

110TH CONGRESS
1ST SESSION

S. 1942

To amend part D of title V of the Elementary and Secondary Education Act of 1965 to provide grants for the renovation of schools.

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2007

Mr. HARKIN (for himself, Mr. KENNEDY, Mrs. CLINTON, and Ms. MIKULSKI) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend part D of title V of the Elementary and Secondary Education Act of 1965 to provide grants for the renovation of schools.

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 “Public School Repair
5 and Renovation Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Providing safe, healthy, and up-to-date pub-
9 lic elementary and secondary school facilities is a

1 crucial component of improving student academic
2 performance and retaining high-quality, committed
3 educators.

4 (2) The 2005 Infrastructure Report Card com-
5 piled by the American Society of Civil Engineers
6 gives public schools a D grade.

7 (3) The General Accounting Office, in 1995, re-
8 ported that the Nation's elementary and secondary
9 schools require approximately \$112,000,000,000 to
10 repair or upgrade facilities.

11 (4) Since 1995, public elementary and sec-
12 ondary school enrollment increased by more than
13 3,000,000 students. Since 1995, more than half of
14 the construction funds for such schools were spent
15 on new school construction, although repair and ren-
16 ovation of existing schools are critically needed, par-
17 ticularly in school districts with disadvantaged popu-
18 lations, where local educational agencies are working
19 to close achievement gaps between subgroups of stu-
20 dents.

21 (5) A report issued by the National Education
22 Association in 2000 estimated that
23 \$322,000,000,000 was needed to repair and upgrade
24 the Nation's elementary and secondary schools, in-
25 cluding construction of new schools.

1 (6) The Department of Education documented
2 in 1998 that the average age of a public elementary
3 or secondary school building is estimated at 42 years
4 old, an age when schools tend to deteriorate.

5 (7) School districts spent more than
6 \$304,000,000,000 (in 2005 dollars) for public school
7 construction contracts from 1995 through 2004, ac-
8 cording to data collected by McGraw-Hill Construc-
9 tion.

10 (8) According to a 2006 report by the Building
11 Educational Success Together (referred to in this
12 section as “BEST”) coalition, the per-student in-
13 vestment made in the most affluent school districts
14 to repair or construct schools was nearly double the
15 amount of the per-student investment made in the
16 most disadvantaged school districts.

17 (9) The BEST report also found that students
18 in school districts with predominantly Caucasian en-
19 rollment benefitted from about \$2,000 more per stu-
20 dent in school repair and construction spending than
21 their peers living in schools districts with predomi-
22 nantly minority enrollment.

23 (10) Since 1998, the Iowa Demonstration Con-
24 struction Grant Program has provided \$116,000,000
25 in Federal assistance to over 260 school districts for

1 school repair and construction. That Federal invest-
 2 ment in school repair and construction has gen-
 3 erated millions of dollars of additional local funding
 4 through a match required by the State government.

5 **SEC. 3. GRANTS FOR SCHOOL RENOVATION.**

6 Part D of title V of the Elementary and Secondary
 7 Education Act of 1965 (20 U.S.C. 7241 et seq.) is amend-
 8 ed by adding at the end the following:

9 **“Subpart 22—School Renovation**

10 **“SEC. 5621. GRANTS FOR SCHOOL RENOVATION.**

11 “(a) DEFINITIONS.—For purposes of this section:

12 “(1) CHARTER SCHOOL.—The term ‘charter
 13 school’ has the meaning given the term in section
 14 5210.

15 “(2) HIGH-NEED LOCAL EDUCATIONAL AGEN-
 16 CY.—The term ‘high-need local educational agency’
 17 has the meaning given the term in section
 18 2102(3)(A).

19 “(3) POOR CHILDREN AND CHILD POVERTY.—
 20 The terms ‘poor children’ and ‘child poverty’ refer to
 21 children 5 to 17 years of age, inclusive, who are
 22 from families with incomes below the poverty line
 23 (as defined by the Office of Management and Budg-
 24 et and revised annually in accordance with section
 25 673(2) of the Community Services Block Grant Act

1 (42 U.S.C. 9902(2)) applicable to a family of the
 2 size involved for the most recent fiscal year for
 3 which data satisfactory to the Secretary are avail-
 4 able.

