



School Construction, Modernization, Renovation, and Repair Issues: 110th Congress

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Summary

The 111th Congress is expected to consider economic recovery legislation when it convenes in January of 2009. This legislation may include new funding for school infrastructure. It is not yet known how much funding will be provided for schools, or what kinds of school projects will be authorized by this new legislation. In the 110th Congress, legislation (H.R. 3021) was adopted by the full House of Representatives on June 4, 2008, that would provide grants to states for school modernization, renovation, and repair. In response to ongoing concerns about the physical condition of schools and a congressional mandate, in 2000, the U.S. Department of Education (ED) issued a one-time study with estimates of needed modernization, renovation, and repair to school buildings or building features. This remains the latest reliable estimate of these needs. ED estimated the costs to bring school facilities into good condition in 1999 at \$127 billion.

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ED data indicate that an estimated 50 million students were enrolled in public elementary and secondary schools (grades preK-12) in 2008.¹ According to ED data, \$48 billion was spent on public school renovation and construction in 2006.² School construction and renovation has traditionally been considered largely a state and local responsibility. The federal government has played a relatively small role in financing school construction and renovation. The federal government provides both indirect support for school construction (mainly by exempting the interest on state and local governmental bonds used for school construction and renovation from federal income taxation), and direct support via federal education programs such as Impact Aid. This report discusses the federal role in financing K-12 public school infrastructure, examines estimates of the unmet need for infrastructure, and summarizes potential legislative activity in the 111th Congress, as well as legislation passed by the 110th Congress.

Background: Federal Involvement in School Infrastructure

The history of federal funding for school infrastructure dates as far back as the Great Depression when the Works Progress Administration financed 4,383 new schools and renovated thousands of additional schools between 1935 and 1940. Subsequently, there were many proposals to provide aid for school construction and/or school renovation; however, no major general school construction legislation was enacted until 1994.³ The Education Infrastructure Act of 1994, Title XII of the Elementary and Secondary Education Act as amended by the Improving America's School's Act of 1994 (P.L. 103-382), was passed to provide direct federal assistance for the renovation and construction of public elementary and secondary schools, among other things. However, the program never received funding. Attempts to increase federal assistance for needed improvements to school infrastructure continued in the 1990s; and in 2001, the last general federal school renovation and repair legislation was passed as part of P.L. 106-554, the Consolidated Appropriations Act for FY2001. This legislation appropriated \$1.2 billion in funding for school renovation and repair in FY2001, among other purposes. The program did not receive funding in subsequent years.

Indirect Federal Involvement

Currently, the largest federal contribution to school infrastructure is the forgone revenue attributable to the exemption of the interest on state and local governmental bonds used for school construction, modernization, renovation, and repair from federal income taxation. This exemption allows these bonds to be issued at lower interest rates but still provide competitive returns.⁴ Additionally, the federal government provides tax credits via qualified zone academy debt

¹ *The Condition of Education: 2008*. U.S. Department of Education, National Center for Education Statistics. NCES Number 2008-031, Washington, D.C.

² These are the latest data from ED's Common Core of Data, National Public Education Financial Survey. The school renovation and construction expenditures reported here include the construction of new buildings and renovations to existing buildings (known as non-property expenditures) as well as purchases of land and existing buildings. New construction expenditures cannot be separated from renovation expenditures.

³ Categorical Impact Aid programs (discussed later), which provide targeted aid to certain districts, began in the 1950s.

⁴ For an in-depth discussion of tax-exempt bonds, including issues regarding costs (revenue loss) see CRS Report RL30638, *Tax-Exempt Bonds: A Description of State and Local Government Debt*, by Steven Maguire.

instruments (QZABs, authorized by the Taxpayer Relief Act of 1997, P.L. 105-34) to state and local governments to be used for school renovation, equipment, teacher training, and course materials.⁵ To be eligible for QZABs, schools must be located in empowerment zones or enterprise communities; or have 35% or more of students qualified for free or reduced price lunches under the federal school lunch program.

