



**It Doesn't Add Up:
The Dangers of a Federal School Construction Mandate**

A Congressional Staff Report on Efforts to Create a Federal School Construction Program

Republican Staff
U.S. House Committee on Education and Labor
Rep. Howard P. "Buck" McKeon (R-CA), Senior Republican Member

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Introduction

Over the past decade, the condition of local public school facilities has become an important component of the education debate in communities throughout the nation. In both cities and suburbs, students, parents, teachers, and many public officials argue that school buildings are overcrowded, unsafe, and obsolete. As a result, the amount being spent on school construction, modernization, and renovation has become a significant issue in many states and local school districts. It has also been the subject of court rulings requiring states, cities, and counties to spend additional resources on school buildings and other physical facilities.

While strongly supportive of public education, historically, the federal government has had an extremely limited, almost non-existent role in financing school infrastructure projects and facility improvement programs, which have been a state and local responsibility. The most substantial attempts to fund school construction at the federal level were during the 1930s and 1940s as part of the Public Works Administration. At that time, the federal government contributed \$611 million to build schools and help eliminate the high unemployment rates of that era.

Since that time and reflecting the need to set national priorities, the federal commitment to school construction has been generally limited to building and repairing schools using Impact Aid funds or building/repairing schools on Indian reservations through the Bureau of Indian Affairs. Both of these programs focus on children who historically have been a federal responsibility – children living on military bases and children living on Indian reservations.

The federal government has chosen to maintain this limited role in school construction while focusing on adequately funding programs that increase student achievement, primarily through the Title I program for low-income students, and on providing a free public education to those students with special needs under the Individuals with Disabilities Education Act (IDEA).

Because of growing public concern regarding overcrowded and obsolete public schools, Congress may soon consider legislation creating a new and massive federal school construction program administered through the U.S. Department of Education. On February 13, 2008, the House Education and Labor Committee held a hearing entitled *“Modern Public School Facilities: Investing in the Future,”* which discussed the adequacy of existing public school facilities and the current conditions (i.e. overcrowded, obsolete, and/or unsafe) of elementary and secondary school campuses. The hearing was seen as a prelude to efforts by Congressional Democrats to significantly increase the role of the federal government in school construction matters.

It is in that context that this report seeks to examine the federal and state role in school construction. It will also detail the impact that any federal school construction program, subject to the requirements of the Depression-era Davis-Bacon Act, will have on state and local efforts to build elementary and secondary schools in an efficient and effective manner.

Key Findings in this Report

- ☑ Public school facilities are an important issue in states and local communities and a topic of great importance in the larger educational debate in terms of student safety, economic and ecological impact on communities, and equitable educational opportunity.
- ☑ States and local communities are responsible for setting public policy over education, particularly public K-12 education. Federal intervention has been targeted narrowly to fulfill a pressing need, while maintaining the autonomy and authority of communities. For instance, the No Child Left Behind Act (NCLB) is intended to help close the achievement gap between disadvantaged students and their peers by providing additional funding and support for schools that serve low-income and disadvantaged students. It does not replace the rights and responsibilities that lie with states and communities.
- ☑ The federal government is responsible for only about nine percent of all K-12 education spending. Despite claims to the contrary, states and local communities continue to set curricula, academic standards, qualifications for their teachers, and proficiency targets for their students.
- ☑ The federal investment in education is important. It allows policymakers to set national priorities; to target those priorities toward programs that increase student achievement such as the Title I program for low-income students and IDEA; and, to ensure that all children are given the chance to learn and succeed.
- ☑ While school facilities are important, what matters most is not *where* students learn, but *what* they learn. It is this mantra that needs to be considered when evaluating how to spend federal dollars.
- ☑ Any federal intervention into school construction carries with it significant burdens. For instance, the Depression-era Davis-Bacon wage mandates can drive up the cost of federal projects by an average of 22 percent.
- ☑ In a time of limited federal resources and state and local budget constraints due to economic slowdown, many question the notion of draining funds from other critical education priorities in order to fund an inefficient construction mandate.
- ☑ A massive and unproven federal school construction program would undermine efforts to increase funding for the Title I program for low-income students and IDEA, weaken efforts at the state level to fund school construction, dramatically increase the cost of elementary and secondary schools, and significantly expand the size and scope of the federal government.

