

111TH CONGRESS
1ST SESSION

H. R. 3221

AN ACT

To amend the Higher Education Act of 1965, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Student Aid and Fiscal
3 Responsibility Act of 2009”.

4 **SEC. 2. TABLE OF CONTENTS.**

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1 **SEC. 3. REFERENCES.**

2 Except as otherwise expressly provided, whenever in
 3 this Act an amendment or repeal is expressed in terms
 4 of an amendment to, or repeal of, a section or other provi-
 5 sion, the reference shall be considered to be made to a
 6 section or other provision of the Higher Education Act of
 7 1965 (20 U.S.C. 1001 et seq.).

8 **SEC. 4. PROHIBITION ON EARMARKS.**

9 None of the funds appropriated pursuant to this Act
 10 may be used for a Congressional earmark as defined in
 11 clause 9(d) of rule XXI of the Rules of the House of Rep-
 12 resentatives.

1 institution fails to meet the requirements of
2 subsection (a)(24) for a third consecutive insti-
3 tutional fiscal year.”.

4 **SEC. 230. ADMINISTRATIVE EXPENSES.**

5 Section 489(a) (20 U.S.C. 1096(a)) is amended—

6 (1) in the second sentence, by striking “or
7 under part E of this title”; and

8 (2) in the third sentence—

9 (A) by inserting “and” after “subpart 3 of
10 part A,”; and

11 (B) by striking “compensation of stu-
12 dents,” and all that follows through the period
13 and inserting “compensation of students.”.

14 **TITLE III—MODERNIZATION,**
15 **RENOVATION, AND REPAIR**
16 **Subtitle A—Elementary and**
17 **Secondary Education**

18 **SEC. 301. DEFINITIONS.**

19 In this subtitle:

20 (1) The term “Bureau-funded school” has the
21 meaning given such term in section 1141 of the
22 Education Amendments of 1978 (25 U.S.C. 2021).

23 (2) The term “charter school” has the meaning
24 given such term in section 5210 of the Elementary

1 and Secondary Education Act of 1965 (20 U.S.C.
2 7221i).

3 (3) The term “CHPS Criteria” means the
4 green building rating program developed by the Col-
5 laborative for High Performance Schools.

6 (4) The term “Energy Star” means the Energy
7 Star program of the United States Department of
8 Energy and the United States Environmental Pro-
9 tection Agency.

10 (5) The term “Green Globes” means the Green
11 Building Initiative environmental design and rating
12 system referred to as Green Globes.

13 (6) The term “LEED Green Building Rating
14 System” means the United States Green Building
15 Council Leadership in Energy and Environmental
16 Design green building rating standard referred to as
17 LEED Green Building Rating System.

18 (7) The term “local educational agency”—

19 (A) has the meaning given such term in
20 section 9101 of the Elementary and Secondary
21 Education Act of 1965 (20 U.S.C. 7801);

22 (B) includes any public charter school that
23 constitutes a local educational agency under
24 State law; and

1 (C) includes the Recovery School District
2 of Louisiana.

3 (8) The term “outlying area”—

4 (A) means the United States Virgin Is-
5 lands, Guam, American Samoa, and the Com-
6 monwealth of the Northern Mariana Islands;
7 and

8 (B) includes the Republic of Palau.

9 (9) The term “public school facilities” means
10 existing public elementary or secondary school facili-
11 ties, including public charter school facilities and
12 other existing facilities planned for adaptive reuse as
13 public charter school facilities.

14 (10) The term “Secretary” means the Secretary
15 of Education.

16 (11) The term “State” means each of the 50
17 States, the District of Columbia, and the Common-
18 wealth of Puerto Rico.

