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Green Schools Menu of Options for State Legislators

State legislators have unique opportunities to promote green schools through public sector mandates, incentives for green construction, operations and maintenance practices, creating financing mechanisms and fostering community partnerships. At the 2009 Green Schools State Legislative Summit, lawmakers discussed a range of ideas to include in USGBC's menu of legislative options for green schools. These options have since been updated to include recent legislative action reflecting current national priorities, including more in-depth financing models, as well as opportunities to green existing buildings, promote children's health and encourage environmental literacy. The ideas are divided into four categories:

I. Adopt Policies to Require Green Construction, Renovation, and Operations & Maintenance Practices:

- Requirements for Green School Construction
- Standards to Green Existing Schools
- Benchmark Energy Performance of Existing Schools
- Train Operations & Maintenance Staff to Maximize Building Performance
- Technical Assistance for Green Building
- Legislation to Address Operational Policies
 - Ex: Adopt a Green Cleaning Policy
 - Ex: Adopt an Indoor Air Quality Management Program
 - Ex: Adopt an Integrated Pest Management Plan

II. Provide Direct Financing for Green Construction, Renovation, and Operations & Maintenance

- Specifying Green Criteria Within Bond Authorizations
- Grant Programs for Green Building
- State Revolving Loan Funds
- Maintenance Fund Sharing
- Bridge the Gap Between Capital and Operating Budgets

III. Create Indirect Financing Opportunities for Green Construction, Renovation, and Operations & Maintenance

- Public-Private Partnerships
- Tax Abatements for Green Retrofits
- Enable legislation for performance contracting (PC)
- Enhance Funding Through a Tax Credit Pass-through Option
- Encouraging Lease Purchase Financing arrangements

IV. Ensure Environmentally Literate Graduates

- Graduation requirement
- Required Assessment
- Curriculum Standards
- Model curriculum

Appendices:

A. Encouraging Design Best Practices: Bundling Project Measures



- B. Encouraging Design Best Practices: Integrated Design Approach
- C. The Case for Green Schools
- D. About LEED and Schools

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Disclaimer

PLEASE NOTE: This guide is provided as a research and reference tool. The legal issues involved in the advocacy matters discussed in this guide are complex. This guide and the information available through it do not, and are not intended to, constitute legal advice. Should you require legal advice, you should consult your own attorney.



I. Adopting Policies to Require Green Construction, Renovation, and Operations & Maintenance Practices

- **Requirements for Green School Construction**

Legislation requiring new school construction projects to be green demonstrates a commitment to fiscal responsibility, promotes green jobs, and encourages healthy, high-performance facilities for students and teachers. When a green school is certified by a rating system with third party verification, such as LEED, taxpayers, parents, and students can be certain the building has been constructed for maximum efficiency to reduce operating costs, and designed with occupant health in mind. Green schools can also act as catalysts for community change, inspiring nearby residents and businesses to adopt their own green measures.

There are currently 13 states including the District of Columbia that have adopted green school policies for new construction: Arizona, Connecticut, Colorado, Florida, Hawaii, Illinois, Kentucky, Maryland, New Jersey, Ohio, Rhode Island, Washington, and Washington, D.C.

- Example: Washington, D.C.

The DC Healthy Schools Act of 2010 aims to improve the overall health and wellness of the public and charter school students in the District of Columbia, in addition to improving school learning conditions and building performance. The act includes nutrition guidelines for school meals, promotes increased physical activity and encourages new school and major renovation construction to aspire beyond the already required LEED Silver certification and achieve LEED Gold. The act also requires public disclosure about school nutrition, environmental testing, and health programs.

For more information: <http://dccouncil.us/images/00001/20100510112429.pdf>

Example: Maryland SB208

On April 24, 2008, Governor O'Malley signed the [High Performance Building Act](#) into law, requiring all new public construction and major renovation projects of 7,500 sq ft or greater, and intended for occupation, to earn LEED Silver certification or two Green Globes. The High Performance Building Act further requires that MD public schools using state funds earn LEED Silver certification or two Green Globes. The High Performance Building Act further adds that "the State will pay half of any extra costs" incurred in building green public schools.

