

Union Calendar No. 388

110TH CONGRESS
2D SESSION

H. R. 3021

[Report No. 110-623]

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.

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

MAY 8, 2008

Additional sponsors: Mr. YARMUTH, Ms. MOORE of Wisconsin, Mr. HARE, Ms. HOOLEY, Mr. LOEBSACK, Mr. ANDREWS, Mr. BISHOP of New York, Mr. COURTNEY, Mr. DAVIS of Illinois, Mr. GRIJALVA, Mr. HINOJOSA, Ms. HIRONO, Mr. KUCINICH, Ms. LINDA T. SÁNCHEZ of California, Mr. SARBANES, Ms. SHEA-PORTER, Mr. HOLT, Mr. ALTMIRE, Mrs. MCCARTHY of New York, Ms. MCCOLLUM of Minnesota, Mr. McDERMOTT, Mr. KLEIN of Florida, Mr. CARSON, Mr. PAYNE, Mr. STARK, Ms. WOOLSEY, Mrs. DAVIS of California, Mr. LEWIS of Georgia, Mr. CONYERS, Mr. ROSS, Mr. WELCH of Vermont, Mr. BRALEY of Iowa, Mr. CARNEY, Mr. ELLISON, Mr. JOHNSON of Georgia, Mr. PERLMUTTER, Mr. SIRES, Ms. SUTTON, Mr. JACKSON of Illinois, Mr. PALLONE, Mr. DEFazio, Mr. HINCHEY, Mr. KIND, Mrs. CAPPS, Ms. SOLIS, Mr. LINCOLN DAVIS of Tennessee, Mr. CRAMER, Mr. MATHESON, Mr. MELANCON, Mr. SALAZAR, Mrs. NAPOLITANO, Ms. HERSETH SANDLIN, Mr. SCHIFF, Mr. LIPINSKI, Mr. CUELLAR, Mr. BOSWELL, Mr. UDALL of Colorado, Mr. SMITH of Washington, Mr. WEXLER, Mr. BARROW, Mr. BERRY, Mr. MOORE of Kansas, Mr. GORDON of Tennessee, Mr. WU, Mr. TANNER, Mr. ISRAEL, Mr. SNYDER, Mr. HILL, Mr. BLUMENAUER, Ms. RICHARDSON, Mr. LARSON of Connecticut, Mr. SESTAK, Mr. SCOTT of Virginia, Ms. DELAURO, Mr. INSLEE, Mr. JEFFERSON, Mr. KENNEDY, Mr. MCGOVERN, Mr. BACA, Ms. CLARKE, Mr. BOREN, Mrs. MALONEY of New York,

Mr. MCINTYRE, Mr. FARR, Mr. RYAN of Ohio, Mr. CARDOZA, Ms. MATSUI, Ms. KILPATRICK, Mr. HALL of New York, Ms. BEAN, Mr. RODRIGUEZ, Mr. MOLLOHAN, Mr. PRICE of North Carolina, Mr. CARNAHAN, Mr. RAHALL, Mr. EMANUEL, Mr. DELAHUNT, Mr. GENE GREEN of Texas, Ms. BORDALLO, Mr. TOWNS, Mrs. CHRISTENSEN, Mr. VAN HOLLEN, Mr. DAVIS of Alabama, Mr. HASTINGS of Florida, Mr. ETHERIDGE, Ms. CORRINE BROWN of Florida, Mr. TIERNEY, Mr. MITCHELL, Mr. NADLER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MURPHY of Connecticut, Mr. MORAN of Virginia, Mr. SERRANO, Mr. HONDA, Mr. MARKEY, Mr. FILNER, Mrs. JONES of Ohio, Mr. RUSH, Mr. OLVER, Mr. DOYLE, Mr. DINGELL, Mr. THOMPSON of Mississippi, Ms. SCHAKOWSKY, Mr. ABERCROMBIE, Mr. POMEROY, Mr. THOMPSON of California, Mr. ENGEL, Ms. LORETTA SANCHEZ of California, Ms. LEE, Mr. MCNERNEY, Mr. CUMMINGS, Mr. WALZ of Minnesota, Mr. SCOTT of Georgia, Ms. TSONGAS, Mr. FORTUÑO, Mr. WYNN, Ms. WASSERMAN SCHULTZ, Mr. LANGEVIN, Mr. BOYD of Florida, and Mr. WILSON of Ohio

MAY 8, 2008

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on July 12, 2007]

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; TABLE OF CONTENTS.**

4 *(a) SHORT TITLE.—This Act may be cited as the “21st*
 5 *Century Green High-Performing Public School Facilities*
 6 *Act”.*

1 *(b) TABLE OF CONTENTS.—The table of contents for*
 2 *this Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

*TITLE I—GRANTS FOR MODERNIZATION, RENOVATION, OR REPAIR
OF SCHOOL FACILITIES*

Sec. 101. Purpose.