19 **CHAPTER 1—GRANTS FOR MODERNIZA-**
20 **TION, RENOVATION, OR REPAIR OF**
21 **PUBLIC SCHOOL FACILITIES**

22 **SEC. 311. PURPOSE.**

23 Grants under this chapter shall be for the purpose
24 of modernizing, renovating, or repairing public school fa-
25 cilities (including early learning facilities, as appropriate),

1 based on the need of the facilities for such improvements,
2 to ensure that public school facilities are safe, healthy,
3 high-performing, and technologically up-to-date.

4 **SEC. 312. ALLOCATION OF FUNDS.**

5 (a) RESERVATION.—

6 (1) IN GENERAL.—From the amount appro-
7 priated to carry out this chapter for each fiscal year
8 pursuant to section 345(a), the Secretary shall re-
9 serve 2 percent of such amount, consistent with the
10 purpose described in section 311—

11 (A) to provide assistance to the outlying
12 areas; and

13 (B) for payments to the Secretary of the
14 Interior to provide assistance to Bureau-funded
15 schools.

16 (2) USE OF RESERVED FUNDS.—In each fiscal
17 year, the amount reserved under paragraph (1) shall
18 be divided between the uses described in subpara-
19 graphs (A) and (B) of such paragraph in the same
20 proportion as the amount reserved under section
21 1121(a) of the Elementary and Secondary Edu-
22 cation Act of 1965 (20 U.S.C. 6331(a)) is divided
23 between the uses described in paragraphs (1) and
24 (2) of such section 1121(a) in such fiscal year.

1 (3) DISTRESSED AREAS AND NATURAL DISAS-
2 TERS.—From the amount appropriated to carry out
3 this chapter for each fiscal year pursuant to section
4 345(a), the Secretary shall reserve 5 percent of such
5 amount for grants to—

6 (A) local educational agencies serving geo-
7 graphic areas with significant economic distress,
8 to be used consistent with the purpose de-
9 scribed in section 311 and the allowable uses of
10 funds described in section 313;

11 (B) local educational agencies serving geo-
12 graphic areas recovering from a natural dis-
13 aster, to be used consistent with the purpose
14 described in section 321 and the allowable uses
15 of funds described in section 323; and

16 (C) local educational agencies serving geo-
17 graphic areas that contain a military installa-
18 tion selected for closure under the base closure
19 and realignment process pursuant to the De-
20 fense Base Closure and Realignment Act of
21 1990 (part A of title XXIX of Public Law 101–
22 510; 10 U.S.C. 2687 note).

23 (b) ALLOCATION TO STATES.—

24 (1) STATE-BY-STATE ALLOCATION.—Of the
25 amount appropriated to carry out this chapter for

1 each fiscal year pursuant to section 345(a), and not
2 reserved under subsection (a), each State shall be al-
3 located an amount in proportion to the amount re-
4 ceived by all local educational agencies in the State
5 under part A of title I of the Elementary and Sec-
6 ondary Education Act of 1965 (20 U.S.C. 6311 et
7 seq.) for the previous fiscal year relative to the total
8 amount received by all local educational agencies in
9 every State under such part for such fiscal year.

10 (2) STATE ADMINISTRATION.—A State may re-
11 serve up to 1 percent of its allocation under para-
12 graph (1) to carry out its responsibilities under this
13 chapter, which include—

14 (A) providing technical assistance to local
15 educational agencies;

16 (B) developing an online, publicly search-
17 able database that includes an inventory of pub-
18 lic school facilities in the State, including for
19 each such facility, its design, condition, mod-
20 ernization, renovation and repair needs, utiliza-
21 tion, energy use, and carbon footprint; and

22 (C) creating voluntary guidelines for high-
23 performing school buildings, including guide-
24 lines concerning the following:

1 (i) Site location, storm water manage-
2 ment, outdoor surfaces, outdoor lighting,
3 and transportation, including public transit
4 and pedestrian and bicycle accessibility.

5 (ii) Outdoor water systems, land-
6 scaping to minimize water use, including
7 elimination of irrigation systems for land-
8 scaping, and indoor water use reduction.

