering the distribution of grants
23 under this subsection.

1 a State entity described in paragraph (2)(A),
2 the agency shall transfer to such entity 0.75 of
3 the amount reserved under this paragraph for
4 the purpose of administering the distribution of
5 grants under this subsection.

6 “(2) RESERVATION FOR COMPETITIVE SCHOOL
7 REPAIR AND RENOVATION GRANTS TO LOCAL EDU-
8 CATIONAL AGENCIES.—

9 “(A) IN GENERAL.—Subject to the res-
10 ervation under paragraph (1), of the funds allo-
11 cated to a State educational agency under sub-
12 section (a)(1)(D), the State educational agency
13 shall distribute 75 percent of such funds to
14 local educational agencies or, if such State edu-
15 cational agency is not responsible for the fi-
16 nancing of education facilities, the agency shall
17 transfer such funds to the State entity respon-
18 sible for the financing of education facilities (re-
19 ferred to in this section as the ‘State entity’)
20 for distribution by such entity to local edu-
21 cational agencies in accordance with this para-
22 graph, to be used, consistent with subsection
23 (c), for school repair and renovation.

24 “(B) COMPETITIVE GRANTS TO LOCAL
25 EDUCATIONAL AGENCIES.—

1 “(i) IN GENERAL.—The State edu-
2 cational agency or State entity shall carry
3 out a program of competitive grants to
4 local educational agencies for the purpose
5 described in subparagraph (A). Of the
6 total amount available for distribution to
7 such agencies under this paragraph, the
8 State educational agency or State entity,
9 shall, in carrying out the competition—

10 “(I) award to high poverty local
11 educational agencies described in
12 clause (ii), in the aggregate, at least
13 an amount which bears the same rela-
14 tionship to such total amount as the
15 aggregate amount such local edu-
16 cational agencies received under part
17 A of title I for fiscal year 2002 bears
18 to the aggregate amount received for
19 such fiscal year under such part by all
20 local educational agencies in the
21 State;

22 “(II) award to rural local edu-
23 cational agencies in the State, in the
24 aggregate, at least an amount which
25 bears the same relationship to such

1 total amount as the aggregate amount
2 such rural local educational agencies
3 received under part A of title I for fis-
4 cal year 2001 bears to the aggregate
5 amount received for such fiscal year
6 under such part by all local edu-
7 cational agencies in the State; and

“(II) the number of children described in such subparagraph with respect to the agency is at least 10,000

23 “(C) CRITERIA FOR AWARDING GRANTS.—
24 In awarding competitive grants under this para-

1 graph, a State educational agency or State entity
2 shall take into account the following criteria:

3 “(i) The percentage of poor children 5
4 to 17 years of age, inclusive, in a local
5 educational agency.

6 “(ii) The need of a local educational
7 agency for school repair and renovation, as
8 demonstrated by the condition of its public
9 school facilities.

10 “(iii) The fiscal capacity of a local
11 educational agency to meet its needs for
12 repair and renovation of public school fa-
13 cilities without assistance under this sec-
14 tion, including its ability to raise funds
15 through the use of local bonding capacity
16 and otherwise.

17 “(iv) In the case of a local educational
18 agency that proposes to fund a repair or
19 renovation project for a charter school or
20 schools, the extent to which the school or
21 schools have access to funding for the
22 project through the financing methods
23 available to other public schools or local
24 educational agencies in the State.

1 “(v) The likelihood that the local edu-
2 cational agency will maintain, in good con-
3 dition, any facility whose repair or renova-
4 tion is assisted under this section.

5 “(D) POSSIBLE MATCHING REQUIRE-
6 MENT.—

7 “(i) IN GENERAL.—A State edu-
8 cational agency or State entity may require
9 local educational agencies to match funds
10 awarded under this subsection.

11 “(ii) MATCH AMOUNT.—The amount
12 of a match described in clause (i) may be
13 established by using a sliding scale that
14 takes into account the relative poverty of
15 the population served by the local edu-
16 cational agency.