For more information: <http://mlis.state.md.us/2008rs/bills/sb/sb0208t.pdf>

Example: Illinois HB0312

On July 13, 2009 HB0312 was approved, reappropriating construction and modernization funding for Illinois schools, consistent with the provisions from Public Act#95-0416. On August 24, 2007, the Illinois State Senate amended the School Construction Law ([Public Act #95-0416](#)) with the governor's approval, directing the Capital Development Board to only issue grants to school projects with LEED for Schools



or comparable rating system certification, or to projects that meet the standards set forth by the Capital Development Board's Green Building Advisory Committee.

For more information: <http://ilga.gov/legislation/96/HB/PDF/09600HB0312sam002.pdf>

For more examples: <http://www.usgbc.org/DisplayPage.aspx?CMSPageID=1852#K-12>

- **Standards to Green Existing Schools**

With more than 132,000 schools in the U.S., the greatest opportunity for state legislators to promote green schools is to encourage existing schools to go green. Depending upon current conditions, most schools that undergo retrofits and renovations to green their buildings will experience significant savings in their operating budget, as well as increase occupant comfort and health. State legislators can promote the greening of existing school facilities by passing legislation that encourages renovations or modernizations receiving state funding to incorporate green measures. Renovations or retrofits that incorporate LEED for Existing Buildings: Operations and Maintenance ensures the facility has taken measurable steps to improve occupant health and increase operational efficiency. Such legislation may also include training requirements for building operators to learn how to operate the building as efficiently as possible.

Example: New York, NY Public Schools

On October 3, 2005, Mayor Bloomberg signed [Local Law 86](#) that requires city-funded capital projects to use LEED for New Construction, LEED for Existing Buildings, or LEED for Commercial Interiors. Non-residential capital projects costing over \$2 million must achieve LEED Silver certification. Schools and hospitals must meet the LEED Certified level. The law also requires energy cost reductions. The law became effective January 1, 2007

For more information: http://www.nyc.gov/html/dob/downloads/pdf/ll_86of2005.pdf

- **Benchmark Energy Performance of Existing Schools**

Requiring all educational facilities to conduct energy audits provides a baseline to help them identify opportunities for improvement. State legislators can promote the greening of existing facilities by passing legislation requiring all facilities to benchmark with Energy Star™ Portfolio Manager. Portfolio Manager is a free online tool that allows building owners to track and assess energy and water consumption, performance and cost information for individual buildings and building portfolios. Energy Star is also the required benchmarking platform for validating building performance in the LEED for Existing Buildings: Operations and Maintenance rating system.

Energy Star is a joint program of the Environmental Protection Agency and the Department of Energy: www.energystar.gov



Example: Nebraska

Nebraska LB522, the “High Performance Green Schools Transparency Act,” would require each school district to generate and maintain an up-to-date ENERGY STAR efficiency rating on each of the district's school and administration buildings using the Environmental Protection Agency’s free online tool, Portfolio Manager. The State Department of Education would publish and maintain the results on their web site.

More information:

<http://www.nebraskalegislature.gov/FloorDocs/Current/PDF/Intro/LB522.pdf>

Example: Hawaii HB#2175

On June 26, 2006, Governor Lingle signed [HB #2175](#), thus requiring each state agency to design and construct buildings to meet the LEED Silver certified level, or a comparable standard. The law applies to all new state-owned construction of 5,000 square feet or greater, including K-12 public schools.

For more information: <http://www.capitol.hawaii.gov/session2006/Bills/HB2175 .htm>

- **Train Operations & Maintenance Staff to Maximize Building Performance**

Facilities personnel must know how to operate the high-performing systems in green buildings as efficiently as possible in order to achieve full savings potential. Legislation that provides funding for green renovations or retrofits of buildings should also include requirements and resources to train facilities personnel. Additionally, states can offer certification programs for building operators.

The Minnesota Building Operator Certification has achieved notable results. For more information: <http://www.minnesotaenergyresources.com/business/certification.aspx>; http://www.boccentral.org/page.php?content=why_get_certified

- **Technical Assistance for Green Building**

States can promote the construction, renovation, and retrofit of green schools by offering technical expertise and assistance through a state authority for green building projects. Technical assistance is commonly offered by staff with professional green building credentials. Legislation could designate this position within the state government.

