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,
SECTION 1. SHORT TITLE.

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

TITLE I—ELEMENTARY AND SECONDARY SCHOOLS

SEC. 101. PURPOSE.

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

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

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

SEC. 103. ALLOCATION OF FUNDS.

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

(1) one-half of one percent for the Secretary of the Interior to carry out modernization, renovation, and repair activities described in section 106 in schools operated or funded by the Bureau of Indian Education;
(2) one-half of one percent to make grants to
the outlying areas for modernization, renovation,
and repair activities described in section 106; and

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

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

(1) the Secretary shall allocate 40 percent of
such remaining amount to the 100 local educational
agencies with the largest numbers of children aged
5–17 living in poverty, as determined using the most
recent data available from the Department of Com-
merce that are satisfactory to the Secretary, in pro-
portion to those agencies’ respective allocations
under part A of title I of the ESEA for fiscal year
2011; and
(2) the allocation to any State shall be reduced by the aggregate amount of the allocations under paragraph (1) to local educational agencies in that State.

(c) REMAINING ALLOCATION.—

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

(A) reallocate all or a portion of that allocation to the other States in accordance with subsection (b); or

(B) use all or a portion of that allocation to make direct allocations to local educational agencies within the State based on their respective allocations under part A of title I of the ESEA for fiscal year 2011 or such other method as the Secretary may determine.

(2) LOCAL EDUCATIONAL AGENCIES.—If a local educational agency does not apply for its allocation under subsection (b)(1), applies for less than the full allocation for which it is eligible, or does not use that allocation in a timely manner, the Secretary may reallocate all or a portion of its allocation to the State in which that agency is located.
SEC. 104. STATE USE OF FUNDS.

(a) Reservation.—Each State that receives a grant under this title may reserve not more than one percent of the State’s allocation under section 103(b) for the purpose of administering the grant.

(b) Funds to Local Educational Agencies.—

(1) Formula subgrants.—From the grant funds that are not reserved under subsection (a), a State shall allocate at least 50 percent to local educational agencies, including charter schools that are local educational agencies, that did not receive funds under section 103(b)(1) from the Secretary, in accordance with their respective allocations under part A of title I of the ESEA for fiscal year 2011, except that no such local educational agency shall receive less than $10,000.

(2) Additional subgrants.—The State shall use any funds remaining, after reserving funds under subsection (a) and allocating funds under paragraph (1), for subgrants to local educational agencies that did not receive funds under section 103(b)(1), including charter schools that are local educational agencies, to support modernization, renovation, and repair projects that the State determines, using objective criteria, are most needed in
the State, with priority given to projects in rural
local educational agencies.
(c) REMAINING FUNDS.—If a local educational agen-
cy does not apply for an allocation under subsection
(b)(1), applies for less than its full allocation, or fails to
use that allocation in a timely manner, the State may re-
allocate any unused portion to other local educational
agencies in accordance with subsection (b).
SEC. 105. STATE AND LOCAL APPLICATIONS.
(a) STATE APPLICATION.—A State that desires to re-
ceive a grant under this title shall submit an application
to the Secretary at such time, in such manner, and con-
taining such information and assurances as the Secretary
may require, which shall include—
(1) an identification of the State agency or enti-
ty that will administer the program;
(2) the State’s process for determining how the
grant funds will be distributed and administered, in-
cluding—
(A) how the State will determine the cri-
teria and priorities in making subgrants under
section 104(b)(2);
(B) any additional criteria the State will
use in determining which projects it will fund
under that section;
(C) a description of how the State will consider—

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

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

(iii) the fiscal capacity of local educational agencies applying for assistance;

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

(v) the potential for leveraging assistance provided by this program through matching or other financing mechanisms;

(D) a description of how the State will ensure that the local educational agencies receiving subgrants meet the requirements of this title;

(E) a description of how the State will ensure that the State and its local educational agencies meet the deadlines established in section 108;

(F) a description of how the State will give priority to the use of green practices that are
certified, verified, or consistent with any applicable provisions of—

(i) the LEED Green Building Rating System;

(ii) Energy Star;

(iii) the CHPS Criteria;

(iv) Green Globes; or

(v) an equivalent program adopted by the State or another jurisdiction with authority over the local educational agency;

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

(H) such additional information and assurances as the Secretary may require.

(b) LOCAL APPLICATION.—A local educational agency that is eligible under section 103(b)(1) that desires to receive a grant under this title shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require, which shall include—
(1) a description of how the local educational agency will meet the deadlines and requirements of this title;

(2) a description of the steps that the local educational agency will take to adequately maintain any facilities that are modernized, renovated, or repaired with funds under this title; and

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

SEC. 106. USE OF FUNDS.

