

113TH CONGRESS
1ST SESSION

H. R. 2378

To reauthorize the Impact Aid Program under the Elementary and Secondary Education Act of 1965.

IN THE HOUSE OF REPRESENTATIVES

JUNE 14, 2013

Mr. MULLIN (for himself, Mr. BUCSHON, and Mr. O’ROURKE) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To reauthorize the Impact Aid Program under the Elementary and Secondary Education Act of 1965.

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 Fairness
5 and Equity Act of 2013”.

6 **SEC. 2. AMENDMENTS TO THE IMPACT AID IMPROVEMENT**

7 **ACT OF 2012.**

8 Section 563(c) of the National Defense Authorization
9 Act for Fiscal Year 2013 (Public Law 112–239; 126 Stat.
10 1748) is amended—

1 (1) in paragraphs (1), by inserting “paragraphs
2 (2) and (3) of” before “subsection (b)”; and

3 (2) in paragraph (4), by inserting “paragraphs
4 (2) and (3) of” before “subsection (b)”.

5 **SEC. 3. AMENDMENTS TO SECTION 8002 (PAYMENTS RELAT-**
6 **ING TO FEDERAL ACQUISITION OF REAL**
7 **PROPERTY) OF THE ESEA.**

8 Section 8002(a) of the Elementary and Secondary
9 Education Act of 1965 (20 U.S.C. 7702) is amended—

10 (1) in paragraph (1), by amending subpara-
11 graph (C) to read as follows:

12 “(C) had an assessed value (according to
13 original records (including reproductions of
14 those records) documenting the assessed value
15 of such property (determined as of the time or
16 times when so acquired) prepared by the local
17 official referred to in subsection (b)(3) or, when
18 such original records are not available due to
19 unintentional destruction (such as natural dis-
20 aster, fire, flooding, pest infestation, or deterio-
21 ration due to age), other records, including
22 Federal agency records, local historical records,
23 or other records that the Secretary determines
24 to be appropriate and reliable) aggregating 10
25 percent or more of the assessed value of—

1 “(i) all real property in the local edu-
2 cational agency (similarly determined as of
3 the time or times when such Federal prop-
4 erty was so acquired); or

5 “(ii) all real property in the local edu-
6 cational agency as assessed in the first
7 year preceding or succeeding acquisition,
8 whichever is greater, only if—

9 “(I) the assessment of all real
10 property in the local educational agen-
11 cy is not made at the same time or
12 times that such Federal property was
13 so acquired and assessed; and

14 “(II) State law requires an as-
15 sessment be made of property so ac-
16 quired; and”;

17 (2) by amending paragraph (2) to read as fol-
18 lows:

19 “(2) that such agency is not being substantially
20 compensated for the loss in revenue resulting from
21 such ownership by increases in revenue accruing to
22 the agency from the conduct of Federal activities
23 with respect to such Federal property, then such
24 agency shall be eligible to receive the amount de-
25 scribed in subsection (b).”.

1 **SEC. 4. AMENDMENTS TO SECTION 8003 (PAYMENTS FOR**
2 **ELIGIBLE FEDERALLY CONNECTED CHIL-**
3 **DREN) OF THE ESEA.**

4 Section 8003 of the Elementary and Secondary Edu-
5 cation Act of 1965 (20 U.S.C. 7703) is amended—

6 (1) in subsection (a)—

7 (A) in paragraph (1), in the matter pre-
8 ceding subparagraph (A), by inserting after
9 “such agency,” the following: “including those
10 children enrolled in a State that has a State
11 open enrollment policy (but not including chil-
12 dren enrolled in a distance learning program
13 not residing within the defined boundaries of
14 the agency),”;

15 (2) subsection (b)(2)—

16 (A) in subparagraph (B)—

17 (i) in the subparagraph heading, by
18 striking “CONTINUING”;

19 (ii) by amending clause (i) to read as
20 follows:

21 “(i) IN GENERAL.—A heavily im-
22 pacted local educational agency is eligible
23 to receive a basic support payment under
24 subparagraph (A) with respect to a num-
25 ber of children determined under sub-
26 section (a)(1) if the agency—

