

119TH CONGRESS
1ST SESSION

S. _____

To provide Federal-local community partnership construction funding to local educational agencies eligible to receive payments under the Impact Aid program.

IN THE SENATE OF THE UNITED STATES

Ms. HIRONO introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To provide Federal-local community partnership construction funding to local educational agencies eligible to receive payments under the Impact Aid program.

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 “Impact Aid Infrastruc-
5 ture Partnership Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) A significant percentage of federally im-
9 pacted local educational agencies serve schools with

1 facilities that fall far short of meeting basic life-safe-
2 ty standards that ensure a safe learning environ-
3 ment for students and staff alike.

4 (2) The American Society of Civil Engineers
5 rated school facilities nationally a D+. Many school
6 buildings of schools served by federally impacted
7 local educational agencies were built more than 65
8 years ago.

9 (3) A 2009 study by the Government Account-
10 ability Office found that better school facilities were
11 associated with positive student outcomes in aca-
12 demic achievement, attendance, and higher gradua-
13 tion rates. A second Government Accountability Of-
14 fice study conducted in 2020, concluded that many
15 school facilities of schools served by federally im-
16 pacted local educational agencies are in need of re-
17 pair, modernization, renovation, or replacement.

18 (4) Data compiled through surveys of federally
19 impacted local educational agencies by both the Na-
20 tional Association of Federally Impacted Schools and
21 the National Indian Impacted Schools Association
22 revealed the following:

23 (A) 65 percent of respondents indicated
24 their facilities are in fair to poor condition.

1 (B) 26 percent of respondents have build-
2 ings that are more than 80 years old.

3 (C) 53 percent of respondents have no
4 practical capacity to issue bonds.

5 (D) 82 percent of respondents identified
6 “lack of funds” as a reason for delaying con-
7 struction projects. Construction costs in rural,
8 many times geographically remote, local edu-
9 cational agencies have increased by 30 percent
10 or more in recent years making facility up-
11 grades and replacement even more challenging.

12 (5) Local educational agencies with some bond-
13 ing capacity or that have access to other sources of
14 funding are still in need of assistance to improve
15 their buildings to ensure a safe learning environ-
16 ment.

17 (6) Federally impacted local educational agen-
18 cies located in rural settings have generally higher
19 labor costs and transportation costs for workers and
20 materials that have to be brought to a school con-
21 struction site than local educational agencies located
22 in an urban setting with school construction costs.
23 Such costs are normally built in by the contractor
24 affecting the total cost of the project.

1 (7) Teacher recruitment and retention is a
2 major challenge for local educational agencies serv-
3 ing students residing on Indian Treaty and Federal
4 trust land as well as land conveyed pursuant to the
5 Alaska Native Claims Settlement Act (43 U.S.C.
6 1601 et seq.). Because there are no private housing
7 or rental units available to non-Tribal members, the
8 local educational agency must build and maintain
9 rental units. Without local educational agency owned
10 housing, the daily commute can be as much as 90
11 miles or more each way. One Arizona local edu-
12 cational agency estimated that the cost to rebuild
13 antiquated teacher housing to be \$100,000,000.

14 (8) It is common practice that State edu-
15 cational agencies compile infrastructure needs in the
16 local educational agencies located in the State. For
17 example, the Hawaii Department of Education has
18 identified more than \$2,000,000,000 in needed re-
19 pair, renovation, and construction projects to ad-
20 dress—

21 (A) structural and health and safety needs;

22 (B) compliance with the Americans with
23 Disabilities Act of 1990 (42 U.S.C. 12101 et
24 seq.) and title IX of the Education Amend-
25 ments of 1972 (20 U.S.C. 1681 et seq.); and

1 (C) various other infrastructure and con-
2 struction needs.

