

110TH CONGRESS  
1ST SESSION

# S. 912

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

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IN THE SENATE OF THE UNITED STATES

MARCH 19, 2007

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

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## 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 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 “America’s Better  
5       Classroom Act of 2007”.

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

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

1 **“Subchapter Z—Public School Modernization**  
 2 **Provisions**

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

“Sec. 1400V. Qualified school construction bonds.

“Sec. 1400W. Qualified zone academy bonds.

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

3 **“SEC. 1400U. CREDIT TO HOLDERS OF QUALIFIED PUBLIC**  
 4 **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           and subpart H thereof).

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

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

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

20                       “(A) a qualified zone academy bond,

21                       “(B) a qualified school construction bond,

22                       and

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

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

3                   “(A) March 15,

4                   “(B) June 15,

5                   “(C) September 15, and

6                   “(D) December 15.

7           Such term includes the last day on which the bond  
8           is outstanding.

9           “(e) OTHER DEFINITIONS.—For purposes of this  
10          subchapter—

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

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

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

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

1           “(A) any stadium or other facility pri-  
 2           marily used for athletic contests or exhibitions  
 3           or other events for which admission is charged  
 4           to the general public, or

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

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

13          “(g) CREDIT TREATED AS NONREFUNDABLE BOND-  
 14          HOLDER CREDIT.—For purposes of this title, the credit  
 15          allowed by this section shall be treated as a credit allow-  
 16          able under subpart H of part IV of subchapter A of this  
 17          chapter.

18          “(h) S CORPORATIONS.—In the case of a qualified  
 19          public school modernization bond held by an S corpora-  
 20          tion—

21                 “(1) each shareholder shall take into account  
 22                 such shareholder’s pro rata share of the credit, and

23                 “(2) no basis adjustments to the stock of the  
 24                 corporation shall be made under section 1367 on ac-  
 25                 count of this section.

1 “(i) OTHER PASS-THRU ENTITIES.—

2 “(1) IN GENERAL.—Under regulations pre-  
3 scribed by the Secretary, in the case of a partner-  
4 ship, trust, or other pass-thru entity, rules similar to  
5 the rules of section 41(g) shall apply with respect to  
6 the credit allowable under subsection (a).

7 “(2) NO BASIS.—In the case of a bond held by  
8 a partnership, rules similar to the rules under sub-  
9 section (h)(2) shall apply.

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

16 “(k) RECAPTURE OF PORTION OF CREDIT WHERE  
17 CESSATION OF COMPLIANCE.—

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

24 “(A) the aggregate of the credits allowable  
25 under this section with respect to such bond

1 (determined without regard to subsection (c))  
 2 for taxable years ending during the calendar  
 3 year in which such cessation occurs and the 2  
 4 preceding calendar years, and

5 “(B) interest at the underpayment rate  
 6 under section 6621 on the amount determined  
 7 under subparagraph (A) for each calendar year  
 8 for the period beginning on the first day of  
 9 such calendar year.

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

22 “(3) SPECIAL RULES.—

23 “(A) TAX BENEFIT RULE.—The tax for  
 24 the taxable year shall be increased under para-  
 25 graph (2) only with respect to credits allowed



by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

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

“(i) the amount of any credit allowable under this part, or

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

“(I) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

“(1) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a qualified public school modernization bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

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

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

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

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

21          “(p) TERMINATION.—This section shall not apply to  
22          any bond issued after September 30, 2008 (December 31,  
23          2013, in the case of any qualified tribal school moderniza-  
24          tion bond).

1 **“SEC. 1400V. 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, and

16 **“(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 ignated 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 instruction bond limitation for each calendar year. Such lim-  
 2 itation is—

3 “(1) \$11,000,000,000 for 2007,

4 “(2) \$11,000,000,000 for 2008, and

5 “(3) except as provided in subsection (f), zero  
 6 after 2008.

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, recog-  
 18 nizing the varying needs for rural, high growth, and  
 19 urban school districts.

20 “(2) MINIMUM ALLOCATIONS TO STATES.—

21 “(A) IN GENERAL.—The Secretary shall  
 22 adjust the allocations under this subsection for  
 23 any calendar year for each State to the extent  
 24 necessary to ensure that the amount allocated  
 25 to such State under this subsection for such

1           year is not less than an amount equal to such  
2           State's minimum percentage of the amount to  
3           be allocated under paragraph (1) for the cal-  
4           endar year.

