

110TH CONGRESS  
1ST SESSION

# H. R. 3021

To direct the Secretary of Education to make grants and low-interest loans to local educational agencies for the construction, modernization, or repair of public kindergarten, elementary, and secondary educational facilities, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 12, 2007

Mr. CHANDLER (for himself, Mr. GEORGE MILLER of California, and Mr. KILDEE) introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To direct the Secretary of Education to make grants and low-interest loans to local educational agencies for the construction, modernization, or repair of public kindergarten, elementary, and secondary educational facilities, and for other purposes.

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 “21st Century High-  
5       Performing Public School Facilities Act”.

6       **SEC. 2. TABLE OF CONTENTS.**

7       The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Findings.
- Sec. 4. Definitions.

## TITLE I—21ST CENTURY HIGH-PERFORMING PUBLIC SCHOOL FACILITIES

### Subtitle A—Grants for Construction, Modernization, or Repair of School Facilities

- Sec. 101. Grants.
- Sec. 102. Allocation of funds.
- Sec. 103. Priority; criteria for awarding grants.
- Sec. 104. Authorized matching requirement.
- Sec. 105. Allowable uses of funds.
- Sec. 106. Application for grant.

### Subtitle B—Low-Interest Loans for Construction, Modernization, or Repair of School Facilities

- Sec. 111. Low-interest loans.
- Sec. 112. Revolving fund.

### Subtitle C—General Provisions

- Sec. 121. Impermissible uses of funds.
- Sec. 122. Supplement, not supplant.
- Sec. 123. Maintenance of effort.
- Sec. 124. Special rule.
- Sec. 125. Fair wages.
- Sec. 126. Reporting.
- Sec. 127. Authorization of appropriations.

## TITLE II—EDUCATIONAL TECHNOLOGY FUNDING

- Sec. 201. Educational technology funding.

### **1 SEC. 3. FINDINGS.**

2       The Congress finds the following:

3           (1) The average public school building was built  
4       in the early 1960's.

5           (2) Of the Nation's public school buildings, at  
6       least one-third need extensive repair or replacement  
7       and two-thirds have troublesome environmental con-  
8       ditions such as the presence of asbestos or lead in  
9       water and paint.

1           (3) In its 2005 report card on the Nation's  
2           physical infrastructure, the American Society of  
3           Civil Engineers gave our schools a D.

4           (4) The Nation's public schools need hundreds  
5           of billions of dollars in construction, modernization,  
6           and repair to bring them up to modern structural,  
7           educational (including educational technology and  
8           educational technology infrastructure), and health  
9           standards.

10          (5) Improving the quality of public elementary  
11          and secondary school facilities to make them safe,  
12          healthy, high-performing, and up-to-date techno-  
13          logically will help students improve their academic  
14          performance and will improve teacher retention.

15          (6) Improving the quality of public elementary  
16          and secondary school facilities is a matter of na-  
17          tional importance, and the Federal government must  
18          do more to help States and school districts fulfill  
19          their responsibilities in this area.

20   **SEC. 4. DEFINITIONS.**

21       In this Act:

22           (1) The term "Bureau-funded school" has the  
23           meaning given to such term in section 1141 of the  
24           Education Amendments of 1978 (25 U.S.C. 2021).

1           (2) The term “charter school” has the meaning  
2           given such term in section 5210 of the Elementary  
3           and Secondary Education Act of 1965 (20 U.S.C.  
4           7221i).

5           (3) The term “local educational agency”—

6                   (A) has the meaning given to that term in  
7                   section 9101 of the Elementary and Secondary  
8                   Education Act of 1965 (20 U.S.C. 7801); and

9                   (B) includes any public charter school that  
10                  constitutes a local educational agency under  
11                  State law.