Part One: Historical Perspective and State Responsibility on School Construction and Federal Priorities for Elementary and Secondary Education

Since passage of the Elementary and Secondary Education Act of 1965, the federal government has spent more than \$321 billion in federal funds provided by the American taxpayer on public elementary and secondary education.

An overwhelming majority of this funding has been directed toward two primary programs that the federal government operates to improve student achievement – (1) Title I grants to local educational agencies (LEAs)/school districts under the Elementary and Secondary Education Act, which authorizes federal aid to state and local educational agencies for helping low-income and other disadvantaged children achieve to the same high state academic achievement standards as their peers and (2) state grants for the Individuals with Disabilities Education Act (IDEA), which authorizes funds to help states and LEAs provide special education and related services for children with disabilities.

Over the last five decades, the federal government has deliberately focused its attention and funding on these programs and others that provide assistance to states and school districts to help them improve student academic achievement and to comply with federal mandates that come with educating students with special needs. The federal investment in education is important. It allows us to set national priorities and ensure that, as a nation, we can agree that all children deserve the chance to learn and succeed.

This targeted focus reflects the recognition that states and local communities have the primary responsibility to set public policy over education, particularly public K-12 education. In short, federal intervention has been targeted narrowly to fulfill a pressing need, while maintaining the autonomy and authority of communities. For instance, NCLB is intended to help close the achievement gap between disadvantaged students and their peers by providing additional funding and support for schools that serve low-income and disadvantaged students. It does not replace the rights and responsibilities that lie with states and communities to set their own priorities and to provide funding for programs that assist in the education of children.

In an effort to put the federal share of education funding in context, consider the amount of funding spent on education-related activities on a yearly basis. We would find that public school systems received \$474.2 billion in funding from state and local sources to educate students in their communities in 2006. As such, states and localities provided more funding in one year to education-related matters than the federal government has provided in 43 years. The federal government is responsible for only about nine percent of annual K-12 education spending, with state governments contributing 47 percent of funding to public school systems, followed by local sources at 44 percent.

Recognizing the historical role of states and local governments in providing an overwhelming majority of education funding and the federal government's focus on academic programs, it is no surprise that the federal government has had an extremely

limited, almost non-existent role in financing school infrastructure projects and facility improvement programs.

Before Congress moves to create a new federal school construction program, it should examine a variety of factors, including looking at the impact that a new federal program would have on the federal government's current priorities and the ability of state and local government to meet existing federal mandates. Quite simply, a new school construction program would erase the federal focus on adequately funding programs that increase student achievement. This would undermine Congress' ability to direct greater resources toward the Title I program, which provides assistance to states and local school districts so that they can help low-income students meet proficiency standards in reading and math. It would also undercut efforts toward meeting the federal funding promised to school districts under IDEA to educate special education students. And it would undermine the authority and decision-making ability of state and local officials who are in a better position to tailor programs to more closely meet their students' unique needs and priorities.

In effect, while school facilities are important, Congress should keep its attention on what matters most -- *what* students learn, not *where* they learn. It is this mantra that needs to be considered when evaluating how to spend federal dollars.

In addition, it is important to consider the projected needs and costs of school construction at the state and local level in order to gain a sense of what a meaningful federal investment in this area would entail. While accurate estimates are difficult to obtain, the U.S. Department of Education and the U.S. Government Accountability Office (GAO) have attempted to project the needs and costs of school construction. However, it should be noted that much of the data on which both organizations relied was from self-reporting of construction needs by school superintendents and other officials. There has been no comprehensive independent analysis, such as by an independent assessor.