3 (b) PURPOSES.—The purpose of this Act is to provide
4 a collaborative Federal-local community partnership that
5 will provide both Federal and local funding to address the
6 facility needs of federally impacted local educational agen-
7 cies. The partnership shall be designed to—

8 (1) provide formula grants to federally im-
9 pacted local educational agencies that have no capac-
10 ity to issue bonds because of the presence of large
11 parcels of non-taxable Federal property;

12 (2) provide partnership grants requiring a local
13 match to local educational agencies that have a lim-
14 ited capacity to provide facility funding;

15 (3) base local matching dollars on the learning
16 opportunity threshold total percentage, as described
17 in subparagraph (B)(i) of section 7003(b)(3) of the
18 Elementary and Secondary Education Act of 1965
19 (20 U.S.C. 7703(b)(3)); and

20 (4) provide grants under section 7007(a) of the
21 Elementary and Secondary Education Act of 1965
22 (20 U.S.C. 7707(a)) to address local educational
23 agency needs to modernize and provide basic build-
24 ing improvements.

1 **SEC. 3. IMPACT AID CONSTRUCTION GRANTS AUTHORIZED.**

2 (a) FUNDING AND SUNSET.—

3 (1) AUTHORIZATION OF APPROPRIATIONS.—

4 (A) IN GENERAL.—There are authorized to
5 be appropriated \$250,000,000 for the first fis-
6 cal year that begins after the date of enactment
7 of this Act, and each of the 3 succeeding fiscal
8 years.

9 (B) DESIGNATION.—Of the amount appro-
10 priated for each fiscal year, the Secretary of
11 Education shall designate—

12 (i) 75 percent for competitive grants
13 awarded under section 4; and

14 (ii) 25 percent for formula grants
15 awarded under section 5.

16 (2) SUPPLEMENTAL FUNDING.—The amount
17 authorized under paragraph (1) shall be in addition
18 to any amounts authorized to be appropriated or
19 otherwise made available to carry out section 7007
20 of the Elementary and Secondary Education Act of
21 1965 (20 U.S.C. 7707).

22 (3) AVAILABILITY OF FUNDS.—Any amounts
23 appropriated under paragraph (1) shall remain
24 available until expended.

25 (4) SUNSET.—The authority to award grants
26 under this Act shall expire at the end of the 4-year

1 period beginning on the date in which funds are first
2 made available to award a grant under this Act.

3 (b) RESERVATION FOR TECHNICAL ASSISTANCE,
4 MANAGEMENT, AND OVERSIGHT.—From the funds appro-
5 priated under subsection (a)(1), the Secretary of Edu-
6 cation may reserve not more than half of 1 percent for
7 technical assistance, management, and oversight of the ac-
8 tivities carried out with those funds.

9 **SEC. 4. COMPETITIVE GRANT AWARDS BASED ON FACILITY**
10 **CONDITION.**

11 The Secretary of Education shall, based on applica-
12 tions submitted by local educational agencies under sec-
13 tion 6 and eligible for payments under section 7002 of
14 the Elementary and Secondary Education Act of 1965 (20
15 U.S.C. 7702) or section 7003 of the Elementary and Sec-
16 ondary Education Act of 1965 (20 U.S.C. 7703), establish
17 a facility condition priority listing for grant awards as fol-
18 lows:

19 (1) EMERGENCY GRANTS PRIORITY ONE.—The
20 Secretary of Education shall award grants, on a
21 competitive basis, by first identifying those local
22 educational agencies—

23 (A) that have a facility—

24 (i) as certified by a State, county,
25 city, or Tribal official or a licensed archi-

1 tect or engineer, that is in violation of a
2 Federal, State, county, city, or Tribal
3 building code representing a health hazard
4 to students and school personnel;

5 (ii) that fails to meet building and
6 classroom standards to ensure the health
7 and safety of students and staff, as set by
8 the Centers for Disease Control and Pre-
9 vention, requiring classroom building modi-
10 fication or replacement to—

11 (I) ensure quality ventilation sys-
12 tems;

13 (II) ensure classroom space to re-
14 duce class sizes and ensure social
15 distancing guidelines when required;

16 (III) address structural defi-
17 ciencies; and

18 (IV) address other health, safety,
19 and environmental conditions that
20 would impact the health, safety, and
21 learning ability of students;