9 (iii) Energy efficiency (including min-
10 imum and superior standards, such as for
11 heating, ventilation, and air conditioning
12 systems), use of alternative energy sources,
13 commissioning, and training.

14 (iv) Use of durable, sustainable mate-
15 rials, including life-cycle cost effectiveness,
16 and waste reduction.

17 (v) Indoor environmental quality, such
18 as day lighting in classrooms, lighting
19 quality, indoor air quality (including with
20 reference to reducing the incidence and ef-
21 fects of asthma and other respiratory ill-
22 nesses), acoustics, and thermal comfort.

23 (vi) Operations and management,
24 such as use of energy-efficient equipment,

1 indoor environmental management plan,
2 maintenance plan, and pest management.

3 (3) GRANTS TO LOCAL EDUCATIONAL AGEN-
4 CIES.—From the amount allocated to a State under
5 paragraph (1), each eligible local educational agency
6 in the State shall receive an amount in proportion
7 to the amount received by such local educational
8 agency under part A of title I of the Elementary and
9 Secondary Education Act of 1965 (20 U.S.C. 6311
10 et seq.) for the previous fiscal year relative to the
11 total amount received by all local educational agen-
12 cies in the State under such part for such fiscal
13 year, except that no local educational agency that re-
14 ceived funds under such part for such fiscal year
15 shall receive a grant of less than \$5,000 in any fiscal
16 year under this chapter.

17 (4) SPECIAL RULE.—Section 1122(c)(3) of the
18 Elementary and Secondary Education Act of 1965
19 (20 U.S.C. 6332(c)(3)) shall not apply to paragraph
20 (1) or (3).

21 (c) SPECIAL RULES.—

22 (1) DISTRIBUTIONS BY SECRETARY.—The Sec-
23 retary shall make and distribute the reservations
24 and allocations described in subsections (a) and (b)

1 not later than 120 days after an appropriation of
2 funds for this chapter is made.

3 (2) DISTRIBUTIONS BY STATES.—A State shall
4 make and distribute the allocations described in sub-
5 section (b)(3) within 90 days of receiving such funds
6 from the Secretary.

7 **SEC. 313. ALLOWABLE USES OF FUNDS.**

8 A local educational agency receiving a grant under
9 this chapter shall use the grant for modernization, renova-
10 tion, or repair of public school facilities (including early
11 learning facilities, as appropriate), including—

12 (1) repair, replacement, or installation of roofs,
13 including extensive, intensive or semi-intensive green
14 roofs, electrical wiring, water supply and plumbing
15 systems, sewage systems, storm water runoff sys-
16 tems, lighting systems, building envelope, windows,
17 ceilings, flooring, or doors, including security doors;

18 (2) repair, replacement, or installation of heat-
19 ing, ventilation, or air conditioning systems, includ-
20 ing insulation, and conducting indoor air quality as-
21 sessments;

22 (3) compliance with fire, health, seismic, and
23 safety codes, including professional installation of
24 fire and life safety alarms, and modernizations, ren-
25 ovations, and repairs that ensure that schools are

1 prepared for emergencies, such as improving build-
2 ing infrastructure to accommodate security measures
3 and installing or upgrading technology to ensure
4 that schools are able to respond to emergencies such
5 as acts of terrorism, campus violence, and natural
6 disasters;

7 (4) retrofitting necessary to increase the energy
8 efficiency and water efficiency of public school facili-
9 ties;

10 (5) modifications necessary to make facilities
11 accessible in compliance with the Americans with
12 Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)
13 and section 504 of the Rehabilitation Act of 1973
14 (29 U.S.C. 794);

15 (6) abatement, removal, or interim controls of
16 asbestos, polychlorinated biphenyls, mold, mildew,
17 lead-based hazards, including lead-based paint haz-
18 ards, or a proven carcinogen;

19 (7) measures designed to reduce or eliminate
20 human exposure to classroom noise and environ-
21 mental noise pollution;

