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School Facilities Infrastructure: Background and Legislative Proposals in the 106th Congress

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Summary

In the 106th Congress, proposals to provide federal support for elementary and secondary school construction are under consideration, including tax credits for school construction bonds. General Accounting Office (GAO) reports have suggested substantial need (**\$112 billion**) for school renovation, construction and repair and the Department of Education (ED) has documented (1998) that the average age of a public school building is 42 years old. Although education infrastructure financing is considered primarily a state and local responsibility, indirect federal support is provided through the exclusion of school bond interest income from federal income taxation. In addition, legislation has provided federal support for school infrastructure, such as the “Ticket to Work” bill, **P.L. 106-170**, which extended provisions related to Qualified Zone Academy Bonds (QZABs) that are used for school infrastructure. The Consolidated Appropriations Act for FY2000, **P.L. 106-113** contained a small schools initiative, authorizing funding for high school “redesign.” **S. 1134**, the Affordable Education Act of 2000, as passed by the Senate (March 2, 2000) and **H.R. 7** contained provisions related to school construction. A Harkin-Bingaman amendment to **S. 2**, the Educational Opportunities Act, to reauthorize Title XII of the Elementary and Secondary Education Act (ESEA), at \$1.3 billion was defeated during committee consideration. **H.R. 4141**, the **Education Opportunities to Protect and Invest in Our Nation’s Students (OPTIONS)** bill was ordered reported (April 13, 2000), but during committee consideration, school construction amendments failed. This report will be updated continually to reflect legislative activity.

Background

The federal government’s direct role in financing elementary and secondary school construction began with Impact Aid laws in the 1950s. There were also some precursors to the Impact Aid legislation that provided funds indirectly for school construction. Some

of the relief bills during the New Deal expanded definitions¹ of relief and public works to include school construction. However, there has been a gap in federal funding for a formal program for school construction, other than through the Impact Aid construction program, which has had a substantial reduction in funding.² In the 103rd Congress, the **Education Infrastructure Act of 1994**, Title XII of the Elementary and Secondary Education Act (ESEA), was enacted as a federal grant program for school infrastructure. The grant program under Title XII, ESEA has not been funded.³ One major issue being considered is whether the federal government should assume greater responsibility for school construction. The federal government currently provides *indirect* financial support for school construction through the exclusion of school bond interest income from income taxation, at a varying annual cost to the federal government (\$3.7 billion in 1996).⁴ This resulting federal revenue loss helps to finance a reduction in interest expenses that school districts have to pay.

GAO Reports

Eight GAO reports have now been issued (three in 1995, three in 1996, one in 1997, and one in March, 2000) dealing with school facilities. *America's Schools Report Differing Conditions* (GAO, June 1996) surveyed a national sample of 10,000 schools. School officials were asked to estimate costs to repair or upgrade facilities to a good overall condition. At a minimum, officials estimated that **\$11 billion** was needed to comply with federal mandates, with a total estimated need of **\$112 billion**.

The most recent GAO report, *School Facilities: Construction Expenditures Have Grown Significantly in Recent Years* (GAO-HEHS-00-41, March, 2000) concludes that construction expenditures for public elementary and secondary schools (86,000) across the nation have grown by 39% from FY1990 to FY1997, to about **\$25 billion** in inflation-adjusted dollars. However, average annual construction expenditures varied widely from state to state ranging from \$934 per pupil in Nevada to \$37 per pupil in Connecticut, with the average at \$473. According to GAO, states with the largest per pupil expenditures for construction (e.g., Nevada), also had high enrollment growth rates, and those with the lowest per pupil expenditures had relatively low enrollment growth rates. The largest source of funding for school construction is generally through local bonds. In most states there is some combination of local and state funding, although 15 states provided little or no funding for school construction in 1998-1999. GAO indicated the data are incomplete with regard to funding sources for school construction.

¹ An extension of the Lanham Act (P.L. 137 of the 77th Congress) authorized funds for and included school construction in the definition of "public works" projects.

² For further information on Impact Aid, see CRS report RL30075, *Impact Aid: Overview and Reauthorization issues*, by Richard Apling.

³ The initial funding for the Infrastructure Act, Title XII ESEA for FY1995 (\$100 million), was rescinded with no subsequent funding. The Senate reported Labor, Health and Human Services Appropriations bill for FY1999 provided \$100 million for school construction. However, the FY1999 Omnibus Appropriations Act (P.L. 105-277) did not contain a final FY1999 appropriation for school construction. There was no funding for Title XII ESEA for FY2000.