17 “(3) RESERVATION FOR COMPETITIVE IDEA OR
18 TECHNOLOGY GRANTS TO LOCAL EDUCATIONAL
19 AGENCIES.—

20 “(A) IN GENERAL.—Subject to the res-
21 ervation under paragraph (1), of the funds allo-
22 cated to a State educational agency under sub-
23 section (a)(1)(D), the State educational agency
24 shall distribute 25 percent of such funds to

1 local educational agencies through competitive
2 grant processes, to be used for the following:

3 “(i) To carry out activities under part
4 B of the Individuals with Disabilities Edu-
5 cation Act (20 U.S.C. 1411 et seq.).

6 “(ii) For technology activities that are
7 carried out in connection with school repair
8 and renovation, including—

9 “(I) wiring;

10 “(II) acquiring hardware and
11 software;

12 “(III) acquiring connectivity link-
13 ages and resources; and

14 “(IV) acquiring microwave, fiber
15 optics, cable, and satellite trans-
16 mission equipment.

17 “(B) CRITERIA FOR AWARDING IDEA
18 GRANTS.—In awarding competitive grants
19 under subparagraph (A) to be used to carry out
20 activities under part B of the Individuals with
21 Disabilities Education Act (20 U.S.C. 1411 et
22 seq.), a State educational agency shall take into
23 account the following criteria:

24 “(i) The need of a local educational
25 agency for additional funds for a student

whose individually allocable cost for expenses related to the Individuals with Disabilities Education Act substantially exceeds the State's average per-pupil expenditure (as defined in section 14101(2)).

1 formance goals and indicators established
2 by the State under section 612(a)(16) of
3 such Act (20 U.S.C. 1412).

4 “(C) CRITERIA FOR AWARDING TECH-
5 NOLOGY GRANTS.—In awarding competitive
6 grants under subparagraph (A) to be used for
7 technology activities that are carried out in con-
8 nection with school repair and renovation, a
9 State educational agency shall take into account
10 the need of a local educational agency for addi-
11 tional funds for such activities, including the
12 need for the activities described in subclauses
13 (I) through (IV) of subparagraph (A)(ii).

14 “(c) RULES APPLICABLE TO SCHOOL REPAIR AND
15 RENOVATION.—With respect to funds made available
16 under this section that are used for school repair and ren-
17 ovation, the following rules shall apply:

18 “(1) PERMISSIBLE USES OF FUNDS.—School
19 repair and renovation shall be limited to one or more
20 of the following:

21 “(A) Emergency repairs or renovations to
22 public school facilities only to ensure the health
23 and safety of students and staff, including—

1 “(i) repairing, replacing, or installing
2 roofs, electrical wiring, plumbing systems,
3 or sewage systems;

4 “(ii) repairing, replacing, or installing
5 heating, ventilation, or air conditioning
6 systems (including insulation); and

7 “(iii) bringing public schools into com-
8 pliance with fire and safety codes.

9 “(B) School facilities modifications nec-
10 essary to render public school facilities acces-
11 sible in order to comply with the Americans
12 with Disabilities Act of 1990 (42 U.S.C. 12101
13 et seq.).

14 “(C) School facilities modifications nec-
15 essary to render public school facilities acces-
16 sible in order to comply with section 504 of the
17 Rehabilitation Act of 1973 (29 U.S.C. 794).

18 “(D) Asbestos abatement or removal from
19 public school facilities.

20 “(E) Renovation, repair, and acquisition
21 needs related to the building infrastructure of a
22 charter school.

23 “(2) IMPERMISSIBLE USES OF FUNDS.—No
24 funds received under this section may be used for—

1 “(A) payment of maintenance costs in con-
2 nection with any projects constructed in whole
3 or part with Federal funds provided under this
4 section;

5 “(B) the construction of new facilities, ex-
6 cept for facilities for an impacted local edu-
7 cational agency (as defined in subsection
8 (a)(3)); or

9 “(C) stadiums or other facilities primarily
10 used for athletic contests or exhibitions or other
11 events for which admission is charged to the
12 general public.

