

Comparison of Proposed House and Senate
Federal School Facilities Legislation

Legislative Detail: House Bill		Legislative Detail: Senate Bill	Comments to be added at BEST meeting
Title	21st Century Green High-Performing Public School Facilities Act	School Building Fairness Act of 2009	
Sponsorship	U.S. House Bill, introduced by Representatives Chandler (D-KY) and Miller (D-CA)	U.S. Senate Bill, introduced by Senator Harkin (D-IA)	
Status	Passed House by vote of 275-155, May 14, 2009	Introduced May 21, 2009; referred to Committee on Health, Education, Labor & Pensions	
Funding Levels	\$6.4B for FY2010 and such sums as may be necessary for each of FY2011-2015	\$6B for FY2010, and such sums as may be necessary for each of FY2011-2014	
Legislative Code		Amendment at end of Part D of title V of Elementary & Secondary Act of 1965	
Funding Allocations			
Reservations	2% for assistance to outlying areas and payments to Interior Secretary for schools funded by Bureau of Indian Education; 5% for grants to LEAs serving geographic areas with significant economic distress or recovering from natural disaster	1% for assistance to outlying areas and payments to Interior Secretary for schools funded by Bureau of Indian Education.	
State Education Agency Allocation	Each state shall be allocated an amount in proportion to the amount received by all local educational agencies in the state under part A of title I (of ESEA) for the previous fiscal year relative to the total amount received by all LEAs for such fiscal year.	Secretary allocates to each state amount relative to amount state received under part A of title I for preceding FY; no SEA shall receive less than 0.5 percent of amount allocated	
		Reallocation - if a SEA does not apply for funds for a fiscal year, or does not use the entire allocation for the fiscal year, then ED may reallocate the amount for such fiscal year to the remaining SEAs.	
Local Education Agency Allocation	Each LEA shall receive amount in proportion to amount received by such LEA under part A of title I for previous fiscal year; no LEA shall receive grant under \$5,000 in any fiscal year	100% of funds not reserved shall be distributed by SEA to LEAs through competitive grant awards for public school repair, renovation & construction	
	To be eligible for funding, LEAs must conduct an independent third-party audit substantiating the overall condition of public school facilities and need for renovation, modernization, or repair (McKeon Amendment)	Criteria for awarding grants: (a) Percentage of poor children in LEA; (b) Need for school repair and renovation; (c) extent to which LEA will make use of certified green practices; (d) fiscal capacity of a LEA to meet the needs of the LEA for repair, renovation, and construction of public school without assistance, including the ability to raise funds through the use of local bonding capacity; (e) likelihood of maintaining an improved facility in good condition; (f) charter school access to funding	
		LEAs shall match funds awarded. Match amount based on sliding scale that takes into account the relative poverty of the population served by the LEA.	

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Charter Schools	LEAs shall reserve a portion of its allocation for allowable activities benefiting charter schools within its jurisdiction; reservation to be determined based on percentage of students from low-income families in the schools of the LEA who are enrolled in charter schools and on the needs of those schools determined by the LEA in consultation with charter school administrators. If charter school reservation exceeds needs, LEA may use excess funds for other public school facility modernization, renovation, repair, or construction	Where LEA proposes to fund repair, renovation, or construction project for a charter school, the same criteria above and also the extent to which the school can access project funding through financing methods available to other public schools or LEAs in state.	
Supplemental Grants	To modernize, renovate, repair or construct public school facilities, Secretary shall allocate to Louisiana, Mississippi, and Alabama amount equal to infrastructure damage inflicted on public school facilities by Hurricanes Katrina and Rita		
Use of Funds			
State Administration	States may reserve up to 1% of SEA allocation for administration; uses include:	States may reserve up to 2% of the SEA's allocation for administration; uses include:	
	(a) <i>Permissible</i> : Providing technical assistance to LEAs	(a) <i>Required</i> : Provide technical assistance to LEAs	
	(b) <i>Permissible</i> : Developing a database that includes an inventory of public school facilities in the state	(b) <i>Required</i> : Establish or support state-level database of public elementary school and secondary school facility inventory, condition, design, and utilization.	
	(c) <i>Permissible</i> : Developing a school energy efficiency quality plan	(c) <i>Permissible</i> : Developing a statewide public elementary school and secondary school educational facility master plan	
		(d) <i>Permissible</i> : Developing policies, procedures, and standards for high-quality, energy efficient public elementary school and secondary school facilities	
		(e) <i>Permissible</i> : Supporting interagency collaboration that will lead to broad community use of public elementary school and secondary school facilities, and school based services for students served by high-need LEAs or Rural LEAs	
		(f) <i>Permissible</i> : Helping to defray the cost of issuing state bonds to finance public school repair, renovation, and construction	
		(g) <i>Permissible</i> : Awarding grants to State-operated or State-sponsored schools to enable such schools to carry out school repair, renovation, and construction activities	
Permissible Uses of Funds for Facility Improvements	For school modernization, renovation, or repair, including the following uses:	For school repair, renovation and construction ; permissible uses include:	