12          (4) The term “outlying area”—

13                  (A) means the United States Virgin Is-  
14                  lands, Guam, American Samoa, and the Com-  
15                  monwealth of the Northern Mariana Islands;  
16                  and

17                  (B) includes the freely associated states of  
18                  the Republic of the Marshall Islands, the Fed-  
19                  erated States of Micronesia, and the Republic  
20                  of Palau.

21          (5) The term “Secretary” means the Secretary  
22          of Education.

23          (6) The term “State” means each of the 50  
24          States, the District of Columbia, and the Common-  
25          wealth of Puerto Rico.

1 **TITLE I—21ST CENTURY HIGH-**  
2 **PERFORMING PUBLIC**  
3 **SCHOOL FACILITIES**

4 **Subtitle A—Grants for Construc-**  
5 **tion, Modernization, or Repair**  
6 **of School Facilities**

7 **SEC. 101. GRANTS.**

8 Each fiscal year, the Secretary of Education shall  
9 make grants to local educational agencies in each State  
10 for the purpose of constructing, modernizing, or repairing  
11 public kindergarten, elementary, and secondary edu-  
12 cational facilities that are safe, healthy, high-performing,  
13 and up-to-date technologically.

14 **SEC. 102. ALLOCATION OF FUNDS.**

15 (a) RESERVATION.—From the amount appropriated  
16 to carry out this subtitle for each fiscal year pursuant to  
17 section 127, the Secretary shall reserve 1 percent of such  
18 amount, consistent with the purpose described in section  
19 101—

20 (1) to provide assistance to the outlying areas;  
21 and

22 (2) for payments to the Secretary of the Inte-  
23 rior to provide assistance to Bureau-funded schools.

24 (b) ALLOCATION OF GRANTS.—

1           (1) STATE-BY-STATE ALLOCATION.—From the  
2           amount appropriated to carry out this subtitle for  
3           each fiscal year pursuant to section 127, and not re-  
4           served under subsection (a), the Secretary shall re-  
5           serve for grants to local educational agencies in each  
6           State an aggregate amount in proportion to the ag-  
7           gregate amount received by all local educational  
8           agencies in the State involved under part A of title  
9           I of the Elementary and Secondary Education Act  
10          of 1965 (20 U.S.C. 6311 et seq.) for the previous  
11          fiscal year relative to the total amount received by  
12          all local educational agencies in every State under  
13          such part for such fiscal year.

14          (2) WITHIN-STATE ALLOCATION.—From the  
15          amount reserved for grants to local educational  
16          agencies in a State under paragraph (1), the Sec-  
17          retary shall reserve for grants to local educational  
18          agencies in the State that are receiving assistance  
19          under section 1124A of the Elementary and Sec-  
20          ondary Education Act of 1965 (20 U.S.C. 6334) an  
21          aggregate amount that is at least in proportion to  
22          the aggregate amount received by such local edu-  
23          cational agencies under part A of title I of the Ele-  
24          mentary and Secondary Education Act of 1965 (20  
25          U.S.C. 6311 et seq.) for the previous fiscal year rel-

1       ative to the total amount received by all local edu-  
2       cational agencies in the State under such part for  
3       such fiscal year.

4   **SEC. 103. PRIORITY; CRITERIA FOR AWARDING GRANTS.**

5       (a) PRIORITY.—In awarding grants to local edu-  
6       cational agencies under this subtitle, the Secretary shall  
7       give priority to local educational agencies with greater—

8               (1)(A) numbers of children counted under sec-  
9       tion 1124(c) of the Elementary and Secondary Edu-  
10      cation Act of 1965 (20 U.S.C. 6333(c)); or

11              (B) percentages of children served who are  
12      counted under section 1124(c) of the Elementary  
13      and Secondary Education Act of 1965 (20 U.S.C.  
14      6333(c)); and

15              (2) need for school construction, modernization,  
16      or repair, as demonstrated by the condition of the  
17      public school facilities.