Sec. 102. Allocation of funds.

Sec. 103. Allowable uses of funds.

*TITLE II—SUPPLEMENTAL GRANTS FOR LOUISIANA, MISSISSIPPI,
AND ALABAMA*

Sec. 201. Purpose.

Sec. 202. Allocation to States.

Sec. 203. Allowable uses of funds.

TITLE III—GENERAL PROVISIONS

Sec. 301. Impermissible uses of funds.

Sec. 302. Supplement, not supplant.

Sec. 303. Maintenance of effort.

Sec. 304. Special rule on contracting.

Sec. 305. Application of GEPA.

Sec. 306. Green Schools.

Sec. 307. Reporting.

Sec. 308. Authorization of appropriations.

3 **SEC. 2. DEFINITIONS.**

4 *In this Act:*

5 *(1) The term “Bureau-funded school” has the*
 6 *meaning given to such term in section 1141 of the*
 7 *Education Amendments of 1978 (25 U.S.C. 2021).*

8 *(2) The term “charter school” has the meaning*
 9 *given such term in section 5210 of the Elementary*
 10 *and Secondary Education Act of 1965.*

11 *(3) The term “local educational agency”—*
 12 *(A) has the meaning given to that term in*
 13 *section 9101 of the Elementary and Secondary*

1 *Education Act of 1965, and shall also include*
2 *the Recovery School District of Louisiana and*
3 *the New Orleans Public Schools; and*

4 *(B) includes any public charter school that*
5 *constitutes a local educational agency under*
6 *State law.*

7 *(4) The term “outlying area”—*

8 *(A) means the United States Virgin Islands,*
9 *Guam, American Samoa, and the Common-*
10 *wealth of the Northern Mariana Islands; and*

11 *(B) includes the freely associated states of*
12 *the Republic of the Marshall Islands, the Fed-*
13 *erated States of Micronesia, and the Republic of*
14 *Palau.*

15 *(5) The term “State” means each of the 50*
16 *States, the District of Columbia, and the Common-*
17 *wealth of Puerto Rico.*

18 *(6) The term “LEED Green Building Rating*
19 *System” means the United States Green Building*
20 *Council Leadership in Energy and Environmental*
21 *Design green building rating standard referred to as*
22 *LEED Green Building Rating System.*

23 *(7) The term “Energy Star” means the Energy*
24 *Star program of the United States Department of En-*

1 *ergy and the United States Environmental Protection*
 2 *Agency.*

3 (8) *The term “CHPS Criteria” means the green*
 4 *building rating program developed by the Collabo-*
 5 *rative for High Performance Schools.*

6 ***TITLE I—GRANTS FOR MOD-***
 7 ***ERNIZATION, RENOVATION,***
 8 ***OR REPAIR OF SCHOOL FA-***
 9 ***CILITIES***

10 ***SEC. 101. PURPOSE.***

11 *Grants under this title shall be for the purpose of mod-*
 12 *ernizing, renovating, or repairing public kindergarten, ele-*
 13 *mentary, and secondary educational facilities that are safe,*
 14 *healthy, high-performing, and up-to-date technologically.*

15 ***SEC. 102. ALLOCATION OF FUNDS.***

16 (a) *RESERVATION.—From the amount appropriated to*
 17 *carry out this title for each fiscal year pursuant to section*
 18 *308(a), the Secretary shall reserve 1 percent of such*
 19 *amount, consistent with the purpose described in section*
 20 *101—*

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

23 (2) *for payments to the Secretary of the Interior*
 24 *to provide assistance to Bureau-funded schools.*

25 (b) *ALLOCATION TO STATES.—*

1 (1) *STATE-BY-STATE ALLOCATION.*—Of the
 2 amount appropriated to carry out this title for each
 3 fiscal year pursuant to section 308(a), and not re-
 4 served under subsection (a), each State shall be allo-
 5 cated an amount in proportion to the amount re-
 6 ceived by all local educational agencies in the State
 7 under part A of title I of the Elementary and Sec-
 8 ondary Education Act of 1965 for the previous fiscal
 9 year relative to the total amount received by all local
 10 educational agencies in every State under such part
 11 for such fiscal year.

