

114TH CONGRESS
2D SESSION

H. R. 5157

To direct the Secretary of Education to make grants to State educational agencies for the modernization, renovation, or repair of public school facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 2016

Mr. SEAN PATRICK MALONEY of New York (for himself, Mr. CUMMINGS, and Mr. POLIS) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To direct the Secretary of Education to make grants to State educational agencies for the modernization, renovation, or repair of public school 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—

5 (1) the “School Modernization and Revitaliza-
6 tion Through Jobs Act”;

7 (2) the “SMART Jobs Act”; or

1 (3) the “21st Century Green High-Performing
2 Public School Facilities Act”.

3 (b) TABLE OF CONTENTS.—The table of contents for
4 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

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

Sec. 101. Purpose.
Sec. 102. Allocation of funds.
Sec. 103. Allowable uses of funds.

TITLE II—SUPPLEMENTAL GRANTS FOR DISASTER AREAS

Sec. 201. Purpose.
Sec. 202. Allocation to local educational agencies.
Sec. 203. Allowable uses of funds.

TITLE III—GENERAL PROVISIONS

Sec. 301. Impermissible uses of funds.
Sec. 302. Supplement, not supplant.
Sec. 303. Prohibition regarding State aid.
Sec. 304. Maintenance of effort.
Sec. 305. Special rule on contracting.
Sec. 306. Use of American iron, steel, and manufactured goods.
Sec. 307. Labor standards.
Sec. 308. Charter schools.
Sec. 309. Green schools.
Sec. 310. Reporting.
Sec. 311. Authorization of appropriations.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

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

10 (2) The term “charter school” has the meaning
11 given such term in section 4310 of the Elementary

1 and Secondary Education Act of 1965 (20 U.S.C.
2 7221i).

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

6 (4) The term “Energy Star” means the Energy
7 Star program of the United States Department of
8 Energy and the United States Environmental Pro-
9 tection Agency.

10 (5) The term “Green Globes” means the Green
11 Building Initiative environmental design and rating
12 system referred to as Green Globes.

13 (6) The term “LEED Green Building Rating
14 System” means the United States Green Building
15 Council Leadership in Energy and Environmental
16 Design green building rating standard referred to as
17 LEED Green Building Rating System.

18 (7) The term “local educational agency”—

19 (A) has the meaning given to that term in
20 section 8101 of the Elementary and Secondary
21 Education Act of 1965 (20 U.S.C. 7801), and
22 shall also include the Recovery School District
23 of Louisiana and the New Orleans Public
24 Schools; and

1 (B) includes any public charter school that
2 constitutes a local educational agency under
3 State law.

4 (8) The term “outlying area”—

5 (A) means the United States Virgin Is-
6 lands, Guam, American Samoa, and the Com-
7 monwealth of the Northern Mariana Islands;
8 and

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

13 (9) The term “public school facilities” means
14 an existing public school facility, including a public
15 charter school facility, or another existing facility
16 planned for adaptive reuse as such a school facility.

17 (10) The term “State” means each of the 50
18 States, the District of Columbia, and the Common-
19 wealth of Puerto Rico.

1 **TITLE I—GRANTS FOR MOD-**
2 **ERNIZATION, RENOVATION,**
3 **OR REPAIR OF PUBLIC**
4 **SCHOOL FACILITIES**

5 **SEC. 101. PURPOSE.**

6 Grants under this title shall be for the purpose of
7 modernizing, renovating, or repairing public school facili-
8 ties, based on their need for such improvements, to be
9 safe, healthy, high-performing, and up-to-date techno-
10 logically.

11 **SEC. 102. ALLOCATION OF FUNDS.**

12 (a) RESERVATION.—

13 (1) IN GENERAL.—From the amount appro-
14 priated to carry out this title for each fiscal year
15 pursuant to section 311(a), the Secretary shall re-
16 serve 1 percent of such amount, consistent with the
17 purpose described in section 101—

18 (A) to provide assistance to the outlying
19 areas; and

20 (B) for payments to the Secretary of the
21 Interior to provide assistance to Bureau-funded
22 schools.

