

.....
(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Mr. GARAMENDI introduced the following bill; which was 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:

1 (1) A significant percentage of federally im-
2 pacted local educational agencies serve schools with
3 facilities that fall far short of meeting basic life-safe-
4 ty standards that ensure a safe learning environ-
5 ment for students and staff alike.

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

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

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

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

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

5 (C) 53 percent of respondents have no
6 practical capacity to issue bonds.

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

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

19 (6) Federally impacted local educational agen-
20 cies located in rural settings have generally higher
21 labor costs and transportation costs for workers and
22 materials that have to be brought to a school con-
23 struction site than local educational agencies located
24 in an urban setting with school construction costs.

1 Such costs are normally built in by the contractor
2 affecting the total cost of the project.

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

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

23 (A) structural and health and safety needs;
24 (B) compliance with the Americans with
25 Disabilities Act of 1990 (42 U.S.C. 12101 et

1 seq.) and title IX of the Education Amend-
2 ments of 1972 (20 U.S.C. 1681 et seq.); and

3 (C) various other infrastructure and con-
4 struction needs.

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

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

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

17 (3) base local matching dollars on the learning
18 opportunity threshold total percentage, as described
19 in subparagraph (B)(i) of section 7003(b)(3) of the
20 Elementary and Secondary Education Act of 1965
21 (20 U.S.C. 7703(b)(3)); and

22 (4) provide grants under section 7007(a) of the
23 Elementary and Secondary Education Act of 1965
24 (20 U.S.C. 7707(a)) to address local educational

1 agency needs to modernize and provide basic build-
2 ing improvements.

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

4 (a) FUNDING AND SUNSET.—

5 (1) AUTHORIZATION OF APPROPRIATIONS.—

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

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

14 (i) 75 percent for grants awarded
15 under paragraphs (1) and (2) of section 4;
16 and

17 (ii) 25 percent for grants awarded
18 under section 4(3).

19 (2) SUPPLEMENTAL FUNDING.—The amount
20 authorized under paragraph (1) shall be in addition
21 to any amounts authorized to be appropriated or
22 otherwise made available to carry out section 7007
23 of the Elementary and Secondary Education Act of
24 1965 (20 U.S.C. 7707).

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

4 (4) SUNSET.—The authority to award grants
5 under this Act shall expire at the end of the 4-year
6 period beginning on the date in which funds are first
7 made available to award a grant under this Act.

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

14 **SEC. 4. COMPETITIVE GRANT AWARDS BASED ON FACILITY**
15 **CONDITION.**

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

1 (1) EMERGENCY GRANTS PRIORITY ONE.—The
2 Secretary of Education shall award grants by first
3 identifying those local educational agencies—

4 (A) that have a facility—

5 (i) as certified by a State, county,
6 city, or Tribal official or a licensed archi-
7 tect or engineer, that is in violation of a
8 Federal, State, county, city, or Tribal
9 building code representing a health hazard
10 to students and school personnel;

11 (ii) that fails to meet building and
12 classroom standards to ensure the health
13 and safety of students and staff, as set by
14 the Centers for Disease Control and Pre-
15 vention, requiring classroom building modi-
16 fication or replacement to—

17 (I) ensure quality ventilation sys-
18 tems;

19 (II) ensure classroom space to re-
20 duce class sizes and ensure social
21 distancing guidelines when required;

22 (III) address structural defi-
23 ciencies, and

24 (IV) address other health, safety,
25 and environmental conditions that

1 would impact the health, safety, and
2 learning ability of students;

3 (iii) that is not in compliance with
4 meeting student capacity standards as re-
5 quired by the State, including failure to
6 meet accessibility standards for persons
7 with disabilities; or

8 (iv) that lacks adequate service capac-
9 ity or infrastructure necessary to utilize
10 technology to offer a curriculum that
11 meets the current academic standards in
12 the State in which the local educational
13 agency is located; or

14 (B) in the case of local educational agen-
15 cies eligible for payments under section
16 7003(a)(1)(C) of the Elementary and Sec-
17 ondary Education Act of 1965 (20 U.S.C.
18 7703(a)(1)(C)), that have teacher housing that
19 is in need of repair or new construction to meet
20 the needs of school personnel residing in such
21 housing.