18      (b) CRITERIA.—In awarding grants to local edu-  
19      cational agencies under this subtitle, the Secretary shall  
20      also consider the following criteria:

21              (1) The fiscal capacity of a local educational  
22      agency to meet its needs for construction, mod-  
23      ernization, and repair of public school facilities with-  
24      out assistance under this subtitle, including the abil-  
25      ity of the local educational agency to raise funds

1 through the use of local bonding capacity and other-  
2 wise.

3 (2) In the case of a local educational agency  
4 that proposes to fund a construction, modernization,  
5 or repair project for one or more public charter  
6 schools, the extent to which the schools have access  
7 to funding for the project through the financing  
8 methods available to other public schools or local  
9 educational agencies in the State.

10 (3) The likelihood that the local educational  
11 agency will maintain, in good condition, any facility  
12 whose construction, modernization, or repair is as-  
13 sisted under this subtitle.

14 (4) The local educational agency's plan to ob-  
15 tain private business contributions described in sec-  
16 tion 1397E(d)(2)(B) of the Internal Revenue Code  
17 of 1986 (26 U.S.C. 1397E(d)(2)(B)), except that an  
18 otherwise qualified local educational agency shall not  
19 be denied a grant as a result of its inability to ob-  
20 tain such contributions despite its good faith efforts.

21 **SEC. 104. AUTHORIZED MATCHING REQUIREMENT.**

22 (a) IN GENERAL.—The Secretary shall require a local  
23 educational agency to contribute matching funds toward  
24 the costs of the program to be carried out with a grant  
25 received by the agency under this subtitle.



1 (b) MATCH AMOUNT.—The Secretary shall establish  
2 the amount of matching funds to be provided by a local  
3 educational agency under this section by using a sliding  
4 scale that takes into account the relative poverty of the  
5 population served by the local educational agency.

6 (c) DETERMINATION OF AMOUNT CONTRIBUTED.—  
7 The Secretary shall allow a local educational agency to  
8 satisfy the requirement of this section through in-kind  
9 contributions.

10 **SEC. 105. ALLOWABLE USES OF FUNDS.**

11 A local educational agency receiving a grant under  
12 this subtitle may use the grant for the following:

13 (1) Repair or modernization of public school fa-  
14 cilities to ensure the health and safety of students  
15 and staff, including—

16 (A) repairing, replacing, or installing roofs,  
17 electrical wiring, plumbing systems, sewage sys-  
18 tems, windows, or doors;

19 (B) repairing, replacing, or installing heat-  
20 ing, ventilation, or air conditioning systems (in-  
21 cluding insulation); and

22 (C) bringing public schools into compliance  
23 with fire and safety codes.

24 (2) Modifications necessary to make public  
25 school facilities accessible to comply with the Ameri-

1        cans with Disabilities Act of 1990 (42 U.S.C. 12101  
2        et seq.) and section 504 of the Rehabilitation Act of  
3        1973 (29 U.S.C. 794), except that such modifica-  
4        tions shall not be the primary use of the grant.

5            (3) Asbestos abatement or removal from public  
6        school facilities.

7            (4) Implementation of measures designed to re-  
8        duce or eliminate human exposure to lead-based  
9        paint hazards through methods including interim con-  
10       trols, abatement, or a combination of each.

11           (5) Upgrading or installation of educational  
12        technology and educational technology infrastructure  
13        to ensure that students have access to up-to-date  
14        educational technology.

15           (6) Upgrading school facilities to make them  
16        energy-efficient.

17           (7) Construction of new school facilities that  
18        ensure the health and safety of students and staff,  
19        are energy-efficient, and include up-to-date edu-  
20        cational technology and educational technology infra-  
21        structure, including where such construction is eco-  
22        nomically or otherwise more feasible than large scale  
23        modernization or repair of existing facilities.

