

114TH CONGRESS  
1ST SESSION

# S. 1505

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

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## IN THE SENATE OF THE UNITED STATES

JUNE 4, 2015

Mr. SCHATZ introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

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

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “School Building Fair-  
5 ness Act of 2015”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1           (1) Providing safe, healthy, and modern public  
2 elementary school and secondary school facilities is  
3 a crucial component of improving student academic  
4 performance and retaining effective, high-quality  
5 educators.

6           (2) The Department of Education reports that  
7 a growing body of research has linked student  
8 achievement and behavior to the physical condition  
9 of school buildings.

10          (3) The 2013 Infrastructure Report Card com-  
11 piled by the American Society of Civil Engineers  
12 gives the Nation’s public schools a D grade.

13          (4) In 2014, the National Center for Education  
14 Statistics reported that a majority (53 percent) of  
15 the Nation’s elementary schools and secondary  
16 schools are in need of renovations, modernization, or  
17 repairs to be brought into “good condition”. The es-  
18 timated cost for this work is \$197,000,000,000, or  
19 an average of \$4,500,000 per school.

20          (5) From 2000–2008, approximately  
21 \$20,000,000,000 was spent annually on school con-  
22 struction; since the start of the Great Recession in  
23 2008, that spending has declined by half, to approxi-  
24 mately \$10,000,000,000 per year by 2012.

1           (6) In 1998, the Department of Education re-  
 2           ported that the average age of a public elementary  
 3           school or secondary school building was estimated to  
 4           be 42 years old.

5           (7) Due to the absence of national data on  
 6           school facilities for more than a decade, a complete  
 7           picture of the condition of the Nation’s schools re-  
 8           mains mostly unknown.

9           (8) According to the 2006 report “Greening  
 10          America’s Schools: Costs and Benefits”, green  
 11          schools use 33 percent less energy and 32 percent  
 12          less water than conventionally built schools, gener-  
 13          ating financial savings of about \$70 per square foot.

14          (9) On average, green schools save \$100,000  
 15          per year on operating costs.

16 **SEC. 3. GRANTS FOR SCHOOL REPAIR, RENOVATION, AND**  
 17 **CONSTRUCTION.**

18          (a) IN GENERAL.—Part D of title V of the Elemen-  
 19          tary and Secondary Education Act of 1965 (20 U.S.C.  
 20          7241 et seq.) is amended by adding at the end the fol-  
 21          lowing:

22                                   **“Subpart 22—School Facilities**

23 **“SEC. 5621. GRANTS FOR SCHOOL REPAIR, RENOVATION,**  
 24 **AND CONSTRUCTION.**

25          “(a) DEFINITIONS.—In this section:

1           “(1) CHARTER SCHOOL.—The term ‘charter  
2 school’ has the meaning given the term in section  
3 5210.

4           “(2) CHPS CRITERIA.—The term ‘CHPS Cri-  
5 teria’ means the green building rating criteria devel-  
6 oped by the Collaborative for High Performance  
7 Schools.

8           “(3) EARLY LEARNING FACILITY.—The term  
9 ‘early learning facility’ means a public facility that—

10                   “(A) serves children who are not yet in  
11 kindergarten; and

12                   “(B) is under the jurisdiction of a local  
13 educational agency.

14           “(4) ENERGY STAR.—The term ‘Energy Star’  
15 means the Energy Star program of the Department  
16 of Energy and the Environmental Protection Agen-  
17 cy.

18           “(5) GREEN GLOBES.—The term ‘Green  
19 Globes’ means the Green Building Initiative environ-  
20 mental design and rating system.

21           “(6) HIGH-NEED LOCAL EDUCATIONAL AGEN-  
22 CY.—The term ‘high-need local educational agency’  
23 has the meaning given the term in section  
24 2102(3)(A).

1           “(7) LEED GREEN BUILDING RATING SYS-  
2           TEM.—The term ‘LEED Green Building Rating  
3           System’ means the United States Green Building  
4           Council Leadership in Energy and Environmental  
5           Design green building rating system.

6           “(8) LIVING BUILDING CHALLENGE.—The term  
7           ‘Living Building Challenge’ means the Living Build-  
8           ing Challenge building certification program.

9           “(9) PUBLIC SCHOOL FACILITY.—The term  
10          ‘public school facility’ means a public elementary or  
11          secondary school facility, including a public charter  
12          school facility or an existing facility planned for  
13          adaptive reuse as a public charter school facility.