(a) IN GENERAL.—Funds awarded to local educational agencies under this title shall be used only for either or both of the following modernization, renovation, or repair activities in facilities that are used for elementary or secondary education or for early learning programs:

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

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

(b) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this title shall be used to supplement, and not supplant, other Federal, State, and local funds that
would otherwise be expended to modernize, renovate, or repair eligible school facilities.

(c) Prohibition.—Funds awarded to local educational agencies under this title may not be used for—

(1) new construction; or

(2) payment of routine maintenance costs.

SEC. 107. ADDITIONAL PROVISIONS.

(a) Period of Availability for Grants.—Funds appropriated under section 102 shall be available for obligation by local educational agencies receiving grants from the Secretary under section 103(b)(1), by States reserving funds under section 104(a), and by local educational agencies receiving subgrants under section 104(b)(1) only during the period that ends 24 months after the date of enactment of this Act.

(b) Period of Availability for Subgrants.— Funds appropriated under section 102 shall be available for obligation by local educational agencies receiving subgrants under section 104(b)(2) only during the period that ends 36 months after the date of enactment of this Act.

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

**TITLE II—COMMUNITY COLLEGE MODERNIZATION**

**SEC. 201. FEDERAL ASSISTANCE FOR COMMUNITY COLLEGE MODERNIZATION.**

(a) IN GENERAL.—

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

(2) ALLOCATION.—

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

(i) up to 0.25 percent for grants to institutions that are eligible under section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c) to provide for modernization, renovation, and repair activities described in this section; and

(ii) up to 0.25 percent for grants to the outlying areas to provide for mod-
ernization, renovation, and repair activities described in this section.

(B) ALLOCATION.—After reserving funds under subparagraph (A), the Secretary shall allocate to each State that has an application approved by the Secretary an amount that bears the same relation to any remaining funds as the total number of students in such State who are enrolled in institutions described in section 202(b)(1)(A) plus the number of students who are estimated to be enrolled in and pursuing a degree or certificate that is not a bachelor’s, master’s, professional, or other advanced degree in institutions described in section 202(b)(1)(B), based on the proportion of degrees or certificates awarded by such institutions that are not bachelor’s, master’s, professional, or other advanced degrees, as reported to the Integrated Postsecondary Data System bears to the estimated total number of such students in all States, except that no State shall receive less than $2,500,000.

(C) REALLOCATION.—Amounts not allocated under this section to a State because the State either did not submit an application
under subsection (b), the State submitted an
application that the Secretary determined did
not meet the requirements of such subsection,
or the State cannot demonstrate to the Sec-
retary a sufficient demand for projects to war-
rant the full allocation of the funds, shall be
proportionately reallocated under this para-
graph to the other States that have a dem-
onstrated need for, and are receiving, alloca-
tions under this section.

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

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

(b) APPLICATION.—A State that desires to receive a
grant under this section shall submit an application to the
Secretary at such time, in such manner, and containing
such information and assurances as the Secretary may re-
quire. Such application shall include a description of—
(1) how the funds provided under this section will improve instruction at community colleges, including how faculty and staff will be consulted regarding uses of funds for projects that will improve instruction, in the State and will improve the ability of those colleges to educate and train students to meet the workforce needs of employers in the State; and

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

(c) Prohibited Uses of Funds.—

(1) in general.—No funds awarded under this section may be used for—

(A) payment of routine maintenance costs;

(B) construction, modernization, renovation, or repair of stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public; or

(C) construction, modernization, renovation, or repair of facilities—

(i) used for sectarian instruction, religious worship, or a school or department of divinity; or
(ii) in which a substantial portion of
the functions of the facilities are subsumed
in a religious mission.

(2) Four-year Institutions.—No funds
awarded to a four-year public institution of higher
education under this section may be used for any fa-
cility, service, or program of the institution that is
not available to students who are pursuing a degree
or certificate that is not a bachelor’s, master’s, pro-
fessional, or other advanced degree.

(d) Green Projects.—In providing assistance to
community college projects under this section, the State
shall consider the extent to which a community college’s
project involves activities that are certified, verified, or
consistent with the applicable provisions of—

   (1) the LEED Green Building Rating System;
   (2) Energy Star;
   (3) the CHPS Criteria, as applicable;
   (4) Green Globes; or
   (5) an equivalent program adopted by the State

or the State higher education agency that includes
a verifiable method to demonstrate compliance with
such program.
(c) Application of GEPA.—Section 439 of the General Education Provisions Act (20 U.S.C. 1232b) shall apply to funds available under this title.