22 (8) modernization, renovation, or repair nec-
23 essary to reduce the consumption of coal, electricity,
24 land, natural gas, oil, or water;

1 (9) installation or upgrading of educational
2 technology infrastructure;

3 (10) modernization, renovation, or repair of
4 science and engineering laboratories, libraries, and
5 career and technical education facilities, and im-
6 provements to building infrastructure to accommo-
7 date bicycle and pedestrian access;

8 (11) installation or upgrading of renewable en-
9 ergy generation and heating systems, including
10 solar, photovoltaic, wind, biomass (including wood
11 pellet and woody biomass), waste-to-energy, and
12 solar-thermal and geothermal systems, and for en-
13 ergy audits;

14 (12) measures designed to reduce or eliminate
15 human exposure to airborne particles such as dust,
16 sand, and pollens;

17 (13) creating greenhouses, gardens (including
18 trees), and other facilities for environmental, sci-
19 entific, or other educational purposes, or to produce
20 energy savings;

21 (14) modernizing, renovating, or repairing
22 physical education facilities for students, including
23 upgrading or installing recreational structures made
24 from post-consumer recovered materials in accord-
25 ance with the comprehensive procurement guidelines

1 prepared by the Administrator of the Environmental
2 Protection Agency under section 6002(e) of the
3 Solid Waste Disposal Act (42 U.S.C. 6962(e));

4 (15) other modernization, renovation, or repair
5 of public school facilities to—

6 (A) improve teachers' ability to teach and
7 students' ability to learn;

8 (B) ensure the health and safety of stu-
9 dents and staff;

10 (C) make them more energy efficient; or

11 (D) reduce class size; and

12 (16) required environmental remediation related
13 to modernization, renovation, or repair described in
14 paragraphs (1) through (15).

15 **SEC. 314. PRIORITY PROJECTS.**

16 In selecting a project under section 313, a local edu-
17 cational agency may give priority to projects involving the
18 abatement, removal, or interim controls of asbestos, poly-
19 chlorinated biphenyls, mold, mildew, lead-based hazards,
20 including lead-based paint hazards, or a proven car-
21 cinogen.

1 **CHAPTER 2—SUPPLEMENTAL GRANTS**
2 **FOR LOUISIANA, MISSISSIPPI, AND**
3 **ALABAMA**

4 **SEC. 321. PURPOSE.**

5 Grants under this chapter shall be for the purpose
6 of modernizing, renovating, repairing, or constructing
7 public school facilities, (including early learning facilities,
8 as appropriate), based on the need for such improvements
9 or construction, to ensure that public school facilities are
10 safe, healthy, high-performing, and technologically up-to-
11 date.

12 **SEC. 322. ALLOCATION TO LOCAL EDUCATIONAL AGEN-**
13 **CIES.**

14 (a) **IN GENERAL.**—Of the amount appropriated to
15 carry out this chapter for each fiscal year pursuant to sec-
16 tion 345(b), the Secretary shall allocate to local edu-
17 cational agencies in Louisiana, Mississippi, and Alabama
18 an amount equal to the infrastructure damage inflicted on
19 public school facilities in each such district by Hurricane
20 Katrina or Hurricane Rita in 2005 relative to the total
21 of such infrastructure damage so inflicted in all such dis-
22 tricts, combined.

23 (b) **DISTRIBUTION BY SECRETARY.**—The Secretary
24 shall determine and distribute the allocations described in

1 subsection (a) not later than 120 days after an appropria-
2 tion of funds for this chapter is made.

3 **SEC. 323. ALLOWABLE USES OF FUNDS.**

4 A local educational agency receiving a grant under
5 this chapter shall use the grant for one or more of the
6 activities described in section 313, except that an agency
7 receiving a grant under this chapter also may use the
8 grant for the construction of new public school facilities.