13 “(3) CHARTER SCHOOLS.—A public charter
14 school that constitutes a local educational agency
15 under State law shall be eligible for assistance under
16 the same terms and conditions as any other local
17 educational agency (as defined in section
18 14101(18)).

19 “(4) SUPPLEMENT, NOT SUPPLANT.—Excluding
20 the uses described in subparagraphs (B) and (C) of
21 paragraph (1), a local educational agency shall use
22 Federal funds subject to this subsection only to sup-
23 plement the amount of funds that would, in the ab-
24 sence of such Federal funds, be made available from

1 non-Federal sources for school repair and renova-
2 tion.

3 “(d) SPECIAL RULE.—Each local educational agency
4 that receives funds under this section shall ensure that,
5 if it carries out repair or renovation through a contract,
6 any such contract process ensures the maximum number
7 of qualified bidders, including small, minority, and women-
8 owned businesses, through full and open competition.

9 “(e) PUBLIC COMMENT.—Each local educational
10 agency receiving funds under paragraph (2) or (3) of sub-
11 section (b)—

12 “(1) shall provide parents, educators, and all
13 other interested members of the community the op-
14 portunity to consult on the use of funds received
15 under such paragraph;

16 “(2) shall provide the public with adequate and
17 efficient notice of the opportunity described in para-
18 graph (1) in a widely read and distributed medium;
19 and

20 “(3) shall provide the opportunity described in
21 paragraph (1) in accordance with any applicable
22 State and local law specifying how the comments
23 may be received and how the comments may be re-
24 viewed by any member of the public.

25 “(f) REPORTING.—

1 “(1) LOCAL REPORTING.—Each local educational agency receiving funds under subsection
2 (a)(1)(D) shall submit a report to the State educational agency, at such time as the State educational agency may require, describing the use of
3 such funds for—
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7 “(A) school repair and renovation (and
8 construction, in the case of an impacted local
9 educational agency (as defined in subsection
10 (a)(3)));
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13 “(B) activities under part B of the Individuals with Disabilities Education Act (20 U.S.C.
14 1411 et seq.); and
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17 “(C) technology activities that are carried
18 out in connection with school repair and renovation,
19 including the activities described in sub-
20 clauses (I) through (IV) of subsection
21 (b)(3)(A)(ii).
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24 “(2) STATE REPORTING.—Each State educational agency shall submit to the Secretary of
25 Education, not later than December 31, 2003, a report on the use of funds received under subsection
26 (a)(1)(D) by local educational agencies for—
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29 “(A) school repair and renovation (and
30 construction, in the case of an impacted local
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1 educational agency (as defined in subsection
2 (a)(3));

3 “(B) activities under part B of the Individuals
4 with Disabilities Education Act (20 U.S.C.
5 1411 et seq.); and

6 “(C) technology activities that are carried
7 out in connection with school repair and renovation,
8 including the activities described in sub-
9 clauses (I) through (IV) of subsection
10 (b)(3)(A)(ii).

11 “(3) ADDITIONAL REPORTS.—Each entity re-
12 ceiving funds allocated under subsection (a)(1) (A)
13 or (B) shall submit to the Secretary, not later than
14 December 31, 2003, a report on its uses of funds
15 under this section, in such form and containing such
16 information as the Secretary may require.

17 “(g) APPLICABILITY OF PART B OF IDEA.—If a
18 local educational agency uses funds received under this
19 section to carry out activities under part B of the Individuals
20 with Disabilities Education Act (20 U.S.C. 1411 et
21 seq.), such part (including provisions respecting the par-
22 ticipation of private school children), and any other provi-
23 sion of law that applies to such part, shall apply to such
24 use.

