The Rebuild America’s Schools Act of 2019 H.R. 865 and S.B. 266

On January 1, 2019, Congressman Bobby Scott (VA-03) introduced H.R. 865 “to provide for the long-term improvement of public school facilities, and for other purposes. Senator Reed (D-RI) introduced an identical bill S.B. 266 in the Senate. This is our summary of the Bill.

Title I— Grants for the Long-Term Improvement of Public School Facilities

**Section 101. Purpose and Reservation** states the purpose of this Act, which is to support “long-term improvements to public school facilities.” This section reserves 0.5% of funds for the outlying areas and 0.5% of funds for schools funded by the Bureau of Indian Education (BIE).

**Section 102. Allocation to States** outlines the allocation of funds to States as well as State responsibilities under this Act. States shall be allocated funds in proportion to the funds that all Local Education Agencies (LEAs) in the State receive under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA).

- States may reserve not more than 1% of its allocation to carry out its responsibilities under this Act. **States’ responsibilities shall include:**
  - Providing technical assistance to Local Education Agencies.
  - Developing and maintaining an updated online, publicly searchable database of the inventory of all public school facilities and key systems, components, and environmental risks in the State.
  - Issuing and reviewing regulations to ensure safe, healthy, and high-performing buildings and for the health and safety of students and staff during construction or renovation projects.
  - Creating a state plan to reduce or eliminate exposure to harmful toxins and chemicals.
  - Submitting a plan to the Secretary of Education for approval that describes how the state will use its allocation, meet its responsibilities, and maintain its fiscal effort and carry out the competitive grant program described in Section 103.

- States are required to provide a 10% match, and comply with a maintenance of effort provision, and a supplement-not-supplant provision.
Section 103. Need-Based Grants to Qualified Local Education Agencies includes eligibility requirements and other provisions for the competitive grant program.

- States shall allocate all funds competitively to LEAs based on the poverty level of the school, fiscal limitations to raise funds to improve school facilities, and the severity of the need to improve school facilities.
- States must also ensure that the distribution of grants represents the geographic diversity of the State.
- States may distribute up to 10% of the total allocation of grants to enable LEAs to leverage existing public programs or public-private partnerships to expand access to high-speed broadband sufficient for digital learning.
- Section 103 also includes the requirements for local education agencies (LEAs) which include:
  - Demonstrating the greatest needs based on factors, including: student free or reduced price lunch, facilities conditions, facilities locations, or access to high-speed broadband; and
  - Demonstrating limited capacity to raise funds for the long-term improvement of public school facilities based on factors, including: current and historic ability of the local education agency to raise funds for major facilities projects, borrow capital funds for projects, or bond rating of the agency.
  - Description of proposed projects including for charter schools that lack facilities funding and “own, has care or control” of their facility
  - Submitting a 10 year comprehensive local education agency facilities master plan with the consultation of school, community and municipal stakeholders.
  - Describing how the LEA use of federal funds to supplement and not supplant funds that would, in the absence of such grant, be made available for the activities supported by the grant.

Section 104. Annual Report on Grant Program requires that the Secretary of Education annually submit to Congress a report that includes a description of the projects carried out under the grant program as well as the demographic information of students attending schools that used funds from the grant program.

Section 105. Authorization of Appropriations authorizes to be appropriated $70 billion total for Title I of this Act from FY 2020 through FY 2029.

Title II—School Infrastructure Bonds

Sec. 201. Restoration of Certain Qualified Tax Credit Bonds restores Sections 54A, 54E, and 6431 of the Internal Revenue Code of 1986 as if the repeals by the Tax Cuts and Jobs Act of 2017 had not taken effect.

- It amends Section 54(E)(d)(3) of the Code to allow proceeds from Qualified Zone
Academy Bonds to be used for construction and retrofitting of public school facilities.

Section 201 permanently increases the national limitation for QZABs from $400 million annually to $1.4 billion annually and removes the private business contribution requirement for LEAs to participate in the QZAB program.