⁴ See *Tax Exempt Bond Proposals to Increase Public Elementary and Secondary School Facilities*. Testimony, Senate Finance Committee, March 3, 1999, by Dennis Zimmerman.

Selected Legislative Proposals

FY2001 Administration Budget: School Construction and Modernization.

Reports on President Clinton's school construction proposal for FY2001 indicated a similar plan to FY2000 — i.e., tax credits on bonds for school modernization with an estimated \$24.8 billion in bond authority over 2 years. The Administration estimated that these tax credits on bonds would cost the U.S. Treasury \$3.7 billion over 5 years. This proposal also includes \$1.3 billion in school emergency renovation loans and grants, that according to White House reports would leverage \$7 billion for approximately 6,000 renovation projects in high-poverty, high need school districts. Grants rather than loans would go to the neediest districts. In addition, President Clinton's FY2001 budget proposal would continue to expand tax credits for Qualified Zone Academy Bonds (QZABs).⁵

Other School Construction Proposals

It is not possible to list here all of the school construction bills introduced in the 106th Congress. Included are some selected bills: **H.R. 1660** (and other similar amendments by Representative Rangel) would have expanded tax credits for qualified zone academy bonds, provided new authority for tax credits on school construction bonds, and would have included language to permit Davis-Bacon Act prevailing wages for construction. **H.R. 3705** would repair schools in districts with high poverty rates. In response to an estimated record enrollment in 2007 as ED has indicated, **S. 1454** the Public School Modernization and Overcrowding Relief Act proposed tax credits for bondholders and resources for local communities to modernize and reduce overcrowding in approximately 6,000 public schools. **P.L. 106-113** included \$45 million for a small schools initiative (Title X-A, ESEA) to help "redesign" high schools. The goal is to have not more than 600 students in a learning community, and implies building smaller schools.

The **Taxpayer Refund and Relief Act of 1999 (H.R. 2488)** with construction provisions was vetoed. The "**Ticket to Work**" bill (**P.L. 106-170**) contained an extension of authority to issue QZABs with an allocation of \$400 million for FY2000. **S. 1134, Affordable Education Act of 2000 (Education Savings Accounts)**, as passed by the Senate (March 2, 2000) allows Federal Home Loan Bank guarantees of \$500 million annually for public school construction bonds. **S. 1134** relaxes arbitrage rebate⁶ rules applicable to school construction bonds. **H.R. 7, similar to S. 1134**, would also liberalize tax-exempt financing rules for public school construction. The bill would increase the maximum annual issuance for school construction bonds for which there would be an exception from arbitrage rebate rules. In addition, **H.R. 7** would extend to 4 years the

⁵ The Taxpayer Relief Act of 1997 (P.L.105-34) authorized tax credits for a new form of obligation called "qualified zone academy bonds." QZABs may be used for schools based in empowerment zones or enterprise communities, or with 35% of students qualified for free or reduced price lunches under the federal school lunch program. See CRS Report 97-828, *Tax-Exempt Bond Provisions of the Taxpayer Relief Act of 1997*, by Dennis Zimmerman.

⁶ Arbitrage rebate deals with rules for returning profits earned from construction bonds. See CRS Report 98-803, *Bonds for Public Schools Relaxation of Arbitrage Restrictions in the Taxpayer Relief Act of 1998*, by Dennis Zimmerman.

period during which proceeds of school construction bonds may be spent without losing eligibility for an exception to arbitrage rebate rules.⁷

An amendment by Senator Harkin and Senator Bingaman to **S. 2**, the Educational Opportunities Act (S.Rept. 106-261), to fund Title XII, ESEA at \$1.3 billion was defeated during consideration by the Senate Committee on Health, Education, Labor and Pensions. On May 1 to May 9, 2000 the Senate began floor debate on S. 2, but it has not yet resumed debate. School construction amendments to **H.R. 4141**, the Education OPTIONS bill were offered during consideration by the House Education and Work Force Committee, but were defeated (including Representative Ford's amendment to create a \$1 billion school construction program). H.R. 4141 was ordered reported on April 13, 2000 and printed May 4, 2000 (H.Rept. 106-608).

⁷ For further information see H. Rept. 106-546 to accompany H.R.7.