

108TH CONGRESS
1ST SESSION

S. 856

To amend the Internal Revenue Code of 1986 to expand the incentives
for the construction and renovation of public schools.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 2003

Mr. ROCKEFELLER (for himself, Mr. HARKIN, Mr. DASCHLE, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools.

1 *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “America’s Better
5 Classroom Act of 2003”.

6 **SEC. 2. EXPANSION OF INCENTIVES FOR PUBLIC SCHOOLS.**

7 (a) IN GENERAL.—Chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the
8 following new subchapter:

“Sec. 1400M. Credit to holders of qualified public school modernization bonds.

“Sec. 1400N. Qualified school construction bonds.

“Sec. 14000. Qualified zone academy bonds.

“Sec. 1400P. Qualified tribal school modernization bonds.

5 “(a) ALLOWANCE OF CREDIT.—In the case of a tax-
6 payer who holds a qualified public school modernization
7 bond on a credit allowance date of such bond which occurs
8 during the taxable year, there shall be allowed as a credit
9 against the tax imposed by this chapter for such taxable
10 year an amount equal to the sum of the credits determined
11 under subsection (b) with respect to credit allowance dates
12 during such year on which the taxpayer holds such bond.

13 "(b) AMOUNT OF CREDIT.—

14 “(1) IN GENERAL.—The amount of the credit
15 determined under this subsection with respect to any
16 credit allowance date for a qualified public school
17 modernization bond is 25 percent of the annual
18 credit determined with respect to such bond.

19 “(2) ANNUAL CREDIT.—The annual credit de-
20 termined with respect to any qualified public school
21 modernization bond is the product of—

22 “(A) the applicable credit rate, multiplied
23 by

1 “(B) the outstanding face amount of the
2 bond.

3 “(3) APPLICABLE CREDIT RATE.—For purposes
4 of paragraph (1), the applicable credit rate with re-
5 spect to an issue is the rate equal to an average
6 market yield (as of the day before the date of
7 issuance of the issue) on outstanding long-term cor-
8 porate debt obligations (determined under regula-
9 tions prescribed by the Secretary).

10 “(4) SPECIAL RULE FOR ISSUANCE AND RE-
11 DEMPTION.—In the case of a bond which is issued
12 during the 3-month period ending on a credit allow-
13 ance date, the amount of the credit determined
14 under this subsection with respect to such credit al-
15 lowance date shall be a ratable portion of the credit
16 otherwise determined based on the portion of the 3-
17 month period during which the bond is outstanding.
18 A similar rule shall apply when the bond is re-
19 deemed.

20 “(c) LIMITATION BASED ON AMOUNT OF TAX.—

21 “(1) IN GENERAL.—The credit allowed under
22 subsection (a) for any taxable year shall not exceed
23 the excess of—

1 “(A) the sum of the regular tax liability
2 (as defined in section 26(b)) plus the tax im-
3 posed by section 55, over

4 “(B) the sum of the credits allowable
5 under part IV of subchapter A (other than sub-
6 part C thereof, relating to refundable credits).

7 “(2) CARRYOVER OF UNUSED CREDIT.—If the
8 credit allowable under subsection (a) exceeds the
9 limitation imposed by paragraph (1) for such taxable
10 year, such excess shall be carried to the succeeding
11 taxable year and added to the credit allowable under
12 subsection (a) for such taxable year.

13 “(d) QUALIFIED PUBLIC SCHOOL MODERNIZATION
14 BOND; CREDIT ALLOWANCE DATE.—For purposes of this
15 section—

16 “(1) QUALIFIED PUBLIC SCHOOL MODERNIZA-
17 TION BOND.—The term ‘qualified public school mod-
18 ernization bond’ means—

19 “(A) a qualified zone academy bond,

20 “(B) a qualified school construction bond,

21 and

22 “(C) a qualified tribal school moderniza-
23 tion bond.

24 “(2) CREDIT ALLOWANCE DATE.—The term
25 ‘credit allowance date’ means—

1 “(A) March 15,

2 “(B) June 15,

3 “(C) September 15, and

4 “(D) December 15.

5 Such term includes the last day on which the bond
6 is outstanding.

7 “(e) OTHER DEFINITIONS.—For purposes of this
8 subchapter—

9 “(1) LOCAL EDUCATIONAL AGENCY.—The term
10 ‘local educational agency’ has the meaning given to
11 such term by section 9101 of the Elementary and
12 Secondary Education Act of 1965. Such term in-
13 cludes the local educational agency that serves the
14 District of Columbia but does not include any other
15 State agency.

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

18 “(3) STATE.—The term ‘State’ includes the
19 District of Columbia and any possession of the
20 United States.

21 “(4) PUBLIC SCHOOL FACILITY.—The term
22 ‘public school facility’ shall not include—

23 “(A) any stadium or other facility pri-
24 marily used for athletic contests or exhibitions

1 or other events for which admission is charged
2 to the general public, or

3 “(B) any facility which is not owned by a
4 State or local government or any agency or in-
5 strumentality of a State or local government.