12 (2) *STATE ADMINISTRATION.*—A State may re-
 13 serve up to 1 percent of its allocation under para-
 14 graph (1) to carry out its responsibilities under this
 15 title, including—

16 (A) providing technical assistance to local
 17 educational agencies;

18 (B) developing within 6 months of receiving
 19 its allocation under paragraph (1) a plan to de-
 20 velop a database that includes an inventory of
 21 public school facilities in the State and the mod-
 22 ernization, renovation, and repair needs of, en-
 23 ergy use by, and the carbon footprint of such
 24 schools; and

1 (C) *developing a school energy efficiency*
2 *quality plan.*

3 (3) *GRANTS TO LOCAL EDUCATIONAL AGEN-*
4 *CIES.—From the amount allocated to a State under*
5 *paragraph (1), each local educational agency in the*
6 *State that meets the requirements of section 1112(a)*
7 *of the Elementary and Secondary Education Act of*
8 *1965 shall receive an amount in proportion to the*
9 *amount received by such local educational agency*
10 *under part A of title I of that Act for the previous*
11 *fiscal year relative to the total amount received by all*
12 *local educational agencies in the State under such*
13 *part for such fiscal year, except that no local edu-*
14 *cational agency that received funds under part A of*
15 *title I of that Act for such fiscal year shall receive a*
16 *grant of less than \$5,000 in any fiscal year under*
17 *this title.*

18 (4) *SPECIAL RULE.—Section 1122(c)(3) of the*
19 *Elementary and Secondary Education Act of 1965*
20 *shall not apply to paragraphs (1) or (3).*

21 (c) *SPECIAL RULES.—*

22 (1) *DISTRIBUTIONS BY SECRETARY.—The Sec-*
23 *retary shall make and distribute the reservations and*
24 *allocations described in subsections (a) and (b) not*

1 *later than 30 days after an appropriation of funds*
2 *for this title is made.*

3 (2) *DISTRIBUTIONS BY STATES.*—*A State shall*
4 *make and distribute the allocations described in sub-*
5 *section (b)(3) within 30 days of receiving such funds*
6 *from the Secretary.*

7 **SEC. 103. ALLOWABLE USES OF FUNDS.**

8 *A local educational agency receiving a grant under*
9 *this title may use the grant for modernization, renovation,*
10 *or repair of public school facilities, including—*

11 (1) *repairing, replacing, or installing roofs, elec-*
12 *trical wiring, plumbing systems, sewage systems,*
13 *lighting systems, or components of such systems, win-*
14 *dows, or doors;*

15 (2) *repairing, replacing, or installing heating,*
16 *ventilation, air conditioning systems, or components*
17 *of such systems (including insulation), including in-*
18 *door air quality assessments;*

19 (3) *bringing public schools into compliance with*
20 *fire and safety codes, including modernizations, ren-*
21 *ovations, and repairs that ensure that schools are pre-*
22 *pared for emergencies;*

23 (4) *modifications necessary to make public school*
24 *facilities accessible to comply with the Americans*
25 *with Disabilities Act of 1990 (42 U.S.C. 12101 et*

1 *seq.) and section 504 of the Rehabilitation Act of*
2 *1973 (29 U.S.C. 794), except that such modifications*
3 *shall not be the primary use of the grant;*

4 *(5) asbestos abatement or removal from public*
5 *school facilities;*

6 *(6) implementation of measures designed to re-*
7 *duce or eliminate human exposure to lead-based paint*
8 *hazards through methods including interim controls,*
9 *abatement, or a combination of each;*

10 *(7) upgrading or installing educational tech-*
11 *nology infrastructure to ensure that students have ac-*
12 *cess to up-to-date educational technology;*

13 *(8) other modernization, renovation, or repair of*
14 *public school facilities to—*

15 *(A) improve teachers' ability to teach and*
16 *students' ability to learn;*

17 *(B) ensure the health and safety of students*
18 *and staff; or*

19 *(C) make them more energy efficient; and*

20 *(9) required environmental remediation related*
21 *to school modernization, renovation, or repair de-*
22 *scribed in paragraphs (1) through (8).*

1 **TITLE II—SUPPLEMENTAL**
2 **GRANTS FOR LOUISIANA, MIS-**
3 **SISSIPPI, AND ALABAMA**

4 **SEC. 201. PURPOSE.**

5 *Grants under this title shall be for the purpose of mod-*
6 *ernizing, renovating, repairing or constructing public kin-*
7 *dergarten, elementary, and secondary educational facilities*
8 *that are safe, healthy, high-performing, and up-to-date tech-*
9 *nologically in order to address such needs caused by damage*
10 *resulting from Hurricane Katrina or Hurricane Rita.*