14          “(10) RURAL LOCAL EDUCATIONAL AGENCY.—  
15          The term ‘rural local educational agency’ means a  
16          local educational agency that meets the eligibility re-  
17          quirements under—

18                 “(A) section 6211(b) for participation in  
19                 the program described in subpart 1 of part B  
20                 of title VI; or

21                 “(B) section 6221(b) for participation in  
22                 the program described in subpart 2 of part B  
23                 of title VI.

1           “(11) STATE.—The term ‘State’ means each of  
2 the several States of the United States, the District  
3 of Columbia, and the Commonwealth of Puerto Rico.

4           “(b) ALLOCATION OF FUNDS.—

5           “(1) RESERVATIONS.—From the funds appro-  
6 priated under subsection (i) for a fiscal year, the  
7 Secretary shall reserve 1 percent to provide assist-  
8 ance to the outlying areas and for payments to the  
9 Secretary of the Interior to provide assistance to  
10 schools funded by the Bureau of Indian Education.  
11 Funds allocated under this paragraph shall be re-  
12 served by the Secretary for distribution among the  
13 outlying areas and the Secretary of the Interior on  
14 the basis of their relative need for public elementary  
15 school and secondary school repair, renovation, and  
16 construction, as determined by the Secretary.

17           “(2) ALLOCATION TO STATE EDUCATIONAL  
18 AGENCIES.—From the funds appropriated under  
19 subsection (i) for a fiscal year that are not reserved  
20 under paragraph (1) for the fiscal year, the Sec-  
21 retary shall allocate to each State educational agen-  
22 cy serving a State an amount that bears the same  
23 relation to the funds as the amount the State re-  
24 ceived under part A of title I for the fiscal year pre-  
25 ceding the fiscal year for which the determination is

1       made bears to the amount all States received under  
2       such part for such preceding fiscal year, except that  
3       no such State educational agency shall receive less  
4       than 0.5 percent of the amount allocated under this  
5       subsection.

6       “(c) WITHIN-STATE DISTRIBUTIONS.—

7               “(1) ADMINISTRATIVE AND OTHER COSTS.—

8                       “(A) STATE EDUCATIONAL AGENCY AD-  
9                       MINISTRATION AND OTHER COSTS.—Except as  
10                      provided in subparagraph (D), each State edu-  
11                      cational agency may reserve not more than 1  
12                      percent of the State educational agency’s alloca-  
13                      tion under subsection (b) for the purposes of  
14                      administering the distribution of grants under  
15                      this subsection and awarding grants under sub-  
16                      paragraph (C)(v).

17                      “(B) REQUIRED USES.—The State edu-  
18                      cational agency shall use a portion of the funds  
19                      reserved under subparagraph (A)—

20                               “(i) to provide technical assistance to  
21                               local educational agencies; and

22                               “(ii) to establish or support a State-  
23                               level database of public school facility in-  
24                               ventory, condition, design, and utilization,

1 which shall include for each school facil-  
2 ity—

3 “(I) the age of the facility;

4 “(II) the total square footage of  
5 the facility that is used for academic  
6 or technical classroom instruction;  
7 and

8 “(III) the year of the last major  
9 renovation of the facility.

10 “(C) PERMISSIBLE USES.—The State edu-  
11 cational agency may use a portion of the funds  
12 reserved under subparagraph (A) for—

13 “(i) developing a statewide public  
14 school educational facility master plan;

15 “(ii) developing policies, procedures,  
16 and standards for high-quality, energy effi-  
17 cient public school facilities;

18 “(iii) supporting interagency collabo-  
19 ration that will lead to broad community  
20 use of public school facilities, and school-  
21 based services for students served by high-  
22 need local educational agencies or rural  
23 local educational agencies;

24 “(iv) helping to defray the cost of  
25 issuing State bonds to finance public ele-



1           mentary school and secondary school re-  
2           pair, renovation, and construction; and

3           “(v) awarding grants to State-oper-  
4           ated or State-supported schools, such as a  
5           State school for the deaf or for the blind,  
6           to enable such schools to carry out school  
7           repair, renovation, and construction activi-  
8           ties in accordance with subsection (d).

9           “(D) STATE ENTITY ADMINISTRATION AND  
10          OTHER COSTS.—If the State educational agency  
11          transfers funds to a State entity described in  
12          paragraph (2)(A), the State educational agency  
13          shall transfer to such State entity not less than  
14          75 percent of the amount reserved under sub-  
15          paragraph (A) for the purpose of carrying out  
16          the activities described in subparagraph (C).