Direct Federal Involvement

Direct federal support for school construction and renovation is also provided through several programs providing categorical aid to targeted groups.⁶ The Impact Aid program provides funding for school construction and renovation to certain local educational agencies (LEAs) with high percentages of children living on Indian land or children of military parents.⁷ The Impact Aid construction and renovation program is authorized by Title VIII of the Elementary and Secondary Education Act (ESEA, P.L. 89-10, as amended by P.L. 107-110). Direct support is also provided through a program of credit enhancement for charter school facilities (ESEA, Title V, Part B, Subpart 2). This program is intended to improve access to capital markets for the financing of charter school facilities.⁸ Direct aid has also been provided to schools affected by natural disasters; most recently aid for school construction and repair was provided to areas affected by hurricane Katrina and hurricane Rita in 2005. This legislation is discussed in CRS Report RL33236, *Education-Related Hurricane Relief: Legislative Action*, by Rebecca R. Skinner et al.

School Infrastructure: Current Conditions and Needs

Data on school infrastructure needs are extremely limited and difficult to assess in part because of the wide variation of potential assumptions and definitions regarding both conditions and needs. In addition, there is substantial complexity associated with gathering and compiling data for which there is currently no central repository.

At present there is no ongoing federal collection of data on the conditions of schools. However, in response to concerns about the physical condition of schools and a Congressional mandate, in 2000, ED issued a one-time study with estimates of the costs of needed modernizations, renovations, and repairs to school buildings and/or building features.⁹ This remains the latest

⁵ QZABs are not permanently authorized, but have been extended multiple times. For more information on QZABS, including cost issues see CRS Report RL34629, *Tax Credit Bonds: A Brief Explanation*, by Steven Maguire.

⁶ This discussion is limited to elementary and secondary schools, but it should also be noted that federal funding is provided to insure bonds issued to support facility repair and renovation at Historically Black Colleges and Universities (HBCUs) as authorized by The Higher Education Act, Title III, Part D (P.L. 105-244). In exceptional circumstances, funding under this program may also be made available for the construction or acquisition of facilities for instruction research or for housing. For more information see CRS Report RL31647, *Title III and Title V of the Higher Education Act: Background and Reauthorization Issues*, by Charmaine Mercer.

⁷ CRS Report RL34119, *Impact Aid for Public K-12 Education: Reauthorization Under the Elementary and Secondary Education Act*, by Rebecca R. Skinner and Richard N. Apling.

⁸ CRS Report RL31128, *Funding for Public Charter School Facilities: Federal Policy Under the ESEA*, by David P. Smole.

⁹ Lewis, L., Snow, K., Farris, E., Smerdon, B., Cronen, S., and Kaplan, J. Project Officer: B. Greene. *Condition of America's Public School Facilities: 1999*. (NCES 2000-32). U.S. Department Of Education. Washington, D.C. (continued...)

reliable estimate of these needs. This study is based on 1999 survey data collected by ED of 903 public elementary and secondary schools, weighted to provide a national estimate. These data are based on surveys of school officials rather than on direct, independent data collection. ED estimated the costs to bring school facilities into good condition¹⁰ in 1999 at \$127 billion.¹¹

ED found that although most public schools in 1999 were in adequate or better condition, a significant number were not. The ED survey found that approximately 25% of schools indicated that at least one type of onsite building was in less than adequate condition,¹² 50% indicated that 1 or more building feature(s) was not in adequate condition,¹³ and 40% indicated that 1 or more environmental condition(s) was unsatisfactory.¹⁴

There is not a more recent government study of the physical condition of schools with an estimate of future school infrastructure needs. However, in January of 2007, ED issued a report on the state of school facilities based on a survey of school principals regarding whether various environmental factors at their schools were interfering with classroom instruction.¹⁵ Three-fourths of the principals responding to the survey indicated that they needed to spend funds on modernization, renovation, or repair of their schools. The majority (56%) of principals did not believe that environmental factors overall interfered with instruction; the remainder reported that one or more environment factors did interfere with instruction, although only 1% percent reported that these factors were a major interference.

School infrastructure needs are affected not only by the age and physical condition of a school, but also by shifts in the student population or changes in school policies (for example, implementing smaller class size policies), and by changes in technology and school instructional practices. According to ED's January 2007 study on the state of school facilities, there continues to be a discrepancy between school capacity and enrollment. However, ED's data indicate that concerns about enrollment exceeding school capacity appear to have diminished since its previous study of these issues in 1999. ED's 2007 study reported that the percentage of schools that were underenrolled by 6% to 25% increased from 33% to 38% between 1999 and 2005, and

(...continued)

(Hereinafter referred to as *Condition of America's Public School Facilities*.)

¹⁰ ED defined good condition to mean that only routine maintenance or minor repair was required.