6 “(f) CREDIT INCLUDED IN GROSS INCOME.—Gross
7 income includes the amount of the credit allowed to the
8 taxpayer under this section (determined without regard to
9 subsection (c)) and the amount so included shall be treat-
10 ed as interest income.

11 “(g) RECAPTURE OF PORTION OF CREDIT WHERE
12 CESSATION OF COMPLIANCE.—

13 “(1) IN GENERAL.—If any bond which when
14 issued purported to be a qualified public school mod-
15 ernization bond ceases to be a qualified public school
16 modernization bond, the issuer shall pay to the
17 United States (at the time required by the Sec-
18 retary) an amount equal to the sum of—

19 “(A) the aggregate of the credits allowable
20 under this section with respect to such bond
21 (determined without regard to subsection (c))
22 for taxable years ending during the calendar
23 year in which such cessation occurs and the 2
24 preceding calendar years, and

1 “(B) interest at the underpayment rate
2 under section 6621 on the amount determined
3 under subparagraph (A) for each calendar year
4 for the period beginning on the first day of
5 such calendar year.

6 “(2) FAILURE TO PAY.—If the issuer fails to
7 timely pay the amount required by paragraph (1)
8 with respect to such bond, the tax imposed by this
9 chapter on each holder of any such bond which is
10 part of such issue shall be increased (for the taxable
11 year of the holder in which such cessation occurs) by
12 the aggregate decrease in the credits allowed under
13 this section to such holder for taxable years begin-
14 ning in such 3 calendar years which would have re-
15 sulted solely from denying any credit under this sec-
16 tion with respect to such issue for such taxable
17 years.

18 “(3) SPECIAL RULES.—

19 “(A) TAX BENEFIT RULE.—The tax for
20 the taxable year shall be increased under para-
21 graph (2) only with respect to credits allowed
22 by reason of this section which were used to re-
23 duce tax liability. In the case of credits not so
24 used to reduce tax liability, the carryforwards

1 and carrybacks under section 39 shall be appro-
2 priately adjusted.

3 “(B) NO CREDITS AGAINST TAX.—Any in-
4 crease in tax under paragraph (2) shall not be
5 treated as a tax imposed by this chapter for
6 purposes of determining—

7 “(i) the amount of any credit allow-
8 able under this part, or

9 “(ii) the amount of the tax imposed
10 by section 55.

11 “(h) BONDS HELD BY REGULATED INVESTMENT
12 COMPANIES.—If any qualified public school modernization
13 bond is held by a regulated investment company, the credit
14 determined under subsection (a) shall be allowed to share-
15 holders of such company under procedures prescribed by
16 the Secretary.

17 “(i) CREDITS MAY BE STRIPPED.—Under regula-
18 tions prescribed by the Secretary—

19 “(1) IN GENERAL.—There may be a separation
20 (including at issuance) of the ownership of a qual-
21 ified public school modernization bond and the enti-
22 tlement to the credit under this section with respect
23 to such bond. In case of any such separation, the
24 credit under this section shall be allowed to the per-
25 son who on the credit allowance date holds the in-

1 strument evidencing the entitlement to the credit
2 and not to the holder of the bond.

3 “(2) CERTAIN RULES TO APPLY.—In the case
4 of a separation described in paragraph (1), the rules
5 of section 1286 shall apply to the qualified public
6 school modernization bond as if it were a stripped
7 bond and to the credit under this section as if it
8 were a stripped coupon.

9 “(j) TREATMENT FOR ESTIMATED TAX PURPOSES.—
10 Solely for purposes of sections 6654 and 6655, the credit
11 allowed by this section to a taxpayer by reason of holding
12 a qualified public school modernization bonds on a credit
13 allowance date shall be treated as if it were a payment
14 of estimated tax made by the taxpayer on such date.

15 “(k) CREDIT MAY BE TRANSFERRED.—Nothing in
16 any law or rule of law shall be construed to limit the trans-
17 ferability of the credit allowed by this section through sale
18 and repurchase agreements.

19 “(l) REPORTING.—Issuers of qualified public school
20 modernization bonds shall submit reports similar to the
21 reports required under section 149(e).

22 “(m) TERMINATION.—This section shall not apply to
23 any bond issued after September 30, 2007 (December 31,
24 2012, in the case of any qualified tribal school moderniza-
25 tion bond).