22 (iii) that is not in compliance with
23 meeting student capacity standards as re-
24 quired by the State, including failure to

1 meet accessibility standards for persons
2 with disabilities; or

3 (iv) that lacks adequate service capac-
4 ity or infrastructure necessary to utilize
5 technology to offer a curriculum that
6 meets the current academic standards in
7 the State in which the local educational
8 agency is located; or

9 (B) in the case of local educational agen-
10 cies eligible for payments under section
11 7003(a)(1)(C) of the Elementary and Sec-
12 ondary Education Act of 1965 (20 U.S.C.
13 7703(a)(1)(C)), that have teacher housing that
14 is in need of repair or new construction to meet
15 the needs of school personnel residing in such
16 housing.

17 (2) EMERGENCY GRANTS PRIORITY TWO.—
18 After identifying those local educational agencies as
19 described in paragraph (1) for priority in grant
20 awards, the Secretary of Education shall then award
21 grants, on a competitive basis, by identifying those
22 local educational agencies that—

23 (A) have a facility that—

24 (i) does not meet minimum structural
25 or health and safety standards as adopted

1 by the American Society of Civil Engineers
2 and is considered to be in poor condition
3 and represents a potential health or safety
4 hazard to students and school personnel,
5 including due to—

- 6 (I) poor indoor air quality;
7 (II) the presence of hazardous
8 and toxic substances and chemicals;
9 (III) the lack of safe drinking
10 water at the tap and water used for
11 meal preparation, including due to the
12 level of lead and other contaminants
13 in such water;
14 (IV) energy and water ineffi-
15 ciency;
16 (V) excessive classroom noise;
17 (VI) structural deficiencies; or
18 (VII) other health, safety, and
19 environmental conditions that would
20 impact the health, safety, and learn-
21 ing ability of students;

22 (ii) is not in compliance with meeting
23 student capacity standards as required by
24 the State, including failure to meet accessi-

1 bility standards for persons with disabil-
2 ities; or

3 (iii) lacks adequate services necessary
4 to utilize technology to offer a curriculum
5 that meets the current academic standards
6 in the State in which the local educational
7 agency is located; or

8 (B) in the case of local educational agen-
9 cies eligible for payments under section
10 7003(a)(1)(C) of the Elementary and Sec-
11 ondary Education Act of 1965 (20 U.S.C.
12 7703(a)(1)(C)), have an identified need for
13 teacher housing to ensure a safe living environ-
14 ment for teachers and their families or a need
15 for repair of existing housing or new construc-
16 tion to meet the basic needs of school personnel
17 residing in such housing.

18 **SEC. 5. FORMULA GRANTS.**

19 From funds designated under section 3(a)(1)(B)(ii),
20 the Secretary of Education shall make payments in ac-
21 cordance with section 7007(a) of the Elementary and Sec-
22 ondary Education Act of 1965 (20 U.S.C. 7707(a)), ex-
23 cept that—

24 (1) when calculating the total number of
25 weighted student units as described in paragraph

1 (3)(A)(i)(II) of section 7007(a) of the Elementary
2 and Secondary Education of 1965 (20 U.S.C.
3 7707(a)), the Secretary of Education shall also in-
4 clude the total number of weighted student units of
5 children described in subparagraphs (B) and (D)(i)
6 of section 7003(a)(1) of such Act for the preceding
7 year for all local educational agencies not meeting
8 the requirements as described in section
9 7007(a)(2)(B) of such Act but that meet the re-
10 quirements of section 572(a)(2) of the National De-
11 fense Authorization Act for Fiscal Year 2006 (20
12 U.S.C. 7703b(a)(2)); and

13 (2) when calculating the total number of
14 weighted student units as described in section
15 7003(a)(1)(C) of the Elementary and Secondary
16 Education of 1965 (20 U.S.C. 7703(a)(1)(C)), the
17 Secretary of Education shall also include the number
18 of children determined under section 7003(a)(1)(C)
19 of such Act for the preceding school year that con-
20 stituted at least 20 percent of the total student en-
21 rollment in the schools of the agency during the pre-
22 ceding school year.

