

118TH 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.

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IN THE SENATE OF THE UNITED STATES

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

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**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 effecting 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 is 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. As  
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 grants in full to federally impacted  
9 local educational agencies that have no capacity to  
10 issue bonds because of the presence of large parcels  
11 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 each of fiscal  
6 years 2024, 2025, 2026, and 2027 to carry out  
7 this Act.

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

11 (i) 75 percent for grants awarded  
12 under paragraphs (1) and (2) of section 4;  
13 and

14 (ii) 25 percent for grants awarded  
15 under section 4(3).

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 MANAGEMENT AND OVER-  
4 SIGHT.—From the funds appropriated under subsection  
5 (a)(1), the Secretary of Education may reserve not more  
6 than half of 1 percent for management and oversight of  
7 the activities carried out with those funds.

8 **SEC. 4. GRANT AWARDS BASED ON FACILITY CONDITION.**

9 The Secretary of Education shall, based on applica-  
10 tions submitted by local educational agencies under sec-  
11 tion 5 and eligible for payments under section 7002 of  
12 the Elementary and Secondary Education Act of 1965 (20  
13 U.S.C. 7702) or section 7003 of the Elementary and Sec-  
14 ondary Education Act of 1965 (20 U.S.C. 7703), establish  
15 a facility condition priority listing for grant awards as fol-  
16 lows:

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

20 (A) that have a facility—

21 (i) as certified by a State, county, or  
22 Tribal official or a licensed architect or en-  
23 gineer, that is in violation of a Federal,  
24 State, county, or Tribal building code rep-

1           resenting a health hazard to students and  
2           school personnel;

3                   (ii) that fails to meet building and  
4           classroom standards to ensure the health  
5           and life-safety of students and staff, as set  
6           by the Centers for Disease Control and  
7           Prevention, requiring classroom building  
8           modification or replacement to—

9                           (I) ensure quality ventilation sys-  
10                          tems;

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

14                           (III) address structural defi-  
15                          ciencies, and

16                           (IV) address other health, safety,  
17                          and environmental conditions that  
18                          would impact the health, life-safety,  
19                          and learning ability of students;

20                           (iii) that is not in compliance in meet-  
21           ing student capacity standards as required  
22           by the State, including failure to meet ac-  
23           cessibility standards for persons with dis-  
24           abilities; or



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

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

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

21 (A) have a facility that—

22 (i) does not meet minimum structural  
23 or health and safety standards as adopted  
24 by the American Society of Civil Engineers  
25 and is considered to be in poor condition

1 and represents a potential health or safety  
2 hazard to students and school personnel,  
3 including due to—

4 (I) poor indoor air quality;

5 (II) the presence of hazardous  
6 and toxic substances and chemicals;

7 (III) the lack of safe drinking  
8 water at the tap and water used for  
9 meal preparation, including due to the  
10 level of lead and other contaminants  
11 in such water;

12 (IV) energy and water ineffi-  
13 ciency;

14 (V) excessive classroom noise;

15 (VI) structural deficiencies; or

16 (VII) other health, life-safety,  
17 and environmental conditions that  
18 would impact the health, safety, and  
19 learning ability of students;

20 (ii) is not in compliance in meeting  
21 student capacity standards as required by  
22 the State, including failure to meet accessi-  
23 bility standards for persons with disabil-  
24 ities; or

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

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

16 (3) FORMULA GRANTS.—From funds des-  
17 ignated under section 3(a)(1)(B)(ii), the Secretary  
18 of Education shall make payments in accordance  
19 with section 7007(a) of the Elementary and Sec-  
20 ondary Education Act of 1965 (20 U.S.C. 7707(a)),  
21 except that—

22 (A) when calculating the total number of  
23 weighted student units as described in para-  
24 graph (3)(A)(i)(II) of section 7007(a) of the El-  
25 ementary and Secondary Education of 1965 (20

1 U.S.C. 7707(a)), the Secretary of Education  
2 shall include the total number of weighted stu-  
3 dent units of children described in subpara-  
4 graphs (B) and (D)(i) of section 7003(a)(1) of  
5 such Act for the preceding year for all local  
6 educational agencies not meeting the require-  
7 ments as described in section 7007(a)(2)(B) of  
8 such Act but that meet the requirements of sec-  
9 tion 572(a)(2) of the National Defense Author-  
10 ization Act for Fiscal Year 2006 (20 U.S.C.  
11 7703b(a)(2)); and

12 (B) when calculating the total number of  
13 weighted student units as described in section  
14 7003(a)(1)(C) of the Elementary and Sec-  
15 ondary Education of 1965 (20 U.S.C.  
16 7703(a)(1)(C)), the Secretary of Education  
17 shall include the number of children determined  
18 under section 7003(a)(1)(C) of such Act for the  
19 preceding school year that constituted at least  
20 20 percent of the total student enrollment in  
21 the schools of the agency during the preceding  
22 school year.