1 **“SEC. 1400N. QUALIFIED SCHOOL CONSTRUCTION BONDS.**

2 “(a) QUALIFIED SCHOOL CONSTRUCTION BOND.—

3 For purposes of this subchapter, the term ‘qualified school
4 construction bond’ means any bond issued as part of an
5 issue if—6 “(1) 95 percent or more of the proceeds of such
7 issue are to be used for the construction, rehabilita-
8 tion, or repair of a public school facility or for the
9 acquisition of land on which such a facility is to be
10 constructed with part of the proceeds of such issue,11 “(2) the bond is issued by a State or local gov-
12 ernment within the jurisdiction of which such school
13 is located,14 “(3) the issuer designates such bond for pur-
15 poses of this section, and16 “(4) the term of each bond which is part of
17 such issue does not exceed 15 years.18 “(b) LIMITATION ON AMOUNT OF BONDS DES-
19 IGNATED.—The maximum aggregate face amount of
20 bonds issued during any calendar year which may be des-
21 gnated under subsection (a) by any issuer shall not exceed
22 the limitation amount allocated under subsection (d) for
23 such calendar year to such issuer.24 “(c) NATIONAL LIMITATION ON AMOUNT OF BONDS
25 DESIGNATED.—There is a national qualified school con-

1 struction bond limitation for each calendar year. Such lim-
2 itation is—

3 “(1) \$11,000,000,000 for 2004,
4 “(2) \$11,000,000,000 for 2005, and
5 “(3) except as provided in subsection (f), zero
6 after 2005.

7 “(d) LIMITATION ALLOCATED AMONG STATES.—

8 “(1) IN GENERAL.—The limitation applicable
9 under subsection (c) for any calendar year shall be
10 allocated by the Secretary among the States in pro-
11 portion to the respective amounts each such State
12 received for basic grants under section 1124 of the
13 Elementary and Secondary Education Act of 1965
14 for the most recent fiscal year ending before such
15 calendar year. The limitation amount allocated to a
16 State under the preceding sentence shall be allocated
17 by the State to issuers within such State.

18 “(2) MINIMUM ALLOCATIONS TO STATES.—

19 “(A) IN GENERAL.—The Secretary shall
20 adjust the allocations under this subsection for
21 any calendar year for each State to the extent
22 necessary to ensure that the amount allocated
23 to such State under this subsection for such
24 year is not less than an amount equal to such
25 State’s minimum percentage of the amount to

1 be allocated under paragraph (1) for the cal-
2 endar year.

3 “(B) MINIMUM PERCENTAGE.—A State’s
4 minimum percentage for any calendar year is
5 the minimum percentage described in section
6 1124(d) of the Elementary and Secondary Edu-
7 cation Act of 1965 for such State for the most
8 recent fiscal year ending before such calendar
9 year.

10 “(3) ALLOCATIONS TO CERTAIN POSSES-
11 SIONS.—The amount to be allocated under para-
12 graph (1) to any possession of the United States
13 other than Puerto Rico shall be the amount which
14 would have been allocated if all allocations under
15 paragraph (1) were made on the basis of respective
16 populations of individuals below the poverty line (as
17 defined by the Office of Management and Budget).
18 In making other allocations, the amount to be allo-
19 cated under paragraph (1) shall be reduced by the
20 aggregate amount allocated under this paragraph to
21 possessions of the United States.

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

24 “(1) the amount allocated under subsection (d)
25 to any State, exceeds

1 “(2) the amount of bonds issued during such
2 year which are designated under subsection (a) pur-
3 suant to such allocation,
4 the limitation amount under such subsection for such
5 State for the following calendar year shall be increased
6 by the amount of such excess. A similar rule shall apply
7 to the amounts allocated under subsection (d)(4).

8 “(f) SPECIAL RULES RELATING TO ARBITRAGE.—

9 “(1) IN GENERAL.—A bond shall not be treated
10 as failing to meet the requirement of subsection
11 (a)(1) solely by reason of the fact that the proceeds
12 of the issue of which such bond is a part are in-
13 vested for a temporary period (but not more than 36
14 months) until such proceeds are needed for the pur-
15 pose for which such issue was issued.

16 “(2) BINDING COMMITMENT REQUIREMENT.—
17 Paragraph (1) shall apply to an issue only if, as of
18 the date of issuance, there is a reasonable expecta-
19 tion that—

20 “(A) at least 10 percent of the proceeds of
21 the issue will be spent within the 6-month pe-
22 riod beginning on such date for the purpose for
23 which such issue was issued, and

1 “(B) the remaining proceeds of the issue
2 will be spent with due diligence for such pur-
3 pose.

4 “(3) EARNINGS ON PROCEEDS.—Any earnings
5 on proceeds during the temporary period shall be
6 treated as proceeds of the issue for purposes of ap-
7 plying subsection (a)(1) and paragraph (1) of this
8 subsection.

9 **“SEC. 14000. QUALIFIED ZONE ACADEMY BONDS.**

10 “(a) QUALIFIED ZONE ACADEMY BOND.—For pur-
11 poses of this subchapter—

12 “(1) IN GENERAL.—The term ‘qualified zone
13 academy bond’ means any bond issued as part of an
14 issue if—

15 “(A) 95 percent or more of the proceeds of
16 such issue are to be used for a qualified pur-
17 pose with respect to a qualified zone academy
18 established by a local educational agency,

19 “(B) the bond is issued by a State or local
20 government within the jurisdiction of which
21 such academy is located,

22 “(C) the issuer—

23 “(i) designates such bond for purposes
24 of this section,

1 “(ii) certifies that it has written as-
2 surances that the private business con-
3 tribution requirement of paragraph (2) will
4 be met with respect to such academy, and

5 “(iii) certifies that it has the written
6 approval of the local educational agency
7 for such bond issuance, and

8 “(D) the term of each bond which is part
9 of such issue does not exceed 15 years.