11 **SEC. 202. ALLOCATION TO STATES.**

12 *(a) STATE-BY-STATE ALLOCATION.—Of the amount*
13 *appropriated to carry out this title for each fiscal year pur-*
14 *suant to section 308(b), the Secretary shall allocate to Lou-*
15 *isiana, Mississippi, and Alabama an amount equal to the*
16 *number of schools in each of those States that were closed*
17 *for 60 days or more during the period beginning on August*
18 *29, 2005, and ending on December 31, 2005, due to Hurri-*
19 *cane Katrina or Hurricane Rita, relative to the number*
20 *of schools in all of those States combined that were so closed.*

21 *(b) STATE ADMINISTRATION.—A State that receives*
22 *funds under this title may reserve one-half of one percent*
23 *of such funds for administrative purposes related to this*
24 *title.*

1 (c) *GRANTS TO LOCAL EDUCATIONAL AGENCIES.*—
 2 *States receiving funds under subsection (a) shall allocate*
 3 *such funds to local educational agencies within the State*
 4 *according to the criteria described in subsection (a).*

5 (d) *SPECIAL RULES.*—

6 (1) *DISTRIBUTIONS BY SECRETARY.*—*The Sec-*
 7 *retary shall make and distribute the allocations de-*
 8 *scribed in subsection (a) not later than 30 days after*
 9 *an appropriation of funds for this title is made.*

10 (2) *DISTRIBUTIONS BY STATES.*—*A State shall*
 11 *make and distribute the allocations described in sub-*
 12 *section (c) within 30 days of receiving such funds*
 13 *from the Secretary.*

14 **SEC. 203. ALLOWABLE USES OF FUNDS.**

15 *A local educational agency receiving a grant under*
 16 *this title may use the grant for any of the activities de-*
 17 *scribed in section 103, except that an agency receiving a*
 18 *grant under this title also may use such grant for such ac-*
 19 *tivities for the construction of new public kindergarten, ele-*
 20 *mentary, and secondary school facilities.*

21 **TITLE III—GENERAL**
 22 **PROVISIONS**

23 **SEC. 301. IMPERMISSIBLE USES OF FUNDS.**

24 *No funds received under this Act may be used for—*

25 (1) *payment of maintenance costs; or*

1 (2) *stadiums or other facilities primarily used*
2 *for athletic contests or exhibitions or other events for*
3 *which admission is charged to the general public.*

4 **SEC. 302. SUPPLEMENT, NOT SUPPLANT.**

5 *A local educational agency receiving a grant under*
6 *this Act shall use such Federal funds only to supplement*
7 *and not supplant the amount of funds that would, in the*
8 *absence of such Federal funds, be available for moderniza-*
9 *tion, renovation, and repair of public kindergarten, elemen-*
10 *tary, and secondary educational facilities.*

11 **SEC. 303. MAINTENANCE OF EFFORT.**

12 *A local educational agency may receive a grant under*
13 *this Act for any fiscal year only if either the combined fiscal*
14 *effort per student or the aggregate expenditures of the agen-*
15 *cy and the State involved with respect to the provision of*
16 *free public education by the agency for the preceding fiscal*
17 *year was not less than 90 percent of the combined fiscal*
18 *effort or aggregate expenditures for the second preceding fis-*
19 *cal year.*

20 **SEC. 304. SPECIAL RULE ON CONTRACTING.**

21 *Each local educational agency receiving a grant under*
22 *this Act shall ensure that, if the agency carries out mod-*
23 *ernization, renovation, or repair through a contract, the*
24 *process for any such contract ensures the maximum number*
25 *of qualified bidders, including local, small, minority, and*

1 *women- and veteran-owned businesses, through full and*
 2 *open competition.*

3 **SEC. 305. APPLICATION OF GEPA.**

4 *The grant programs under this Act are applicable pro-*
 5 *grams (as that term is defined in section 400 of the General*
 6 *Education Provisions Act (20 U.S.C. 1221)) subject to sec-*
 7 *tion 439 of such Act (20 U.S.C. 1232b).*

8 **SEC. 306. GREEN SCHOOLS.**

9 *(a) IN GENERAL.—In a given fiscal year, a local edu-*
 10 *cational agency shall use not less than the applicable per-*
 11 *centage of funds received under this Act described in sub-*
 12 *section (b) for public school modernization, renovation, or*
 13 *repairs that are—*

14 *(1) LEED Green Building Rating System-cer-*
 15 *tified or consistent with any applicable provisions of*
 16 *the LEED Green Building Rating System;*

17 *(2) Energy Star-certified or consistent with any*
 18 *applicable provisions of Energy Star; or*