1 “(I) is a local educational agency
2 whose boundaries are the same as a
3 Federal military installation or the
4 boundaries are the same as island
5 property designated by the Secretary
6 of the Interior to be property that is
7 held in trust by the Federal Govern-
8 ment and the agency has no taxing
9 authority;

10 “(II) is a local educational agen-
11 cy—

12 “(aa) that has an enrollment
13 of children described in sub-
14 section (a)(1) that constitutes a
15 percentage of the total student
16 enrollment of the agency that is
17 not less than 45 percent;

18 “(bb) that has a per-pupil
19 expenditure that is less than—

20 “(AA) for an agency
21 that has a total student en-
22 rollment of 500 or more stu-
23 dents, 125 percent of the av-
24 erage per-pupil expenditure

1 of the State in which the
2 agency is located; or

3 “(BB) for an agency
4 that has a total student en-
5 rollment of less than 500,
6 150 percent of the average
7 per-pupil expenditure of the
8 State in which the agency is
9 located, or the average per-
10 pupil expenditure of 3 or
11 more comparable local edu-
12 cational agencies in the
13 State in which the agency is
14 located; and

15 “(cc) that is an agency
16 that—

17 “(AA) has a tax rate
18 for general fund purposes
19 that is at least 95 percent of
20 the average tax rate for gen-
21 eral fund purposes of com-
22 parable local educational
23 agencies in the State; or

24 “(BB) was eligible to
25 receive a payment under this

1 subsection for fiscal year
2 2008 and is located in a
3 State that by State law has
4 eliminated ad valorem tax as
5 a revenue source for local
6 educational agencies;

7 “(III) is a local educational agen-
8 cy that has a total student enrollment
9 of not less than 25,000 students, of
10 which not less than 50 percent are
11 children described in subsection (a)(1)
12 and not less than 5,500 of such chil-
13 dren are children described in sub-
14 paragraphs (A) and (B) of subsection
15 (a)(1); or

16 “(IV) is a local educational agen-
17 cy that—

18 “(aa) has an enrollment of
19 children described in subsection
20 (a)(1) that constitutes a percent-
21 age of the total student enroll-
22 ment of the agency that is not
23 less than 20 percent;

24 “(bb) for the 3 fiscal years
25 preceding the fiscal year for

1 which the determination is made,
2 the average enrollment of chil-
3 dren who are not described in
4 subsection (a)(1) and who are eli-
5 gible for a free or reduced price
6 lunch under the Richard B. Rus-
7 sell National School Lunch Act
8 constitutes a percentage of the
9 total student enrollment of the
10 agency that is not less than 65
11 percent; and

12 “(cc) has a tax rate for gen-
13 eral fund purposes which is not
14 less than 1.25 percent of the av-
15 erage tax rate for general fund
16 purposes for comparable local
17 educational agencies in the
18 State.”; and

19 (iii) by amending clause (ii) to read as
20 follows:

21 “(ii) LOSS OF ELIGIBILITY.—

22 “(I) IN GENERAL.—Subject to
23 subclause (II), a heavily impacted
24 local education agency that met the
25 requirements of clause (i) for a fiscal

1 year shall be ineligible to receive a
2 basic support payment under subpara-
3 graph (A) if the agency fails to meet
4 the requirements of clause (i) for a
5 subsequent fiscal year, except that
6 such agency shall continue to receive
7 a basic support payment under this
8 paragraph for the fiscal year for
9 which the ineligibility determination is
10 made.

11 “(II) EXCEPTION.—For a local
12 educational agency that is eligible
13 under subparagraph (A) but whose
14 tax rate for general fund purposes
15 falls below 95 percent of the average
16 tax rate for general fund purposes of
17 local educational agencies in the State
18 for two consecutive years shall lose its
19 eligibility and be subject to subclause
20 (I).”; and

21 (iv) by adding at the end, the fol-
22 lowing:

23 “(iv) SPECIAL RULE.—Notwith-
24 standing clause (i)(II), a local educational
25 agency shall be considered eligible to re-

1 ceive a basic support payment under sub-
2 paragraph (A) with respect to the number
3 of children determined under subsection
4 (a)(1) if the agency—

5 “(I) has an enrollment of chil-
6 dren described in subsection (a)(1),
7 including, for purposes of determining
8 eligibility, those children described in
9 subparagraphs (F) and (G) of such
10 subsection, that constitutes a percent-
11 age of the total student enrollment of
12 the agency that is not less than 35
13 percent; and