10 Rules similar to the rules of section 1400N(f) shall
11 apply for purposes of paragraph (1).

12 “(2) PRIVATE BUSINESS CONTRIBUTION RE-
13 QUIREMENT.—

14 “(A) IN GENERAL.—For purposes of para-
15 graph (1), the private business contribution re-
16 quirement of this paragraph is met with respect
17 to any issue if the local educational agency that
18 established the qualified zone academy has writ-
19 ten commitments from private entities to make
20 qualified contributions having a present value
21 (as of the date of issuance of the issue) of not
22 less than 10 percent of the proceeds of the
23 issue.

24 “(B) QUALIFIED CONTRIBUTIONS.—For
25 purposes of subparagraph (A), the term ‘quali-

1 fied contribution' means any contribution (of a
2 type and quality acceptable to the local edu-
3 cational agency) of—

18 “(3) QUALIFIED ZONE ACADEMY.—The term
19 ‘qualified zone academy’ means any public school (or
20 academic program within a public school) which is
21 established by and operated under the supervision of
22 a local educational agency to provide education or
23 training below the postsecondary level if—

24 “(A) such public school or program (as the
25 case may be) is designed in cooperation with

1 business to enhance the academic curriculum,
2 increase graduation and employment rates, and
3 better prepare students for the rigors of college
4 and the increasingly complex workforce,

5 “(B) students in such public school or pro-
6 gram (as the case may be) will be subject to the
7 same academic standards and assessments as
8 other students educated by the local educational
9 agency,

10 “(C) the comprehensive education plan of
11 such public school or program is approved by
12 the local educational agency, and

13 “(D)(i) such public school is located in an
14 empowerment zone or enterprise community
15 (including any such zone or community des-
16 ignated after the date of the enactment of this
17 section), or

18 “(ii) there is a reasonable expectation (as
19 of the date of issuance of the bonds) that at
20 least 35 percent of the students attending such
21 school or participating in such program (as the
22 case may be) will be eligible for free or reduced-
23 cost lunches under the school lunch program es-
24 tablished under the Richard B. Russell National
25 School Lunch Act.

1 “(4) QUALIFIED PURPOSE.—The term ‘qualified
2 purpose’ means, with respect to any qualified
3 zone academy—

4 “(A) constructing, rehabilitating, or repairing
5 the public school facility in which the academy
6 is established,

7 “(B) acquiring the land on which such facility
8 is to be constructed with part of the proceeds
9 of such issue,

10 “(C) providing equipment for use at such
11 academy,

12 “(D) developing course materials for education
13 to be provided at such academy, and

14 “(E) training teachers and other school
15 personnel in such academy.

16 “(b) LIMITATIONS ON AMOUNT OF BONDS DES-
17 IGNATED.—

18 “(1) IN GENERAL.—There is a national zone
19 academy bond limitation for each calendar year.

20 Such limitation is—

21 “(A) \$400,000,000 for 1998,

22 “(B) \$400,000,000 for 1999,

23 “(C) \$400,000,000 for 2000,

24 “(D) \$400,000,000 for 2001,

25 “(E) \$400,000,000 for 2002,

1 “(F) \$400,000,000 for 2003,
2 “(G) \$1,400,000,000 for 2004,
3 “(H) \$1,400,000,000 for 2005, and
4 “(I) except as provided in paragraph (3),
5 zero after 2005.

6 “(2) ALLOCATION OF LIMITATION.—

7 “(A) ALLOCATION AMONG STATES.—

8 “(i) 1998, 1999, 2000, 2001, 2002, AND
9 2003 LIMITATIONS.—The national zone
10 academy bond limitations for calendar
11 years 1998, 1999, 2000, 2001, 2002, and
12 2003 shall be allocated by the Secretary
13 among the States on the basis of their re-
14 spective populations of individuals below
15 the poverty line (as defined by the Office
16 of Management and Budget).

17 “(ii) LIMITATION AFTER 2003.—The
18 national zone academy bond limitation for
19 any calendar year after 2003 shall be allo-
20 cated by the Secretary among the States in
21 proportion to the respective amounts each
22 such State received for basic grants under
23 section 1124 of the Elementary and Sec-
24 ondary Education Act of 1965 for the

8 “(C) DESIGNATION SUBJECT TO LIMITA-
9 TION AMOUNT.—The maximum aggregate face
10 amount of bonds issued during any calendar
11 year which may be designated under subsection
12 (a) with respect to any qualified zone academy
13 shall not exceed the limitation amount allocated
14 to such academy under subparagraph (B) for
15 such calendar year.