23 (2) USE OF RESERVED FUNDS.—In each fiscal
24 year, the amount reserved under paragraph (1) shall
25 be divided between the uses described in subpara-

1 graphs (A) and (B) of such paragraph in the same
2 proportion as the amount reserved under section
3 1121(a) of the Elementary and Secondary Edu-
4 cation Act of 1965 (20 U.S.C. 6331(a)) is divided
5 between the uses described in paragraphs (1) and
6 (2) of such section 1121(a) in such fiscal year.

7 (b) ALLOCATION TO STATES.—

8 (1) STATE-BY-STATE ALLOCATION.—Of the
9 amount appropriated to carry out this title for each
10 fiscal year pursuant to section 311(a), and not re-
11 served under subsection (a), each State shall be allo-
12 cated an amount in proportion to the amount re-
13 ceived by all local educational agencies in the State
14 under part A of title I of the Elementary and Sec-
15 ondary Education Act of 1965 (20 U.S.C. 6311 et
16 seq.) for the previous fiscal year relative to the total
17 amount received by all local educational agencies in
18 every State under such part for such fiscal year.

19 (2) STATE ADMINISTRATION.—A State may re-
20 serve up to 1 percent of its allocation under para-
21 graph (1) to carry out its responsibilities under this
22 title, which include—

23 (A) providing technical assistance to local
24 educational agencies;

1 (B) developing a database that includes an
2 inventory of public school facilities in the State,
3 including for each, its design, condition, mod-
4 ernization, renovation and repair needs, usage,
5 utilization, energy use, and carbon footprint;
6 and

7 (C) developing a school energy efficiency
8 quality plan.

9 (3) GRANTS TO LOCAL EDUCATIONAL AGEN-
10 CIES.—From the amount allocated to a State under
11 paragraph (1), each local educational agency in the
12 State that meets the requirements of section
13 1112(a) of the Elementary and Secondary Edu-
14 cation Act of 1965 (20 U.S.C. 6312(a)) shall receive
15 an amount in proportion to the amount received by
16 such local educational agency under part A of title
17 I of that Act (20 U.S.C. 6311 et seq.) for the pre-
18 vious fiscal year relative to the total amount received
19 by all local educational agencies in the State under
20 such part for such fiscal year, except that no local
21 educational agency that received funds under part A
22 of title I of that Act for such fiscal year shall receive
23 a grant of less than \$5,000 in any fiscal year under
24 this title.

1 (4) SPECIAL RULE.—Section 1122(c)(3) of the
 2 Elementary and Secondary Education Act of 1965
 3 (20 U.S.C. 6332(c)(3)) shall not apply to paragraph
 4 (1) or (3).

5 (c) SPECIAL RULES.—

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

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

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

16 A local educational agency receiving a grant under
 17 this title shall use the grant for modernization, renovation,
 18 or repair of public school facilities, including, where appli-
 19 cable, early learning facilities—

20 (1) repairing, replacing, or installing roofs, in-
 21 cluding extensive, intensive or semi-intensive green
 22 roofs, electrical wiring, plumbing systems, sewage
 23 systems, lighting systems, or components of such
 24 systems, windows, or doors, including security doors;

1 (2) repairing, replacing, or installing heating,
2 ventilation, air conditioning systems, or components
3 of such systems (including insulation), including in-
4 door air quality assessments;

5 (3) bringing public schools into compliance with
6 fire, health, and safety codes, including professional
7 installation of fire/life safety alarms, including mod-
8 ernizations, renovations, and repairs that ensure
9 that schools are prepared for emergencies, such as
10 improving building infrastructure to accommodate
11 security measures;

12 (4) modifications necessary to make public
13 school facilities accessible to comply with the Ameri-
14 cans with Disabilities Act of 1990 (42 U.S.C. 12101
15 et seq.) and section 504 of the Rehabilitation Act of
16 1973 (29 U.S.C. 794);

17 (5) abatement, removal, or interim controls of
18 asbestos, polychlorinated biphenyls, mold, mildew, or
19 lead-based paint hazards;

20 (6) measures designed to reduce or eliminate
21 human exposure to classroom noise and environ-
22 mental noise pollution;

23 (7) modernizations, renovations, or repairs nec-
24 essary to reduce the consumption of coal, electricity,
25 land, natural gas, oil, or water;

1 (8) upgrading or installing educational tech-
2 nology infrastructure to ensure that students have
3 access to up-to-date educational technology;