Example: Washington, DC:

On December 5, 2006 the Washington, DC City Council enacted a bill establishing a Green Building Fund for technical assistance and monitoring of green buildings, education, and incentive funding for private buildings.

More information:

<http://www.dccouncil.washington.dc.us/images/00001/20061201163509.pdf>

(See page 13)



- **Legislation to Address Operational Policies**

- **Ex: Adopt a Green Cleaning Policy**

Adopting a green cleaning policy can improve the indoor environmental quality for students, teachers, and staff, reducing instances of asthma and other illnesses that are a major cause of absenteeism. A green cleaning policy outlines the purchase and use of sustainable cleaning chemicals, best practices for mixing concentrates, the purchase and use of janitorial equipment, and assessment of cleaning performance. The impact of a green cleaning policy can include safe operations for custodial staff, a safe and healthy indoor environment for building occupants, and environmentally responsible purchasing and disposal of cleaning products and materials. Green cleaning supplies do not need to cost more money than conventional cleaning supplies.

Example: Representative Karen May of Illinois: Green Cleaning Schools Act (Public Act 095 – 0084):

This bill requires the Illinois Green Government Coordinating Council (IGGCC), in consultation with other agencies, to establish and amend on an annual basis guidelines and specifications for environmentally-sensitive cleaning and maintenance products for use in school facilities. All elementary and secondary public and non-public schools shall establish a green cleaning policy and exclusively purchase and use environmentally-sensitive cleaning products pursuant to the guidelines and specifications. Schools may deplete their existing cleaning and maintenance supply stocks and implement the new requirements in the procurement cycle for the following school year.

For more information:

<http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=095-0084>

- **Ex: Adopt an Indoor Air Quality Management Program/ Practices**

Improving indoor air quality can enhance the well being of staff, teachers, and students and increase attendance rates, performance, and productivity. Legislation could require the development and implementation of an ongoing indoor air quality management program, based on the EPA's Building Education and Assessment Model (I-BEAM), a free tool to manage indoor air quality in buildings.

For more information: <http://www.epa.gov/iaq/largebldgs/i-beam/index.html>

- **Ex: Adopt Integrated Pest Management Practices**

Pests can be harmful to school buildings and affect occupant health. Many of the pesticides used to deter pests are also unhealthy to building occupants. An



integrated pest management plan is intended to protect students, teachers, and staff by reducing the application of harmful pesticides. Legislation could require the adoption of an integrated pest management plan based on the specifications outlined in the LEED for Existing Buildings: Operations and Maintenance rating system. Integrated pest management plans can be more effective than conventional pest control methods since they treat underlying causes of pest problems, and are frequently less expensive since they reduce pesticide application.

More information about integrated pest management best practices can be found at www.ipminstitute.org

II. Provide Direct Financing for Green Construction Renovation, and Operations & Maintenance

Schools can capitalize on funding options by blending public and private capital for renovation and retrofit projects. Utilizing public grant funding, for example, can reduce the amount of private capital needed for a project, lowering interest rates and mitigating risk.

- **Specifying Green Criteria Within Bond Authorizations**

Example: Oregon

The Oregon Cool Schools Initiative, HB 2960, outlines a financing mechanism for the construction and renovation of high performance schools in Oregon, and intends to promote job growth across the state. The legislation requires that school construction projects financed through bonds issued under Article XI-P of the Oregon Constitution be constructed, improved, remodeled, equipped, maintained or repaired to meet at a minimum, LEED Silver, or an equivalent numeric rating from a nationally recognized rating system. It also directs the State Department of Energy to establish a clean energy deployment program to provide grants and loans to support energy efficiency including school weatherization and retrofitting.

For more information:

<http://www.leg.state.or.us/11reg/measpdf/hb2900.dir/hb2960.en.pdf>

- **Grant Programs for Green Building**

States can award grants to encourage the construction and renovation of green schools. Grant programs providing state funding for green schools can use a third-party verified rating system, such as LEED, as criteria for awarding grants.