16 “(3) CARRYOVER OF UNUSED LIMITATION.—If
17 for any calendar year—

18 “(A) the limitation amount under this sub-
19 section for any State, exceeds

20 “(B) the amount of bonds issued during
21 such year which are designated under sub-
22 section (a) (or the corresponding provisions of
23 prior law) with respect to qualified zone acad-
24 emies within such State.

1 the limitation amount under this subsection for such
2 State for the following calendar year shall be in-
3 creased by the amount of such excess.

4 **“SEC. 1400P. QUALIFIED TRIBAL SCHOOL MODERNIZATION**

5 **BONDS.**

6 “(a) **QUALIFIED TRIBAL SCHOOL MODERNIZATION**
7 **BOND.**—For purposes of this subchapter—

8 “(1) **IN GENERAL.**—The term ‘qualified tribal
9 school modernization bond’ means, subject to para-
10 graph (2), any bond issued as part of an issue under
11 section 3(c) of the America’s Better Classroom Act
12 of 2003, as in effect on the date of the enactment
13 of this section, if—

14 “(A) 95 percent or more of the proceeds of
15 such issue are to be used for the construction,
16 rehabilitation, or repair of a school facility
17 funded by the Bureau of Indian Affairs of the
18 Department of the Interior or for the acquisi-
19 tion of land on which such a facility is to be
20 constructed with part of the proceeds of such
21 issue,

22 “(B) the bond is issued by an Indian tribe,
23 “(C) the issuer designates such bond for
24 purposes of this section, and

1 “(D) the term of each bond which is part
2 of such issue does not exceed 15 years.

3 “(2) NATIONAL LIMITATION ON AMOUNT OF
4 BONDS DESIGNATED.—

5 “(A) NATIONAL LIMITATION.—There is a
6 national qualified tribal school modernization
7 bond limitation for each calendar year. Such
8 limitation is—

9 “(i) \$200,000,000 for 2004,
10 “(ii) \$200,000,000 for 2005, and
11 “(iii) zero after 2005.

12 “(B) ALLOCATION OF LIMITATION.—The
13 national qualified tribal school modernization
14 bond limitation shall be allocated to Indian
15 tribes by the Secretary of the Interior subject
16 to the provisions of section 3 of the America's
17 Better Classroom Act of 2003, as in effect on
18 the date of the enactment of this section.

19 “(C) DESIGNATION SUBJECT TO LIMITA-
20 TION AMOUNT.—The maximum aggregate face
21 amount of bonds issued during any calendar
22 year which may be designated under paragraph
23 (1) with respect to any Indian tribe shall not
24 exceed the limitation amount allocated to such

1 government under subparagraph (B) for such
2 calendar year.

3 “(D) CARRYOVER OF UNUSED LIMITA-
4 TION.—If for any calendar year—

5 “(i) the limitation amount under this
6 paragraph, exceeds

7 “(ii) the amount of qualified tribal
8 school modernization bonds issued during
9 such year,

10 the limitation amount under this paragraph for
11 the following calendar year shall be increased
12 by the amount of such excess. The preceding
13 sentence shall not apply if such following cal-
14 endar year is after 2012.

15 “(b) TRIBE.—For purposes of this section, the term
16 ‘tribe’ has the meaning given the term ‘Indian tribal gov-
17 ernment’ by section 7701(a)(40), including the application
18 of section 7871(d). Such term includes any consortium of
19 tribes approved by the Secretary of the Interior.”.

20 (b) REPORTING.—Subsection (d) of section 6049 of
21 the Internal Revenue Code of 1986 (relating to returns
22 regarding payments of interest) is amended by adding at
23 the end the following new paragraph:

24 “(8) REPORTING OF CREDIT ON QUALIFIED
25 PUBLIC SCHOOL MODERNIZATION BONDS.—

1 “(A) IN GENERAL.—For purposes of sub-
2 section (a), the term ‘interest’ includes amounts
3 includible in gross income under section
4 1400M(f) and such amounts shall be treated as
5 paid on the credit allowance date (as defined in
6 section 1400M(d)(2)).

7 “(B) REPORTING TO CORPORATIONS,
8 ETC.—Except as otherwise provided in regula-
9 tions, in the case of any interest described in
10 subparagraph (A) of this paragraph, subsection
11 (b)(4) of this section shall be applied without
12 regard to subparagraphs (A), (H), (I), (J), (K),
13 and (L)(i).

14 “(C) REGULATORY AUTHORITY.—The Sec-
15 retary may prescribe such regulations as are
16 necessary or appropriate to carry out the pur-
17 poses of this paragraph, including regulations
18 which require more frequent or more detailed
19 reporting.”.

20 (c) CONFORMING AMENDMENTS.—

21 (1) Subchapter U of chapter 1 of the Internal
22 Revenue Code of 1986 is amended by striking part
23 IV, by redesignating part V as part IV, and by re-
24 designating section 1397F as section 1397E.

“Subchapter Z. Public school modernization provisions.”.

“Part IV. Regulations.”.