14 “(II) was eligible to receive as-
15 sistance under subsection (b)(2) for
16 fiscal year 2001.”;

17 (B) by amending subparagraph (C) to read
18 as follows:

19 “(C) MAXIMUM AMOUNT FOR HEAVILY IM-
20 PACTED LOCAL EDUCATIONAL AGENCIES.—

21 “(i) IN GENERAL.—The maximum
22 amount that a heavily impacted local edu-
23 cational agency is eligible to receive under
24 this paragraph for any fiscal year is the
25 sum of the total weighted student units, as

1 computed under subsection (a)(2) and sub-
2 ject to clause (ii), multiplied by the greater
3 of—

4 “(I) four-fifths of the average
5 per-pupil expenditure of the State in
6 which the local educational agency is
7 located for the third fiscal year pre-
8 ceding the fiscal year for which the
9 determination is made; or

10 “(II) four-fifths of the average
11 per-pupil expenditure of all of the
12 States for the third fiscal year pre-
13 ceding the fiscal year for which the
14 determination is made.

15 “(ii) SPECIAL RULE.—(I)(aa) For a
16 local educational agency with respect to
17 which 35 percent or more of the total stu-
18 dent enrollment of the schools of the agen-
19 cy are children described in subparagraphs
20 (D) or (E) (or a combination thereof) of
21 subsection (a)(1), and has an enrollment of
22 children described in subparagraphs (A),
23 (B), or (C) of such subsection equal to at
24 least 10 percent of the agency’s total en-
25 rollment, the Secretary shall calculate the

1 weighted student units of those children
2 described in subparagraphs (D) or (E) of
3 such subsection by multiplying the number
4 of such children by a factor of 0.55.

5 “(bb) For any local educational agen-
6 cy that received a payment under this
7 clause for fiscal year 2006, the local edu-
8 cational agency shall not be required to
9 have an enrollment of children described in
10 subparagraph (A), (B), or (C) of such sub-
11 section equal to at least 10 percent of the
12 agency’s total enrollment.

13 “(II) For a local educational agency
14 that has an enrollment of 100 or fewer
15 children described in subsection (a)(1), the
16 Secretary shall calculate the total number
17 of weighted student units for purposes of
18 subsection (a)(2) by multiplying the num-
19 ber of such children by a factor of 1.75.

20 “(III) For a local educational agency
21 that does not qualify under subparagraph
22 (B)(i)(I) of this subsection and has an en-
23 rollment of more than 100 but not more
24 than 1,000 children described in subsection
25 (a)(1), the Secretary shall calculate the

1 total number of weighted student units for
2 purposes of subsection (a)(2) by multi-
3 plying the number of such children by a
4 factor of 1.25.”;

5 (C) by amending subparagraph (D) to read
6 as follows:

7 “(D) MAXIMUM AMOUNT FOR LARGE
8 HEAVILY IMPACTED LOCAL EDUCATIONAL
9 AGENCIES.—(i)(I) Subject to clause (ii), the
10 maximum amount that a heavily impacted local
11 educational agency described in subclause (II)
12 is eligible to receive under this paragraph for
13 any fiscal year shall be determined in accord-
14 ance with the formula described in paragraph
15 (1)(C).

16 “(II) A heavily impacted local educational
17 agency described in this subclause is a local
18 educational agency that has a total student en-
19 rollment of not less than 25,000 students, of
20 which not less than 50 percent are children de-
21 scribed in subsection (a)(1) and not less than
22 5,500 of such children are children described in
23 subparagraph (A) and (B) of subsection (a)(1).