1 **SEC. 106. APPLICATION FOR GRANT.**

2 (a) APPLICATIONS REQUIRED.—A local educational  
3 agency desiring to receive a grant under this subtitle shall  
4 submit an application to the Secretary as such time, in  
5 such manner, and containing such information as the Sec-  
6 retary may reasonably require.

7 (b) APPLICATION CONTENTS.—Each application de-  
8 scribed in subsection (a) shall contain—

9 (1) an assurance that the application was devel-  
10 oped in consultation with parents, classroom teach-  
11 ers, and principals;

12 (2) a description of the overall condition of the  
13 local educational agency's school facilities, including  
14 health and safety problems;

15 (3) a description of the capacity of the local  
16 educational agency's schools to house current and  
17 projected enrollments;

18 (4) a description of the extent to which the  
19 local educational agency's schools offer the physical  
20 infrastructure, including for educational technology,  
21 needed to provide all students a high-quality edu-  
22 cation;

23 (5) a description of the improvements to be  
24 supported with funds provided under this subtitle;

25 (6) a cost estimate of the proposed improve-  
26 ments;

1 (7) an identification of other resources that are  
 2 available to carry out the activities for which funds  
 3 are requested under this subtitle; and

4 (8) such other information and assurances as  
 5 the Secretary may reasonably require.

6 **Subtitle B—Low-Interest Loans for**  
 7 **Construction, Modernization, or**  
 8 **Repair of School Facilities**

9 **SEC. 111. LOW-INTEREST LOANS.**

10 (a) **AUTHORITY AND CONDITIONS FOR LOANS.—**

11 Each fiscal year, the Secretary shall make low-interest  
 12 loans to local educational agencies for the construction,  
 13 modernization, or repair of public kindergarten, elemen-  
 14 tary, and secondary educational facilities that are safe,  
 15 healthy, high-performing, and up-to-date technologically.

16 (b) **PRIORITY; CRITERIA FOR APPROVING LOANS.—**

17 (1) **PRIORITY.**—In making loans under this  
 18 subtitle, the Secretary shall give priority to local  
 19 educational agencies described in section 103(a).

20 (2) **CRITERIA.**—In making loans under this  
 21 subtitle, the Secretary shall also consider the criteria  
 22 specified in section 103(b).

23 (c) **ALLOWABLE USES OF FUNDS.**—A local edu-  
 24 cational agency receiving a loan under this subtitle may

1 use the loan for any of the activities described in section  
2 105.

3 (d) AMOUNT AND CONDITIONS OF LOANS.—In mak-  
4 ing loans under this subtitle, the Secretary shall ensure  
5 that—

6 (1) the amount of a loan does not exceed the  
7 total construction, modernization, or repair costs in-  
8 volved, as determined by the Secretary; and

9 (2) the loan is secured in such manner and  
10 must be repaid within such period, not exceeding 30  
11 years, as may be determined by the Secretary.

12 **SEC. 112. REVOLVING FUND.**

13 (a) ESTABLISHMENT.—There is established in the  
14 Treasury a revolving fund to be known as the School Con-  
15 struction, Modernization, and Repair Revolving Fund (in  
16 this section referred to as the “revolving fund”).

17 (b) CONTENTS OF FUND.—The revolving fund shall  
18 consist of—

19 (1) any amounts derived from the loan program  
20 carried out under this subtitle; and

21 (2) any amounts appropriated to carry out this  
22 subtitle pursuant to section 127.

23 (c) AVAILABILITY.—The revolving fund shall be  
24 available to the Secretary, in amounts specified in appro-

1 priations Acts and without fiscal year limitation, to carry  
2 out this subtitle.

### 3       **Subtitle C—General Provisions**

#### 4       **SEC. 121. IMPERMISSIBLE USES OF FUNDS.**

5       No funds received under this title may be used for—

6               (1) payment of maintenance costs; or

7               (2) stadiums or other facilities primarily used  
8       for athletic contests or exhibitions or other events  
9       for which admission is charged to the general public.

