

112TH CONGRESS
1ST SESSION

H. R. 2948

To provide assistance for the modernization, renovation, and repair of elementary and secondary school buildings in public school districts, as well as community colleges, across America in order to support the achievement of improved educational outcomes in those schools, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 2011

Ms. DELAURO (for herself, Ms. NORTON, Mr. CICILLINE, Ms. BASS of California, Ms. SLAUGHTER, Ms. HIRONO, Ms. SCHAKOWSKY, Mr. TONKO, Mr. GUTIERREZ, Ms. CLARKE of New York, Mr. JACKSON of Illinois, Mr. ELLISON, Mrs. CAPPS, Mr. BLUMENAUER, Mr. TIERNEY, Ms. RICHARDSON, Mr. NADLER, Ms. ESHOO, and Mr. COHEN) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To provide assistance for the modernization, renovation, and repair of elementary and secondary school buildings in public school districts, as well as community colleges, across America in order to support the achievement of improved educational outcomes in those schools, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fix America’s Schools
3 Today (FAST) Act of 2011”.

4 **TITLE I—ELEMENTARY AND**
5 **SECONDARY SCHOOLS**

6 **SEC. 101. PURPOSE.**

7 The purpose of this title to provide assistance for the
8 modernization, renovation, and repair of elementary and
9 secondary school buildings in public school districts across
10 America in order to support the achievement of improved
11 educational outcomes in those schools.

12 **SEC. 102. AUTHORIZATION OF APPROPRIATIONS.**

13 There are authorized to be appropriated, and there
14 are appropriated, \$25,000,000,000 to carry out this title,
15 which shall be available for obligation by the Secretary
16 until September 30, 2012.

17 **SEC. 103. ALLOCATION OF FUNDS.**

18 (a) RESERVATIONS.—Of the amount made available
19 to carry out this title, the Secretary shall reserve—

20 (1) one-half of one percent for the Secretary of
21 the Interior to carry out modernization, renovation,
22 and repair activities described in section 106 in
23 schools operated or funded by the Bureau of Indian
24 Education;

1 (2) one-half of one percent to make grants to
2 the outlying areas for modernization, renovation,
3 and repair activities described in section 106; and

4 (3) such funds as the Secretary determines are
5 needed to conduct a survey, by the National Center
6 for Education Statistics, of the school construction,
7 modernization, renovation, and repair needs of the
8 public schools of the United States.

9 (b) STATE ALLOCATION.—After reserving funds
10 under subsection (a), the Secretary shall allocate the re-
11 maining amount made available to carry out this title
12 among the States in proportion to their respective alloca-
13 tions under part A of title I of the Elementary and Sec-
14 ondary Education Act of 1965 (in this title referred to
15 as the “ESEA”) (20 U.S.C. 6311 et seq.) for fiscal year
16 2011, except that—

17 (1) the Secretary shall allocate 40 percent of
18 such remaining amount to the 100 local educational
19 agencies with the largest numbers of children aged
20 5–17 living in poverty, as determined using the most
21 recent data available from the Department of Com-
22 merce that are satisfactory to the Secretary, in pro-
23 portion to those agencies’ respective allocations
24 under part A of title I of the ESEA for fiscal year
25 2011; and

1 (2) the allocation to any State shall be reduced
2 by the aggregate amount of the allocations under
3 paragraph (1) to local educational agencies in that
4 State.

5 (c) REMAINING ALLOCATION.—

6 (1) STATES.—If a State does not apply for its
7 allocation (or applies for less than the full allocation
8 for which it is eligible) or does not use that alloca-
9 tion in a timely manner, the Secretary may—

10 (A) reallocate all or a portion of that allo-
11 cation to the other States in accordance with
12 subsection (b); or

13 (B) use all or a portion of that allocation
14 to make direct allocations to local educational
15 agencies within the State based on their respec-
16 tive allocations under part A of title I of the
17 ESEA for fiscal year 2011 or such other meth-
18 od as the Secretary may determine.