24 “(ii) For purposes of calculating the max-
25 imum amount described in clause (i), the factor

1 used in determining the weighted student units
2 under subsection (a)(2) with respect to children
3 described in subparagraph (A) and (B) of sub-
4 section (a)(1) shall be 1.35.”;

5 (D) by striking subparagraph (E);

6 (E) by redesignating subparagraph (F) as
7 subparagraph (E);

8 (F) in subparagraph (E) (as so redesign-
9 dated by subparagraph (G))—

10 (i) by striking clause (ii);

11 (ii) by striking “; and” at the end of
12 clause (i) and inserting a period; and

13 (iii) by striking “the Secretary” and
14 all that follows through “shall use” and in-
15 serting “the Secretary shall use”;

16 (G) by redesignating subparagraph (G) as
17 subparagraph (F);

18 (H) in subparagraph (F) (as so redesign-
19 dated by subparagraph (I)), in the matter pre-
20 ceeding clause (i), by striking “(C)(i)(II)(bb)”
21 and inserting “(B)(i)(II)(bb)”;

22 (I) by redesignating subparagraph (H) as
23 subparagraph (G); and

24 (J) in subparagraph (G) (as so redesign-
25 dated by subparagraph (K))—

1 (i) in clause (i)—

2 (I) by striking “(B), (C), (D), or
3 (E),” and inserting “(B), (C), or
4 (D),”;

5 (II) by striking “by reason of”
6 and inserting “due to”;

7 (III) by inserting after “clause
8 (iii),” the following: “or as the direct
9 result of base realignment and closure
10 or modularization as determined by
11 the Secretary of Defense and force
12 structure change or force relocation,”;
13 and

14 (IV) by inserting before the pe-
15 riod at the end the following: “or dur-
16 ing such time as activities associated
17 with base closure and realignment,
18 modularization, force structure
19 change, or force relocation is ongo-
20 ing”;

21 (ii) in clause (ii) by striking “(D) or
22 (E)” in both places such term appears and
23 inserting “(C) or (D)”;

24 (3) in subsection (b)(3)(B)—

25 (A) by redesignating clause (iv) as (v); and

1 (B) by inserting after clause (iii) the fol-
2 lowing:

3 “(iv) For any local educational agency
4 that is providing a program of distant
5 learning to children not residing within the
6 legally defined boundaries of the agency,
7 the Secretary shall disregard such children
8 from such agency’s total enrollment when
9 calculating the percentage under subclause
10 (I) of clause (i) and shall disregard any
11 funds received for such children when cal-
12 culating the total current expenditures at-
13 tributed to the operation of such agency
14 when calculating the percentage under sub-
15 clause (II) of clause (i).”;

16 (4) in subsection (b)(3)(C) by striking “or (E)
17 of paragraph (2), as the case may be” and inserting
18 “of paragraph (2)”;

19 (5) in subsection (b)(3), by amending subpara-
20 graph (D) to read as follows:

21 “(D) RATABLE DISTRIBUTION.—For any
22 fiscal year described in subparagraph (A) for
23 which the sums available exceed the amount re-
24 quired to pay each local educational agency 100
25 percent of its threshold payment the Secretary

1 shall distribute the excess sums to each eligible
2 local educational agency that has not received
3 its full amount computed under paragraph (1)
4 or (2) (as the case may be) by multiplying—

5 “(i) a percentage, the denominator of
6 which is the difference between the full
7 amount computed under paragraph (1) or
8 (2) (as the case may be) for all local edu-
9 cational agencies and the amount of the
10 threshold payment (as calculated under
11 subparagraphs (B) and (C)) of all local
12 educational agencies, and the numerator of
13 which is the aggregate amount of the ex-
14 cess sums, by:

15 “(ii) the difference between the full
16 amount computed under paragraph (1) or
17 (2) (as the case may be) for the agency
18 and the amount of the threshold payment
19 as calculated under subparagraphs (B) and
20 (C) of the agency.”;

21 (6) in subsection (c) by amending paragraph
22 (2) to read as follows:

23 “(2) EXCEPTION.—Calculation of payments for
24 a local educational agency shall be based on data
25 from the fiscal year for which the agency is making

1 an application for payment if such agency is newly
2 established by a State (first year of operation
3 only).”;

4 (7) in subsection (e) by striking paragraphs (1)
5 and (2) and inserting the following:

6 “(1) IN GENERAL.—Subject to paragraph (2),
7 the total amount the Secretary shall pay a local edu-
8 cational agency—

9 “(A) for fiscal year 2014 shall not be less
10 than 90 percent of the total amount that the
11 local education agency received under sub-
12 section (b)(1), (b)(2), or (b)(2)(B)(ii) for fiscal
13 year 2011;

14 “(B) for fiscal year 2015 shall not be less
15 than 80 percent of the total amount that the
16 local educational agency received under sub-
17 section (b)(1), (b)(2), or (b)(2)(B)(ii) for fiscal
18 year 2011;

19 “(C) for fiscal year 2016 shall not be less
20 than 70 percent of the total amount that the
21 local educational agency received under sub-
22 section (b)(1), (b)(2), or (b)(2)(B)(ii) for fiscal
23 year 2011, of which such amount shall be con-
24 sidered a foundation payment for each suc-
25 ceeding fiscal year until such time as the agen-

1 cy’s maximum payment as determined under
2 paragraphs (1) or (2) of subsection (b) as the
3 case may be, exceeds the amount provided for
4 under this subparagraph.