4 (9) modernization, renovation, or repair of
5 science and engineering laboratory facilities, librar-
6 ies, and career and technical education facilities, in-
7 cluding those related to energy efficiency and renew-
8 able energy, and improvements to building infra-
9 structure to accommodate bicycle and pedestrian ac-
10 cess;

11 (10) renewable energy generation and heating
12 systems, including solar, photovoltaic, wind, geo-
13 thermal, or biomass, including wood pellet, systems
14 or components of such systems;

15 (11) other modernization, renovation, or repair
16 of public school facilities to—

17 (A) improve teachers' ability to teach and
18 students' ability to learn;

19 (B) ensure the health and safety of stu-
20 dents and staff;

21 (C) make them more energy efficient; or

22 (D) reduce class size; and

23 (12) required environmental remediation related
24 to public school modernization, renovation, or repair
25 described in paragraphs (1) through (11).

1 **TITLE II—SUPPLEMENTAL**
2 **GRANTS FOR DISASTER AREAS**

3 **SEC. 201. PURPOSE.**

4 Grants under this title shall be for the purpose of
5 modernizing, renovating, repairing, or constructing public
6 school facilities, including, where applicable, early learning
7 facilities, based on their need for such improvements, to
8 be safe, healthy, high-performing, and up-to-date techno-
9 logically.

10 **SEC. 202. ALLOCATION TO LOCAL EDUCATIONAL AGEN-**
11 **CIES.**

12 (a) IN GENERAL.—Of the amount appropriated to
13 carry out this title for each fiscal year pursuant to section
14 311(b), the Secretary shall allocate to local educational
15 agencies serving areas in which the President, pursuant
16 to section 401 of the Robert T. Stafford Disaster Relief
17 and Emergency Assistance Act (42 U.S.C. 5170) and dur-
18 ing the preceding 10 fiscal years, has determined that a
19 major disaster exists an amount equal to the infrastruc-
20 ture damage inflicted on public school facilities in each
21 such area relative to the total of such infrastructure dam-
22 age so inflicted in all such areas, combined.

23 (b) DISTRIBUTION BY SECRETARY.—The Secretary
24 shall determine and distribute the allocations described in

1 subsection (a) not later than 60 days after an appropria-
2 tion of funds for this title is made.

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

4 A local educational agency receiving a grant under
5 this title shall use the grant for one or more of the activi-
6 ties described in section 103, except that an agency receiv-
7 ing a grant under this title also may use the grant for
8 the construction of new public school facilities.

9 **TITLE III—GENERAL**
10 **PROVISIONS**

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

12 No funds received under this Act may be used for—

13 (1) payment of maintenance costs;

14 (2) stadiums or other facilities primarily used
15 for athletic contests or exhibitions or other events
16 for which admission is charged to the general public;

17 (3) improvement or construction of facilities the
18 purpose of which is not the education of children, in-
19 cluding central office administration or operations or
20 logistical support facilities; or

21 (4) purchasing carbon offsets.

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

23 A local educational agency receiving a grant under
24 this Act shall use such Federal funds only to supplement
25 and not supplant the amount of funds that would, in the

1 absence of such Federal funds, be available for moderniza-
2 tion, renovation, repair, and construction of public school
3 facilities.

4 **SEC. 303. PROHIBITION REGARDING STATE AID.**

5 A State shall not take into consideration payments
6 under this Act in determining the eligibility of any local
7 educational agency in that State for State aid, or the
8 amount of State aid, with respect to free public education
9 of children.

10 **SEC. 304. MAINTENANCE OF EFFORT.**

11 (a) IN GENERAL.—A local educational agency may
12 receive a grant under this Act for any fiscal year only if
13 either the combined fiscal effort per student or the aggre-
14 gate expenditures of the agency and the State involved
15 with respect to the provision of free public education by
16 the agency for the preceding fiscal year was not less than
17 90 percent of the combined fiscal effort or aggregate ex-
18 penditures for the second preceding fiscal year.

19 (b) REDUCTION IN CASE OF FAILURE TO MEET
20 MAINTENANCE OF EFFORT REQUIREMENT.—

21 (1) IN GENERAL.—The State educational agen-
22 cy shall reduce the amount of a local educational
23 agency's grant in any fiscal year in the exact propor-
24 tion by which a local educational agency fails to
25 meet the requirement of subsection (a) of this sec-

1 tion by falling below 90 percent of both the com-
2 bined fiscal effort per student and aggregate expend-
3 itures (using the measure most favorable to the local
4 agency).