9 **CHAPTER 3—GENERAL PROVISIONS**

10 **SEC. 331. IMPERMISSIBLE USES OF FUNDS.**

11 No funds received under this subtitle may be used
12 for—

13 (1) payment of maintenance costs, including
14 routine repairs classified as current expenditures
15 under State or local law;

16 (2) stadiums or other facilities primarily used
17 for athletic contests or exhibitions or other events
18 for which admission is charged to the general public;

19 (3) improvement or construction of facilities the
20 purpose of which is not the education of children, in-
21 cluding central office administration or operations or
22 logistical support facilities; or

23 (4) purchasing carbon offsets.

1 **SEC. 332. SUPPLEMENT, NOT SUPPLANT.**

2 A local educational agency receiving a grant under
3 this subtitle shall use such Federal funds only to supple-
4 ment and not supplant the amount of funds that would,
5 in the absence of such Federal funds, be available for mod-
6 ernization, renovation, repair, and construction of public
7 school facilities.

8 **SEC. 333. PROHIBITION REGARDING STATE AID.**

9 A State shall not take into consideration payments
10 under this subtitle in determining the eligibility of any
11 local educational agency in that State for State aid, or
12 the amount of State aid, with respect to free public edu-
13 cation of children.

14 **SEC. 334. MAINTENANCE OF EFFORT.**

15 (a) IN GENERAL.—A local educational agency may
16 receive a grant under this subtitle for any fiscal year only
17 if either the combined fiscal effort per student or the ag-
18 gregate expenditures of the agency and the State involved
19 with respect to the provision of free public education by
20 the agency for the preceding fiscal year was not less than
21 90 percent of the combined fiscal effort or aggregate ex-
22 penditures for the second preceding fiscal year.

23 (b) REDUCTION IN CASE OF FAILURE TO MEET
24 MAINTENANCE OF EFFORT REQUIREMENT.—

25 (1) IN GENERAL.—The State educational agen-
26 cy shall reduce the amount of a local educational

1 agency's grant in any fiscal year in the exact propor-
2 tion by which a local educational agency fails to
3 meet the requirement of subsection (a) by falling
4 below 90 percent of both the combined fiscal effort
5 per student and aggregate expenditures (using the
6 measure most favorable to the local agency).

7 (2) SPECIAL RULE.—No such lesser amount
8 shall be used for computing the effort required
9 under subsection (a) for subsequent years.

10 (c) WAIVER.—The Secretary shall waive the require-
11 ments of this section if the Secretary determines that a
12 waiver would be equitable due to—

13 (1) exceptional or uncontrollable circumstances,
14 such as a natural disaster; or

15 (2) a precipitous decline in the financial re-
16 sources of the local educational agency.

17 **SEC. 335. SPECIAL RULE ON CONTRACTING.**

18 Each local educational agency receiving a grant under
19 this subtitle shall ensure that, if the agency carries out
20 modernization, renovation, repair, or construction through
21 a contract, the process for any such contract ensures the
22 maximum number of qualified bidders, including local,
23 small, minority, and women- and veteran-owned busi-
24 nesses, through full and open competition.

1 **SEC. 336. USE OF AMERICAN IRON, STEEL, AND MANUFAC-**
2 **TURED GOODS.**

3 (a) IN GENERAL.—None of the funds appropriated
4 or otherwise made available by this subtitle may be used
5 for a project for the modernization, renovation, repair, or
6 construction of a public school facility unless all of the
7 iron, steel, and manufactured goods used in the project
8 are produced in the United States.

9 (b) EXCEPTIONS.—Subsection (a) shall not apply in
10 any case or category of cases in which the Secretary finds
11 that—

12 (1) applying subsection (a) would be incon-
13 sistent with the public interest;

14 (2) iron, steel, and the relevant manufactured
15 goods are not produced in the United States in suffi-
16 cient and reasonably available quantities and of a
17 satisfactory quality; or

18 (3) inclusion of iron, steel, and manufactured
19 goods produced in the United States will increase
20 the cost of the overall project by more than 25 per-
21 cent.