5 “(2) RATABLE REDUCTION.—

6 “(A) IN GENERAL.—If the sums made
7 available under this title for any fiscal year are
8 insufficient to pay the full amounts that all
9 local educational agencies in all States are eligi-
10 ble to receive under paragraph (1) for such
11 year, then the Secretary shall ratably reduce
12 the payments to all agencies for such year.

13 “(B) ADDITIONAL FUNDS.—If additional
14 funds become available for making payments
15 under paragraph (1) for such fiscal year, pay-
16 ments that were reduced under subparagraph
17 (A) shall be increased on the same basis as
18 such payments were reduced.”; and

19 (8) by striking subsection (g).

20 **SEC. 5. AMENDMENTS TO SECTION 8007 (CONSTRUCTION)**

21 **OF THE ESEA.**

22 Section 8007 of the Elementary and Secondary Edu-
23 cation Act of 1965 (20 U.S.C. 7707) is amended to read
24 as follows:

1 **“SEC. 8007. CONSTRUCTION.**

2 “(a) SCHOOL FACILITY EMERGENCY AND MOD-
3 ERNIZATION GRANTS AUTHORIZED.—

4 “(1) IN GENERAL.—From 100 percent of the
5 amount appropriated for each fiscal year under sec-
6 tion 8014(e), the Secretary—

7 “(A) shall award emergency grants in ac-
8 cordance with this subsection to eligible local
9 educational agencies to enable the agencies to
10 carry out emergency repairs of school facilities;
11 and

12 “(B) shall award modernization grants in
13 accordance with this subsection to eligible local
14 educational agencies to enable the agencies to
15 carry out the modernization of school facilities.

16 “(2) PRIORITY.—In approving applications
17 from local educational agencies for emergency grants
18 and modernization grants under this subsection, the
19 Secretary shall give priority to applications in ac-
20 cordance with the following:

21 “(A) The Secretary shall first give priority
22 to applications for emergency grants from local
23 educational agencies that meet the requirements
24 of paragraph (3)(A) and, among such applica-
25 tions for emergency grants, shall give priority
26 to those applications from local educational

1 agencies based on the severity of the emer-
2 gency, as determined by the Secretary.

3 “(B) The Secretary shall next give priority
4 to applications for modernization grants from
5 local educational agencies that meet the re-
6 quirements of paragraph (3)(B) and, among
7 such applications for modernization grants,
8 shall give priority to those applications from
9 local educational agencies based on the severity
10 of the need for modernization, as determined by
11 the Secretary.

12 “(3) ELIGIBILITY REQUIREMENTS.—

13 “(A) EMERGENCY GRANTS.—A local edu-
14 cational agency is eligible to receive an emer-
15 gency grant under paragraph (2)(A) if—

16 “(i) the agency (or in the case of a
17 local educational agency that does not have
18 the authority to tax or issue bonds, the
19 agency’s fiscal agent)—

20 “(I) has no practical capacity to
21 issue bonds; or

22 “(II) has minimal capacity to
23 issue bonds and is at not less than 75
24 percent of the agency’s limit of bond-
25 ed indebtedness; or

1 “(ii) the agency is eligible to receive
2 assistance under subsection (a) for the fis-
3 cal year and has a school facility emer-
4 gency, as determined by the Secretary,
5 that poses a health or safety hazard to the
6 students and school personnel assigned to
7 the school facility.

8 “(B) MODERNIZATION GRANTS.—A local
9 educational agency is eligible to receive a mod-
10 ernization grant under paragraph (2)(B) if—

11 “(i) the agency receives a basic sup-
12 port payment under section 8003(b) for
13 the fiscal year; or

14 “(ii) the agency receives a Federal
15 properties payment under section 8002 for
16 the fiscal year.