5 (2) SPECIAL RULE.—No such lesser amount
6 shall be used for computing the effort required
7 under subsection (a) of this section for subsequent
8 years.

9 (c) WAIVER.—The Secretary shall waive the require-
10 ments of this section if the Secretary determines that a
11 waiver would be equitable due to—

12 (1) exceptional or uncontrollable circumstances,
13 such as a natural disaster; or

14 (2) a precipitous decline in the financial re-
15 sources of the local educational agency.

16 **SEC. 305. SPECIAL RULE ON CONTRACTING.**

17 Each local educational agency receiving a grant under
18 this Act shall ensure that, if the agency carries out mod-
19 ernization, renovation, repair, or construction through a
20 contract, the process for any such contract ensures the
21 maximum number of qualified bidders, including local,
22 small, minority, and women- and veteran-owned busi-
23 nesses, through full and open competition.

1 **SEC. 306. USE OF AMERICAN IRON, STEEL, AND MANUFAC-**
2 **TURED GOODS.**

3 (a) IN GENERAL.—None of the funds appropriated
4 or otherwise made available by this Act may be used for
5 a project for the modernization, renovation, repair or con-
6 struction of a public school facility unless all of the iron,
7 steel, and manufactured goods used in the project are pro-
8 duced in the United States.

9 (b) EXCEPTIONS.—Subsection (a) shall not apply in
10 any case or category of cases in which the Secretary finds
11 that—

12 (1) applying subsection (a) would be incon-
13 sistent with the public interest;

14 (2) iron, steel, and the relevant manufactured
15 goods are not produced in the United States in suffi-
16 cient and reasonably available quantities and of a
17 satisfactory quality; or

18 (3) inclusion of iron, steel, and manufactured
19 goods produced in the United States will increase
20 the cost of the overall project by more than 25 per-
21 cent.

22 (c) PUBLICATION OF JUSTIFICATION.—If the Sec-
23 retary determines that it is necessary to waive the applica-
24 tion of subsection (a) based on a finding under subsection
25 (b), the Secretary shall publish in the Federal Register
26 a detailed written justification of the determination.

1 (d) CONSTRUCTION.—This section shall be applied in
2 a manner consistent with United States obligations under
3 international agreements.

4 **SEC. 307. LABOR STANDARDS.**

5 The grant programs under this Act are applicable
6 programs (as that term is defined in section 400 of the
7 General Education Provisions Act (20 U.S.C. 1221)) sub-
8 ject to section 439 of such Act (20 U.S.C. 1232b).

9 **SEC. 308. CHARTER SCHOOLS.**

10 A local educational agency receiving an allocation
11 under this section shall use an equitable portion of that
12 allocation for allowable activities benefitting charter
13 schools within its jurisdiction, as determined based on the
14 percentage of students from low-income families in the
15 schools of the agency who are enrolled in charter schools
16 and on the needs of those schools as determined by the
17 agency.

18 **SEC. 309. GREEN SCHOOLS.**

19 (a) IN GENERAL.—In a given fiscal year, a local edu-
20 cational agency shall use not less than the applicable per-
21 centage (described in subsection (b)) of funds received
22 under this Act for public school modernization, renovation,
23 repairs, or construction that are certified, verified, or con-
24 sistent with any applicable provisions of—

25 (1) the LEED Green Building Rating System;

- 1 (2) Energy Star;
- 2 (3) the CHPS Criteria;
- 3 (4) Green Globes; or
- 4 (5) an equivalent program adopted by the State
- 5 or another jurisdiction with authority over the local
- 6 educational agency.

7 (b) APPLICABLE PERCENTAGES.—The applicable

8 percentage described in subsection (a) is—

- 9 (1) in fiscal year 2017, 50 percent;
- 10 (2) in fiscal year 2018, 60 percent;
- 11 (3) in fiscal year 2019, 70 percent;
- 12 (4) in fiscal year 2020, 80 percent;
- 13 (5) in fiscal year 2021, 90 percent; and
- 14 (6) in fiscal year 2022, 100 percent.