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

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

24          “(e) CARRYOVER OF UNUSED LIMITATION.—If for  
25          any calendar year—

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

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

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

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

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

22           “(A) at least 10 percent of the proceeds of  
23           the issue will be spent within the 6-month pe-  
24           riod beginning on such date for the purpose for  
25           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. 1400W. 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,

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

10                  “(E) the issue meets the requirements of  
 11                  subsections (c) and (d).

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—

4                   “(i) equipment for use in the qualified  
5           zone academy (including state-of-the-art  
6           technology and vocational equipment),

7                   “(ii) technical assistance in developing  
8           curriculum or in training teachers in order  
9           to promote appropriate market driven tech-  
10          nology in the classroom,

11                  “(iii) services of employees as volun-  
12          teer mentors,

13                  “(iv) internships, field trips, or other  
14          educational opportunities outside the acad-  
15          emy for students, or

16                  “(v) any other property or service  
17          specified by the local educational agency.

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 ‘quali-  
2       fied purpose’ means, with respect to any qualified  
3       zone academy—

4           “(A) constructing, rehabilitating, or repair-  
5       ing the public school facility in which the acad-  
6       emy is established,

7           “(B) acquiring the land on which such fa-  
8       cility is to be constructed with part of the pro-  
9       ceeds of such issue,

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

12          “(D) developing course materials for edu-  
13       cation 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) \$1,400,000 for 2007,

22           “(B) \$1,400,000 for 2008, and

23           “(C) except as provided in paragraph (3),  
24       zero after 2008.

25       “(2) ALLOCATION OF LIMITATION.—

1           “(A) ALLOCATION AMONG STATES.—The  
2           national zone academy bond limitations for any  
3           calendar year shall be allocated by the Sec-  
4           retary among the States in proportion to the re-  
5           spective amounts each such State received for  
6           basic grants under section 1124 of the Elemen-  
7           tary and Secondary Education Act of 1965 for  
8           the most recent fiscal year ending before such  
9           calendar year.

10           “(B) ALLOCATION TO LOCAL EDU-  
11           CATIONAL AGENCIES.—The limitation amount  
12           allocated to a State under subparagraph (A)  
13           shall be allocated by the State to qualified zone  
14           academies within such State.

15           “(C) DESIGNATION SUBJECT TO LIMITA-  
16           TION AMOUNT.—The maximum aggregate face  
17           amount of bonds issued during any calendar  
18           year which may be designated under subsection  
19           (a) with respect to any qualified zone academy  
20           shall not exceed the limitation amount allocated  
21           to such academy under subparagraph (B) for  
22           such calendar year.

23           “(3) CARRYOVER OF UNUSED LIMITATION.—If  
24           for any calendar year—

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

3           “(B) the amount of bonds issued during  
4           such year which are designated under sub-  
5           section (a) (or the corresponding provisions of  
6           prior law) with respect to qualified zone acad-  
7           emies within such State, the limitation amount  
8           under this subsection for such State for the fol-  
9           lowing calendar year shall be increased by the  
10          amount of such excess.

11          “(c) SPECIAL RULES RELATING TO EXPENDI-  
12          TURES.—

13           “(1) IN GENERAL.—An issue shall be treated as  
14          meeting the requirements of this subsection if, as of  
15          the date of issuance, the issuer reasonably expects—

16           “(A) at least 95 percent of the proceeds  
17          from the sale of the issue are to be spent for  
18          1 or more qualified purposes with respect to  
19          qualified zone academies within the 5-year pe-  
20          riod beginning on the date of issuance of the  
21          qualified zone academy bond,

22           “(B) a binding commitment with a third  
23          party to spend at least 10 percent of the pro-  
24          ceeds from the sale of the issue will be incurred  
25          within the 6-month period beginning on the

1 date of issuance of the qualified zone academy  
2 bond, and

3 “(C) such purposes will be completed with  
4 due diligence and the proceeds from the sale of  
5 the issue will be spent with due diligence.

6 “(2) EXTENSION OF PERIOD.—Upon submis-  
7 sion of a request prior to the expiration of the period  
8 described in paragraph (1)(A), the Secretary may  
9 extend such period if the issuer establishes that the  
10 failure to satisfy the 5-year requirement is due to  
11 reasonable cause and the related purposes will con-  
12 tinue to proceed with due diligence.