Example: Illinois Public Schools:

On August 24, 2007, the Illinois State Senate amended the School Construction Law ([Public Act #95-0416](#)) with the governor's approval, directing the Capital Development Board to only issue grants to school projects with LEED for Schools or comparable rating



system certification, or to projects that meet the standards set forth by the Capital Development Board's Green Building Advisory Committee.

For more information:

<http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=095-0416>

- **State Revolving Loan Funds**

Allocating state money to be used for revolving loan funds can promote the construction, renovation, and retrofit of green schools. Providing low interest loans from a large fund can help remove financial barriers to schools seeking to build or renovate to verifiable green building standards, as well as for smaller greening measures. The constantly replenished fund can provide loans to additional educational facilities on a continual basis.

Example: Colorado Renewable Energy and Energy Efficiency for Schools Loan Program Act (HB09-1312)

This legislation brings together the Treasurer's office, the Governor's Energy Office, the Legislature, schools and local businesses to create a program that provides school districts with low interest loans for renewable energy. As the legislation states, "By producing their own energy with renewable energy sources, some school districts have reduced their energy costs while promoting energy independence and environmental responsibility and have provided students with an opportunity to understand this burgeoning technology." The loans can be used to install solar panels or wind turbines on site, or can be used to convert diesel-powered school buses to battery or hybrid-electric power.

For more information:

http://www.leg.state.co.us/clics/clics2009a/csl.nsf/fsbillcont/593577B568AC03B887257537001A2A30?Open&file=1312_enr.pdf

- **Maintenance Fund Sharing**

States can share and match maintenance funding with school districts to encourage and require the upkeep of school facilities. Proper maintenance of school facilities is important for ensuring the building systems perform as efficiently as possible and that the school environment is safe and healthy. This legislation can stipulate the inclusion of green standards, as well as include training requirements for operations and maintenance best practices. Such legislation could also create arrangements to decrease the amount of maintenance money to be allocated by school districts for schools that have met a high performance standard, such as LEED. This legislation would incentivize the construction and upkeep of high-performing school facilities.

Example: Idaho Senate Bill No. 1132. Section 33-109

<http://www.legislature.idaho.gov/legislation/2009/S1132Bookmark.htm>



- **Bridging the Gap Between Capital and Operating Budgets**

School budgets are frequently divided into two separate funds -- money for capital improvements and money for operating expenses. Savings realized in operations budgets can fund future capital improvements. In states where the capital and operating budgets are separate, enacting legislation that permits the reallocation of money for the purpose of green measures could fund greening improvements to the school building. This approach is best suited for situations where the retrofits could reduce direct costs, for example, allowing money from the operational budget to fund green retrofits with savings that will pay for themselves over time.

III. Create Indirect Financing Opportunities for Green Construction, Renovation, and Operations & Maintenance

- **Public-Private Partnerships**

State legislators can set up public-private partnerships with local community groups to help promote green schools.

Example: Representative Karen May of Illinois: LEED Certification Task Force (HJR45)

This resolution creates a task force to investigate how to retrofit three public schools in Illinois to achieve LEED certification. The resolution intends to provide “a model for a statewide campaign to transform every existing Illinois public school into a green school so that within a generation every child in Illinois can attend a green school.” The resolution stems from a public-private partnership promoted by Rep. May, in conjunction with the Illinois Chapter of the U.S. Green Building Council, to fund the retrofitting of three schools in underserved Illinois communities.

For more information: <http://www.ilga.gov/legislation/96/HJR/PDF/09600HJ0045lv.pdf>

Download the task force’s report, *Moving Toward a Sustainable Future for Illinois Schools*: <http://www.usgbc-illinois.org/wp-content/uploads/2011/03/HJR-45-LEED-Task-Force-Report-March-2011.pdf>

- **Tax Abatements for Green Retrofits**

States can offer tax abatements to companies who facilitate building system improvements to schools. Converting a portion of the abatement into a rebate off the initial price of the upgrade will lower upfront costs for the school. Furthermore, because green retrofits usually save money from operating budgets, the tax abatement will in turn save the state money.