17 “(C) RULE OF CONSTRUCTION.—For pur-
18 poses of subparagraph (A)(i), a local edu-
19 cational agency—

20 “(i) has no practical capacity to issue
21 bonds if the total assessed value of real
22 property that may be taxed for school pur-
23 poses is less than \$25,000,000; and

24 “(ii) has minimal capacity to issue
25 bonds if the total assessed value of real

1 property that may be taxed for school pur-
2 poses is at least \$25,000,000 but not more
3 than \$50,000,000.

4 “(4) AWARD CRITERIA.—In awarding emer-
5 gency grants and modernization grants under this
6 subsection, the Secretary shall consider the following
7 factors:

8 “(A) The ability of the local educational
9 agency to respond to the emergency, or to pay
10 for the modernization project, as the case may
11 be, as measured by—

12 “(i) the agency’s level of bonded in-
13 debtedness;

14 “(ii) the assessed value of real prop-
15 erty per student that may be taxed for
16 school purposes compared to the average of
17 the assessed value of real property per stu-
18 dent that may be taxed for school purposes
19 in the State in which the agency is located;

20 “(iii) the agency’s total tax rate for
21 school purposes (or for capital expendi-
22 tures, if applicable) compared to the aver-
23 age total tax rate for school purposes (or
24 the average capital expenditure tax rate, if

1 applicable) in the State in which the agen-
2 cy is located; and

3 “(iv) funds that are available to the
4 agency, from any other source, including
5 subsection (a), that may be used for cap-
6 ital expenditures.

7 “(B) The percentage of property in the
8 agency that is nontaxable due to the presence
9 of the Federal Government.

10 “(C) The number and percentages of chil-
11 dren described in subparagraphs (A), (B), (C),
12 and (D) of section 8003(a)(1) served in the
13 school facility with the emergency or served in
14 the school facility proposed for modernization,
15 as the case may be.

16 “(D) In the case of an emergency grant,
17 the severity of the emergency, as measured by
18 the threat that the condition of the school facil-
19 ity poses to the health, safety, and well-being of
20 students.

21 “(E) In the case of a modernization
22 grant—

23 “(i) the severity of the need for mod-
24 ernization, as measured by such factors
25 as—

1 “(I) overcrowding, as evidenced
2 by the use of portable classrooms, or
3 the potential for future overcrowding
4 because of increased enrollment; or

5 “(II) the agency’s inability to uti-
6 lize technology or offer a curriculum
7 in accordance with contemporary
8 State standards due to the physical
9 limitations of the current school facil-
10 ity; and

11 “(ii) the age of the school facility pro-
12 posed for modernization.

13 “(5) OTHER AWARD PROVISIONS.—

14 “(A) GENERAL PROVISIONS.—

15 “(i) LIMITATIONS ON AMOUNT OF
16 FUNDS.—

17 “(I) IN GENERAL.—The amount
18 of funds provided under an emergency
19 grant or a modernization grant
20 awarded under this subsection to a
21 local educational agency that meets
22 the requirements of subclause (II) of
23 paragraph (3)(A)(i) for purposes of
24 eligibility under subparagraph (A) or
25 (B) of paragraph (3)—

1 “(aa) shall not exceed 50
2 percent of the total cost of the
3 project to be assisted under this
4 subsection; and

5 “(bb) shall not exceed
6 \$4,000,000 during any 4-year pe-
7 riod.

8 “(II) IN-KIND CONTRIBUTIONS.—
9 A local educational agency may use
10 in-kind contributions to meet the
11 matching requirement of subclause
12 (I)(aa).

13 “(ii) PROHIBITIONS ON USE OF
14 FUNDS.—A local educational agency may
15 not use funds provided under an emer-
16 gency grant or modernization grant award-
17 ed under this subsection for—

18 “(I) a project for a school facility
19 for which the agency does not have
20 full title or other interest;

21 “(II) stadiums or other school fa-
22 cilities that are primarily used for
23 athletic contests, exhibitions, or other
24 events for which admission is charged
25 to the general public; or

1 “(III) the acquisition of real
2 property.