13 “(3) FAILURE TO SPEND REQUIRED AMOUNT  
14 OF BOND PROCEEDS WITHIN 5 YEARS.—To the ex-  
15 tent that less than 95 percent of the proceeds of  
16 such issue are expended by the close of the 5-year  
17 period beginning on the date of issuance (or if an  
18 extension has been obtained under paragraph (2), by  
19 the close of the extended period), the issuer shall re-  
20 deem all of the nonqualified bonds within 90 days  
21 after the end of such period. For purposes of this  
22 paragraph, the amount of the nonqualified bonds re-  
23 quired to be redeemed shall be determined in the  
24 same manner as under section 142.

1 “(d) SPECIAL RULES RELATING TO ARBITRAGE.—

2 An issue shall be treated as meeting the requirements of

3 this subsection if the issuer satisfies the arbitration require-

4 ments of section 148 with respect to proceeds of the issue.

5 **“SEC. 1400X. QUALIFIED TRIBAL SCHOOL MODERNIZATION**

6 **BONDS.**

7 “(a) QUALIFIED TRIBAL SCHOOL MODERNIZATION

8 BOND.—For purposes of this subchapter—

9 “(1) IN GENERAL.—The term ‘qualified tribal

10 school modernization bond’ means, subject to para-

11 graph (2), any bond issued as part of an issue under

12 section 3(c) of the America’s Better Classroom Act

13 of 2007, as in effect on the date of the enactment

14 of this section, if—

15 “(A) 95 percent or more of the proceeds of

16 such issue are to be used for the construction,

17 rehabilitation, or repair of a school facility

18 funded by the Bureau of Indian Affairs of the

19 Department of the Interior or for the acquisi-

20 tion of land on which such a facility is to be

21 constructed with part of the proceeds of such

22 issue,

23 “(B) the bond is issued by an Indian tribe,

24 “(C) the issuer designates such bond for

25 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 2007,

10                   “(ii) \$200,000,000 for 2008, and

11                   “(iii) zero after 2008.

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 2007, 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, the limitation amount under  
10 this paragraph for the following calendar  
11 year shall be increased by the amount of  
12 such excess. The preceding sentence shall  
13 not apply if such following calendar year is  
14 after 2015.

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

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

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

“(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.”.

(c) CONFORMING AMENDMENTS.—

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

1           (2) Sections 54(l)(3)(B) and 1400N(l)(7)(B)(ii)  
 2           are each amended by striking “section 1397E(l)”  
 3           and inserting “section 1400U(h)”.

4           (3) The table of subchapters for chapter 1 of  
 5           such Code is amended by adding at the end the fol-  
 6           lowing new item:

“SUBCHAPTER Z. PUBLIC SCHOOL MODERNIZATION PROVISIONS.”.

7           (4) The table of parts of subchapter U of chap-  
 8           ter 1 of such Code is amended by striking the last  
 9           2 items and inserting the following new item:

“PART IV. REGULATIONS.”.

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

14          (e) EFFECTIVE DATES.—

15           (1) IN GENERAL.—Except as otherwise pro-  
 16           vided in this subsection, the amendments made by  
 17           this section shall apply to obligations issued after  
 18           December 31, 2006.

19           (2) REPEAL OF RESTRICTION ON ZONE ACAD-  
 20           EMY BOND HOLDERS.—In the case of bonds to  
 21           which section 1397E of the Internal Revenue Code  
 22           of 1986 (as in effect before the date of the enact-  
 23           ment of this Act) applies, the limitation of such sec-  
 24           tion to eligible taxpayers (as defined in subsection

1 (d)(6) of such section) shall not apply after the date  
 2 of the enactment of this Act.

3 **SEC. 3. INDIAN SCHOOL CONSTRUCTION.**

4 (a) DEFINITIONS.—In this section:

5 (1) BUREAU.—The term “Bureau” means the  
 6 Bureau of Indian Affairs of the Department.

7 (2) DEPARTMENT.—The term “Department”  
 8 means the Department of the Interior.

9 (3) ESCROW ACCOUNT.—The term “escrow ac-  
 10 count” means the tribal school modernization escrow  
 11 account established under subsection (b)(6)(B)(i).

12 (4) INDIAN.—The term “Indian” means any in-  
 13 dividual who is a member of an Indian tribe.

14 (5) INDIAN TRIBE.—

15 (A) IN GENERAL.—The term “Indian  
 16 tribe” has the meaning given the term “Indian  
 17 tribal government” by section 7701(a)(40) of  
 18 the Internal Revenue Code of 1986 (including  
 19 the application of section 7871(d) of that  
 20 Code).