5 “(4) RURAL LOCAL EDUCATIONAL AGENCY.—
 6 The term ‘rural local educational agency’ means a
 7 local educational agency that the State determines is
 8 located in a rural area using objective data and a
 9 commonly employed definition of the term ‘rural’.

10 “(5) STATE.—The term ‘State’ means each of
 11 the several states of the United States, the District
 12 of Columbia, and the Commonwealth of Puerto Rico.

13 “(b) ALLOCATION OF FUNDS.—From the funds ap-
 14 propriated under subsection (j) for a fiscal year, the Sec-
 15 retary shall allocate to each State educational agency serv-
 16 ing a State an amount that bears the same relation to
 17 the amount appropriated under subsection (j) for the fis-
 18 cal year as the amount the State received under part A
 19 of title I for fiscal year 2008 bears to the amount all
 20 States received under such part for fiscal year 2008, ex-
 21 cept that no such State educational agency shall receive
 22 less than 0.5 percent of the amount allocated under this
 23 subsection.

24 “(c) WITHIN-STATE ALLOCATIONS.—

25 “(1) ADMINISTRATIVE COSTS.—

1 “(A) STATE EDUCATIONAL AGENCY AD-
2 MINISTRATION.—Except as provided in sub-
3 paragraph (D), each State educational agency
4 may reserve not more than 2 percent of its allo-
5 cation under subsection (b) for the purpose of
6 administering the distribution of grants under
7 this subsection.

8 “(B) REQUIRED USES.—The State edu-
9 cational agency shall use a portion of the re-
10 served funds to establish or support a State-
11 level database of public school facility inventory,
12 condition, design, and utilization.

13 “(C) PERMISSIBLE USES.—The State edu-
14 cational agency may use a portion of the re-
15 served funds for—

16 “(i) developing a statewide edu-
17 cational facility master plan;

18 “(ii) developing policies, procedures,
19 and standards for high quality public
20 school facilities;

21 “(iii) supporting interagency collabo-
22 ration that will lead to broad community
23 use of public school facilities, and school-
24 based services for students served by high-

1 need local educational agencies or rural
2 local educational agencies; and

3 “(iv) helping to defray the cost of
4 issuing State bonds to finance public
5 school repair and renovation.

6 “(D) STATE ENTITY ADMINISTRATION.—If
7 the State educational agency transfers funds to
8 a State entity described in paragraph (2)(A),
9 the State educational agency shall transfer to
10 such entity 0.75 of the amount reserved under
11 this paragraph for the purpose of administering
12 the distribution of grants under this subsection.

13 “(2) RESERVATION FOR COMPETITIVE SCHOOL
14 REPAIR AND RENOVATION GRANTS TO LOCAL EDU-
15 CATIONAL AGENCIES.—

16 “(A) IN GENERAL.—Subject to the res-
17 ervation under paragraph (1), of the funds allo-
18 cated to a State educational agency under sub-
19 section (b), the State educational agency shall
20 distribute 100 percent of such funds to local
21 educational agencies or, if such State edu-
22 cational agency is not responsible for the fi-
23 nancing of education facilities, the State edu-
24 cational agency shall transfer such funds to the
25 State entity responsible for the financing of

education facilities (referred to in this section as the ‘State entity’) for distribution by such entity to local educational agencies in accordance with this paragraph, to be used, consistent with subsection (d), for school repair and renovation.

“(B) COMPETITIVE GRANTS TO LOCAL EDUCATIONAL AGENCIES.—The State educational agency or State entity shall carry out a program awarding grants, on a competitive basis, to local educational agencies for the purpose described in subparagraph (A). Of the total amount available for distribution to local educational agencies under this paragraph, the State educational agency or State entity, shall, in carrying out the grant competition—

“(i) award to high-need local educational agencies, in the aggregate, at least an amount which bears the same relationship to such total amount as the aggregate amount such high-need local educational agencies received under part A of title I for fiscal year 2008 bears to the aggregate amount received for such fiscal year under

such part by all local educational agencies
in the State;

“(ii) award to rural local educational
agencies in the State, in the aggregate, at
least an amount which bears the same re-
lationship to such total amount as the ag-
gregate amount such rural local edu-
cational agencies received under part A of
title I for fiscal year 2008 bears to the ag-
gregate amount received for such fiscal
year under such part by all local edu-
cational agencies in the State; and

“(iii) award the remaining funds to
local educational agencies not receiving an
award under clause (i) or (ii), including
high-need local educational agencies and
rural local educational agencies that did
not receive such an award.