According to a report recently released by the U.S. Department of Education's National Center for Education Statistics (NCES) entitled *Public School Principals Report on Their School Facilities: Fall 2005*, the unmet need for school construction and renovation is estimated at \$112 billion, with three-quarters of the nation's schools reporting a need for funds to bring their buildings into a "good overall condition." It is also estimated that states and localities need \$11 billion simply to comply with federal mandates to remove or correct hazardous substances such as asbestos, lead paint, and radon. The Department has also estimated that the average age of a public school building is 42 years, an age when schools tend to deteriorate. The average dollar amount per school for renovation is about \$2.2 million and the average cost per student for repair and modernization is \$3,800.

NCES also reported that, at the same time, 59 percent of the principals stated that their school had fewer students than the school's design capacity -- 21 percent said that their school was under-enrolled by more than 25 percent and 38 percent said that their school was under-enrolled by between 6 and 25 percent. Of those surveyed, 22 percent had enrollments within 5 percent of their capacity. Of concern, 10 percent were over-enrolled by between 6 and 25 percent above their capacity and 8 percent by more than 25 percent

of their design capacity. According to the report, the percentage of schools that were under-enrolled by 6 to 25 percent increased from 33 percent in 1999 to 38 percent in 2005, and the percentage that were over-enrolled by 6 to 25 percent decreased from 14 percent to 10 percent.

Of those principals that considered their schools to be overcrowded, 40 percent anticipated that the overcrowding would be substantially reduced or eliminated within the next three years. The reasons that they gave included the completion of new permanent buildings or additions to existing buildings, the completion of new schools nearby, school boundary changes with existing schools, and projected declines in the local school-age population.

From 1995 to 2000, GAO issued eight reports detailing the conditions of elementary and secondary school facilities. The reports highlighted the apparent widespread disrepair of public schools and confirmed the Department's estimates of the financial resources needed to bring all schools into good condition. The last in a series of GAO reports entitled *School Facilities: Construction Expenditures Have Grown Significantly in Recent Years*, concluded that construction expenditures for public elementary and secondary schools across the nation grew by 39 percent from FY1990 to FY1997, to about \$25 billion in inflation-adjusted dollars. However, average annual construction expenditures varied widely from state to state ranging from \$934 per pupil in Nevada to \$37 per pupil in Connecticut, with the national average at \$473. According to GAO, states with the largest per pupil expenditures for construction (e.g., Nevada), also had high enrollment growth rates.

It is also important to examine how different states vary in their level of commitment to local districts for school construction. While there are a few states in which school construction is financed 100 percent by the state, most states have programs in place to help local school districts cover the costs of school construction. According to the *School Planning and Management's 2008 School Construction Report*, school construction valued at an estimated \$20.8 billion was completed in 2007, up from \$20.1 billion in 2006. This marks the seventh year in the last eight that annual construction exceeded \$20 billion.

From the 2007 construction level, an estimated \$13.1 billion went into the design and construction of new schools, with the remainder of the money for renovation and additions to existing school buildings. The percentage of construction dollars, according to the report, spent on new buildings was the highest since 1979. According to the report, during the past eight years, school districts have completed construction projects totaling more than \$166 billion.

Table 1 illustrates this situation by breaking down the school construction completed in 2007 by states and local communities, highlighting the percentage of construction that went to new schools, for renovation, and additions of existing schools.