21 (B) INCLUSION.—The term “Indian tribe”  
 22 includes a consortium of Indian tribes approved  
 23 by the Secretary.

24 (6) SECRETARY.—The term “Secretary” means  
 25 the Secretary of the Interior.

1           (7) TRIBAL SCHOOL.—The term “tribal school”  
 2       means an elementary school, secondary school, or  
 3       dormitory that—

4                   (A) is operated by a tribal organization or  
 5       the Bureau for the education of Indian chil-  
 6       dren; and

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

11                   (i) section 102, 103(a), or 208 of the  
 12      Indian Self-Determination and Education  
 13      Assistance Act (25 U.S.C. 450f, 450h(a),  
 14      458d); or

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

17       (b) ISSUANCE OF BONDS.—

18           (1) IN GENERAL.—The Secretary shall establish  
 19       a pilot program under which eligible Indian tribes  
 20       may issue qualified tribal school modernization  
 21       bonds to provide funding for the construction, reha-  
 22       bilitation, or repair of tribal schools (including the  
 23       advance planning and design of tribal schools).

24           (2) ELIGIBILITY.—

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

5 (i) prepare and submit to the Sec-  
 6 retary a plan of construction that meets  
 7 the requirements of subparagraph (B);

8 (ii) provide for quarterly and final in-  
 9 spection of the project by the Bureau; and

10 (iii) pledge that the facilities financed  
 11 by the bond will be used primarily for ele-  
 12 mentary and secondary educational pur-  
 13 poses for not less than the period during  
 14 which the bond remains outstanding.

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

19 (i) contains a description of the con-  
 20 struction to be carried out with funding  
 21 provided under a qualified tribal school  
 22 modernization bond;

23 (ii) demonstrates that a comprehen-  
 24 sive survey has been completed to deter-

mine 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;

(iv) contains a response to the evaluation criteria contained in Instructions and Application for Replacement School Construction, Revision 6, dated February 6, 1999; and

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

(C) PRIORITY.—In determining whether an Indian tribe is eligible to participate in the program under this subsection, the Secretary shall give priority to an Indian tribe that, as demonstrated by the relevant plans of construction, will fund projects—

(i) described in the Education Facilities Replacement Construction Priorities List, as of fiscal year 2000, of the Bureau (65 Fed. Reg. 4623);

1 (ii) described in any subsequent prior-  
2 ities list published in the Federal Register;  
3 or

4 (iii) that meet the criteria for ranking  
5 schools as described in Instructions and  
6 Application for Replacement School Con-  
7 struction, Revision 6, dated February 6,  
8 1999.

9 (D) ADVANCE PLANNING AND DESIGN  
10 FUNDING.—

11 (i) IN GENERAL.—An Indian tribe  
12 may propose in the plan of construction of  
13 the Indian tribe to receive advance plan-  
14 ning and design funding from the escrow  
15 account.

16 (ii) CONDITIONS ON ALLOCATION OF  
17 FUNDS.—As a condition to the allocation  
18 to an Indian tribe of advance planning and  
19 design funds from the escrow account  
20 under clause (i), the Indian tribe shall  
21 agree—

22 (I) to issue qualified tribal school  
23 modernization bonds after the date of  
24 receipt of the funds; and



1 (II) as a condition of each bond  
 2 issuance, that the Indian tribe will de-  
 3 posit into the escrow account, or a  
 4 fund managed by the trustee as de-  
 5 scribed in paragraph (4)(C), an  
 6 amount equal to the amount of funds  
 7 received from the escrow account.

8 (3) PERMISSIBLE ACTIVITIES.—In addition to  
 9 the use of funds permitted under paragraph (1), an  
 10 Indian tribe may use amounts received through the  
 11 issuance of a qualified tribal school modernization  
 12 bond—

13 (A) to enter into and make payments  
 14 under contracts with licensed and bonded archi-  
 15 tects, engineers, and construction firms—

16 (i) to determine the needs of the tribal  
 17 school; and

18 (ii) for the design and engineering of  
 19 the tribal school;

20 (B) enter into and make payments under  
 21 contracts with financial advisers, underwriters,  
 22 attorneys, trustees, and other professionals who  
 23 would be able to provide assistance to the In-  
 24 dian tribe in issuing bonds; and

1 (C) carry out other activities determined to  
 2 be appropriate by the Secretary.

3 (4) BOND TRUSTEE.—

4 (A) IN GENERAL.—Notwithstanding any  
 5 other provision of law, any qualified tribal  
 6 school modernization bond issued by an Indian  
 7 tribe under this subsection shall be subject to a  
 8 trust agreement between the Indian tribe and a  
 9 trustee.