22 (c) PUBLICATION OF JUSTIFICATION.—If the Sec-
23 retary determines that it is necessary to waive the applica-
24 tion of subsection (a) based on a finding under subsection
25 (b), the Secretary shall publish in the Federal Register
26 a detailed written justification of the determination.

1 (d) CONSTRUCTION.—This section shall be applied in
2 a manner consistent with United States obligations under
3 international agreements.

4 **SEC. 337. LABOR STANDARDS.**

5 The grant programs under this subtitle are applicable
6 programs (as that term is defined in section 400 of the
7 General Education Provisions Act (20 U.S.C. 1221)) sub-
8 ject to section 439 of such Act (20 U.S.C. 1232b).

9 **SEC. 338. CHARTER SCHOOLS.**

10 (a) IN GENERAL.—A local educational agency receiv-
11 ing an allocation under this subtitle shall reserve an
12 amount of that allocation for charter schools within its ju-
13 risdiction for modernization, renovation, repair, and con-
14 struction of charter school facilities (including early learn-
15 ing facilities, as appropriate).

16 (b) DETERMINATION OF RESERVED AMOUNT.—The
17 amount to be reserved by a local educational agency under
18 subsection (a) shall be determined based on the combined
19 percentage of students counted under section 1113(a)(5)
20 of the Elementary and Secondary Education Act of 1965
21 (20 U.S.C. 6313(a)(5)) in the schools of the agency who—

22 (1) are enrolled in charter schools; and

23 (2) the local educational agency, in consultation
24 with the authorized public chartering agency, ex-
25 pects to be enrolled, during the year with respect to

1 which the reservation is made, in charter schools
2 that are scheduled to commence operation during
3 such year.

4 (c) SCHOOL SHARE.—Individual charter schools shall
5 receive a share of the amount reserved under subsection
6 (a) based on the need of each school for modernization,
7 renovation, repair, or construction, as determined by the
8 local educational agency in consultation with charter
9 school administrators.

10 (d) EXCESS FUNDS.—After the consultation de-
11 scribed in subsection (c), if the local educational agency
12 determines that the amount of funds reserved under sub-
13 section (a) exceeds the modernization, renovation, repair,
14 and construction needs of charter schools within the local
15 educational agency’s jurisdiction, the agency may use the
16 excess funds for other public school facility modernization,
17 renovation, repair, or construction consistent with this
18 subtitle and is not required to carry over such funds to
19 the following fiscal year for use for charter schools.

20 **SEC. 339. GREEN SCHOOLS.**

21 (a) IN GENERAL.—Of the funds appropriated for a
22 given fiscal year and made available to a local educational
23 agency to carry out this subtitle, the local educational
24 agency shall use not less than the applicable percentage
25 (described in subsection (b)) of such funds for public

1 school modernization, renovation, repair, or construction
2 that are certified, verified, or consistent with any applica-
3 ble provisions of—

4 (1) the LEED Green Building Rating System;

5 (2) Energy Star;

6 (3) the CHPS Criteria;

7 (4) Green Globes; or

8 (5) an equivalent program adopted by the
9 State, or another jurisdiction with authority over the
10 local educational agency, that includes a verifiable
11 method to demonstrate compliance with such pro-
12 gram.

13 (b) APPLICABLE PERCENTAGES.—The applicable
14 percentage described in subsection (a) is—

15 (1) for funds appropriated in fiscal year 2010,
16 50 percent; and

17 (2) for funds appropriated in fiscal year 2011,
18 75 percent.

19 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
20 tion shall be construed to prohibit a local educational
21 agency from using sustainable, domestic hardwood lumber
22 as ascertained through the forest inventory and analysis
23 program of the Forest Service of the Department of Agri-
24 culture under the Forest and Rangeland Renewable Re-
25 sources Research Act of 1978 (16 U.S.C. 1641 et seq.)

1 for public school modernization, renovation, repairs, or
2 construction.