- **Enable Legislation for Performance Contracting (PC)**

Performance contracting can provide funding for significant renovations and retrofits while mitigating up-front costs. Because states manage their liability and financial risk on an aggregate level, some states don't allow public entities, including schools, to engage in contracts that are long-term, prohibiting entrance to performance contracts. A state that passes legislation allowing schools to enter performance contracts may set a time maximum for the contract, and may also involve a pre-approval process of contractors from the state department of energy.

Green Performance Contracting: Green Performance Contracting (Green PC) is based on the same project delivery method as traditional performance contracting, but enhances the processes by utilizing the LEED for Existing Buildings: Operations & Maintenance rating system as criteria for a comprehensive green project. For more information about Green PC, and the paid-from-savings approach, consult USGBC's *Paid-from-Savings Guide to Green Existing Buildings* (www.usgbc.org/store; Executive Summary available for free download)

For information about states allowing performance contracting for public entities, visit: <http://www.ornl.gov/info/esco/legislation/newesco.shtml>

Example: Maine

Maine LD 1264, "An Act To Improve the Energy Efficiency of Public Buildings and Create Jobs," intends to improve the energy efficiency and usage of distributed renewable technology in state-funded construction. Among other provisions, it would give school administrative units increased flexibility in contracting with energy service companies for energy efficiency and load management improvements. Flexibility measures would include increasing the time a unit would be permitted to enter into such contracts from 15 years to 20 years and raising the \$2 million statutory contract ceiling if all risk that the project's costs will exceed its benefits is not borne by the unit.

For more information:

http://www.mainelegislature.org/legis/bills/display_ps.asp?LD=1264&snum=125

- **Enhance Funding Through a Tax Credit Pass-through Option**

Creating legislation that allows schools to sell tax credits can enhance funding. States can allow schools and other non-taxable entities to sell tax credits they would receive for the installation of green retrofits (for example, photovoltaic arrays), to a third party for a cash payment. For more information, read about the Oregon Business Energy Tax Credit and Pass-through Option. <http://oregon.gov/ENERGY/CONS/BUS/BETC.shtml>



- **Encouraging Lease-Purchase Financing Arrangements**

States can assist schools with the purchase of new system improvements as part of a retrofit or renovation by encouraging lease-purchase agreements. States could give favorable tax treatment to schools that enter lease-purchase agreements to purchase new high-performing systems, as well as to the companies leasing the systems.

IV. Ensure Environmentally Literate Graduates

- **Graduation requirement**

Requiring that schools produce environmentally literate graduates by instituting a graduation requirement can be a powerful and effective tool for advancing environmental literacy.

Example: The Maryland State Department of Education established the nation's first environmental literacy graduation requirement. The Department requires local school systems to provide in public schools a comprehensive, multi-disciplinary environmental education program infused within current curricular offerings and aligned with the Maryland Environmental Literacy Curriculum to all enrolled students. Each local school system can design its own program which will be reviewed by MSDE every 5 years.

More information:

<http://www.msde.maryland.gov/MSDE/programs/environment/info/regulations.htm>

- **Required Assessment**

Assessing student performance in environmental learning is essential to understanding the current level of environmental literacy in a state's student population as well as measuring progress over time.

Example: In 2002, the Pennsylvania State Board of Education established academic standards and mandated assessment in science and technology and environment and ecology.

More information: http://www.pabulletin.com/secure/data/vol32/32-1/32_1_rr.pdf

- **Curriculum Standards**

States can set curriculum standards for environmental or sustainability education. Most that have done this take the approach of infusing environmental education standards into the standards for other disciplines or subjects (see WA below). Others (see PA below) have "stand-alone" standards which may form the basis for an environmental education curriculum or be incorporated into existing courses.

Example: Washington



In 1990, the State Board of Education created a rule defining environmental education as part of Basic Education and mandating its instruction in public school at all grade levels in all subject matters ([WAC 392-410-115](#)). These standards describe what all students should know and be able to do in the area of Environmental and Sustainability Education. Consistent with the intent of the law governing environmental education in Washington, the WA Department of Education has created K-12 Integrated Environmental and Sustainability Learning Standards which are intended to be integrated into core content areas and across all grade levels and also align with the state's Indian Education curriculum.