3 “(iii) SUPPLEMENT, NOT SUP-
4 PLANT.—A local educational agency shall
5 use funds provided under an emergency
6 grant or modernization grant awarded
7 under this subsection only to supplement
8 the amount of funds that would, in the ab-
9 sence of the Federal funds provided under
10 the grant, be made available from non-
11 Federal sources to carry out emergency re-
12 pairs of school facilities or to carry out the
13 modernization of school facilities, as the
14 case may be, and not to supplant such
15 funds.

16 “(iv) MAINTENANCE COSTS.—Nothing
17 in this subsection shall be construed to au-
18 thorize the payment of maintenance costs
19 in connection with any school facility mod-
20 ernized in whole or in part with Federal
21 funds provided under this subsection.

22 “(v) ENVIRONMENTAL SAFE-
23 GUARDS.—All projects carried out with
24 Federal funds provided under this sub-
25 section shall comply with all relevant Fed-

1 eral, State, and local environmental laws
2 and regulations.

3 “(vi) CARRY-OVER OF CERTAIN APPLI-
4 CATIONS.—A local educational agency that
5 applies for an emergency grant or a mod-
6 ernization grant under this subsection for
7 a fiscal year and does not receive the grant
8 for the fiscal year shall have the applica-
9 tion for the grant considered for the fol-
10 lowing fiscal year, subject to the priority
11 requirements of paragraph (2) and the
12 award criteria requirements of paragraph
13 (4).

14 “(B) EMERGENCY GRANTS; PROHIBITION
15 ON USE OF FUNDS.—A local educational agency
16 that is awarded an emergency grant under this
17 subsection may not use amounts under the
18 grant for the complete or partial replacement of
19 an existing school facility unless such replace-
20 ment is less expensive or more cost-effective
21 than correcting the identified emergency.

22 “(6) APPLICATION.—A local educational agency
23 that desires to receive an emergency grant or a mod-
24 ernization grant under this subsection shall submit
25 an application to the Secretary at such time, in such

1 manner, and accompanied by such information as
2 the Secretary may require. Each application shall
3 contain the following:

4 “(A) A description of how the local edu-
5 cational agency meets the award criteria under
6 paragraph (4), including the information de-
7 scribed in clauses (i) through (iv) of paragraph
8 (4)(A) and subparagraphs (B) and (C) of para-
9 graph (4).

10 “(B) In the case of an application for an
11 emergency grant—

12 “(i) a description of the school facility
13 deficiency that poses a health or safety
14 hazard to the occupants of the facility and
15 a description of how the deficiency will be
16 repaired; and

17 “(ii) a signed statement from an ap-
18 propriate local official certifying that a de-
19 ficiency in the school facility threatens the
20 health or safety of the occupants of the fa-
21 cility or that prevents the use of all or a
22 portion of the building.

23 “(C) In the case of an application for a
24 modernization grant—

1 “(i) an explanation of the need for the
2 school facility modernization project;

3 “(ii) the date on which original con-
4 struction of the facility to be modernized
5 was completed;

6 “(iii) a listing of the school facilities
7 to be modernized, including the number
8 and percentage of children determined
9 under section 8003(a)(1) in average daily
10 attendance in each school facility; and

11 “(iv) a description of the ownership of
12 the property on which the current school
13 facility is located or on which the planned
14 school facility will be located.

15 “(D) A description of the project for which
16 a grant under this subsection will be used, in-
17 cluding a cost estimate for the project.

18 “(E) A description of the interest in, or
19 authority over, the school facility involved, such
20 as an ownership interest or a lease arrange-
21 ment.

22 “(F) Such other information and assur-
23 ances as the Secretary may reasonably require.

24 “(7) REPORT.—

1 “(A) IN GENERAL.—Not later than Janu-
2 ary 1 of each year, the Secretary shall prepare
3 and submit to the appropriate congressional
4 committees a report that contains a justifica-
5 tion for each grant awarded under this sub-
6 section for the prior fiscal year.

7 “(B) DEFINITION.—In this paragraph, the
8 term ‘appropriate congressional committees’
9 means—

10 “(i) the Committee on Appropriations
11 and the Committee on Education and the
12 Workforce of the House of Representa-
13 tives; and

14 “(ii) the Committee on Appropriations
15 and the Committee on Health, Education,
16 Labor, and Pensions of the Senate.”.

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