Table 1. School Construction Completed in 2007

States	Total Construction	% of New Schools	% of Additions	% of Renovations
New England	\$1,076,415,035	49.2%	17.6%	33.2%
NY, PA, NJ	\$2,685,562,468	42.1%	26.0%	31.9%
MD, VA, DE, DC, WV	\$1,546,977,259	51.1%	21.1%	27.8%
NC, SC, KY, TN	\$1,644,757,295	78.6%	12.2%	9.2%
FL, GA, AL, MS	\$2,348,123,285	75.1%	14.2%	10.8%
OH, IN, MI	\$1,789,330,334	56.7%	17.9%	25.4%
MN, WI, IL	\$1,186,409,756	61.0%	17.0%	22.0%
NE, KS, IA, MO	\$1,035,831,031	40.7%	34.4%	24.9%
TX, LA, OK, AR	\$2,800,498,546	76.5%	12.8%	10.7%
MO, ND, SD, CO, WY, UT, NM	\$864,240,552	63.4%	18.5%	18.1%
AZ, CA, HI, NV	\$3,097,315,458	81.1%	10.3%	8.6%
WA, OR, ID, AK	\$676,237,608	37.7%	32.9%	29.4%
National	\$20,751,698,625	63.3%	17.7%	19.0%

Source: School Planning and Management's 2008 School Construction Report

With statistics showing that the unmet need for school construction and renovation is estimated at \$112 billion and that states and local school districts spend an average of \$20.7 billion annually on school construction, it's a valid question to wonder how a new federal school construction program administered by the U.S. Department of Education (which received roughly \$22 billion last year for *all programs* under the Office of Elementary and Secondary Education) could do a better job at building schools than state and local officials. In order to even make a dent in existing school construction needs, any federal school construction program would have to be funded at double or triple the Department's current budget for K-12 programs. Moreover, this does not even factor in the reality that any new federal program would be subject to the requirements of the Davis-Bacon Act (addressed in Part Two of this report), which will undoubtedly increase the costs of school construction, raising the amount of money that will be needed to build schools at the federal, state, and local levels.

As such, it can be reasonably concluded that the overall need for school construction lies mainly with repairing and modernizing existing public elementary and secondary schools, a funding problem and solution that is best dealt with at the state and local levels.

Part Two: The Impact of Davis-Bacon Requirements on School Construction

One of the most troubling aspects of a massive new federal school construction program is that it will be subject to the requirements of the Depression-era Davis-Bacon Act, which requires construction projects be paid using flawed “prevailing wages” and favors union wage workers. Under the General Education Provisions Act (GEPA), all laborers on all construction projects assisted under any program administered by the U.S. Department of Education must be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.

The law was originally passed in 1935 to ensure that the government's buying power did not drive down construction workers' wages during the Great Depression. Decades later, these prevailing wage rates have been proven to be fundamentally flawed, often bearing no relation to market wages. Still, they persist in adding bureaucratic complexity to federally-funded construction projects.

As such, any federal intervention into school construction carries with it significant burdens.

A number of studies have confirmed the flaws inherent in Davis-Bacon wage calculations, and point out that projects conducted under the requirements of the Davis-Bacon Act commonly cost between 22 and 26 percent more when compared to similar projects completed under market conditions. For example, the Beacon Hill Institute recently completed a study on the effects of paying Davis-Bacon inflated wages in public construction projects and found that when the Davis-Bacon mandated wages were followed, labor costs rose by 22 percent above the reported median wage, while overall construction costs went up 10 percent (which means that almost 10 percent of the total construction cost of a new school would be attributable to mandates imposed under the Davis-Bacon Act). In total, the study reports that Davis-Bacon costs taxpayers over \$8.6 billion annually, enough money to hire over 18,000 teachers.

If we examine the impact that the Davis-Bacon Act has on specific states around the country, the costs for imposing Davis-Bacon and relevant savings from exempting Davis-Bacon from school construction projects are staggering. In 2002, a study from researchers working for the Ohio General Assembly determined that rescinding prevailing wage requirements for the state's school construction program saved the state's residents and taxpayers more than \$488 million in aggregate school construction costs during the post-examination period, an overall savings of 10.7 percent. In particular, the state of Ohio saved \$24.6 million in new construction project costs (1.2 percent), \$408 million in school building additions (19.9 percent), and \$55.2 million in school building alterations (10.7 percent). The state also estimated that it saved \$310.5 million in urban counties and \$177.4 million in rural counties by exempting the state's school construction program from the Davis-Bacon Act. The study also found indications that the exemption had little impact on the quality of public school building construction. In surveys conducted of school

officials, the users of the buildings indicated that they were satisfied with the buildings and provided no evidence that the exemption decreased the quality of school construction.