17          “(2) DISTRIBUTION OF COMPETITIVE SCHOOL  
18          REPAIR, RENOVATION, AND CONSTRUCTION GRANTS  
19          TO LOCAL EDUCATIONAL AGENCIES.—

20                 “(A) IN GENERAL.—Of the funds allocated  
21                 to a State educational agency under subsection  
22                 (b) that are not reserved under paragraph (1),  
23                 the State educational agency shall distribute  
24                 100 percent of such funds to local educational  
25                 agencies or, if the State educational agency is

1 not responsible for the financing of public  
2 school facilities, the State educational agency  
3 shall transfer such funds to the State entity re-  
4 sponsible for the financing of public school fa-  
5 cilities (referred to in this section as the ‘State  
6 entity’) for distribution by such State entity to  
7 local educational agencies in accordance with  
8 this paragraph, to be used, consistent with sub-  
9 section (d), for public elementary school or sec-  
10 ondary school repair, renovation, and construc-  
11 tion.

12 “(B) COMPETITIVE GRANTS TO LOCAL  
13 EDUCATIONAL AGENCIES.—The State edu-  
14 cational agency or State entity shall carry out  
15 a program to award grants, on a competitive  
16 basis, to local educational agencies for public el-  
17 elementary school or secondary school repair,  
18 renovation, and construction. Of the total  
19 amount available for distribution to local edu-  
20 cational agencies under this paragraph, the  
21 State educational agency or State entity, shall,  
22 in carrying out the grant competition—

23 “(i) award to high-need local edu-  
24 cational agencies, in the aggregate, not less  
25 than an amount which bears the same re-

1 relationship to such total amount as the ag-  
2 gregate amount such high-need local edu-  
3 cational agencies received under part A of  
4 title I for the fiscal year preceding the fis-  
5 cal year for which the determination is  
6 made bears to the aggregate amount re-  
7 ceived for such preceding fiscal year under  
8 such part by all local educational agencies  
9 in the State;

10 “(ii) award to rural local educational  
11 agencies in the State, in the aggregate, not  
12 less than an amount which bears the same  
13 relationship to such total amount as the  
14 aggregate amount such rural local edu-  
15 cational agencies received under part A of  
16 title I for the fiscal year preceding the fis-  
17 cal year for which the determination is  
18 made bears to the aggregate amount re-  
19 ceived for such preceding fiscal year under  
20 such part by all local educational agencies  
21 in the State; and

22 “(iii) award the remaining funds to  
23 local educational agencies in the State that  
24 did not receive a grant award under clause  
25 (i) or (ii), including to high-need local edu-

1           cational agencies and rural local edu-  
2           cational agencies that did not receive a  
3           grant award under clause (i) or (ii).

4           “(C) CRITERIA FOR AWARDING GRANTS.—

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

8                   “(i) PERCENTAGE OF POOR CHIL-  
9                   DREN.—The percentage of children served  
10                  by the local educational agency who are be-  
11                  tween 5 to 17 years of age, inclusive, and  
12                  who are from families with incomes below  
13                  the poverty line.

14                   “(ii) NEED FOR SCHOOL REPAIR,  
15                   RENOVATION, AND CONSTRUCTION.—The  
16                  need of a local educational agency for  
17                  school repair, renovation, and construction,  
18                  as demonstrated by the condition of the  
19                  public school facilities of the local edu-  
20                  cational agency or the local educational  
21                  agency’s need for such facilities.

22                   “(iii) GREEN SCHOOLS.—The extent  
23                  to which a local educational agency will  
24                  make use, in the repair, renovation, or con-  
25                  struction to be undertaken, of green prac-

1 tices that are certified, verified, or con-  
2 sistent with any applicable provisions of—

3 “(I) the LEED Green Building  
4 Rating System;

5 “(II) Energy Star;

6 “(III) the CHPS Criteria;

7 “(IV) the Living Building Chal-  
8 lenge;

9 “(V) Green Globes; or

10 “(VI) an equivalent program  
11 adopted by the State or another juris-  
12 diction with authority over the local  
13 educational agency.

14 “(iv) FISCAL CAPACITY.—The fiscal  
15 capacity of a local educational agency to  
16 meet the needs of the local educational  
17 agency for repair, renovation, and con-  
18 struction of public school facilities without  
19 assistance under this section, including the  
20 ability of the local educational agency to  
21 raise funds through the use of local bond-  
22 ing capacity and otherwise.