19 (2) LOCAL EDUCATIONAL AGENCIES.—If a local
20 educational agency does not apply for its allocation
21 under subsection (b)(1), applies for less than the full
22 allocation for which it is eligible, or does not use
23 that allocation in a timely manner, the Secretary
24 may reallocate all or a portion of its allocation to the
25 State in which that agency is located.

1 **SEC. 104. STATE USE OF FUNDS.**

2 (a) RESERVATION.—Each State that receives a grant
3 under this title may reserve not more than one percent
4 of the State’s allocation under section 103(b) for the pur-
5 pose of administering the grant.

6 (b) FUNDS TO LOCAL EDUCATIONAL AGENCIES.—

7 (1) FORMULA SUBGRANTS.—From the grant
8 funds that are not reserved under subsection (a), a
9 State shall allocate at least 50 percent to local edu-
10 cational agencies, including charter schools that are
11 local educational agencies, that did not receive funds
12 under section 103(b)(1) from the Secretary, in ac-
13 cordance with their respective allocations under part
14 A of title I of the ESEA for fiscal year 2011, except
15 that no such local educational agency shall receive
16 less than \$10,000.

17 (2) ADDITIONAL SUBGRANTS.—The State shall
18 use any funds remaining, after reserving funds
19 under subsection (a) and allocating funds under
20 paragraph (1), for subgrants to local educational
21 agencies that did not receive funds under section
22 103(b)(1), including charter schools that are local
23 educational agencies, to support modernization, ren-
24 ovation, and repair projects that the State deter-
25 mines, using objective criteria, are most needed in

1 the State, with priority given to projects in rural
2 local educational agencies.

3 (c) REMAINING FUNDS.—If a local educational agen-
4 cy does not apply for an allocation under subsection
5 (b)(1), applies for less than its full allocation, or fails to
6 use that allocation in a timely manner, the State may re-
7 allocate any unused portion to other local educational
8 agencies in accordance with subsection (b).

9 **SEC. 105. STATE AND LOCAL APPLICATIONS.**

10 (a) STATE APPLICATION.—A State that desires to re-
11 ceive a grant under this title shall submit an application
12 to the Secretary at such time, in such manner, and con-
13 taining such information and assurances as the Secretary
14 may require, which shall include—

15 (1) an identification of the State agency or enti-
16 ty that will administer the program;

17 (2) the State’s process for determining how the
18 grant funds will be distributed and administered, in-
19 cluding—

20 (A) how the State will determine the cri-
21 teria and priorities in making subgrants under
22 section 104(b)(2);

23 (B) any additional criteria the State will
24 use in determining which projects it will fund
25 under that section;

1 (C) a description of how the State will con-
2 sider—

3 (i) the needs of local educational
4 agencies for assistance under this title;

5 (ii) the impact of potential projects on
6 job creation in the State;

7 (iii) the fiscal capacity of local edu-
8 cational agencies applying for assistance;

9 (iv) the percentage of children in
10 those local educational agencies who are
11 from low-income families; and

12 (v) the potential for leveraging assist-
13 ance provided by this program through
14 matching or other financing mechanisms;

15 (D) a description of how the State will en-
16 sure that the local educational agencies receiv-
17 ing subgrants meet the requirements of this
18 title;

19 (E) a description of how the State will en-
20 sure that the State and its local educational
21 agencies meet the deadlines established in sec-
22 tion 108;

23 (F) a description of how the State will give
24 priority to the use of green practices that are

1 certified, verified, or consistent with any appli-
2 cable provisions of—

3 (i) the LEED Green Building Rating
4 System;

5 (ii) Energy Star;

6 (iii) the CHPS Criteria;

7 (iv) Green Globes; or

8 (v) an equivalent program adopted by
9 the State or another jurisdiction with au-
10 thority over the local educational agency;

11 (G) a description of the steps that the
12 State will take to ensure that local educational
13 agencies receiving subgrants will adequately
14 maintain any facilities that are modernized,
15 renovated, or repaired with subgrant funds
16 under this title; and

17 (H) such additional information and assur-
18 ances as the Secretary may require.