“(C) CRITERIA FOR AWARDING GRANTS.—

In awarding competitive grants under this para-
graph, a State educational agency or State enti-
ty shall take into account the following criteria:

“(i) PERCENTAGE OF POOR CHIL-
DREN.—The percentage of poor children 5

1 to 17 years of age, inclusive, in a local
2 educational agency.

3 “(ii) NEED FOR SCHOOL REPAIR AND
4 RENOVATION.—The need of a local edu-
5 cational agency for school repair and ren-
6 ovation, as demonstrated by the condition
7 of the public school facilities of the local
8 educational agency.

9 “(iii) FISCAL CAPACITY.—The fiscal
10 capacity of a local educational agency to
11 meet the needs of the local educational
12 agency for repair and renovation of public
13 school facilities without assistance under
14 this section, including the ability of the
15 local educational agency to raise funds
16 through the use of local bonding capacity
17 and otherwise.

18 “(iv) CHARTER SCHOOL ACCESS TO
19 FUNDING.—In the case of a local edu-
20 cational agency that proposes to fund a re-
21 pair or renovation project for a charter
22 school, the extent to which the school has
23 access to funding for the project through
24 the financing methods available to other

1 public schools or local educational agencies
2 in the State.

3 “(v) LIKELIHOOD OF MAINTAINING
4 THE FACILITY.—The likelihood that the
5 local educational agency will maintain, in
6 good condition, any facility whose repair or
7 renovation is assisted under this section.

8 “(D) POSSIBLE MATCHING REQUIRE-
9 MENT.—

10 “(i) IN GENERAL.—A State edu-
11 cational agency or State entity may require
12 local educational agencies to match funds
13 awarded under this subsection.

14 “(ii) MATCH AMOUNT.—The amount
15 of a match described in clause (i) may be
16 established by using a sliding scale that
17 takes into account the relative poverty of
18 the population served by the local edu-
19 cational agency.

20 “(d) RULES APPLICABLE TO SCHOOL REPAIR AND
21 RENOVATION.—With respect to funds made available
22 under this section that are used for school repair and ren-
23 ovation, the following rules shall apply:

1 “(1) PERMISSIBLE USES OF FUNDS.—School
 2 repair and renovation shall be limited to 1 or more
 3 of the following:

4 “(A) EMERGENCY REPAIRS OR RENOVA-
 5 TIONS.—Emergency repairs or renovations to
 6 public school facilities only to ensure the health
 7 and safety of students and staff, including—

8 “(i) repairing, replacing, or installing
 9 roofs, windows, doors, electrical wiring,
 10 plumbing systems, or sewage systems;

11 “(ii) repairing, replacing, or installing
 12 heating, ventilation, or air conditioning
 13 systems (including insulation); and

14 “(iii) bringing public schools into com-
 15 pliance with fire and safety codes.

16 “(B) MODIFICATIONS FOR COMPLIANCE
 17 WITH THE AMERICANS WITH DISABILITIES ACT
 18 OF 1990.—School facilities modifications nec-
 19 essary to render public school facilities acces-
 20 sible in order to comply with the Americans
 21 with Disabilities Act of 1990 (42 U.S.C. 12101
 22 et seq.).

23 “(C) MODIFICATIONS FOR COMPLIANCE
 24 WITH SECTION 504 OF THE REHABILITATION
 25 ACT OF 1973.—School facilities modifications

1 necessary to render public school facilities ac-
 2 cessible in order to comply with section 504 of
 3 the Rehabilitation Act of 1973 (29 U.S.C. 794).

4 “(D) ASBESTOS ABATEMENT OR RE-
 5 MOVAL.—Asbestos abatement or removal from
 6 public school facilities.

7 “(E) CHARTER SCHOOL BUILDING INFRA-
 8 STRUCTURE.—Renovation and repair needs re-
 9 lated to the building infrastructure of a charter
 10 school.

11 “(2) IMPERMISSIBLE USES OF FUNDS.—No
 12 funds received under this section may be used for—

13 “(A) payment of maintenance costs in con-
 14 nection with any projects constructed in whole
 15 or part with Federal funds provided under this
 16 section;

17 “(B) the construction of new facilities; or

18 “(C) stadiums or other facilities primarily
 19 used for athletic contests or exhibitions or other
 20 events for which admission is charged to the
 21 general public.