In 1982, the Kentucky State Legislature excluded school construction from prevailing wage requirements based on a study that found that eliminating school construction from the artificial constraints of prevailing wage legislation would result in considerable savings with “amounts at least in the tens of millions, if not in the hundreds of millions, each year.” As a result of this change, the state estimated that it realized a cost savings on school construction of 11 percent annually. In 1996, Kentucky reinstated its requirement that school construction projects be subjected to prevailing wages, even though the state projected that it would increase taxpayers’ cost of school construction by \$35 million per year. By January of 2002, the Kentucky Legislative Research Commission released a study that showed that Davis-Bacon increased the cost of construction by 24 percent. In addition, a 2007 study from Michigan’s non-profit Mackinac Center found that exempting public school districts from the state’s government-set wage scheme would reap an expected annual savings of approximately \$125 million.

Just as important, the Congressional Budget Office (CBO) and the U.S. Government Accountability Office have weighed in on this important issue. CBO estimates that the federal government could save more than \$10.5 billion in construction costs if it were to repeal the Davis-Bacon Act. It also found that the Davis-Bacon Act contributes to the backlog of maintenance projects on the federal level, because, “by raising labor costs, the act reduces the amount of maintenance that can be accomplished within a given budget.” The GAO is also on record in stating that the Davis-Bacon Act is, “not susceptible to practical and effective administration” by the Department of Labor and that Davis-Bacon has resulted in unnecessary construction and administration costs, inflated prices, and inaccurate wages.

This information makes it hard to doubt that Davis-Bacon Act “prevailing wages” would inflate the costs of building our children’s schools and threaten salaries for teachers and in-class dollars for technology, textbooks, and supplies. Subjecting new school construction projects to Davis-Bacon wages is unnecessary and will force local school districts to divert scarce funds away from teachers and students.

One suggested remedy to this situation has been suggested by the U.S. Department of Labor’s Office of Inspector General (OIG) and numerous experts. They argue that Congress should amend the law to require the Wage and Hour Division of the U.S. Department of Labor to base Davis-Bacon wages on accurate and scientifically valid surveys conducted by the Bureau of Labor Statistics (BLS). In 2004, for example, the OIG reported that “inaccurate survey data, potential bias, and untimely decisions are continuing concerns” and that these problems “affect the validity and usefulness of Davis-Bacon wage surveys.” The Office of Management and Budget also reported that Davis-Bacon’s flawed wage determinations may “[contravene] the intent of the act not to undermine local wage and benefits standards.”

Researchers at Suffolk University have backed up this claim by comparing the current Wage and Hour Division’s Davis-Bacon prevailing wage determinations and those from BLS and found that the current method inflates wages by 22 percent on average, which significantly increases the cost of building schools, and costing taxpayers \$8.6 billion each year.

They also found that many construction employees are actually underpaid by using the flawed determination method set by the WHD instead of BLS figures. For instance, employees in Florida, North Carolina, Michigan, Virginia, and Maine are some of those Americans who get cheated by the current system’s shortcomings.

Table 2 illustrates this situation. The table shows the Wage and Hour Division prevailing wage determinations for several classes of workers in a number of cities across America and the corresponding market wages as determined by the BLS. In many cities, Davis-Bacon wages bear no resemblance to market wages.

In some cities, the wage determinations are more than 75 percent above market wages. In other cities, they are just one-third of market wages. *In some states, Davis-Bacon rates are actually below the minimum wage.* These wage determinations simply do not reflect prevailing market wages, and this failure has serious implications for construction workers and taxpayers.