#### 10       **SEC. 122. SUPPLEMENT, NOT SUPPLANT.**

11       A local educational agency receiving a grant under  
12 subtitle A or a loan under subtitle B shall use such Fed-  
13 eral funds only to supplement and not supplant the  
14 amount of funds that would, in the absence of such Fed-  
15 eral funds, be available for construction, modernization,  
16 and repair of public kindergarten, elementary, and sec-  
17 ondary educational facilities.

#### 18       **SEC. 123. MAINTENANCE OF EFFORT.**

19       A local educational agency may receive a grant under  
20 subtitle A or a loan under subtitle B for any fiscal year  
21 only if the Secretary finds that either the combined fiscal  
22 effort per student or the aggregate expenditures of the  
23 agency and the State involved with respect to the provision  
24 of free public education by the agency for the preceding  
25 fiscal year was not less than 90 percent of the combined

1 fiscal effort or aggregate expenditures for the second pre-  
2 ceding fiscal year.

3 **SEC. 124. SPECIAL RULE.**

4       Each local educational agency receiving a grant under  
5 subtitle A or a loan under subtitle B shall ensure that,  
6 if the agency carries out construction, modernization, or  
7 repair through a contract, the process for any such con-  
8 tract ensures the maximum number of qualified bidders,  
9 including small, minority, and women-owned businesses,  
10 through full and open competition.

11 **SEC. 125. APPLICATION OF GEPA.**

12       The grant program under subtitle A and the loan  
13 program under subtitle B are applicable programs (as that  
14 term is defined in section 400 of the General Education  
15 Provisions Act (20 U.S.C. 1221)) subject to section 439  
16 of such Act (20 U.S.C. 1232b).

17 **SEC. 126. REPORTING.**

18       (a) **REPORTS BY LOCAL EDUCATIONAL AGENCIES.**—  
19 Not later than December 31 of each fiscal year, each local  
20 educational agency receiving a grant under subtitle A or  
21 a loan under subtitle B shall submit to the Secretary a  
22 report on the agency's use of such grant or loan funds.

23       (b) **REPORTS BY SECRETARY.**—Not later than De-  
24 cember 31 of each fiscal year, the Secretary shall submit  
25 to the Committee on Education and Labor of the House

1 of Representatives and the Committee on Health, Edu-  
2 cation, Labor, and Pensions of the Senate a report on  
3 grants and loans made under this title, including the Sec-  
4 retary's efforts pursuant to sections 103(a) and 111(b)(1),  
5 the types of construction, modernization, and repair fund-  
6 ed, and the number of students impacted, including the  
7 number of students counted under section 1124(c) of the  
8 Elementary and Secondary Education Act of 1965 (20  
9 U.S.C. 6333(c)).

10 **SEC. 127. AUTHORIZATION OF APPROPRIATIONS.**

11 (a) IN GENERAL.—To carry out subtitles A, B, and  
12 C of this title, there are authorized to be appropriated  
13 \$6,400,000,000 for fiscal year 2008 and such sums as  
14 may be necessary for each of fiscal years 2009 through  
15 2012.

16 (b) ALLOCATION.—Of the amount appropriated pur-  
17 suant to this section for each fiscal year—

18 (1) not less than 85 percent shall be reserved  
19 to carry out subtitle A; and

20 (2) not more than 15 percent may be reserved  
21 to carry out subtitle B.



1           **TITLE II—EDUCATIONAL**  
2           **TECHNOLOGY FUNDING**

3   **SEC. 201. EDUCATIONAL TECHNOLOGY FUNDING.**

4           Section 2404(a) of the Elementary and Secondary  
5   Education Act of 1965 (20 U.S.C. 6754(a)) is amended  
6   to read as follows:

7           “(a) IN GENERAL.—To carry out subparts 1 and 2,  
8   there are authorized to be appropriated \$1,000,000,000  
9   for fiscal year 2008.”.

○