19 (b) LOCAL APPLICATION.—A local educational agen-
20 cy that is eligible under section 103(b)(1) that desires to
21 receive a grant under this title shall submit an application
22 to the Secretary at such time, in such manner, and con-
23 taining such information and assurances as the Secretary
24 may require, which shall include—

1 (1) a description of how the local educational
2 agency will meet the deadlines and requirements of
3 this title;

4 (2) a description of the steps that the local edu-
5 cational agency will take to adequately maintain any
6 facilities that are modernized, renovated, or repaired
7 with funds under this title; and

8 (3) such additional information and assurances
9 as the Secretary may require.

10 **SEC. 106. USE OF FUNDS.**

11 (a) IN GENERAL.—Funds awarded to local edu-
12 cational agencies under this title shall be used only for
13 either or both of the following modernization, renovation,
14 or repair activities in facilities that are used for elemen-
15 tary or secondary education or for early learning pro-
16 grams:

17 (1) Direct payments for school modernization,
18 renovation, or repair.

19 (2) To pay interest on bonds or payments for
20 other financing instruments that are newly issued
21 for the purpose of financing school modernization,
22 renovation, or repair.

23 (b) SUPPLEMENT, NOT SUPPLANT.—Funds made
24 available under this title shall be used to supplement, and
25 not supplant, other Federal, State, and local funds that

1 would otherwise be expended to modernize, renovate, or
2 repair eligible school facilities.

3 (c) PROHIBITION.—Funds awarded to local edu-
4 cational agencies under this title may not be used for—

5 (1) new construction; or

6 (2) payment of routine maintenance costs.

7 **SEC. 107. ADDITIONAL PROVISIONS.**

8 (a) PERIOD OF AVAILABILITY FOR GRANTS.—Funds
9 appropriated under section 102 shall be available for obli-
10 gation by local educational agencies receiving grants from
11 the Secretary under section 103(b)(1), by States reserving
12 funds under section 104(a), and by local educational agen-
13 cies receiving subgrants under section 104(b)(1) only dur-
14 ing the period that ends 24 months after the date of enact-
15 ment of this Act.

16 (b) PERIOD OF AVAILABILITY FOR SUBGRANTS.—
17 Funds appropriated under section 102 shall be available
18 for obligation by local educational agencies receiving sub-
19 grants under section 104(b)(2) only during the period that
20 ends 36 months after the date of enactment of this Act.

21 (c) GENERAL EDUCATION PROVISIONS ACT.—Sec-
22 tion 439 of the General Education Provisions Act (20
23 U.S.C. 1232b) shall apply to funds available under this
24 title.

1 (d) LOCAL EDUCATIONAL AGENCIES.—For purposes
2 of section 103(b)(1), Hawaii, the District of Columbia,
3 and the Commonwealth of Puerto Rico are not local edu-
4 cational agencies.

5 **TITLE II—COMMUNITY COLLEGE**
6 **MODERNIZATION**

7 **SEC. 201. FEDERAL ASSISTANCE FOR COMMUNITY COL-**
8 **LEGE MODERNIZATION.**

9 (a) IN GENERAL.—

10 (1) GRANT PROGRAM.—From the amounts
11 made available under subsection (h), the Secretary
12 shall award grants to States to modernize, renovate,
13 or repair existing facilities at community colleges.

14 (2) ALLOCATION.—

15 (A) RESERVATIONS.—Of the amount made
16 available to carry out this section, the Secretary
17 shall reserve—

18 (i) up to 0.25 percent for grants to in-
19 stitutions that are eligible under section
20 316 of the Higher Education Act of 1965
21 (20 U.S.C. 1059e) to provide for mod-
22 ernization, renovation, and repair activities
23 described in this section; and

24 (ii) up to 0.25 percent for grants to
25 the outlying areas to provide for mod-

1 ernization, renovation, and repair activities
2 described in this section.