3 (d) TECHNICAL ASSISTANCE.—The Secretary, in
4 consultation with the Secretary of Energy and the Admin-
5 istrator of the Environmental Protection Agency, shall
6 provide outreach and technical assistance to States and
7 local educational agencies concerning the best practices in
8 school modernization, renovation, repair, and construc-
9 tion, including those related to student academic achieve-
10 ment, student and staff health, energy efficiency, and envi-
11 ronmental protection.

12 **SEC. 340. REPORTING.**

13 (a) REPORTS BY LOCAL EDUCATIONAL AGENCIES.—
14 Local educational agencies receiving a grant under this
15 subtitle shall annually compile a report describing the
16 projects for which such funds were used, including—

17 (1) the number and identity of public schools in
18 the agency, including the number of charter schools,
19 and for each school, the total number of students,
20 and the number of students counted under section
21 1113(a)(5) of the Elementary and Secondary Edu-
22 cation Act of 1965 (20 U.S.C. 6313(a)(5));

23 (2) the total amount of funds received by the
24 local educational agency under this subtitle, and for
25 each public school in the agency, including each

1 charter school, the amount of such funds expended,
2 and the types of modernization, renovation, repair,
3 or construction projects for which such funds were
4 used;

5 (3) the number of students impacted by such
6 projects, including the number of students so im-
7 pacted who are counted under section 1113(a)(5) of
8 the Elementary and Secondary Education Act of
9 1965 (20 U.S.C. 6313(a)(5));

10 (4) the number of public schools in the agency
11 with a metro-centric locale code of 41, 42, or 43 as
12 determined by the National Center for Education
13 Statistics and the percentage of funds received by
14 the agency under chapter 1 or chapter 2 of this sub-
15 title that were used for projects at such schools;

16 (5) the number of public schools in the agency
17 that are eligible for schoolwide programs under sec-
18 tion 1114 of the Elementary and Secondary Edu-
19 cation Act of 1965 (20 U.S.C. 6314) and the per-
20 centage of funds received by the agency under chap-
21 ter 1 or chapter 2 of this subtitle that were used for
22 projects at such schools;

23 (6) for each project—

24 (A) the cost;

1 (B) the standard described in section
2 339(a) with which the use of the funds com-
3 plied or, if the use of funds did not comply with
4 a standard described in section 339(a), the rea-
5 son such funds were not able to be used in com-
6 pliance with such standards and the agency's
7 efforts to use such funds in an environmentally
8 sound manner; and

9 (C) any demonstrable or expected benefits
10 as a result of the project (such as energy sav-
11 ings, improved indoor environmental quality,
12 student and staff health, including the reduc-
13 tion of the incidence and effects of asthma and
14 other respiratory illnesses, and improved cli-
15 mate for teaching and learning); and

16 (7) the total number and amount of contracts
17 awarded, and the number and amount of contracts
18 awarded to local, small, minority, women, and vet-
19 eran-owned businesses.

20 (b) AVAILABILITY OF REPORTS.—A local educational
21 agency shall—

22 (1) submit the report described in subsection
23 (a) to the State educational agency, which shall com-
24 pile such information and report it annually to the
25 Secretary; and

1 (2) make the report described in subsection (a)
2 publicly available, including on the agency's website.

3 (c) **REPORTS BY SECRETARY.**—Not later than March
4 31 of each fiscal year, the Secretary shall submit to the
5 Committee on Education and Labor of the House of Rep-
6 resentatives and the Committee on Health, Education,
7 Labor and Pensions of the Senate, and make available on
8 the Department of Education's website, a report on grants
9 made under this subtitle, including the information from
10 the reports described in subsection (b)(1).

11 **SEC. 341. SPECIAL RULES.**

12 Notwithstanding any other provision of this subtitle,
13 none of the funds authorized by this subtitle may be—

14 (1) used to employ workers in violation of sec-
15 tion 274A of the Immigration and Nationality Act
16 (8 U.S.C. 1324a); or

17 (2) distributed to a local educational agency
18 that does not have a policy that requires a criminal
19 background check on all employees of the agency.