22 “(3) SUPPLEMENT, NOT SUPPLANT.—Excluding
 23 the uses described in subparagraphs (B) and (C) of
 24 paragraph (1), a local educational agency shall use
 25 Federal funds subject to this subsection only to sup-

1 plement the amount of funds that would, in the ab-
2 sence of such Federal funds, be made available from
3 non-Federal sources for school repair and renova-
4 tion.

5 “(e) QUALIFIED BIDDERS; COMPETITION.—Each
6 local educational agency that receives funds under this
7 section shall ensure that, if the local educational agency
8 carries out repair or renovation through a contract, any
9 such contract process ensures the maximum number of
10 qualified bidders, including small, minority, and women-
11 owned businesses, through full and open competition.

12 “(f) PUBLIC COMMENT.—Each local educational
13 agency receiving funds under paragraph (2) of subsection
14 (c)—

15 “(1) shall provide parents, educators, and all
16 other interested members of the community the op-
17 portunity to consult on the use of funds received
18 under such paragraph;

19 “(2) shall provide the public with adequate and
20 efficient notice of the opportunity described in para-
21 graph (1) in a widely read and distributed medium;
22 and

23 “(3) shall provide the opportunity described in
24 paragraph (1) in accordance with any applicable
25 State and local law specifying how the comments

1 may be received and how the comments may be re-
2 viewed by any member of the public.

3 “(g) REPORTING.—

4 “(1) LOCAL REPORTING.—Each local edu-
5 cational agency receiving funds made available under
6 subsection (b) shall submit a report to the State
7 educational agency, at such time as the State edu-
8 cational agency may require, describing the use of
9 such funds for school repair and renovation.

10 “(2) STATE REPORTING.—Each State edu-
11 cational agency receiving funds made available under
12 subsection (b) shall submit to the Secretary, not
13 later than December 31, 2010, a report on the use
14 of funds received under subsection (b) and made
15 available to local educational agencies for school re-
16 pair and renovation.

17 “(h) REALLOCATION.—If a State educational agency
18 does not apply for an allocation of funds under subsection
19 (b) for a fiscal year, or does not use its entire allocation
20 for such fiscal year, then the Secretary may reallocate the
21 amount of the State educational agency’s allocation (or
22 the remainder thereof, as the case may be) for such fiscal
23 year to the remaining State educational agencies in ac-
24 cordance with subsection (b).

25 “(i) GAO STUDY.—

1 “(1) IN GENERAL.—The Comptroller General of
 2 the United States shall conduct a study relating to
 3 the—

4 “(A) costs of repair, renovation, and con-
 5 struction for public elementary schools and sec-
 6 ondary schools in the United States; and

7 “(B) expenditures of Federal, State, local,
 8 and private funds for such costs.

9 “(2) ESTIMATES AND MEASURES.—In con-
 10 ducting the study, the Comptroller General shall—

11 “(A) estimate the costs needed to repair,
 12 renovate, and construct all schools described in
 13 paragraph (1)(A) to good overall condition; and

14 “(B) measure the expenditures described
 15 in paragraph (1)(B) for the period beginning
 16 with fiscal year 2001 and ending with the most
 17 recent fiscal year for which data are available.

18 “(3) ANALYSIS.—In conducting the study, the
 19 Comptroller General shall examine trends in expend-
 20 itures of Federal, State, local, and private funds
 21 since fiscal year 2001 for repair, renovation, and
 22 construction activities for public elementary schools
 23 and secondary schools, including examining—

24 “(A) the differences between the types of
 25 schools assisted, and the types of repair, ren-

1 ovation, and construction activities conducted,
2 with those expenditures;

3 “(B) how the expenditures were allocated
4 among improvements to land, buildings, and
5 equipment; and

6 “(C) how Federal funds appropriated for
7 fiscal year 2001 for such activities for schools
8 described in this paragraph were distributed.

9 “(4) REPORT.—The Comptroller General shall
10 prepare and submit to Congress a report containing
11 the results of the study.

12 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
13 is authorized to be appropriated to carry out this section,
14 \$1,600,000,000 for fiscal year 2008, and such sums as
15 may be necessary for each of fiscal years 2009 through
16 2012.”.

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