15 (c) TECHNICAL ASSISTANCE.—The Secretary, in con-

16 sultation with the Secretary of Energy and the Adminis-

17 trator of the Environmental Protection Agency, shall pro-

18 vide outreach and technical assistance to States and local

19 educational agencies concerning the best practices in

20 school modernization, renovation, repair, and construc-

21 tion, including those related to student academic achieve-

22 ment, student and staff health, energy efficiency, and envi-

23 ronmental protection.

24 (d) YOUTHBUILD PROGRAMS.—The Secretary of

25 Education, in consultation with the Secretary of Labor,

1 shall work with recipients of funds under this section to
2 promote appropriate opportunities for participants in a
3 YouthBuild program (as defined in section 173A of the
4 Workforce Investment Act of 1998 (29 U.S.C. 2918a)) to
5 gain employment experience on modernization, renovation,
6 and repair projects funded under this section.

7 **SEC. 310. REPORTING.**

8 (a) REPORTS BY LOCAL EDUCATIONAL AGENCIES.—
9 Local educational agencies receiving a grant under this
10 Act shall annually compile a report describing the projects
11 for which such funds were used, including—

12 (1) the number of public schools served by the
13 agency, including the number of charter schools;

14 (2) the total amount of funds received by the
15 local educational agency under this Act and the
16 amount of such funds expended, including the
17 amount expended for modernization, renovation, re-
18 pair, or construction of charter schools;

19 (3) the number of public schools served by the
20 agency designated with an urban-centric school lo-
21 cale code of 41, 42, or 43 as determined by the Na-
22 tional Center for Education Statistics and the per-
23 centage of funds received by the agency under title
24 I or title II of this Act that were used for projects
25 at such schools;

1 (4) the number of public schools served by the
2 agency that are eligible for schoolwide programs
3 under section 1114 of the Elementary and Sec-
4 ondary Education Act of 1965 (20 U.S.C. 6314)
5 and the percentage of funds received by the agency
6 under title I or title II of this Act that were used
7 for projects at such schools;

8 (5) for each project—

9 (A) the cost;

10 (B) the standard described in section
11 309(a) with which the use of the funds com-
12 plied or, if the use of funds did not comply with
13 a standard described in section 309(a), the rea-
14 son such funds were not able to be used in com-
15 pliance with such standards and the agency's
16 efforts to use such funds in an environmentally
17 sound manner;

18 (C) if flooring was installed, whether—

19 (i) it was low- or no-VOC (Volatile
20 Organic Compounds) flooring;

21 (ii) it was made from sustainable ma-
22 terials; and

23 (iii) use of flooring described in clause
24 (i) or (ii) was cost effective; and

1 (D) any demonstrable or expected benefits
2 as a result of the project (such as energy sav-
3 ings, improved indoor environmental quality,
4 improved climate for teaching and learning,
5 etc.); and

6 (6) the total number and amount of contracts
7 awarded, and the number and amount of contracts
8 awarded to local, small, minority, and women- and
9 veteran-owned businesses.

10 (b) AVAILABILITY OF REPORTS.—A local educational
11 agency shall—

12 (1) submit the report described in subsection
13 (a) to the State educational agency, which shall com-
14 pile such information and report it annually to the
15 Secretary; and

16 (2) make the report described in subsection (a)
17 publicly available, including on the agency's Web
18 site.

19 (c) REPORTS BY SECRETARY.—Not later than De-
20 cember 31 of each fiscal year, the Secretary shall submit
21 to the Committee on Education and the Workforce of the
22 House of Representatives and the Committee on Health,
23 Education, Labor, and Pensions of the Senate, and make
24 available on the Department of Education's Web site, a
25 report on grants made under this Act, including the infor-

1 mation described in subsection (b)(1), the types of mod-
2 ernization, renovation, repair, and construction funded,
3 and the number of students impacted, including the num-
4 ber of students counted under section 1113(a)(5) of the
5 Elementary and Secondary Education Act of 1965 (20
6 U.S.C. 6313(a)(5)).

7 **SEC. 311. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) TITLE I.—To carry out title I, there are author-
9 ized to be appropriated \$6,400,000,000 for fiscal year
10 2017 and such sums as may be necessary for each of fiscal
11 years 2018 through 2022.

12 (b) TITLE II.—To carry out title II, there are author-
13 ized to be appropriated \$100,000,000 for each of fiscal
14 years 2017 through 2022.

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