7 (d) SOVEREIGN IMMUNITY.—This section and the
8 amendments made by this section shall not be construed
9 to impact, limit, or affect the sovereign immunity of the
10 Federal Government or any State or tribal government.

11 (e) EFFECTIVE DATES.—

1 **SEC. 3. INDIAN SCHOOL CONSTRUCTION.**2 (a) **DEFINITIONS.**—In this section:3 (1) **BUREAU.**—The term “Bureau” means the
4 Bureau of Indian Affairs of the Department.5 (2) **DEPARTMENT.**—The term “Department”
6 means the Department of the Interior.7 (3) **ESCROW ACCOUNT.**—The term “escrow ac-
8 count” means the tribal school modernization escrow
9 account established under subsection (b)(6)(B)(i).10 (4) **INDIAN.**—The term “Indian” means any in-
11 dividual who is a member of an Indian tribe.12 (5) **INDIAN TRIBE.**—13 (A) **IN GENERAL.**—The term “Indian
14 tribe” has the meaning given the term “Indian
15 tribal government” by section 7701(a)(40) of
16 the Internal Revenue Code of 1986 (including
17 the application of section 7871(d) of that
18 Code).19 (B) **INCLUSION.**—The term “Indian tribe”
20 includes a consortium of Indian tribes approved
21 by the Secretary.22 (6) **SECRETARY.**—The term “Secretary” means
23 the Secretary of the Interior.24 (7) **TRIBAL SCHOOL.**—The term “tribal school”
25 means an elementary school, secondary school, or
26 dormitory that—

4 (B) under a contract, a grant, or an agree-
5 ment, or for a Bureau-operated school, receives
6 financial assistance to pay the costs of oper-
7 ation from funds made available under—

12 (ii) the Tribally Controlled Schools
13 Act of 1988 (25 U.S.C. 2501 et seq.).

14 (b) ISSUANCE OF BONDS.—

21 (2) ELIGIBILITY.—

22 (A) IN GENERAL.—To be eligible to issue
23 any qualified tribal school modernization bond
24 under the program under paragraph (1), an In-
25 dian tribe shall—

(i) prepare and submit to the Secretary a plan of construction that meets the requirements of subparagraph (B);

(ii) provide for quarterly and final inspection of the project by the Bureau; and

(iii) pledge that the facilities financed

by the bond will be used primarily for elementary and secondary educational purposes for not less than the period during which the bond remains outstanding.

(B) PLAN OF CONSTRUCTION.—A plan of construction referred to in subparagraph (A)(i) meets the requirements of this subparagraph if plan—

(i) contains a description of the construction to be carried out with funding provided under a qualified tribal school modernization bond;

(ii) demonstrates that a comprehensive survey has been completed to determine the construction needs of the tribal school involved;

(iii) contains assurances that funding under the bond will be used only for the activities described in the plan;

1 (iv) contains a response to the evalua-
2 tion criteria contained in Instructions and
3 Application for Replacement School Con-
4 struction, Revision 6, dated February 6,
5 1999; and

(v) contains any other reasonable and related information determined to be appropriate by the Secretary.

9 (C) PRIORITY.—In determining whether an
10 Indian tribe is eligible to participate in the pro-
11 gram under this subsection, the Secretary shall
12 give priority to an Indian tribe that, as dem-
13 onstrated by the relevant plans of construction,
14 will fund projects—

15 (i) described in the Education Facili-
16 ties Replacement Construction Priorities
17 List, as of fiscal year 2000, of the Bureau
18 (65 Fed. Reg. 4623);

19 (ii) described in any subsequent prior-
20 ities list published in the Federal Register;
21 or

22 (iii) that meet the criteria for ranking
23 schools as described in Instructions and
24 Application for Replacement School Con-

5 (i) IN GENERAL.—An Indian tribe
6 may propose in the plan of construction of
7 the Indian tribe to receive advance plan-
8 ning and design funding from the escrow
9 account.

10 (ii) CONDITIONS ON ALLOCATION OF
11 FUNDS.—As a condition to the allocation
12 to an Indian tribe of advance planning and
13 design funds from the escrow account
14 under clause (i), the Indian tribe shall
15 agree—

16 (I) to issue qualified tribal school
17 modernization bonds after the date of
18 receipt of the funds; and

19 (II) as a condition of each bond
20 issuance, that the Indian tribe will de-
21 posit into the escrow account, or a
22 fund managed by the trustee as de-
23 scribed in paragraph (4)(C), an
24 amount equal to the amount of funds
25 received from the escrow account.

6 (A) to enter into and make payments
7 under contracts with licensed and bonded archi-
8 tects, engineers, and construction firms—

9 (i) to determine the needs of the tribal
10 school; and

11 (ii) for the design and engineering of
12 the tribal school;

13 (B) enter into and make payments under
14 contracts with financial advisers, underwriters,
15 attorneys, trustees, and other professionals who
16 would be able to provide assistance to the In-
17 dian tribe in issuing bonds; and

18 (C) carry out other activities determined to
19 be appropriate by the Secretary.