22 (2) EMERGENCY GRANTS PRIORITY TWO.—
23 After identifying those local educational agencies as
24 described in paragraph (1) for priority in grant
25 awards, the Secretary of Education shall then award

1 grants by identifying those local educational agencies
2 that—

3 (A) have a facility that—

4 (i) does not meet minimum structural
5 or health and safety standards as adopted
6 by the American Society of Civil Engineers
7 and is considered to be in poor condition
8 and represents a potential health or safety
9 hazard to students and school personnel,
10 including due to—

11 (I) poor indoor air quality;

12 (II) the presence of hazardous
13 and toxic substances and chemicals;

14 (III) the lack of safe drinking
15 water at the tap and water used for
16 meal preparation, including due to the
17 level of lead and other contaminants
18 in such water;

19 (IV) energy and water ineffi-
20 ciency;

21 (V) excessive classroom noise;

22 (VI) structural deficiencies; or

23 (VII) other health, safety, and
24 environmental conditions that would

1 impact the health, safety, and learn-
2 ing ability of students;

3 (ii) is not in compliance with meeting
4 student capacity standards as required by
5 the State, including failure to meet accessi-
6 bility standards for persons with disabil-
7 ities; or

8 (iii) lacks adequate services necessary
9 to utilize technology to offer a curriculum
10 that meets the current academic standards
11 in the State in which the local educational
12 agency is located; or

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

23 **SEC. 5. FORMULA GRANTS.**

24 From funds designated under section 3(a)(1)(B)(ii),
25 the Secretary of Education shall make payments in ac-

1 cordance with section 7007(a) of the Elementary and Sec-
2 ondary Education Act of 1965 (20 U.S.C. 7707(a)), ex-
3 cept that—

4 (1) when calculating the total number of
5 weighted student units as described in paragraph
6 (3)(A)(i)(II) of section 7007(a) of the Elementary
7 and Secondary Education of 1965 (20 U.S.C.
8 7707(a)), the Secretary of Education shall also in-
9 clude the total number of weighted student units of
10 children described in subparagraphs (B) and (D)(i)
11 of section 7003(a)(1) of such Act for the preceding
12 year for all local educational agencies not meeting
13 the requirements as described in section
14 7007(a)(2)(B) of such Act but that meet the re-
15 quirements of section 572(a)(2) of the National De-
16 fense Authorization Act for Fiscal Year 2006 (20
17 U.S.C. 7703b(a)(2)); and

18 (2) when calculating the total number of
19 weighted student units as described in section
20 7003(a)(1)(C) of the Elementary and Secondary
21 Education of 1965 (20 U.S.C. 7703(a)(1)(C)), the
22 Secretary of Education shall include the number of
23 children determined under section 7003(a)(1)(C) of
24 such Act for the preceding school year that con-
25 stituted at least 20 percent of the total student en-

1 rollment in the schools of the agency during the pre-
2 ceding school year.

3 **SEC. 6. APPLICATION.**

4 A local educational agency eligible to apply for a
5 grant under paragraph (1) or (2) of section 4 that desires
6 to receive a grant shall submit an application at such a
7 time and containing such information as determined ap-
8 propriate by the Secretary of Education.

9 **SEC. 7. AWARD CRITERIA.**

10 When awarding a grant under paragraph (1) or (2)
11 of paragraph (4), the Secretary shall first apply the facil-
12 ity condition priority listing established under such sec-
13 tion, and after such priority requirements are applied, the
14 Secretary of Education shall then—

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

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

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

4 (B) have an assessed value of real property
5 that may be taxed for school purposes per stu-
6 dent that is less than the average of the as-
7 sessed value of real property that may be taxed
8 for school purposes per student in the State in
9 which the local educational agency is located;
10 and

11 (3) finally consider—

12 (A) the number and percentages of chil-
13 dren described in subparagraphs (A), (B), (C),
14 and (D) of section 7003(a)(1) of the Elemen-
15 tary and Secondary Education Act of 1965 (20
16 U.S.C. 7703(a)(1)) enrolled in the school facil-
17 ity to be supported with grant funds;

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

22 (C) with respect to local educational agen-
23 cies eligible for payments under section 7002 of
24 such Act (20 U.S.C. 7702), the percentage of

1 land in the local educational agency that is
2 Federal property;

3 (D) the potential use for community pro-
4 grams and events in the school facility to be
5 supported with grant funds;

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

8 (F) the availability of other resources for
9 the proposed project including the use of in-
10 kind contributions.

