



SECTION BY SECTION

House Committee on Education and Labor

Chairman Robert C. "Bobby" Scott

The Reopen and Rebuild America's Schools Act of 2021

Section 1. Short Title cites the short title of the Act as the "Rebuild America's Schools Act of 2021."

Section 2. Definitions provides definitions for the terms "appropriate congressional committees," "Bureau-funded school," "covered funds," "elementary school," "local educational agency," "outlying area," "secondary school," "public school facilities," "qualified local educational agency," "school infrastructure bond," "Secretary," "State", and "zero energy school".

Title I— Grants for the Long-Term Improvement of Public School Facilities

Section 101. Purpose and Reservation states the purpose of this Act, which is to support "long-term improvements to public school facilities." This section reserves 0.5% of funds for the outlying areas and 0.5% of funds for schools funded by the Bureau of Indian Education (BIE).

Section 102. Allocation to States outlines the allocation of funds to States as well as State responsibilities under this Act. States shall be allocated funds in proportion to the funds that all Local Education Agencies (LEAs) in the State receive under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA). This section requires States to issue and review regulations to ensure safe, healthy, and high-performing buildings and develop an online, publicly searchable database that outlines the condition of all public school facilities in the State. Other State requirements include a 10% matching requirement, a commitment to maintain school infrastructure spending provision, and a supplement-not-supplant provision. The matching requirement additionally allows States to use federal sources in fiscal years when appropriations exceed \$7 billion. This section also requires that States submit a plan to the Secretary of Education (Secretary) for approval to carry out the competitive grant program described in Section 103.

Section 103. Need-Based Grants to Qualified Local Educational Agencies includes eligibility requirements and other provisions for the competitive grant program. States shall allocate all funds competitively to LEAs based on the poverty level of the school, fiscal limitations to raise funds to improve school facilities, and the severity of the need to improve school facilities. For the FY 2022 funds, States must prioritize subgrants to fund projects necessary to reopen schools in line with Center for Disease and Control and Prevention (CDC) guidelines. States must also ensure that the distribution of grants represents the geographic diversity of the State. States must set reasonable thresholds for whether schools meet high percentages or high numbers of students living in poverty for eligibility. States may distribute up to 10% of the total allocation of grants to enable LEAs to leverage existing public programs or public-private partnerships to expand access to high-speed broadband sufficient for digital learning. Section 103 also includes the requirements for an LEA application.

Section 104. Annual Report on Grant Program requires that the Secretary of Education annually submit to Congress a report that includes a description of the projects carried out under the grant program as well as the demographic information of students attending schools that used funds from the grant program.

Section 105. Authorization of Appropriations authorizes \$100 billion total to be appropriated for Title I of this Act from FY 2022 through FY 2026 and provides States until September 30, 2030 to spend allocations.

Title II— School Infrastructure Bonds

Sec. 201. Restoration of Certain Qualified Tax Credit Bonds restores Sections 54A, 54E, and 6431 of the Internal Revenue Code of 1986 as if the repeals by the Tax Cuts and Jobs Act of 2017 had not taken effect. It amends Section 54(E)(d)(3) of the Code to allow proceeds from Qualified Zone Academy Bonds to be used for construction and retrofitting of public school facilities. Section 201 permanently increases the national limitation for QZABs from \$400 million annually to \$1.4 billion annually and removes the private business contribution requirement for LEAs to participate in the QZAB program.

Sec. 202. School Infrastructure Bonds amends the Internal Revenue Code of 1986 by adding “Section 54BB. School Infrastructure Bonds.” Section 202 designates a total national bond limitation of \$30 billion for qualified school infrastructure bonds (QSIBs), \$10 billion each for FY 2022, FY 2023, and FY 2024. States may distribute up to 10% of the total bond limitation to enable LEAs to leverage existing public programs or public-private partnerships to expand access to high-speed broadband sufficient for digital learning.

Section 202 also:

- allocates bond authority to states based on the proportion of funds that States receive under Title I, Part A of ESEA;
- requires that the federal government provide a tax credit of 100 percent of the interest on any QSIB—such credit may be issued as a tax credit to the bondholder or as a direct payment to the bond issuer;
- reserves 0.5% of the bond allocation for outlying areas, and 0.5% of the bond allocation for schools funded by the BIE; and
- requires States to use the same criteria outlined in Section 103 in distribution of bond authority, excluding provisions related to fiscal capacity, to LEAs.

Section 203. Annual Report on Bond Program requires the Secretary of Education to annually submit to Congress a report that includes the LEAs that participated in the bond program as well as LEAs that were unable to participate due to fiscal challenges.

Title III—Uses of Funds

Section 301. Allowable Uses outlines the allowable uses of funds for Title I and Title II.

Section 302. Prohibited Uses outlines prohibited use of funds for Title I and Title II.