20 (4) BOND TRUSTEE.—

21 (A) IN GENERAL.—Notwithstanding any
22 other provision of law, any qualified tribal
23 school modernization bond issued by an Indian
24 tribe under this subsection shall be subject to a

1 trust agreement between the Indian tribe and a
2 trustee.

3 (B) TRUSTEE.—Any bank or trust com-
4 pany that meets requirements established by
5 the Secretary may be designated as a trustee
6 under subparagraph (A).

7 (C) CONTENT OF TRUST AGREEMENT.—A
8 trust agreement entered into by an Indian tribe
9 under this paragraph shall specify that the
10 trustee, with respect to any bond issued under
11 this subsection, shall—

12 (i) act as a repository for the proceeds
13 of the bond;
14 (ii) make payments to bondholders;
15 (iii) receive, as a condition to the
16 issuance of the bond, a transfer of funds
17 from the escrow account, or from other
18 funds furnished by or on behalf of the Indian
19 tribe, in an amount that (including
20 interest earnings from the investment of
21 the funds in obligations of, or fully guaranteed
22 by, the United States, or from other
23 investments authorized by paragraph (10))
24 will produce funds sufficient to timely pay
25 in full the entire principal amount of the

1 bond on the stated maturity date of the
2 bond;

3 (iv) invest the funds transferred under
4 clause (iii) in an investment described in
5 that clause; and

6 (v)(I) hold and invest the funds trans-
7 ferred under clause (iii) in a segregated
8 fund or account under the agreement; and

9 (II) use the fund or account solely for
10 payment of the costs of items described in
11 paragraph (3).

12 (D) REQUIREMENTS FOR MAKING DIRECT
13 PAYMENTS.—

14 (i) PAYMENTS.—

15 (I) IN GENERAL.—Notwith-
16 standing any other provision of law,
17 the trustee shall make any payment
18 referred to in subparagraph (C)(v) in
19 accordance with such requirements as
20 the Indian tribe shall prescribe in the
21 trust agreement entered into under
22 subparagraph (C).

23 (II) INSPECTION.—Before mak-
24 ing a payment for a project to a con-
25 tractor under subparagraph (C)(v), to

1 ensure completion of the project, the
2 trustee shall require an inspection of
3 the project by—

4 (aa) a local financial institu-
5 tion; or

6 (bb) an independent inspect-
7 ing architect or engineer.

8 (ii) CONTRACTS.—Each contract re-
9 ferred to in paragraph (3) shall specify, or
10 be renegotiated to specify, that payments
11 under the contract shall be made in ac-
12 cordance with this paragraph.

13 (5) PAYMENTS OF PRINCIPAL AND INTEREST.—

14 (A) PRINCIPAL.—

15 (i) IN GENERAL.—No principal pay-
16 ment on any qualified tribal school mod-
17 ernization bond shall be required under
18 this subsection until the final, stated date
19 on which the bond reaches maturity.

20 (ii) MATURITY; OUTSTANDING PRIN-
21 CIPAL.—With respect to a qualified tribal
22 school modernization bond issued under
23 this subsection—

(I) the bond shall reach maturity not later than 15 years after the date of issuance of the bond; and

(II) on the date on which the bond reaches maturity, the entire outstanding principal under the bond shall become due and payable.

(B) INTEREST.—There shall be awarded a tax credit under section 1400M of the Internal Revenue Code of 1986 in lieu of interest on a qualified tribal school modernization bond issued under this subsection.

(6) BOND GUARANTEES.—

(A) IN GENERAL.—Payment of the principal portion of a qualified tribal school modernization bond issued under this subsection shall be guaranteed solely by amounts deposited with each respective bond trustee as described in paragraph (4)(C)(iii).

(B) ESTABLISHMENT OF ACCOUNT.—

(i) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may—

(I) establish a tribal school modernization escrow account; and

1 (II) beginning in fiscal year
2 2004, from amounts made available
3 for school replacement under the con-
4 struction account of the Bureau, de-
5 posit not more than \$30,000,000 for
6 each fiscal year into the escrow ac-
7 count.

15 (iii) PAYMENTS.—The Secretary shall
16 use any amounts deposited in the escrow
17 account under clauses (i) and (ii)—

18 (I) to make payments to trustees
19 appointed and acting in accordance
20 with paragraph (4); or

21 (II) to make payments described
22 in paragraph (2)(D).

23 (7) LIMITATIONS.—

24 (A) OBLIGATION TO REPAY.—

8 (ii) No GUARANTEE.—No qualified
9 tribal school modernization bond issued by
10 an Indian tribe under this subsection shall
11 be an obligation of, and no payment of the
12 principal of such a bond shall be guaran-
13 teed by—

14 (I) the United States;
15 (II) the Indian tribe; or
16 (III) the tribal school for which
17 the bond was issued.

18 (B) LAND AND FACILITIES.—No land or
19 facility purchased or improved with amounts
20 derived from a qualified tribal school mod-
21 ernization bond issued under this subsection
22 shall be mortgaged or used as collateral for the
23 bond.