23 **SEC. 6. APPLICATION.**

24 A local educational agency eligible to apply for a
25 grant section 4 that desires to receive a grant shall submit

1 an application at such a time and containing such infor-
2 mation as determined appropriate by the Secretary of
3 Education.

4 **SEC. 7. AWARD CRITERIA.**

5 When awarding a grant under section 4, the Sec-
6 retary of Education shall first apply the facility condition
7 priority listing established under such section, and after
8 such priority requirements are applied, the Secretary of
9 Education shall then—

10 (1) first consider those local educational agen-
11 cies (or, in the case of a local educational agency
12 that does not have the authority to tax or issue
13 bonds, the agency's fiscal agent) that have limited or
14 no capacity to issue bonds or have a total assessed
15 value of real property that may be taxed for school
16 purposes of less than \$50,000,000;

17 (2) next consider those local educational agen-
18 cies not described in paragraph (1) that—

19 (A) have a total assessed value of real
20 property that may be taxed for school purposes
21 of less than \$100,000,000; or

22 (B) have an assessed value of real property
23 that may be taxed for school purposes per stu-
24 dent that is less than the average of the as-
25 sessed value of real property that may be taxed

1 for school purposes per student in the State in
2 which the local educational agency is located;
3 and

4 (3) finally consider—

5 (A) the number and percentages of chil-
6 dren described in subparagraphs (A), (B), (C),
7 and (D) of section 7003(a)(1) of the Elemen-
8 tary and Secondary Education Act of 1965 (20
9 U.S.C. 7703(a)(1)) enrolled in the school facil-
10 ity to be supported with grant funds;

11 (B) the learning opportunity threshold
12 total percentage as described in subparagraph
13 (B)(i) of section 7003(b)(3) of such Act (20
14 U.S.C. 7703(b)(3));

15 (C) with respect to local educational agen-
16 cies eligible for payments under section 7002 of
17 such Act (20 U.S.C. 7702), the percentage of
18 land in the local educational agency that is
19 Federal property;

20 (D) the potential use for community pro-
21 grams and events in the school facility to be
22 supported with grant funds;

23 (E) the feasibility of project completion
24 within 24 months from the grant award; and

1 (F) the availability of other resources for
2 the proposed project including the use of in-
3 kind contributions.

4 **SEC. 8. PAYMENTS.**

5 (a) IN GENERAL.—When making payments for
6 grants awarded under this Act, the Secretary of Education
7 shall comply with the following:

8 (1) Make payment as required in full for those
9 local educational agencies described in section 4(1)
10 with no capacity to issue bonds.

11 (2) Require those local educational agencies not
12 described in paragraph (1) to pay a percentage of
13 the total cost of the project supported with grant
14 funds as follows:

15 (A) For those local educational agencies
16 with a learning opportunity threshold total per-
17 centage, as described in subparagraph (B)(i) of
18 section 7003(b)(3) of the Elementary and Sec-
19 ondary Education Act of 1965 (20 U.S.C.
20 7703(b)(3))—

21 (i) that is 80 percent or greater, such
22 agencies shall pay a non-Federal share
23 equal to 10 percent of the total cost of the
24 project;

1 (ii) that is less than 80 percent, but
2 50 percent or greater, such agencies shall
3 pay a non-Federal share equal to 20 per-
4 cent of the total cost of the project; and

5 (iii) that is less than 50 percent, such
6 agencies shall pay a non-Federal share
7 equal to 25 percent of the total cost of the
8 project.

9 (B) For those local educational agencies el-
10 igible to receive a payment under section 7002
11 of the Elementary and Secondary Education
12 Act of 1965 (20 U.S.C. 7702) that are not de-
13 scribed in paragraph (1) of section 4, such
14 agencies shall pay a non-Federal share equal to
15 25 percent of the total cost of the project.