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	(1) Repairing, replacing, or installing roofs, wiring, plumbing and other systems, windows, or doors, including security doors;	(a) Upgrades, repair, construction, or replacement of school building systems or components to improve the quality of education and ensure the health and safety of students and staff including:	
	(2) HVAC systems or components, including indoor air quality assessments;	(i) Early learning facilities;	
	(3) Bringing public schools into compliance with fire, health, and safety codes, including improvements that ensure schools are prepared for emergencies, such as improving building infrastructure to accommodate security measures and installing/upgrading technology to ensure schools can respond to emergencies such as acts of terrorism, campus violence, and natural disasters;	(ii) Roofs, windows, doors, plumbing, etc; ;	
	(4) Modifications to bring school buildings into compliance with ADA	(iii) HVAC	
	(5) Abatement, removal, or controls of hazardous materials	(iv) Bringing public schools into compliance with fire & safety codes	
	(6) Measures to reduce classroom and environmental noise pollution	(b) Bring school facilities into compliance with ADA.	
	(7) Modernizations, renovations, repairs that reduce the consumption of coal, electricity, land, natural gas, oil, or water	(c) Improvements to the environmental conditions of the school, including abatement, removal, or reduction of human exposure to hazardous materials	
	(8) Upgrading or installing educational technology infrastructure	(e) Measures to reduce or eliminate classroom noise and environmental noise pollution.	
	(9) Modernization, renovation, or repair of science and engineering labs, libraries, and career and technical education facilities, including those related to energy efficiency and renewable energy, improving building structure for bicycle and pedestrian access	(f) Modifications necessary to reduce the consumption of electricity, natural gas, oil, water, coal, or land.	
	(10) Renewable energy generation and heating systems or components of such systems;	(g) Upgrades or installations of educational technology infrastructure.	
	(11) Measures designed to reduce or eliminate human exposure to airborne particles;	(h) Measures that will broaden or improve the use of public school buildings and grounds by the community in order to improve educational outcomes.	
	(12) Creating greenhouses, gardens & other facilities for environmental, scientific or other educational purposes, or to produce energy savings;		
	(13) Upgrading or installing recreational structures, including physical education facilities for students		
	(14) Other building improvements that improve ability of teachers to teach and students to learn; ensure health and safety of students & staff; increase energy efficiency, and reduce class size.		
Impermissible Uses	Payment of maintenance costs	Payment of maintenance costs	
	Stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public	Stadiums or other facilities primarily used for athletic contests or exhibitions or other events which admission is charged to the general public.	

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	Improvement or construction of facilities the purpose of which is not the education of children, including central office administration or operations or logistical support facilities;	Improvement or construction of stand-alone facilities whose purpose is not the education of children, including central office administration or operations or logistical support facilities;		
	Purchasing carbon offsets.	Purchase of information technology hardware, including computer, monitors, or printers;		
		Purchase or upgrade of vehicles		
Rules & Reporting				
Special Rules	LEAs receiving a grant can only use the federal funds to supplement and not supplant that amount of funds that would in the absence of the federal funds be available for projects.	LEAs receiving a grant can only use the federal funds to supplement and not supplant that amount of funds that would in the absence of the federal funds be available for projects.		
	States cannot consider federal payments under this Act to determine LEAs eligibility for or amount of other state aid for public ed			
	LEAs shall ensure contracting process for maximum number of qualified bidders, including local, small, minority, and women and veteran owned businesses, through full and open competition.	LEAs shall ensure contracting process for maximum number of qualified bidders, including local, small, minority, and women and veteran owned businesses, through full and open competition.		
	All Iron, steel, and manufactured goods used in the project must be produced in the United States, unless (1) such use would be inconsistent with public interest; (2) such materials are not produced in sufficient and reasonably available quantities or of satisfactory quality; or (3) using such materials will increase the cost of the overall project by more than 25 percent.			
	Maintenace of effort: LEA may receive grant for any fiscal year only if either combined fiscal effort per student or aggregate expenditures of agency and State with respect to provision of free public education for preceding fiscal year was not less than 90% of combined fiscal effort or aggregate expenditures for second preceding year; Secretary may waive these requirements			
		Public comment - Each LEA receiving funds shall: (1) provide parents, educators, and all other interested members of the community the opportunity to consult on the use of the funds received; (2) provide public with adequate and efficient notice of the opportunity in a widely read and distributed medium; (3) provide the opportunity in accordance with any applicable state and local law on how comments may be received and reviewed by any member of the public.		
Labor Standards	Grants under this Act are applicable programs under General Education Provisions Act, subject to Davis-Bacon prevailing wage			