24 (8) SALE OF BONDS.—A qualified tribal school
25 modernization bond may be sold at a purchase price

1 equal to, in excess of, or at a discount from, the
2 par amount of the bond.

3 (9) TREATMENT OF TRUST AGREEMENT EARN-
4 INGS.—No amount earned through the investment of
5 funds under the control of a trustee under any trust
6 agreement described in paragraph (4) shall be sub-
7 ject to Federal income taxation.

8 (10) INVESTMENT OF SINKING FUNDS.—A
9 sinking fund established for the purpose of the pay-
10 ment of principal on a qualified tribal school mod-
11 ernization bond issued under this subsection shall be
12 invested in—

13 (A) obligations issued by or guaranteed by
14 the United States; or

15 (B) such other assets as the Secretary of
16 the Treasury may by regulation allow.

17 **SEC. 4. APPLICATION OF CERTAIN LABOR STANDARDS ON**
18 **CONSTRUCTION PROJECTS FINANCED**
19 **UNDER PUBLIC SCHOOL MODERNIZATION**
20 **PROGRAM.**

21 Section 439 of the General Education Provisions Act
22 (20 U.S.C. 1232b) is amended—

23 (1) by inserting “(a)” before “All laborers and
24 mechanics”, and

(2) by adding at the end the following new sub-section:

3 “(b)(1) For purposes of this section, the term ‘appli-
4 cable program’ also includes the qualified zone academy
5 bond provisions enacted by section 226 of the Taxpayer
6 Relief Act of 1997 and the program established by section
7 2 of the America’s Better Classroom Act of 2003.

8 “(2) A State or local government participating in a
9 program described in paragraph (1) shall—

10 “(A) in the awarding of contracts, give priority
11 to contractors with substantial numbers of employ-
12 ees residing in the local education area to be served
13 by the school being constructed; and

14 “(B) include in the construction contract for
15 such school a requirement that the contractor give
16 priority in hiring new workers to individuals residing
17 in such local education area.

18 “(3) In the case of a program described in paragraph
19 (1), nothing in this subsection or subsection (a) shall be
20 construed to deny any tax credit allowed under such pro-
21 gram. If amounts are required to be withheld from con-
22 tractors to pay wages to which workers are entitled, such
23 amounts shall be treated as expended for construction pur-
24 poses in determining whether the requirements of such
25 program are met.”.

1 **SEC. 5. EMPLOYMENT AND TRAINING ACTIVITIES RELAT-**
2 **ING TO CONSTRUCTION OR RECONSTRUC-**
3 **TION OF PUBLIC SCHOOL FACILITIES.**

4 (a) IN GENERAL.—Section 134 of the Workforce In-
5 vestment Act of 1998 (29 U.S.C. 2864) is amended by
6 adding at the end the following new subsection:

7 “(f) LOCAL EMPLOYMENT AND TRAINING ACTIVI-
8 TIES RELATING TO CONSTRUCTION OR RECONSTRUCTION
9 OF PUBLIC SCHOOL FACILITIES.—

10 “(1) IN GENERAL.—In order to provide training
11 services related to construction or reconstruction of
12 public school facilities receiving funding assistance
13 under an applicable program, each State shall estab-
14 lish a specialized program of training meeting the
15 following requirements:

16 “(A) The specialized program provides
17 training for jobs in the construction industry.

18 “(B) The program provides trained work-
19 ers for projects for the construction or recon-
20 struction of public school facilities receiving
21 funding assistance under an applicable pro-
22 gram.

23 “(C) The program ensures that skilled
24 workers (residing in the area to be served by
25 the school facilities) will be available for the
26 construction or reconstruction work.

1 “(2) COORDINATION.—The specialized program
2 established under paragraph (1) shall be integrated
3 with other activities under this Act, with the activi-
4 ties carried out under the National Apprenticeship
5 Act of 1937 by the State Apprenticeship Council or
6 through the Bureau of Apprenticeship and Training
7 in the Department of Labor, as appropriate, and
8 with activities carried out under the Carl D. Perkins
9 Vocational and Technical Education Act of 1998.
10 Nothing in this subsection shall be construed to re-
11 quire services duplicative of those referred to in the
12 preceding sentence.

13 “(3) APPLICABLE PROGRAM.—In this sub-
14 section, the term ‘applicable program’ has the mean-
15 ing given the term in section 439(b) of the General
16 Education Provisions Act (relating to labor stand-
17 ards).”.

18 (b) STATE PLAN.—Section 112(b)(17)(A) of the
19 Workforce Investment Act of 1998 (29 U.S.C.
20 2822(b)(17)(A)) is amended—

21 (1) in clause (iii), by striking “and” at the end;
22 (2) by redesignating clause (iv) as clause (v);
23 and
24 (3) by inserting after clause (iii) the following
25 new clause:

1 “(iv) how the State will establish and
2 carry out a specialized program of training
3 under section 134(f); and”.

○