10 (B) TRUSTEE.—Any bank or trust com-  
 11 pany that meets requirements established by  
 12 the Secretary may be designated as a trustee  
 13 under subparagraph (A).

14 (C) CONTENT OF TRUST AGREEMENT.—A  
 15 trust agreement entered into by an Indian tribe  
 16 under this paragraph shall specify that the  
 17 trustee, with respect to any bond issued under  
 18 this subsection, shall—

19 (i) act as a repository for the proceeds  
 20 of the bond;

21 (ii) make payments to bondholders;

22 (iii) receive, as a condition to the  
 23 issuance of the bond, a transfer of funds  
 24 from the escrow account, or from other  
 25 funds furnished by or on behalf of the In-

dian tribe, in an amount that (including interest earnings from the investment of the funds in obligations of, or fully guaranteed by, the United States, or from other investments authorized by paragraph (10)) will produce funds sufficient to timely pay in full the entire principal amount of the bond on the stated maturity date of the bond;

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

(v)(I) hold and invest the funds transferred under clause (iii) in a segregated fund or account under the agreement; and

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

(D) REQUIREMENTS FOR MAKING DIRECT PAYMENTS.—

(i) PAYMENTS.—

(I) IN GENERAL.—Notwithstanding any other provision of law, the trustee shall make any payment referred to in subparagraph (C)(v) in

1 accordance with such requirements as  
 2 the Indian tribe shall prescribe in the  
 3 trust agreement entered into under  
 4 subparagraph (C).

5 (II) INSPECTION.—Before mak-  
 6 ing a payment for a project to a con-  
 7 tractor under subparagraph (C)(v), to  
 8 ensure completion of the project, the  
 9 trustee shall require an inspection of  
 10 the project by—

11 (aa) a local financial institu-  
 12 tion; or

13 (bb) an independent inspect-  
 14 ing architect or engineer.

15 (ii) CONTRACTS.—Each contract re-  
 16 ferred to in paragraph (3) shall specify, or  
 17 be renegotiated to specify, that payments  
 18 under the contract shall be made in ac-  
 19 cordance with this paragraph.

20 (5) PAYMENTS OF PRINCIPAL AND INTEREST.—

21 (A) PRINCIPAL.—

22 (i) IN GENERAL.—No principal pay-  
 23 ment on any qualified tribal school mod-  
 24 ernization bond shall be required under

1           this subsection until the final, stated date  
2           on which the bond reaches maturity.

3           (ii) MATURITY; OUTSTANDING PRIN-  
4           CIPAL.—With respect to a qualified tribal  
5           school modernization bond issued under  
6           this subsection—

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

10                      (II) on the date on which the  
11                      bond reaches maturity, the entire out-  
12                      standing principal under the bond  
13                      shall become due and payable.

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

19           (6) BOND GUARANTEES.—

20                      (A) IN GENERAL.—Payment of the prin-  
21                      cipal portion of a qualified tribal school mod-  
22                      ernization bond issued under this subsection  
23                      shall be guaranteed solely by amounts deposited  
24                      with each respective bond trustee as described  
25                      in paragraph (4)(C)(iii).

1 (B) ESTABLISHMENT OF ACCOUNT.—

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

5 (I) establish a tribal school mod-  
6 ernization escrow account; and

7 (II) beginning in fiscal year  
8 2008, from amounts made available  
9 for school replacement under the con-  
10 struction account of the Bureau, de-  
11 posit not more than \$30,000,000 for  
12 each fiscal year into the escrow ac-  
13 count.

14 (ii) TRANSFERS OF EXCESS PRO-  
15 CEEDS.—Excess proceeds held under any  
16 trust agreement that are not needed for  
17 any of the purposes described in clauses  
18 (iii) and (v) of paragraph (4)(C) shall be  
19 transferred, from time to time, by the  
20 trustee for deposit into the escrow account.

21 (iii) PAYMENTS.—The Secretary shall  
22 use any amounts deposited in the escrow  
23 account under clauses (i) and (ii)—

1 (I) to make payments to trustees  
 2 appointed and acting in accordance  
 3 with paragraph (4); or

4 (II) to make payments described  
 5 in paragraph (2)(D).