19 *(3) certified, designed, or verified under or meet*
 20 *any applicable provisions of an equivalent program*
 21 *to the LEED Green Building Rating System or En-*
 22 *ergy Star adopted by the State or another jurisdiction*
 23 *with authority over the local educational agency, such*
 24 *as the CHPS Criteria.*

1 (b) *APPLICABLE PERCENTAGES.*—*The applicable per-*
 2 *centages described in subsection (a) are—*

3 (1) *in fiscal year 2009, 50 percent;*

4 (2) *in fiscal year 2010, 60 percent;*

5 (3) *in fiscal year 2011, 70 percent;*

6 (4) *in fiscal year 2012, 80 percent; and*

7 (5) *in fiscal year 2013, 90 percent.*

8 (c) *TECHNICAL ASSISTANCE.*—*The Secretary, in con-*
 9 *sultation with the Secretary of Energy and the Adminis-*
 10 *trator of the Environmental Protection Agency, shall pro-*
 11 *vide outreach and technical assistance to States and school*
 12 *districts concerning the best practices in school moderniza-*
 13 *tion, renovation, and repair, including those related to stu-*
 14 *dent academic achievement and student and staff health,*
 15 *energy efficiency, and environmental protection.*

16 **SEC. 307. REPORTING.**

17 (a) *REPORTS BY LOCAL EDUCATIONAL AGENCIES.*—
 18 *Local educational agencies receiving a grant under this Act*
 19 *shall annually compile a report describing the projects for*
 20 *which such funds were used, including—*

21 (1) *the number of public schools in the agency;*

22 (2) *the number of schools in the agency with a*
 23 *metro-centric locale code of 41, 42, or 43 as deter-*
 24 *mined by the National Center for Education Statis-*
 25 *tics and the percentage of funds received by the agen-*

1 *cy under title I or title II of this Act that were used*
2 *for projects at such schools;*

3 *(3) the number of schools in the agency that are*
4 *eligible for schoolwide programs under section 1114 of*
5 *the Elementary and Secondary Education Act of*
6 *1965 and the percentage of funds received by the*
7 *agency under title I or title II of this Act that were*
8 *used for projects at such schools; and*

9 *(4) for each project—*

10 *(A) the cost;*

11 *(B) the standard described in section 306(a)*
12 *with which the use of the funds complied or if*
13 *the use of funds did not comply with a standard*
14 *described in section 306(a), the reason such*
15 *funds were not able to be used in compliance*
16 *with such standards and the agency's efforts to*
17 *use such funds in an environmentally sound*
18 *manner; and*

19 *(C) any demonstrable or expected benefits as*
20 *a result of the project (such as energy savings,*
21 *improved indoor environmental quality, im-*
22 *proved climate for teaching and learning, etc.).*

23 *(b) AVAILABILITY OF REPORTS.—A local educational*
24 *agency shall—*

1 (1) *submit the report described in subsection (a)*
 2 *to the State educational agency, which shall compile*
 3 *such information and report it annually to the Sec-*
 4 *retary; and*

5 (2) *make the report described in subsection (a)*
 6 *publicly available, including on the agency's website.*

7 (c) *REPORTS BY SECRETARY.*—*Not later than Decem-*
 8 *ber 31 of each fiscal year, the Secretary shall submit to the*
 9 *Committee on Education and Labor of the House of Rep-*
 10 *resentatives and the Committee on Health, Education,*
 11 *Labor, and Pensions of the Senate a report on grants made*
 12 *under this Act, including the information described in sub-*
 13 *section (b)(1), the types of modernization, renovation, and*
 14 *repair funded, and the number of students impacted, in-*
 15 *cluding the number of students counted under section*
 16 *1113(a)(5) of the Elementary and Secondary Education Act*
 17 *of 1965.*

18 **SEC. 308. AUTHORIZATION OF APPROPRIATIONS.**

19 (a) *TITLE I.*—*To carry out title I, there are authorized*
 20 *to be appropriated \$6,400,000,000 for fiscal year 2009 and*
 21 *such sums as may be necessary for each of fiscal years 2010*
 22 *through 2013.*

23 (b) *TITLE II.*—*To carry out title II, there are author-*
 24 *ized to be appropriated \$100,000,000 for each of fiscal years*
 25 *2009 through 2013.*

Amend the title so as to read: “A bill to direct the Secretary of Education to make grants to State educational agencies for the modernization, renovation, or repair of public kindergarten, elementary, and secondary educational facilities, and for other purposes.”.

Union Calendar No. 388

110TH CONGRESS
2^D Session

H. R. 3021

[Report No. 110-623]

A BILL

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