11 **SEC. 8. PAYMENTS.**

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

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

18 (2) Require those local educational agencies not
19 described in paragraph (1) to pay a percentage of
20 the total cost of the project supported with grant
21 funds as follows:

22 (A) For those local educational agencies
23 with a learning opportunity threshold total per-
24 centage, as described in subparagraph (B)(i) of
25 section 7003(b)(3) of the Elementary and Sec-

1 ondary Education Act of 1965 (20 U.S.C.
2 7703(b)(3))—

3 (i) that is 80 percent or greater, such
4 agencies shall pay a non-Federal share
5 equal to 10 percent of the total cost of the
6 project;

7 (ii) that is less than 80 percent, but
8 50 percent or greater, such agencies shall
9 pay a non-Federal share equal to 20 per-
10 cent of the total cost of the project; and

11 (iii) that is less than 50 percent, such
12 agencies shall pay a non-Federal share
13 equal to 25 percent of the total cost of the
14 project.

15 (B) For those local educational agencies el-
16 igible to receive a payment under section 7002
17 of the Elementary and Secondary Education
18 Act of 1965 (20 U.S.C. 7702) that are not de-
19 scribed in paragraph (1) of section 4, such
20 agencies shall pay a non-Federal share equal to
21 25 percent of the total cost of the project.

22 (3) Make payment as required in full for those
23 local educational agencies described in paragraph (1)
24 or (2) of section 4, whose payment is \$5,000,000 or

1 less for the year in which they are to receive the
2 grant.

3 (4) Make payment to those local educational
4 agencies described in paragraph (1) or (2) of section
5 4, whose payment is more than \$5,000,000 for the
6 year in which they are to receive the grant, after
7 final drawings and specifications have been approved
8 by the Secretary of Education and the construction
9 contract has been entered into, in accordance with
10 requirements as determined by the Secretary and at
11 such times and in such installments as may be rea-
12 sonable.

13 (b) REDISTRIBUTION OF PAYMENTS.—Any funds
14 paid to a local educational agency under this Act and not
15 expended, by such a time as determined by the Secretary
16 of Education, for the purposes for which such funds are
17 paid shall be redistributed to make payments under sec-
18 tion 7007(a) of the Elementary and Secondary Education
19 Act of 1965 (20 U.S.C. 7707(a)).

20 **SEC. 9. GENERAL PROVISIONS.**

21 (a) USE OF FUNDS.—

22 (1) AUTHORIZED ACTIVITIES.—Grant funds
23 under this Act may be used for one or more of the
24 following:

25 (A) Construction.

1 (B) Renovation.

2 (C) Repair of school facilities.

3 (2) IN-KIND CONTRIBUTIONS.—A local edu-
4 cational agency may use in-kind contributions to
5 meet the non-Federal share requirement under sec-
6 tion 8(a)(2).

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

10 (A) a project for a school facility for which
11 the agency does not have—

12 (i) full title;

13 (ii) a long-term Tribal lease agree-
14 ment; or

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

17 (B) the acquisition of real property.

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

1 (b) ANNUAL REPORT ON GRANT PROGRAM.—Not
2 later than September 30 of the first fiscal year after the
3 Secretary of Education first awards grants under this Act
4 and each fiscal year thereafter, the Secretary of Education
5 shall submit to the appropriate congressional committees,
6 and make publicly available, a report on the projects car-
7 ried out with funds made available under this Act.

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

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

17 (2) PRIORITY LISTING.—The Secretary of Edu-
18 cation shall—

19 (A) maintain a priority listing of local edu-
20 cational agencies meeting the eligibility require-
21 ments found in—

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

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

24 (B) update the listing for each of para-
25 graphs (1) and (2) of section (4), including

1 those local educational agencies that applied for
2 the previous fiscal year, but were not funded
3 and for those agencies applying the succeeding
4 fiscal year.

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