6 (7) LIMITATIONS.—

7 (A) OBLIGATION TO REPAY.—

8 (i) IN GENERAL.—Notwithstanding  
 9 any other provision of law, the principal  
 10 amount on any qualified tribal school mod-  
 11 ernization bond issued under this sub-  
 12 section shall be repaid only to the extent of  
 13 any escrowed funds provided under para-  
 14 graph (4)(C)(iii).

15 (ii) NO GUARANTEE.—No qualified  
 16 tribal school modernization bond issued by  
 17 an Indian tribe under this subsection shall  
 18 be an obligation of, and no payment of the  
 19 principal of such a bond shall be guaran-  
 20 teed by—

21 (I) the United States;

22 (II) the Indian tribe; or

23 (III) the tribal school for which  
 24 the bond was issued.

1 (B) LAND AND FACILITIES.—No land or  
 2 facility purchased or improved with amounts  
 3 derived from a qualified tribal school mod-  
 4 ernization bond issued under this subsection  
 5 shall be mortgaged or used as collateral for the  
 6 bond.

7 (8) SALE OF BONDS.—A qualified tribal school  
 8 modernization bond may be sold at a purchase price  
 9 equal to, in excess of, or at a discount from, the par  
 10 amount of the bond.

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

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

21 (A) obligations issued by or guaranteed by  
 22 the United States; or

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



1 **SEC. 4. APPLICATION OF CERTAIN LABOR STANDARDS ON**  
2 **CONSTRUCTION PROJECTS FINANCED**  
3 **UNDER PUBLIC SCHOOL MODERNIZATION**  
4 **PROGRAM.**

5 Section 439 of the General Education Provisions Act  
6 (20 U.S.C. 1232b) is amended—

7 (1) by inserting “(a)” before “All laborers and  
8 mechanics”, and

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

11 “(b)(1) For purposes of this section, the term ‘appli-  
12 cable program’ also includes the qualified zone academy  
13 bond provisions enacted by section 226 of the Taxpayer  
14 Relief Act of 1997 and the program established by section  
15 2 of the America’s Better Classroom Act of 2007.

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

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

22 “(B) include in the construction contract for  
23 such school a requirement that the contractor give  
24 priority in hiring new workers to individuals residing  
25 in such local education area.

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

9   **SEC. 5. EMPLOYMENT AND TRAINING ACTIVITIES RELAT-**  
 10                   **ING TO CONSTRUCTION OR RECONSTRUC-**  
 11                   **TION OF PUBLIC SCHOOL FACILITIES.**

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

15       “(f) LOCAL EMPLOYMENT AND TRAINING ACTIVI-  
 16 TIES RELATING TO CONSTRUCTION OR RECONSTRUCTION  
 17 OF PUBLIC SCHOOL FACILITIES.—

18               “(1) IN GENERAL.—In order to provide training  
 19 services related to construction or reconstruction of  
 20 public school facilities receiving funding assistance  
 21 under an applicable program, each State shall estab-  
 22 lish a specialized program of training meeting the  
 23 following requirements:

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

1           “(B) The program provides trained work-  
2           ers for projects for the construction or recon-  
3           struction of public school facilities receiving  
4           funding assistance under an applicable pro-  
5           gram.

6           “(C) The program ensures that skilled  
7           workers (residing in the area to be served by  
8           the school facilities) will be available for the  
9           construction or reconstruction work.

10          “(2) COORDINATION.—The specialized program  
11          established under paragraph (1) shall be integrated  
12          with other activities under this Act, with the activi-  
13          ties carried out under the National Apprenticeship  
14          Act of 1937 by the State Apprenticeship Council or  
15          through the Bureau of Apprenticeship and Training  
16          in the Department of Labor, as appropriate, and  
17          with activities carried out under the Carl D. Perkins  
18          Career and Technical Education Act of 2006. Noth-  
19          ing in this subsection shall be construed to require  
20          services duplicative of those referred to in the pre-  
21          ceding sentence.

22          “(3) APPLICABLE PROGRAM.—In this sub-  
23          section, the term ‘applicable program’ has the mean-  
24          ing given the term in section 439(b) of the General

1 Education Provisions Act (relating to labor stand-  
2 ards).”.

3 (b) STATE PLAN.—Section 112(b)(17)(A) of the  
4 Workforce Investment Act of 1998 (29 U.S.C.  
5 2822(b)(17)(A)) is amended—

6 (1) in clause (iii), by striking “and” at the end;

7 (2) by redesignating clause (iv) as clause (v);

8 and

9 (3) by inserting after clause (iii) the following  
10 new clause:

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

○