¹¹ GAO estimated the unmet need for school construction and renovation in 1994 at \$112 billion. U.S. Government Accountability Office. (1995). *School Facilities: Condition of America's Schools*. GAO/HEHS 95-61. Washington, D.C.

¹² Onsite buildings include original and temporary buildings, and permanent additions. Seventy-five percent of responding schools reported that they needed to spend money to bring onsite buildings into good overall condition. *Condition of America's Public School Facilities*.

¹³ Building features include roofs, framing, floors, and foundations; exterior walls, finishes, windows, and doors; interior finishes and trim; plumbing; heating, ventilation and air conditioning; electric power; electrical lighting; and life safety features. *Condition of America's Public School Facilities*.

¹⁴ Environmental conditions include lighting, heating, ventilation, indoor air quality, acoustics or noise control, and physical security of buildings. *Condition of America's Public School Facilities: 1999*.

¹⁵ Environmental factors examined were artificial lighting, indoor air quality, size or configuration of rooms, acoustics or noise control, physical condition, ventilation, heating, natural lighting, and air conditioning. Chaney, B., and Lewis, L. (2007). *Public School Principals Report on Their School Facilities: Fall 2005* (NCES 2007-007). U.S. Department. Of Education. Washington, D.C.

the percentage that were overenrolled by 6 to 25% decreased from 14% to 10% between 1999 and 2005.¹⁶

Anticipated Legislation in the 111th Congress

It is expected that the 111th Congress will consider economic recovery legislation when it convenes in January of 2009. This legislation may include new funding for school infrastructure. It is not yet known how much funding will be provided for schools, or what kinds of school projects will be authorized by this new legislation.

Legislation in the 110th Congress

In the 110th Congress, H.R. 3021, the 21st Century Green High-Performing Public School Facilities Act, was passed, as amended, by the U.S. House of Representatives on June 4, 2008. Title I of H.R. 3021 would provide formula grants to states based on each state's relative share of Title I-Part A grants under the ESEA for the previous fiscal year. The Secretary of the U.S. Department of Education would be required to distribute state grants not later than 30 days after funds for this program are appropriated. States would be required to allocate at least 99% of their award to LEAs in proportion to the Title I-A grants received by the LEAs in the previous fiscal year. States would also be required to distribute grants within 30 days of receiving such funds. LEAs would be authorized to use these grants for the modernization, renovation, or repair of K-12 public school facilities.

Title II of H.R. 3021 would authorize additional funds to be distributed among Louisiana, Mississippi, and Alabama, in proportion to the number of schools closed for 60 or more days in each state relative to the total number of schools closed in all three states between August 29, 2005 and December 31, 2005. Funds under this supplemental grant program could be used for new construction as well as for the modernization, renovation, or repair of K-12 public school facilities. The Secretary would be required to distribute funds under this title no later than 30 days after funds are appropriated.

LEAs would be required to use, at a minimum, a specified percentage of funds for projects that meet green building/energy ratings. This percentage would increase incrementally each year, reaching 90% by 2013, the final year the law would be authorized. LEAs would be required to submit annual reports on the projects funded to state educational agencies (SEAs), and the public. SEAs would be required to compile this information and submit it to the Secretary. The Secretary would be required to submit annual reports to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

Authorizations for Title I of H.R. 3021 would be \$6.4 billion for FY2009, and such sums as may be necessary for fiscal years 2010 through 2013. Title II would be authorized at \$100 million for each of fiscal years 2009-2013.

¹⁶ Ibid.

In addition, Section 222 of the FY2009 Budget (S.Con.Res. 70 as passed by both the House and Senate, provides that

The Chairman of the Senate Committee on the Budget may revise the allocations of a committee or committees, aggregates, and other levels and limits in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that would improve education, which may include...

(2) facilitating modernization of school facilities through renovation or construction bonds....¹⁷

QZABs are not permanently authorized, but have been extended multiple times.¹⁸ Most recently legislation (H.R. 1424, the Emergency Economic Stabilization Act) signed into law on October 3, 2008, included an \$800 million extension of QZABs.

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¹⁷ S.Con.Res. 70. Setting forth the congressional budget for the United States Government for fiscal year 2009 and including the appropriate budgetary levels for fiscal years 2008 and 2010 through 2013. June 5, 2008.

¹⁸ For more information on QZABS, see CRS Report RL34629, *Tax Credit Bonds: A Brief Explanation*, by Steven Maguire.