3 (B) ALLOCATION.—After reserving funds
4 under subparagraph (A), the Secretary shall al-
5 locate to each State that has an application ap-
6 proved by the Secretary an amount that bears
7 the same relation to any remaining funds as the
8 total number of students in such State who are
9 enrolled in institutions described in section
10 202(b)(1)(A) plus the number of students who
11 are estimated to be enrolled in and pursuing a
12 degree or certificate that is not a bachelor’s,
13 master’s, professional, or other advanced degree
14 in institutions described in section
15 202(b)(1)(B), based on the proportion of de-
16 grees or certificates awarded by such institu-
17 tions that are not bachelor’s, master’s, profes-
18 sional, or other advanced degrees, as reported
19 to the Integrated Postsecondary Data System
20 bears to the estimated total number of such
21 students in all States, except that no State shall
22 receive less than \$2,500,000.

23 (C) REALLOCATION.—Amounts not allo-
24 cated under this section to a State because the
25 State either did not submit an application

1 under subsection (b), the State submitted an
2 application that the Secretary determined did
3 not meet the requirements of such subsection,
4 or the State cannot demonstrate to the Sec-
5 retary a sufficient demand for projects to war-
6 rant the full allocation of the funds, shall be
7 proportionately reallocated under this para-
8 graph to the other States that have a dem-
9 onstrated need for, and are receiving, alloca-
10 tions under this section.

11 (D) STATE ADMINISTRATION.—A State
12 that receives a grant under this section may use
13 not more than one percent of that grant to ad-
14 minister it.

15 (3) SUPPLEMENT, NOT SUPPLANT.—Funds
16 made available under this section shall be used to
17 supplement, and not supplant, other Federal, State,
18 and local funds that would otherwise be expended to
19 modernize, renovate, or repair existing community
20 college facilities.

21 (b) APPLICATION.—A State that desires to receive a
22 grant under this section shall submit an application to the
23 Secretary at such time, in such manner, and containing
24 such information and assurances as the Secretary may re-
25 quire. Such application shall include a description of—

1 (1) how the funds provided under this section
2 will improve instruction at community colleges, in-
3 cluding how faculty and staff will be consulted re-
4 garding uses of funds for projects that will improve
5 instruction, in the State and will improve the ability
6 of those colleges to educate and train students to
7 meet the workforce needs of employers in the State;
8 and

9 (2) the projected start of each project and the
10 estimated number of persons to be employed in the
11 project.

12 (c) PROHIBITED USES OF FUNDS.—

13 (1) IN GENERAL.—No funds awarded under
14 this section may be used for—

15 (A) payment of routine maintenance costs;

16 (B) construction, modernization, renova-
17 tion, or repair of stadiums or other facilities
18 primarily used for athletic contests or exhibi-
19 tions or other events for which admission is
20 charged to the general public; or

21 (C) construction, modernization, renova-
22 tion, or repair of facilities—

23 (i) used for sectarian instruction, reli-
24 gious worship, or a school or department
25 of divinity; or

1 (ii) in which a substantial portion of
2 the functions of the facilities are subsumed
3 in a religious mission.

4 (2) FOUR-YEAR INSTITUTIONS.—No funds
5 awarded to a four-year public institution of higher
6 education under this section may be used for any fa-
7 cility, service, or program of the institution that is
8 not available to students who are pursuing a degree
9 or certificate that is not a bachelor's, master's, pro-
10 fessional, or other advanced degree.

11 (d) GREEN PROJECTS.—In providing assistance to
12 community college projects under this section, the State
13 shall consider the extent to which a community college's
14 project involves activities that are certified, verified, or
15 consistent with the applicable provisions of—

- 16 (1) the LEED Green Building Rating System;
17 (2) Energy Star;
18 (3) the CHPS Criteria, as applicable;
19 (4) Green Globes; or
20 (5) an equivalent program adopted by the State
21 or the State higher education agency that includes
22 a verifiable method to demonstrate compliance with
23 such program.

1 (e) APPLICATION OF GEPA.—Section 439 of the
2 General Education Provisions Act (20 U.S.C. 1232b) shall
3 apply to funds available under this title.

4 (f) AVAILABILITY OF FUNDS.—

5 (1) There are authorized to be appropriated,
6 and there are appropriated, to carry out this section
7 (in addition to any other amounts appropriated to
8 carry out this section and out of any money in the
9 Treasury not otherwise appropriated),
10 \$5,000,000,000 for fiscal year 2012.