Table 2. Davis-Bacon Wage Rates vs. the Market Rate

	Sumter, SC	San Diego, CA	Burlington, NC	Tacoma, WA	Fort Myers, FL	Trenton-Ewing, NJ	Myrtle Beach, SC	Nassau-Suffolk, NY	
Carpenter									
Market	\$12.03	\$21.62	\$16.84	\$19.50	\$14.85	\$23.45	\$13.65	\$23.19	
Davis-Bacon	\$5.15	\$30.71	\$6.19	\$32.49 - \$33.49	\$10.61	\$35.72	\$5.15	\$33.52 - \$40.27	
% Differ	-57%	42%	-63%	71%	-29%	52%	-62%	74%	
Electrician									
Market	\$15.23	\$20.93	\$13.69	\$22.84	\$16.64	\$23.83	\$15.45	\$26.11	
Davis-Bacon	\$6.15	\$32.45 - \$37.35	\$7.11	\$32.71	\$10.38	\$44.48	\$5.56	\$44.00	
% Differ	-60%	78%	-48%	43%	-38%	87%	-64%	69%	
Plumber									
Market	\$16.96	\$21.61	\$16.83	\$22.28	\$16.98	\$26.76	\$15.28	\$28.64	
Davis-Bacon	\$5.15	\$26.21 - \$38.26	\$5.95	\$35.55	\$10.96	\$41.45	\$5.72	\$43.32 or \$48.08	
% Differ	-70%	77%	-65%	60%	-35%	55%	-63%	68%	

Source: Heritage Foundation Calculations based on the latest data available for construction wage rates from the U.S. Department of Labor

Presenting a perspective from the local school official level, the National School Boards Association (NSBA) conducted and released a study in 1999 that found that at least 38 states would have to endure significantly increased school construction costs if Davis-Bacon were imposed on their state and local school construction bonds under any possible federal legislation in this area. The report detailed the fact that approximately 25 states have no state prevailing wage laws or specifically exempt school construction, and another 15 states have thresholds for prevailing wage applicability that are higher than the federal law, which is currently at \$2,000. An earlier NSBA study in 1995 found that more than 60 percent of respondents said federal or state Davis-Bacon laws were responsible for increasing the cost of a recent construction project and over half said the increase was as much as 20 percent.

These concerns were detailed in a letter that NSBA sent, along with the Associated Builders and Contractors (ABC), the U.S. Chamber of Commerce, the Independent Electrical Contractors, and the National Federation of Independent Businesses (NFIB) on February 12, 2008 to the House Education and Labor Committee in which they urged Congress to:

“...refrain from imposing costly Davis-Bacon Act requirements on school construction projects until serious flaws with that law’s wage determination process are fixed.

Federal authorities have concluded that Davis-Bacon wage rates are inaccurate. A series of audits by outside agencies, as well as the Department of Labor’s (DOL) own Office of Inspector General (OIG), have revealed substantial inaccuracies in Davis-Bacon Act wage determinations and suggested they are vulnerable to fraud. In addition, DOL’s OIG released three reports highly critical of the wage determination program. In fact, one report from 2004 found one or more errors in nearly 100 percent of the wage surveys reviewed. Expanding a wage determination process that has been proven to be flawed is unfair to the American taxpayer and American businesses, as well as parents and students who see scarce resources used inefficiently.

Davis-Bacon’s wage determination flaws harm the very employees the law was intended to protect. Research from the Heritage Foundation found that Tampa Bay area electricians are underpaid by 38 percent under Davis-Bacon’s system when compared to the more statistically sound wage determination method used by the Bureau of Labor Statistics. Forthcoming academic research will provide further evidence from urban areas across the nation.

Davis-Bacon also has a negative impact on equal access to work opportunities. It prevents many qualified small and minority-owned businesses from even bidding on public projects, because the complexities and inefficiencies in the Act make it nearly impossible for small businesses to compete. As a result, few minority firms win Davis-Bacon contracts, and many others give up trying. That is not a lesson any of us want to teach our children.