More information:

<http://www.k12.wa.us/EnvironmentSustainability/Standards/default.aspx>

Pennsylvania:

http://www.portal.state.pa.us/portal/server.pt/gateway/PTARGS_0_123531_891012_0_0_18/EEStandards.pdf

- **Model curriculum**

Not all k-12 teachers have training in environmental education or expertise in environmental subject material. Establishing a model curriculum can help overcome this barrier to environmental literacy.

Example: California

California's Education and Environment Initiative (EEI) is a \$9 million partnership between the State Board of Education, the Office of the Secretary for Education, the State Department of Education and the California Natural Resources Agency. Mandated by legislation [AB 1548 \(Pavley, Chapter 665, Statutes of 2003-PDF\)](#) and [AB 1721 \(Pavley, Chapter 581, Statutes of 2005-PDF\)](#), the EEI curriculum, comprising 85 units teaching science and history-social science academic standards, is expected to bring environmental education into the classrooms of 1,000 California school districts serving 6 million students by using the environment as a context for standards-based instruction.

More information: <http://www.calepa.ca.gov/education/eei/>



Appendices:

A. Encouraging Design Best Practices: Bundling Project Measures

When school buildings and school districts undergo retrofits and renovations, building system improvements frequently generate utility cost savings. These savings are leveraged to help fund the project. Schools and school districts should “bundle” or aggregate the utility cost-savings measures with non-cost savings measures to optimize green opportunities and project economics. When longer pay-back measures are combined with the quicker measures, the project will have a shorter overall pay-back period and a higher return on investment. State legislators should encourage this approach whenever possible.

B. Encouraging Design Best Practices: Integrated Design Approach

When designing a new school, or renovating an existing school, the project team should include members from all aspects of the school operation. The integrated approach to the project team is essential to the success of the green school as it ensures owners, occupants, and operators understand their role throughout the lifecycle of the building.

Example: Integrated design practices are required in Idaho Senate Bill No. 1132

This bipartisan school energy bill provides an incentive to schools districts—without cost to the state—to choose to build energy efficient buildings. A district with a school constructed using integrated design principles, among other requirements, may seek to qualify for a reduction in building replacement value calculation.

More information:

<http://www.legislature.idaho.gov/legislation/2009/S1132Bookmark.htm>

C. The Case for Green Schools

Green schools are productive learning environments that are healthy for students, teachers, and the environment. On average, green schools save \$100,000 per year on operating costs—enough to hire at least one new teacher, buy 250 computers or purchase 5,000 textbooks.* Furthermore, green doesn’t have to cost more. Studies have demonstrated that green schools can be designed and built at or below regional K-12 construction costs and operated within existing facilities budgets.**

By promoting the design and operation of green schools, we can make a tremendous impact on student health, test scores, teacher retention, school operational costs and the environment.

*Kats, G. (2006). Greening America’s Schools: Cost and Benefits.

** Davis Langdon. “The Cost of Green Revisited,” 2007.



D. Applying the LEED Rating Systems to Schools

LEED certification is the nationally recognized benchmark for green schools, providing parents, teachers and the community with a “report card” for their new and existing school buildings. Through third party reviews, LEED certification verifies that a school is built or operated to meet the highest level of performance.

Developed by the U.S. Green Building Council to address both new facilities and major renovations of K-12 schools, the LEED for Schools Rating System ensures that schools are healthy for students, comfortable for teachers and cost-effective. By addressing the uniqueness of school spaces and children’s health issues, the rating system addresses issues such as thermal comfort, indoor air quality, daylight and views and classroom acoustics.

With more than 132,000 schools in the U.S., the greatest opportunity for school districts and our nation is to transform our existing schools.* LEED for Existing Buildings: Operations & Maintenance was designed by the U.S. Green Building Council (USGBC) to address the sustainability of ongoing operations of existing buildings. The rating system addresses whole-building cleaning and maintenance issues, landscaping practices, waste management and building systems upgrades.

LEED provides comprehensive tools for schools that wish to design, build and operate green with measurable results. By utilizing LEED, schools and school districts demonstrate leadership, innovation and environmental stewardship.

*U.S. Department of Education, National Center for Education Statistics. (2008).