11 (2) Funds appropriated under this subsection
12 shall be available for obligation by community col-
13 leges only during the period that ends 36 months
14 after the date of enactment of this Act.

15 **SEC. 202. DEFINITIONS.**

16 (a) ESEA TERMS.—Except as otherwise provided, in
17 this title, the terms “local educational agency”, “Sec-
18 retary”, and “State educational agency” have the mean-
19 ings given those terms in section 9101 of the Elementary
20 and Secondary Education Act of 1965 (20 U.S.C. 7801).

21 (b) ADDITIONAL DEFINITIONS.—The following defi-
22 nitions apply to this title:

23 (1) COMMUNITY COLLEGE.—The term “commu-
24 nity college” means—

1 (A) a junior or community college, as that
2 term is defined in section 312(f) of the Higher
3 Education Act of 1965 (20 U.S.C. 1058(f)); or

4 (B) an institution of higher education (as
5 defined in section 101 of the Higher Education
6 Act of 1965 (20 U.S.C. 1001)) that awards a
7 significant number of degrees and certificates,
8 as determined by the Secretary, that are not—

9 (i) bachelor’s degrees (or an equiva-
10 lent); or

11 (ii) master’s, professional, or other
12 advanced degrees.

13 (2) CHPS CRITERIA.—The term “CHPS Cri-
14 teria” means the green building rating program de-
15 veloped by the Collaborative for High Performance
16 Schools.

17 (3) ENERGY STAR.—The term “Energy Star”
18 means the Energy Star program of the United
19 States Department of Energy and the United States
20 Environmental Protection Agency.

21 (4) GREEN GLOBES.—The term “Green
22 Globes” means the Green Building Initiative envi-
23 ronmental design and rating system referred to as
24 Green Globes.

1 (5) 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 standard referred to as
6 the LEED Green Building Rating System.

7 (6) MODERNIZATION, RENOVATION, AND RE-
8 PAIR.—The term “modernization, renovation, and
9 repair” means—

10 (A) comprehensive assessments of facilities
11 to identify—

12 (i) facility conditions or deficiencies
13 that could adversely affect student and
14 staff health, safety, performance, or pro-
15 ductivity or energy, water, or materials ef-
16 ficiency; and

17 (ii) needed facility improvements;

18 (B) repairing, replacing, or installing roofs
19 (which may be extensive, intensive, or semi-in-
20 tensive “green” roofs); electrical wiring; water
21 supply and plumbing systems, sewage systems,
22 storm water runoff systems, lighting systems
23 (or components of such systems); or building
24 envelope, windows, ceilings, flooring, or doors,
25 including security doors;

1 (C) repairing, replacing, or installing heat-
2 ing, ventilation, or air conditioning systems, or
3 components of those systems (including insula-
4 tion), including by conducting indoor air quality
5 assessments;

6 (D) repairing, replacing, or installing an
7 interior or exterior system that would include
8 paint or coatings, wall covering, drywall or plat-
9 er, ceiling, baseboards and floor covering;

10 (E) compliance with fire, health, seismic,
11 and safety codes, including professional installa-
12 tion of fire and life safety alarms, and mod-
13 ernizations, renovations, and repairs that en-
14 sure that facilities are prepared for such emer-
15 gencies as acts of terrorism, campus violence,
16 and natural disasters, such as improving build-
17 ing infrastructure to accommodate security
18 measures and installing or upgrading tech-
19 nology to ensure that a school or incident is
20 able to respond to such emergencies;

21 (F) making modifications necessary to
22 make educational facilities accessible in compli-
23 ance with the Americans with Disabilities Act
24 of 1990 (42 U.S.C. 12101 et seq.) and section
25 504 of the Rehabilitation Act of 1973 (29

1 U.S.C. 794), except that such modifications
2 shall not be the primary use of a grant or
3 subgrant;

4 (G) abatement, removal, or interim con-
5 trols of asbestos, polychlorinated biphenyls,
6 mold, mildew, or lead-based hazards, including
7 lead-based paint hazards;

8 (H) retrofitting necessary to increase en-
9 ergy efficiency, including insulation or reducing
10 heating and cooling costs through thermal coat-
11 ing of school facility roofs;