Finally, Davis-Bacon's flaws will cost taxpayers more to provide students with less. Davis-Bacon has been shown to increase public construction costs by anywhere from 5 percent to 38 percent above what the project would have cost in the private sector. According to the Congressional Budget Office, the Davis-Bacon Act already costs taxpayers more than \$9.5 billion over the 2002-2011 period relative to the 2001 appropriations and \$10.5 billion relative to 2001 appropriations adjusted for inflation. Any Davis-Bacon costs from legislation your committee considers will be directly passed on to the American taxpayers in these school districts, coming at the direct expense of education dollars for children in classrooms."

Given all of this information, it is clear that a massive Federal school construction program that is subjected to the requirements of the Davis-Bacon Act will dramatically raise the costs of school construction at the state and local level.

At a time when state and local budgets are tightening or, in some cases, being cut because of economic downturn, Congress should not impose this unnecessary and outdated mandate on local school districts, which will only overinflate school construction prices, limit competition, and reduce jobs for entry-level workers.

Part Three: An Examination of Democrats' Proposals: Diluting Support for Education Priorities, Increasing the Costs of School Construction

Because of growing public concern regarding overcrowded and obsolete public schools, Congress may soon consider legislation creating a new and massive federal school construction program administered through the U.S. Department of Education.

On February 13, 2008, the House Education and Labor Committee held a hearing entitled "*Modern Public School Facilities: Investing in the Future*," which discussed the adequacy of existing public school facilities in an effort to make the case that there is a renewed need for a federal school construction program. During the hearing, a number of Democratic members of the U.S. House of Representatives testified in support of particular pieces of legislation that would move the federal government into the school construction arena.

The following bills were discussed during the Committee hearing:

- H.R. 2470, the *America's Better Classroom Act*, which would amend the Internal Revenue Code to allow a tax credit for investment in qualified public school modernization bonds, defined to include \$11 billion in bonds for the construction, rehabilitation, or repair of a public school facility or for the acquisition of land for such facility (qualified school construction bonds). The bill terminates the authority for issuance of such bonds after 2009.
- H.R. 3021, the *21st Century High-Performing Public School Facilities Act*, which would direct the U.S. Secretary of Education to make grants and low-interest loans to local educational agencies for the construction, modernization, or repair of public kindergarten, elementary, and secondary educational facilities. The bill authorizes \$6.4 billion for Fiscal Year 2008 and such sums as may be necessary for each of the fiscal years 2009 through 2012.
- H.R. 3902, the *Public School Repair and Renovation Act*, which would amend the Fund for the Improvement of Education authorized under the No Child Left Behind Act to provide funds to state and local educational agencies for school repair and renovation, and to comply with the Americans with Disabilities Act. The bill authorizes \$1.6 billion for Fiscal Year 2008 and such sums as may be necessary for each of the fiscal years 2009 through 2012.
- H.R. 5401, the *GREEN School Improvement Act*, which would require the Secretary of Education to allocate funds to states to provide competitive grants to local educational agencies and eligible entities to make energy improvements to schools that result in a direct reduction in school energy costs, an improvement in teacher and student health, or the installation of renewable energy technologies. The bill authorizes \$52 million in each of the fiscal years 2009 through 2012.

Consistent with the arguments made in other sections of this report, it is important to analyze the impact that these bills will have on the federal government's effort to set

priorities, including those that focus on improving the academic achievement of students, and to keep construction of our nation’s schools affordable for state and local communities. To that end, it is rational to ask the following questions of the bills or similar versions of the bills that Congress may soon consider:

- Does the bill undermine the federal government’s effort to increase funding for the Title I program, jeopardizing support to states and school districts to educate low-income students?
- Does the bill undermine the federal government’s effort to increase funding for the IDEA, jeopardizing support to states and school districts to educate students with disabilities?
- Does the bill undermine efforts at the state level, the primary supporter of school construction dollars, to fund school construction since states will have to absorb additional costs for academic support programs?
- Does the bill increase the cost for construction materials, labor, and other products to efficiently build schools because of Davis-Bacon requirements?
- Does the bill dramatically expand the size and scope of the federal government in order to meet the unmet need for school construction?