- reserves 0.5% of the bond allocation for outlying areas, and 0.5% of the bond allocation for schools funded by the BIE;
- allocates bond authority to states based on the proportion of funds that States receive under Title I, Part A of ESEA;
- requires that the federal government provide a tax credit of 100 percent of the interest on any QSIB—such credit may be issued as a tax credit to the bondholder or as a direct payment to the bond issuer;
- requires States to use the same criteria outlined in Section 103 in distribution of bond authority to LEAs, excluding provisions related to fiscal capacity, to LEAs.
- States may distribute up to 10% of the total bond limitation to enable LEAs to leverage existing public programs or public-private partnerships to expand access to high-speed broadband sufficient for digital learning.

Section 203. Annual Report on Bond Program requires the Secretary of Education to annually submit to Congress a report that includes the LEAs that participated in the bond program as well as LEAs that were unable to participate due to fiscal challenges.

Title III—General Provisions

Section 301. Allowable Uses outlines the allowable uses of funds for Title I and Title II.

- Educational facilities master planning
- School construction, modernization, renovation, or retrofitting
- Major repairs
- Furniture or fixtures with at least a 10 year life
- Site acquisition for new public school facilities

These allowable uses are to:

- Extend the life of systems and components
- Reduce overcrowding
- Secure building envelopes
- Improve energy and water efficiencies, indoor air quality, acoustics, water quality, and reduce or eliminate indoor environmental hazards
- Bring facilities into compliance with fire, health, and safety codes
- Comply with the American's with Disabilities Act
- Improve instructional spaces and community-based partnerships
- Ensure the health of students and staff during construction projects

**Section 302. Prohibited Uses** of funds for Title I and Title II are defined.
- Routine and predictable maintenance and minor repairs
- Facility improvements to athletic facilities primarily used for contests or exhibitions for which admission is charged to the general public
- Vehicles
- Central office, operation centers or other facilities that are not primarily used to educate students

**Section 303. Green Practices** outlines the requirements for green practices for Title I and Title II projects. Which may include standards of:
- US Green Building Council (LEED Green Building Rating System)
- Living Building Challenge of International Living Future Institute
- Collaborative for High-Performance Schools (CHPS)
- A program that has equivalent, or more stringent standards of the above rating systems, and is adopted by the state or another jurisdiction with authority over the agency, and includes a verifiable method to demonstrate compliance
- Describes the applicable percentage of funds for new construction or renovation that must meet green practice standards—60% in 2020; 70% in 2021; 80% in 2022; 90% in 2023 and 100% in 2024-2029.

**Section 304. Use of American Iron, Steel, and Manufactured Products** includes a Buy America provision for iron, steel, and manufactured products; and waiver authority of the Secretary of Education.

**Section 305. Comptroller General** requires the Comptroller General to submit to Congress a report that must include the geographic distribution of projects, the impact of projects on student and staff health and safety, and how funds under these projects could be made more accessible to high-poverty schools and those with fiscal capacities.

**Section 306. Study and Report of Physical Conditions of Public Schools** requires that the Institute of Educational Sciences carry out a national study that includes the condition of public school facilities as well as the impact of such facilities on students and staff.

**Section 307. Development of Data Standards** requires that the Secretary of Education, in consultation with the EPA, CDC, DOE, and NIOSH, develop guidance on data to be collected by States under Section 102.
The [Re]Build America’s School Infrastructure Coalition (BASIC) is a non-partisan coalition of organizations who support federal funding to help underserved public school districts modernize their facilities. We believe that ALL children should attend healthy, safe, and educationally appropriate school facilities.

JOIN BASIC and access resources, research and school facilities headlines from around the nation at www.buildUSschools.org.

For more information contact info@21csf.org

Section 308. Information Clearinghouse requires that the Secretary of Education, in consultation with the officials in Section 307, to disseminate information to schools on financing for green projects.

Title IV— Impact Aid Construction