23 “(v) LIKELIHOOD OF MAINTAINING  
24 THE FACILITY.—The likelihood that a local  
25 educational agency will maintain, in good

1 condition, any public school facility whose  
2 repair, renovation, or construction is as-  
3 sisted under this section.

4 “(vi) CHARTER SCHOOL EQUITABLE  
5 ACCESS TO FUNDING.—In the case of a  
6 local educational agency that proposes to  
7 fund a repair, renovation, or construction  
8 project for a public charter school, the ex-  
9 tent to which the public charter school  
10 lacks access to funding for school repair,  
11 renovation, and construction through the  
12 financing methods available to other public  
13 schools or local educational agencies in the  
14 State.

15 “(D) MATCHING REQUIREMENT.—

16 “(i) IN GENERAL.—A State edu-  
17 cational agency or State entity shall re-  
18 quire local educational agencies to match  
19 funds awarded under this paragraph.

20 “(ii) MATCH AMOUNT.—The amount  
21 of a match described in clause (i) may be  
22 established by using a sliding scale that  
23 takes into account the relative poverty of  
24 the population served by the local edu-  
25 cational agency.

1       “(d) RULES APPLICABLE TO SCHOOL REPAIR, REN-  
2 OVATION, AND CONSTRUCTION.—With respect to funds  
3 made available under this section that are used for school  
4 repair, renovation, and construction, the following rules  
5 shall apply:

6           “(1) PERMISSIBLE USES OF FUNDS.—School  
7 repair, renovation, and construction shall be limited  
8 to 1 or more of the following:

9           “(A) Upgrades, repair, construction, or re-  
10 placement of public elementary school or sec-  
11 ondary school building systems or components  
12 to improve the quality of education and ensure  
13 the health and safety of students and staff, in-  
14 cluding—

15           “(i) repairing, replacing, or con-  
16 structing early learning facilities at public  
17 elementary schools (including renovation of  
18 existing facilities to serve children under 5  
19 years of age);

20           “(ii) repairing, replacing, or installing  
21 roofs, windows, doors, electrical wiring,  
22 plumbing systems, or sewage systems;

23           “(iii) repairing, replacing, or installing  
24 heating, ventilation, or air conditioning  
25 systems (including insulation); and

1                   “(iv) bringing such public schools into  
2                   compliance with fire and safety codes.

3                   “(B) Public school facilities modifications  
4                   necessary to render public school facilities ac-  
5                   cessible in order to comply with the Americans  
6                   with Disabilities Act of 1990 (42 U.S.C. 12101  
7                   et seq.) and section 504 of the Rehabilitation  
8                   Act of 1973 (29 U.S.C. 794).

9                   “(C) Improvements to the environmental  
10                  conditions of public elementary school or sec-  
11                  ondary school sites, including asbestos abate-  
12                  ment or removal, and the reduction or elimi-  
13                  nation of human exposure to lead-based paint,  
14                  mold, or mildew.

15                  “(D) Measures designed to reduce or elimi-  
16                  nate human exposure to classroom noise and  
17                  environmental noise pollution.

18                  “(E) Modifications necessary to reduce the  
19                  consumption of electricity, natural gas, oil,  
20                  water, coal, or land.

21                  “(F) Upgrades or installations of edu-  
22                  cational technology infrastructure to ensure  
23                  that students have access to up-to-date edu-  
24                  cational technology.



1           “(G) Measures that will broaden or im-  
2           prove the use of public elementary school or  
3           secondary school buildings and grounds by the  
4           community in order to improve educational out-  
5           comes.

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

8                   “(A) payment of maintenance costs in con-  
9                   nection with any projects constructed in whole  
10                  or part with Federal funds provided under this  
11                  section;

12                   “(B) purchase or upgrade of vehicles;

13                   “(C) improvement or construction of  
14                   stand-alone facilities whose purpose is not the  
15                   education of children, including central office  
16                   administration or operations or logistical sup-  
17                   port facilities;

18                   “(D) purchase of information technology  
19                   hardware, including computers, monitors, or  
20                   printers;

21                   “(E) stadiums or other facilities primarily  
22                   used for athletic contests or exhibitions or other  
23                   events for which admission is charged to the  
24                   general public; or

25                   “(F) purchase of carbon offsets.

1           “(3) SUPPLEMENT, NOT SUPPLANT.—A local  
2           educational agency or State-operated or State-sup-  
3           ported school shall use Federal funds subject to this  
4           subsection only to supplement the amount of funds  
5           that would, in the absence of such Federal funds, be  
6           made available from non-Federal sources for school  
7           repair, renovation, and construction.