Unfortunately, the answer to all five of these important questions is YES when posed in relation to bills proposed by Democrats and currently pending before the Committee, including one bill – H.R. 3021 – that has already been scheduled for a Committee vote at the time of this report’s release.

Table 3. Comparison of Democrat Bills on School Construction

		Undermines efforts to increase Title I	Undermines efforts to increase IDEA	Undermines efforts at the state level to fund school construction	Increases cost of schools (subject to Davis-Bacon)	Dramatically expands the size and scope of the federal government
America’s Better Classrooms Act (H.R. 2470)		YES	YES	YES	YES	YES
21 st Century High Performing Public School Facilities Act (H.R. 3021)		YES	YES	YES	YES	YES
Public School Repair and Renovation Act (H.R. 3902)		YES	YES	YES	YES	YES
GREEN School Improvement Act (H.R. 5401)		YES	YES	YES	YES	YES

Table 3 details that each and every one of the Democrats' bills pending before the Committee would undermine efforts to increase funding for the Title I program and IDEA, weaken efforts at the state level to fund school construction, dramatically increase the cost of elementary and secondary schools because of the new Davis-Bacon requirements, and dramatically expand the size and scope of the federal government.

Because of these alarming facts, it is prudent – indeed it is essential – that Congress reject any attempt to create a new federal school construction program. Congress owes it to the American people – students, parents, and taxpayers alike – to set our nation's priorities, to keep our promises to low-income students and students with disabilities, and to keep school construction costs affordable for states and local communities around the nation.

Analysis and Conclusion

As outlined in this report, the primary responsibility for school construction has historically been and should remain at the state and local school and school district levels.

While members of the House Education and Labor Committee continue to receive feedback from some interest groups that our nation's elementary and secondary schools need funds for school construction and facilities repair and renovation projects, other schools may have a need to hire more teachers, to provide additional instructional programs to improve student achievement for low-income students under the Title I program, or to provide needed services for special education students under the Individuals with Disabilities Education Act (IDEA).

As such, the limited role of the federal government should remain focused on assisting local schools and school districts in meeting federally-imposed mandates, such as providing adequate funding for Title I and fully funding the Individuals with Disabilities Education Act (IDEA). Any effort to create a new and massive federal school construction program would significantly weaken Congress' ability to redirect greater resources toward these two programs and undermine the authority and decision-making ability of state and local officials who are in a better position to tailor programs to more closely meet their students' unique needs and priorities.

The effort to maintain the federal focus on assisting states and local school districts in improving student academic achievement is far more realistic and practical than enacting a massive and unproven federal school construction program, which would cost the federal government more than \$100 billion to cover the cost of repairing obsolete and out-of-date schools. This staggering funding level is almost *double* the Department's current discretionary budget for all of its programs and activities. Maintaining the current federal focus would also provide the maximum amount of flexibility in the use of federal funds so that schools have the full ability to tailor additional funding resources to their particular needs. Local schools and school districts must have the flexibility to use federal funds in the way in which each local school believes will improve student academic performance.

Equally as troubling, this report details the fact that all of the school construction proposals pending in the U.S. House of Representatives would be subject to the requirements of the Davis-Bacon Act. It is estimated that this requirement dramatically raises the costs of school construction by as much as one-third in some parts of the country, especially in those local communities that have lower costs and are not subject to the flawed prevailing wage structure. For example, Davis-Bacon has been shown to increase public construction costs by as much as 38 percent in rural areas.

As such, a massive and unproven federal school construction program would undermine efforts to increase funding for the Title I program and IDEA, weaken efforts at the state level to fund school construction, dramatically increase the cost of elementary and secondary schools, and dramatically expand the size and scope of the federal government.