16 (3) Make payment as required in full for those
17 local educational agencies described in paragraph (1)
18 or (2) of section 4, whose payment is \$5,000,000 or
19 less for the year in which they are to receive the
20 grant.

21 (4) Make payment to those local educational
22 agencies described in paragraph (1) or (2) of section
23 4, whose payment is more than \$5,000,000 for the
24 year in which they are to receive the grant, after
25 final drawings and specifications have been approved

1 by the Secretary of Education and the construction
2 contract has been entered into, in accordance with
3 requirements as determined by the Secretary of
4 Education and at such times and in such install-
5 ments as may be reasonable.

6 (b) REDISTRIBUTION OF PAYMENTS.—Any funds
7 paid to a local educational agency under this Act and not
8 expended, by such a time as determined by the Secretary
9 of Education, for the purposes for which such funds are
10 paid shall be redistributed to make payments under sec-
11 tion 7007(a) of the Elementary and Secondary Education
12 Act of 1965 (20 U.S.C. 7707(a)).

13 **SEC. 9. GENERAL PROVISIONS.**

14 (a) USE OF FUNDS.—

15 (1) AUTHORIZED ACTIVITIES.—Grant funds
16 under this Act may be used for one or more of the
17 following:

18 (A) Construction.

19 (B) Renovation.

20 (C) Repair of school facilities.

21 (2) IN-KIND CONTRIBUTIONS.—A local edu-
22 cational agency may use in-kind contributions to
23 meet the non-Federal share requirement under sec-
24 tion 8(a)(2).

1 (3) PROHIBITIONS ON USE OF FUNDS.—A local
2 educational agency may not use a grant awarded
3 under paragraph (1) or (2) of section 4 for—

4 (A) a project for a school facility for which
5 the agency does not have—

6 (i) full title;

7 (ii) a long-term Tribal lease agree-
8 ment; or

9 (iii) another interest as defined in reg-
10 ulation by the Secretary of Education; and

11 (B) the acquisition of real property.

12 (4) SUPPLEMENT, NOT SUPPLANT.—A local
13 educational agency shall use funds awarded under
14 this Act only to supplement the amount of funds
15 that would, in the absence of the Federal funds pro-
16 vided under the grant, be made available from non-
17 Federal sources to carry out construction, renova-
18 tion, or repairs of school facilities as described in
19 this Act and not to supplant such funds.

20 (b) ANNUAL REPORT ON GRANT PROGRAM.—Not
21 later than September 30 of the first fiscal year that begins
22 after the Secretary of Education first awards grants under
23 this Act and each fiscal year thereafter, the Secretary of
24 Education shall submit to the appropriate congressional
25 committees, and make publicly available, a report on the

1 projects carried out with funds made available under this
2 Act.

3 (c) CARRY-OVER OF CERTAIN APPLICATIONS.—

4 (1) IN GENERAL.—A local educational agency
5 that applies for a grant under this Act for a fiscal
6 year and does not receive the grant for the fiscal
7 year shall have the application for the grant consid-
8 ered for the following fiscal year not to exceed the
9 end of the 4-year period as described in paragraph
10 (4) of section 3(a), subject to the priority require-
11 ments of paragraphs (1) and (2) of section 4.

12 (2) PRIORITY LISTING.—The Secretary of Edu-
13 cation shall—

14 (A) maintain a priority listing of local edu-
15 cational agencies meeting the eligibility require-
16 ments found in—

17 (i) paragraph (1) of section 4; and

18 (ii) paragraph (2) of section 4; and

19 (B) update the listing for each of para-
20 graphs (1) and (2) of section (4), including
21 those local educational agencies that applied for
22 the previous fiscal year, but were not funded
23 and for those agencies applying the succeeding
24 fiscal year.

1 (d) LOCAL EDUCATIONAL AGENCY DEFINED.—In
2 this Act, the term “local educational agency” has the
3 meaning given the term in section 7013 of the Elementary
4 and Secondary Education Act of 1965 (20 U.S.C. 7713).