23 **SEC. 5. APPLICATION.**

24 A local educational agency eligible to apply for a  
25 grant under paragraph (1) or (2) of section 4 that desires

1 to receive a grant shall submit an application in accord-  
2 ance with regulations prescribed by the Secretary of Edu-  
3 cation.

4 **SEC. 6. AWARD CRITERIA.**

5 When awarding a grant under paragraph (1) or (2)  
6 of section 4, the Secretary of Education shall—

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

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

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

19 (B) have an assessed value of real property  
20 that may be taxed for school purposes per stu-  
21 dent that is less than the average of the as-  
22 sessed value of real property that may be taxed  
23 for school purposes per student in the State in  
24 which the local educational agency is located;  
25 and

1 (3) finally consider—

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

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

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

17 (D) the potential use for community pro-  
18 grams and events in the school facility to be  
19 supported with grant funds;

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

22 (F) the availability of other resources for  
23 the proposed project including the use of in-  
24 kind contributions.

1 **SEC. 7. PAYMENTS.**

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

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

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

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

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

22 (ii) that is less than 80 percent but  
23 50 percent or greater, such agencies shall  
24 pay a non-Federal share equal to 20 per-  
25 cent of the total cost of the project; and

1 (iii) that is less than 50 percent, such  
2 agencies shall pay a non-Federal share  
3 equal to 25 percent of the total cost of the  
4 project.

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

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

17 (4) Make payment to those local educational  
18 agencies described in paragraph (1) or (2) of section  
19 4, whose payment is more than \$5,000,000 for the  
20 year in which they are to receive the grant, after  
21 final drawings and specifications have been approved  
22 by the Secretary of Education and the construction  
23 contract has been entered into, in accordance with  
24 regulations prescribed by the Secretary and at such



1 times and in such installments as may be reason-  
2 able.

3 (b) Any funds paid to a local educational agency  
4 under this Act and not expended for the purposes for  
5 which paid shall be redistributed to make payments under  
6 section 7007(a) of the Elementary and Secondary Edu-  
7 cation Act of 1965 (20 U.S.C. 7707(a)) .

8 **SEC. 8. GENERAL PROVISIONS.**

9 (a) USE OF FUNDS.—

10 (1) IN-KIND CONTRIBUTIONS.—A local edu-  
11 cational agency may use in-kind contributions to  
12 meet the non-Federal share requirement under sec-  
13 tion 7(a)(2).

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

17 (A) a project for a school facility for which  
18 the agency does not have—

19 (i) full title;

20 (ii) a long-term Tribal lease agree-  
21 ment; or

22 (iii) another interest as defined in reg-  
23 ulation; and

24 (B) the acquisition of real property.

1           (3) SUPPLEMENT, NOT SUPPLANT.—A local  
2 educational agency shall use funds awarded under  
3 this Act only to supplement the amount of funds  
4 that would, in the absence of the Federal funds pro-  
5 vided under the grant, be made available from non-  
6 Federal sources to carry out repairs of school facili-  
7 ties as described in section 4 and not to supplant  
8 such funds.

9           (b) ANNUAL REPORT ON GRANT PROGRAM.—Not  
10 later than September 30 of each fiscal year, the Secretary  
11 of Education shall submit to the appropriate congressional  
12 committees a report on the projects carried out with funds  
13 made available under this Act.

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

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

23           (2) PRIORITY LISTING.—The Secretary of Edu-  
24 cation shall—

1           (A) maintain a priority listing of local edu-  
2           cational agencies meeting the eligibility require-  
3           ments found in—

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

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

6           (B) update the listing for each of para-  
7           graphs (1) and (2) of section (4), including  
8           those local educational agencies that applied for  
9           the previous fiscal year, but were not funded  
10          and for those agencies applying the succeeding  
11          fiscal year.

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