12 (I) measures, such as selection and substi-
13 tution of products and materials, and imple-
14 mentation of improved maintenance and oper-
15 ational procedures, such as “green cleaning”
16 programs, to reduce or eliminate potential stu-
17 dent or staff exposure to—

18 (i) volatile organic compounds;

19 (ii) particles such as dust and pollens;

20 or

21 (iii) combustion gases;

22 (J) modernization, renovation, or repair
23 necessary to reduce the consumption of coal,
24 electricity, land, oil, or water;

1 (K) installation or upgrading of edu-
2 cational technology infrastructure;

3 (L) installation or upgrading of renewable
4 energy generation and heating systems, includ-
5 ing solar, photovoltaic, wind, biomass (including
6 wood pellet and woody biomass), waste-to-en-
7 ergy, solar-thermal, fuel cell, and geothermal
8 systems, and energy audits;

9 (M) modernization, renovation, or repair
10 activities related to energy efficiency and renew-
11 able energy, including insulation of systems
12 functioning as heating, venting, or air condi-
13 tioning, and improvements to building infra-
14 structures to accommodate bicycle and pedes-
15 trian access;

16 (N) ground improvements, storm water
17 management, and environmental clean-up when
18 necessary;

19 (O) other modernization, renovation, or re-
20 pair to—

21 (i) improve teachers' ability to teach
22 and students' ability to learn;

23 (ii) ensure the health and safety of
24 students and staff; or

1 (iii) improve classroom, laboratory,
2 and vocational facilities in order to en-
3 hance the quality of science, technology,
4 engineering, and mathematics instruction;
5 and

6 (P) required environmental remediation re-
7 lated to facilities modernization, renovation, or
8 repair activities described in subparagraphs (A)
9 through (L).

10 (7) OUTLYING AREA.—The term “outlying
11 area” means the United States Virgin Islands,
12 Guam, American Samoa, the Commonwealth of the
13 Northern Mariana Islands, and the Republic of
14 Palau.

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

18 **TITLE III—GENERAL**
19 **PROVISIONS**

20 **SEC. 301. BUY AMERICAN.**

21 Section 1605 of division A of the American Recovery
22 and Reinvestment Act of 2009 (Public Law 111–5) shall
23 apply to funds made available under this Act.

1 **SEC. 302. COMPLIANCE WITH DAVIS-BACON ACT.**

2 All laborers and mechanics employed by contractors
3 and subcontractors on projects funded directly by or as-
4 sisted in whole or in part pursuant to this Act shall be
5 paid wages at rates not less than those prevailing on
6 projects of a character similar in the locality as deter-
7 mined by the Secretary of Labor in accordance with sub-
8 chapter IV of chapter 31 of part A of title 40, United
9 States Code. With respect to the labor standards specified
10 in this section, the Secretary of Labor shall have the au-
11 thority and functions set forth in Reorganization Plan
12 Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and
13 section 3145 of title 40, United States Code.

14 **SEC. 303. REPORTS.**

15 (a) **REPORTS BY THE STATES.**—Each local edu-
16 cational agency and State that receives a grant under this
17 Act shall, not later than September 30, 2012, and annu-
18 ally thereafter for each fiscal year in which the State ex-
19 pends funds received under this Act, submit to the Sec-
20 retary a report that includes—

21 (1) a description of the projects for which the
22 grant was, or will be, used;

23 (2) a description of the amount and nature of
24 the assistance provided to each community college
25 under this section; and

1 (3) the number of jobs created by the projects
2 funded under this section.

3 (b) REPORT BY THE SECRETARY.—The Secretary of
4 Education shall submit to the appropriating and author-
5 izing committees (as defined in section 103 of the Higher
6 Education Act of 1965; U.S.C. 1003) an annual report
7 on the grants made under this section, including the infor-
8 mation described in subsection (a).

9 (c) GAO.—Not later than 3 years after the date of
10 enactment of this Act, the Comptroller General of the
11 United States shall submit to Congress a report evaluating
12 the program carried out under this Act that includes an
13 assessment of the impact and benefits of each funded
14 school improvement project.

○