8           “(e) QUALIFIED BIDDERS; COMPETITION.—Each  
9           local educational agency that receives funds under sub-  
10          section (c)(2) shall ensure that, if the local educational  
11          agency carries out repair, renovation, or construction  
12          through a contract, any such contract process ensures the  
13          maximum number of qualified bidders, including small,  
14          minority, and women-owned businesses, through full and  
15          open competition.

16          “(f) PUBLIC COMMENT.—Each local educational  
17          agency receiving funds under subsection (c)(2)—

18                 “(1) shall provide an opportunity for public  
19                 comment, and ensure that parents, educators, and  
20                 all other interested members of the community in  
21                 which the school to be assisted is located have the  
22                 opportunity to consult, on the use of the funds re-  
23                 ceived under such subsection;

24                 “(2) shall provide the public with adequate and  
25                 efficient notice of the opportunity described in para-

1 graph (1) in a widely read and distributed medium;  
2 and

3 “(3) shall provide the opportunity described in  
4 paragraph (1) in accordance with any applicable  
5 State and local law specifying how the comments  
6 may be received and how the comments may be re-  
7 viewed by any member of the public.

8 “(g) REPORTING.—

9 “(1) LOCAL REPORTING.—Each local edu-  
10 cational agency receiving funds under subsection  
11 (c)(2) shall submit a report to the State educational  
12 agency, at such time as the State educational agency  
13 may require, describing the use of such funds for  
14 school repair, renovation, and construction.

15 “(2) STATE REPORTING.—Each State edu-  
16 cational agency receiving funds under subsection (b)  
17 shall submit to the Secretary, at such time as the  
18 Secretary may require, a report on the use of funds  
19 received under this section and made available to  
20 local educational agencies (and, if applicable, to  
21 State-operated or State-sponsored schools) for school  
22 repair, renovation, and construction.

23 “(h) REALLOCATION.—If a State educational agency  
24 does not apply for an allocation of funds under subsection  
25 (b) for a fiscal year, or does not use the State educational

1 agency’s entire allocation for such fiscal year, then the  
2 Secretary may reallocate the amount of the State edu-  
3 cational agency’s allocation (or the remainder thereof, as  
4 the case may be) for such fiscal year to the remaining  
5 State educational agencies in accordance with subsection  
6 (b).

7 “(i) **AUTHORIZATION OF APPROPRIATIONS.**—There is  
8 authorized to be appropriated to carry out this section,  
9 \$1,000,000,000 for fiscal year 2016, and such sums as  
10 may be necessary for each of fiscal years 2017 through  
11 2020.

12 **“SEC. 5622. NATIONAL CENTER FOR EDUCATION STATIS-**  
13 **TICS STUDY.**

14 “(a) **IN GENERAL.**—The Commissioner of the Na-  
15 tional Center for Education Statistics shall conduct a  
16 study of the condition of public school facilities in the  
17 United States.

18 “(b) **ESTIMATES AND MEASURES.**—In conducting  
19 the study, the Commissioner of the National Center for  
20 Education Statistics shall—

21 “(1) estimate the costs needed to repair and  
22 renovate all public elementary schools and secondary  
23 schools in the United States to good overall condi-  
24 tion; and

1           “(2) measure recent expenditures of Federal,  
2           State, local, and private funds for public elementary  
3           school and secondary school repair, renovation, and  
4           construction costs in the United States.

5           “(c) ANALYSIS.—In conducting the study, the Com-  
6           missioner of the National Center for Education Statistics  
7           shall examine trends in expenditures of Federal, State,  
8           local, and private funds since fiscal year 2001 for repair,  
9           renovation, and construction activities for public elemen-  
10          tary schools and secondary schools in the United States,  
11          including examining the differences between the types of  
12          schools assisted, and the types of repair, renovation, and  
13          construction activities conducted, with those expenditures.

14          “(d) REPORT.—The Commissioner of the National  
15          Center for Education Statistics shall prepare and submit  
16          to Congress a report containing the results of the study.”.

17          (b) TABLE OF CONTENTS.—The table of contents in  
18          section 2 of the Elementary and Secondary Education Act  
19          of 1965 is amended by inserting after the item relating  
20          to section 5618 the following:

“Subpart 22—School Facilities

“Sec. 5621. Grants for school repair, renovation, and construction.

“Sec. 5622. National Center for Education Statistics study.”.

○