Section 303. Requirements for Hazard-Resistance and Energy and Water Conservation. Requires LEAs that receive funds for new construction to meet or exceed the requirements of a nationally recognized, consensus-based model building code, and the performance criteria under the WaterSense program of the Energy Policy and Conservation Act (42 U.S.C. 6294b).

Section 304. Green Practices outlines the requirements for green practices for Title I and Title II projects.

Section 305. Use of American Iron, Steel, and Manufactured Products includes a Buy America provision for iron, steel, and manufactured products.

Title IV—Reports and Other Matters

Section 401. Comptroller General requires the Comptroller General to submit to Congress a report that must include the geographic distribution of projects, the impact of projects on student and staff health and safety, and how funds under these projects could be made more accessible to high-poverty schools and those with fiscal capacities.

Section 402. Study and Report of Physical Conditions of Public Schools requires that the Institute of Educational Sciences carry out a national study that includes the condition of public school facilities as well as the impact of such facilities on students and staff.

Section 403. Development of Data Standards requires that the Secretary of Education, in consultation with the EPA, CDC, DOE, and NIOSH, develop guidance on data to be collected by States under Section 102.

Section 404. Information Clearinghouse requires that the Secretary of Education, in consultation with the officials in Section 307, to disseminate information to schools on financing for green projects.

Section 405. Sense of Congress on Opportunity Zones that opportunity zones, when combined with public infrastructure investment, can provide an innovative approach to help rebuild local schools and economies.

Title V—Impact Aid Construction

Section 501. Temporary Increase in Funding for Impact Aid Construction temporarily increases funding for the Impact Aid Construction program under ESEA by \$170 million over FY 2022, 2023, 2024, 2025 and 2026.

Title V—Assistance for Repair of School Foundations Affected by Pyrrhotite

Section 501. Allocations to States requires the Secretary of Education to create a program, within 180 days of the bill's enactment into law, that would provide federal funding to states to distribute grants to LEAs for the repair or replacement of crumbling foundations due to pyrrhotite. Requires the Secretary of Education to publish on the Department of Education's website instructions on how a state may receive funding for this program.

Section 502. Grants to Local Educational Agencies requires the Secretary to award funds to states to either pay the future costs of repairing foundations deteriorating due to pyrrhotite, or to reimburse LEAs for the cost of repairs or replacement during the previous five-year period prior to this provision becoming law.

Eligibility: LEAs must demonstrate that the school contains pyrrhotite in the foundation using proper laboratory, core, or visual inspections done by a professional engineer licensed in the state. LEAs must also have had any testing of the foundation done through the proper channels outlined by the state or other entity overseeing relief efforts for crumbling foundations. The LEA must also only use the funding for the allowable uses described in the bill and must have all work performed by a contractor or architect licensed in the state. The LEA must meet these same requirements for a reimbursement grant and must provide information indicating that the project was carried out with these parameters at the time it was completed.

Application: LEAs must submit an application to the state including, at minimum, information pertaining to the LEA's eligibility requirements, and an estimate of the cost of doing the construction. If the LEA is applying for reimbursement, their application must include eligibility requirements as well as an itemized explanation of the

costs incurred for their project, as well as any amounts they already received from other federal, state, local, or private sources. If applying for reimbursement, the LEA must also include the amount of reimbursement funds requested and the percentage of any funds covered by an insurance policy.

Approval and Disbursement: The state must approve any application from an LEA that is complete with the criteria outlined above. The state will then transmit an application to the Secretary. Within 60 days of receiving the application from the state, the Secretary must either approve or deny the application. If the Secretary approves the application, the Secretary must disburse funds to the state within 60 days of the application's approval. Once the state has received the funds from the Secretary, the state must disburse those funds to the LEA within 60 days.

Federal Share: To be eligible for federal funds, the state must provide at least 40% of the project's total costs, in the case of both reimbursement and grants made out in the future. In addition, the federal government may not provide any more than 50% of the total cost of the project.

Allowable Uses: Funds may be used to repair or replace a concrete foundation and other affected areas of a school in order to restore the structural integrity of the school to the health and safety standards outlined by the project's architect or engineer, and to restore the school to the condition it was in prior to the foundation's damage due to pyrrhotite. Funding may be used for engineering reports, architectural design, core tests, and other activities directly related to the project.

Prohibited Uses: LEAs receiving federal funds for a project may not use this funding for any work done to outbuildings, sheds, barns, swimming pools, playgrounds, ballfields, ponds, or water features. Funds may not be used for the purchase of any items not directly related to the repair or replacement of the school's crumbling foundation. Prohibited items include desks, chairs, electronics, sports equipment, or other school supplies. Any other activities not explicitly described in the "allowable uses" section are also prohibited.

Interaction with Title I: LEAs may not use funds under this title and Title I for the same project.

Section 503. Definitions provides definitions for the terms "Pyrrhotite-affected school" and "qualified contractor."

Section 504. Authorization of Appropriations requires funds to be authorized to carry out the program for fiscal year 2022 and each fiscal year afterwards.