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	Secretary of Education, in consultation with Secretary of Labor, shall work with fund recipients to promote appropriate opportunities for Job Corps participants and individuals enrolled in junior or community college to gain employment experience on such projects funded under this Act		
Green Schools	In a given fiscal year, a LEA shall use not less than the applicable percentage of funds received for improvements that are certified, verified, or consistent with any applicable provisions of - LEED; Energy Star; CHPS; Green Globes; or equivalent program adopted by the state or another jurisdiction with authority over the LEA. Applicable percentages: 2010: 50%; 2011: 60%; 2012: 70%; 2013: 80%; 2014: 90%; 2015: 100%.	In awarding competitive grants to LEAs, States shall take into account (among other criteria enumerated above) extent to which LEA will make use, in repair, renovation, or construction to be undertaken, of green practices that are certified, verified, or consistent with any applicable provisions of - LEED, Energy Star, CHPS, Green Globes, or equivalent program adopted by state or another jurisdiction with authority over the LEA	
	Secretary shall establish "Advisory Council on Green, High-Performing Schools;" Council will advise Secretary on impact of green, high-performing schools on teaching & learning, health, energy costs and environmental impact; work with Secretary to recommend Federal policies to increase # of green, high-performing schools (and identify policies that are barriers), provide TA to states; Council shall consult with Chair of Council on Environmental Quality, Commerce Secretary, Energy Secretary, HHS Secretary, Labor Secretary, EPA Administrator, and GSA Administrator		
Schedule	Secretary shall make and distribute reservations and allocations within 30 days after appropriation of funds for this title is made.		
	States shall make and distribute the allocations to LEAs within 30 days of receiving such funds from the Secretary.		
Reporting	SEAs shall compile information submitted by the LEAs and report it annually to the Secretary	SEA receiving funds shall submit to Secretary at a time the Secretary requires, a report on the use of funds received and made available to LEAs for school repair, renovation, and construction.	
	LEAs shall annually compile a report describing the projects for which funds were used; reports will be made publicly available and include the following information:	LEA receiving funds shall submit a report to the SEA at a time the SEA requires describing the use of such funds for school repair, renovation, and construction.	
	(1) Number of public schools in LEA, including charters		
	(2) Total amount of funds received and expended by LEA, including the amount expended for modernization, renovation, repair, or construction of charter schools;		
	(3) Number of public schools in LEA with metro-centric locale code and percentage of funds received by LEA used for projects at such schools.		
	(4) Number of schools eligible for schoolwide programs under Section 1114 of ESEA		

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	<p>(5) For each project: cost; green standard with which the use of the funds complied or reason such funds were not able to be used in compliance with such standards; if flooring was installed, its type and its cost effectiveness; demonstrable or expected benefits as a result of the project; the total number and amount of contracts awarded, and the number and amount of contracts awarded to local, small, minority, women, and veteran-owned businesses.</p>		
Research & Information	<p>Secretary shall enter into agreement with IES to evaluate impact of projects funded under Act on student academic achievement, including comparison of students attending public schools receiving funding under Act with students attending public schools not receiving such funding</p>	<p>NCES shall conduct a study and prepare a report to Congress on the condition of public elementary school and secondary school facilities in the US; including: (1) Estimate costs to repair & renovate all public schools in the US to good overall condition; (2) Measure recent expenditures of federal, state, local and private funds for public school repair, renovation, and construction costs in the US. (3) Examine trends in expenditures of federal, state, local, and private funds since fiscal year 2001 for repair, renovation, and construction activities for public schools in the US, including examining differences between types of schools assisted and types of repair, renovation, and construction activities conducted.</p>	
	<p>GAO must conduct study within one year of enactment of Act on extent and types of projects in keeping with uses of funds authorized, geographic distribution of green, high-performing schools (by urban, suburban, and rural areas) and relative access to such schools by: economically-disadvantaged students, students from major racial & ethnic groups, students with disabilities, and students with limited English proficiency</p>		
		<p>Secretary shall award a grant or contract to maintain a clearinghouse that will collect and disseminate information on effective, best educational practices, and the latest research, regarding the planning, design, financing, construction, improvement, operation, and maintenance of safe, healthy, high-performance public school facilities for PS through higher ed. Duration: 5 years. Appropriations: \$1.5M for each of fiscal years 2010 through 2014.</p>	