1 “(h) REALLOCATION.—If a State educational agency
2 does not apply for an allocation of funds under subsection
3 (a)(1)(D) for fiscal year 2002, or does not use its entire
4 allocation for such fiscal year, the Secretary may reallo-
5 cate the amount of the State educational agency’s alloca-
6 tion (or the remainder thereof, as the case may be) to the
7 remaining State educational agencies in accordance with
8 subsection (a)(1)(D).

9 “(i) PARTICIPATION OF PRIVATE SCHOOLS.—

10 “(1) IN GENERAL.—Section 6402 shall apply to
11 subsection (b)(2) in the same manner as it applies
12 to activities under title VI, except that—

13 “(A) such section shall not apply with re-
14 spect to the title to any real property renovated
15 or repaired with assistance provided under this
16 section;

17 “(B) the term ‘services’ as used in section
18 6402 with respect to funds under this section
19 shall be provided only to private, nonprofit ele-
20 mentary or secondary schools with a rate of
21 child poverty of at least 40 percent and may in-
22 clude for purposes of subsection (b)(2) only—

23 “(i) modifications of school facilities
24 necessary to meet the standards applicable
25 to public schools under the Americans with

“(C) notwithstanding the requirements of section 6402(b), expenditures for services provided using funds made available under subsection (b)(2) shall be considered equal for purposes of such section if the per-pupil expenditures for services described in subparagraph (B) for students enrolled in private nonprofit elementary and secondary schools that have child poverty rates of at least 40 percent are consistent with the per-pupil expenditures under this section for children enrolled in the public schools in the school district of the local educational agency receiving funds under this section.

24 “(2) REMAINING FUNDS.—If the expenditure
25 for services described in paragraph (1)(B) is less

1 than the amount calculated under paragraph (1)(C)
2 because of insufficient need for such services, the re-
3 mainder shall be available to the local educational
4 agency for renovation and repair of public school fa-
5 cilities.

6 “(3) APPLICATION.—If any provision of this
7 section, or the application thereof, to any person or
8 circumstances is judicially determined to be invalid,
9 the provisions of the remainder of the section and
10 the application to other persons or circumstances
11 shall not be affected thereby.

12 “(j) DEFINITIONS.—For purposes of this section:

13 “(1) CHARTER SCHOOL.—The term ‘charter
14 school’ has the meaning given such term in section
15 10310(1).

16 “(2) POOR CHILDREN AND CHILD POVERTY.—
17 The terms ‘poor children’ and ‘child poverty’ refer to
18 children 5 to 17 years of age, inclusive, who are
19 from families with incomes below the poverty line
20 (as defined by the Office of Management and Budg-
21 et and revised annually in accordance with section
22 673(2) of the Community Services Block Grant (42
23 U.S.C. 9902(2)) applicable to a family of the size in-
24 volved for the most recent fiscal year for which data
25 satisfactory to the Secretary are available.

1 “(3) RURAL LOCAL EDUCATIONAL AGENCY.—

2 The term ‘rural local educational agency’ means a
3 local educational agency that the State determines is
4 located in a rural area using objective data and a
5 commonly employed definition of the term ‘rural’.

6 “(4) STATE.—The term ‘State’ means each of
7 the 50 states, the District of Columbia, and the
8 Commonwealth of Puerto Rico.

9 “(k) AUTHORIZATION OF APPROPRIATIONS.—There
10 is authorized to be appropriated to carry out this section,
11 \$1,600,000,000 for fiscal year 2002, and such sums as
12 may be necessary for each of fiscal years 2003 through
13 2006.”.

14 **SEC. 3. CHARTER SCHOOL CREDIT ENHANCEMENT INITIA-
15 TIVE.**

16 Section 10331, as added by section 322 of the De-
17 partments of Labor, Health and Human Services, and
18 Education, and Related Agencies Appropriations Act,
19 2001 (as enacted into law by section 1(a)(1) of Public Law
20 106–554) is amended by inserting before the period the
21 following: “, and such sums as may be necessary for each
22 of fiscal years 2002 through 2006”.

○