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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. According to a new National Center for Education Statistics (NCES) study, the need for school repair, renovation and modernization would cost **\$127 billion**, a higher amount than The General Accounting Office (GAO) had previously estimated (**\$112 billion**) using a similar methodology based on local school officials' reported construction needs. NCES indicates that three quarters of the nation's schools now report the need to spend on repairs, renovation and modernizations to bring their buildings into a "good overall condition." The Department of Education (ED) has documented that the average age of a public school building is 42 years, and after 40 years schools tend to deteriorate, depending upon the level of maintenance. Although education infrastructure financing is considered primarily a state and local responsibility, *indirect* federal support is currently provided by exempting the interest on state and local governmental bonds from federal income taxes. In addition, legislation has provided federal support for school infrastructure, such as the "Ticket to Work and Work Incentives Improvement Act of 1999," **P.L. 106-170**, which extended provisions related to Qualified Zone Academy Bonds (QZABs) that are used for school infrastructure. **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. The Senate-passed version of **H.R. 4577**, the FY2001 Labor, Health and Human Services and Education (L-HHS-ED) appropriations bill, would provide authority for school construction. However, motions to instruct Conferees on H.R. 4577 would alter construction provisions. This short report will be updated continually to reflect legislative activity.

Background

One major issue being considered is whether the federal government should assume greater responsibility for school construction. Some argue that the federal government is already providing *indirect* financial support for school construction by exempting the interest on state and local governmental bonds from federal income taxation, at a varying annual cost to the federal government (last estimated at \$3.7 billion in 1996).¹ The exemption allows bonds to be issued at lower interest rates that still provide competitive returns.

The federal government's *direct* role in financing elementary and secondary school construction began with Impact Aid laws in 1950. 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 definitions² 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 over the years.³ 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.⁴

National Center for Education Statistics (NCES) Study

A new NCES study, *Condition of America's Public School Facilities: 1999 (NCES2000-032)* from its 1999 Fast Response Survey System (FRSS) used a similar methodology to GAO based on local school officials' reported construction needs. The study indicates that approximately three quarters of schools reported needing money for repairs, renovations and modernizations to put the schools current buildings into good overall condition. NCES estimates the need at **\$127 billion**. The average dollar amount per school is about \$2.2 million and the average cost per student for repair and modernizations is \$3,800 per student.

¹ See *Tax Exempt Bond Proposals to Increase Public Elementary and Secondary School Facilities*. Testimony, Senate Finance Committee, March 3, 1999, by Dennis Zimmerman.

² 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.

³ For further information on Impact Aid, see CRS Report RL30075, *Impact Aid: Overview and Reauthorization Issues*, by Richard Apling.

⁴ The Infrastructure Act authorized direct federal grants for repair, renovation, alteration and construction of public elementary and secondary schools, school libraries, and media centers. Grants are authorized for LEAs that lack fiscal capacity and where school buildings are in urgent need of repair. The initial funding for the Infrastructure Act, Title XII ESEA for FY1995 (\$100 million), was rescinded with no subsequent funding. The Senate reported L-HHS-ED Appropriations bill for FY1999 would have 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.

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 1998 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 national 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 tended to have relatively low enrollment growth rates. Most school construction is financed by state and local governmental bonds. In most states there is some combination of local and state funding, although 15 states provided little or no state funding for school construction in 1998-1999. GAO indicated the data are incomplete with regard to funding sources for school construction, and an accurate estimate of the cost for construction needs is also difficult to obtain.

Enrollment Projections and Construction

According to the *Projections of Education Statistics to 2010* by NCES, the current projection for total K-12 enrollment for fall 2000 is 52,989,000 students and by 2010 will be over 53 million students. According to the *2000 Construction report* by *School Planning and Management Magazine*, growing enrollment is crowding high schools and middle schools in particular in almost every school district. In 1999, \$18 billion worth of school construction was completed, and in 2000 school districts are planning to start an estimated \$23 billion worth of construction. The *Construction report* indicates that school districts are finally building the “classrooms they have needed for the last decade.”

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. 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

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. 4094** (Representative Nancy Johnson) and **H.R. 1660** (and other similar amendments by Representative Rangel) would have expanded tax credits for qualified zone academy bonds, and provided new authority for tax credits on school construction bonds. **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. The Consolidated Appropriations Act for FY2000, **P.L. 106-113** contained \$45 million for a small schools initiative (Title X-A, ESEA), authorizing funding for high school "redesign." The goal is to have not more than 600 students in a learning community, and 'implies' building smaller schools, although it does not specifically direct money to be used for construction.

The **Taxpayer Refund and Relief Act of 1999 (H.R. 2488)** with construction provisions was vetoed. The "**Ticket to Work and Work Incentives Improvement Act of 1999**" (**P.L. 106-170**) contained an extension of authority to issue QZABs with an allocation of \$400 million for 2 more years. **S. 1134**, the **Affordable Education Act of 2000 (Education Savings Accounts)**, as passed by the Senate on 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** (reported March 24, 2000) **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 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 considered amendments and began floor debate on S. 2 with no further action. School construction amendments to **H.R. 4141**, the Education OPTIONS bill were offered during consideration by the House Education and Work Force

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 RS20606, *Qualified Zone Academy Bonds: A Description of Tax Credit Bonds*, by Steve Maguire.

⁶ Arbitrage rebate rules limit the profits that states and LEAs can earn from investing bond proceeds prior to the time they are needed for construction. See CRS Report 98-803, *Bonds for Public Schools Relaxation of Arbitrage Restrictions in the Taxpayer Relief Act of 1998*, by Dennis Zimmerman.

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

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).

H.R. 4766, the Classroom Modernization Act of 2000, as introduced would assist states and LEAs, including charter schools and schools on or near Indian lands, with the expenses of compliance with federal mandates related to infrastructure; and would assist schools with technology and equipment needs. It would provide formula grants to states based on children age 5-17 from families with incomes below poverty (50%) and (50%) based on each state's proportion of Title I allotments. It would include funding for school facilities' modification to comply with Americans with Disabilities Act (ADA), would assist with infrastructure improvements to enhance students' academic experiences; would provide science labs and equipment; would provide funds for school facility renovations to comply with fire and safety codes; and through renovation would assist in preventing traumatic crisis events. In addition, the bill would assist with "new" construction, acquisition, and "start-up needs" for charter schools. There has been no action.

On June 30, 2000 the Senate passed **H.R. 4577**, the FY2001 L-HHS-ED Appropriations bill with S.2553 incorporated as an amendment. The Senate version of H.R. 4577 included language for school construction funding. According to the Senate version of H.R. 4577, of the \$3.1 billion available for Title VI, ESEA, (the title authorizing block grants to local educational agencies (LEAs)), authority has been added that would allow \$2.7 billion for funding a broad range of purposes including class size reduction, teacher training, and *school construction and renovation*. The conference report on H.R. 4577 (not filed) as described by the House Appropriations Committee, indicates that Senate provisions would be retained allowing funding for school construction and renovation at the "sole" discretion of the LEAs. Motions to instruct Conferees on H.R. 4577 were considered that would allow the highest funding level possible for ED, and second, would agree to disagree with the Senate amendment expanding Title VI block grant funds providing broad discretion and limited accountability to LEAs.