(f) Availability of Funds.—

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

(2) Funds appropriated under this subsection shall be available for obligation by community colleges only during the period that ends 36 months after the date of enactment of this Act.


(a) ESEA Terms.—Except as otherwise provided, in this title, the terms “local educational agency”, “Secretary”, and “State educational agency” have the meanings given those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(b) Additional Definitions.—The following definitions apply to this title:

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

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

(i) bachelor’s degrees (or an equival-
ent); or

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

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

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

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

(6) MODERNIZATION, RENOVATION, AND REPAIR.—The term “modernization, renovation, and repair” means—

(A) comprehensive assessments of facilities to identify—

(i) facility conditions or deficiencies that could adversely affect student and staff health, safety, performance, or productivity or energy, water, or materials efficiency; and

(ii) needed facility improvements;

(B) repairing, replacing, or installing roofs (which may be extensive, intensive, or semi-intensive “green” roofs); electrical wiring; water supply and plumbing systems, sewage systems, storm water runoff systems, lighting systems (or components of such systems); or building envelope, windows, ceilings, flooring, or doors, including security doors;
(C) repairing, replacing, or installing heating, ventilation, or air conditioning systems, or components of those systems (including insulation), including by conducting indoor air quality assessments;

(D) repairing, replacing, or installing an interior or exterior system that would include paint or coatings, wall covering, drywall or plaster, ceiling, baseboards and floor covering;

(E) compliance with fire, health, seismic, and safety codes, including professional installation of fire and life safety alarms, and modernizations, renovations, and repairs that ensure that facilities are prepared for such emergencies as acts of terrorism, campus violence, and natural disasters, such as improving building infrastructure to accommodate security measures and installing or upgrading technology to ensure that a school or incident is able to respond to such emergencies;

(F) making modifications necessary to make educational facilities accessible in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29
U.S.C. 794), except that such modifications shall not be the primary use of a grant or subgrant;

(G) abatement, removal, or interim controls of asbestos, polychlorinated biphenyls, mold, mildew, or lead-based hazards, including lead-based paint hazards;

(H) retrofitting necessary to increase energy efficiency, including insulation or reducing heating and cooling costs through thermal coating of school facility roofs;

(I) measures, such as selection and substitution of products and materials, and implementation of improved maintenance and operational procedures, such as “green cleaning” programs, to reduce or eliminate potential student or staff exposure to—

(i) volatile organic compounds;

(ii) particles such as dust and pollens;

or

(iii) combustion gases;

(J) modernization, renovation, or repair necessary to reduce the consumption of coal, electricity, land, oil, or water;
(K) installation or upgrading of educational technology infrastructure;

(L) installation or upgrading of renewable energy generation and heating systems, including solar, photovoltaic, wind, biomass (including wood pellet and woody biomass), waste-to-energy, solar-thermal, fuel cell, and geothermal systems, and energy audits;

(M) modernization, renovation, or repair activities related to energy efficiency and renewable energy, including insulation of systems functioning as heating, venting, or air conditioning, and improvements to building infrastructures to accommodate bicycle and pedestrian access;

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

(O) other modernization, renovation, or repair to—

(i) improve teachers’ ability to teach and students’ ability to learn;

(ii) ensure the health and safety of students and staff; or
(iii) improve classroom, laboratory, and vocational facilities in order to enhance the quality of science, technology, engineering, and mathematics instruction; and

(P) required environmental remediation related to facilities modernization, renovation, or repair activities described in subparagraphs (A) through (L).

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

(8) STATE.—The term “State” means each of the 50 States of the United States, the Commonwealth of Puerto Rico, and the District of Columbia.

TITLE III—GENERAL PROVISIONS

SEC. 301. BUY AMERICAN.

Section 1605 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) shall apply to funds made available under this Act.
SEC. 302. COMPLIANCE WITH DAVIS-BACON ACT.

All laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of part A of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

SEC. 303. REPORTS.

(a) REPORTS BY THE STATES.—Each local educational agency and State that receives a grant under this Act shall, not later than September 30, 2012, and annually thereafter for each fiscal year in which the State expends funds received under this Act, submit to the Secretary a report that includes—

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

(2) a description of the amount and nature of the assistance provided to each community college under this section; and
(3) the number of jobs created by the projects funded under this section.

(b) REPORT BY THE SECRETARY.—The Secretary of Education shall submit to the appropriating and authorizing committees (as defined in section 103 of the Higher Education Act of 1965; U.S.C. 1003) an annual report on the grants made under this section, including the information described in subsection (a).

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