20 **SEC. 342. PROMOTION OF EMPLOYMENT EXPERIENCES.**

21 The Secretary of Education, in consultation with the
22 Secretary of Labor, shall work with recipients of funds
23 under this subtitle to promote appropriate opportunities
24 to gain employment experience working on modernization,

1 renovation, repair, and construction projects funded under
2 this subtitle for—

3 (1) participants in a YouthBuild program (as
4 defined in section 173A of the Workforce Investment
5 Act of 1998 (29 U.S.C. 2918a));

6 (2) individuals enrolled in the Job Corps pro-
7 gram carried out under subtitle C of title I of the
8 Workforce Investment Act of 1998 (29 U.S.C. 2881
9 et seq.);

10 (3) individuals enrolled in a junior or commu-
11 nity college (as defined in section 312(f) of the
12 Higher Education Act of 1965 (20 U.S.C. 1088(f))
13 certificate or degree program relating to projects de-
14 scribed in section 339(a); and

15 (4) participants in preapprenticeship programs
16 that have direct linkages with apprenticeship pro-
17 grams that are registered with the Department of
18 Labor or a State Apprenticeship Agency under the
19 National Apprenticeship Act of 1937 (29 U.S.C. 50
20 et seq.).

21 **SEC. 343. ADVISORY COUNCIL ON GREEN, HIGH-PER-**
22 **FORMING PUBLIC SCHOOL FACILITIES.**

23 (a) ESTABLISHMENT OF ADVISORY COUNCIL.—The
24 Secretary shall establish an advisory council to be known
25 as the “Advisory Council on Green, High-Performing Pub-

1 lie School Facilities” (in this section referred to as the
2 “Advisory Council”) which shall be composed of—

3 (1) appropriate officials from the Department
4 of Education;

5 (2) representatives of the academic, architec-
6 tural, business, education, engineering, environ-
7 mental, labor, and scientific communities; and

8 (3) such other representatives as the Secretary
9 deems appropriate.

10 (b) DUTIES OF ADVISORY COUNCIL.—

11 (1) ADVISORY DUTIES.—The Advisory Council
12 shall advise the Secretary on the impact of green,
13 high-performing schools, on—

14 (A) teaching and learning;

15 (B) health;

16 (C) energy costs;

17 (D) environmental impact; and

18 (E) other areas that the Secretary and the
19 Advisory Council deem appropriate.

20 (2) OTHER DUTIES.—The Advisory Council
21 shall assist the Secretary in—

22 (A) making recommendations on Federal
23 policies to increase the number of green, high-
24 performing schools;

1 (B) identifying Federal policies that are
2 barriers to helping States and local educational
3 agencies make green, high-performing schools;

4 (C) providing technical assistance and out-
5 reach to States and local educational agencies
6 under section 339(d); and

7 (D) providing the Secretary such other as-
8 sistance as the Secretary deems appropriate.

9 (c) CONSULTATION.—In carrying out its duties under
10 subsection (b), the Advisory Council shall consult with the
11 Chair of the Council on Environmental Quality and the
12 heads of appropriate Federal agencies, including the Sec-
13 retary of Commerce, the Secretary of Energy, the Sec-
14 retary of Health and Human Services, the Secretary of
15 Labor, the Administrator of the Environmental Protection
16 Agency, and the Administrator of the General Services
17 Administration (through the Office of Federal High-Per-
18 formance Green Buildings).

19 (d) TERMINATION.—The authority to establish and
20 maintain the Advisory Council under this section shall ex-
21 pire at the close of September 30, 2011.

22 **SEC. 344. EDUCATION REGARDING PROJECTS.**

23 A local educational agency receiving funds under this
24 subtitle may encourage schools at which projects are un-
25 dertaken with such funds to educate students about the

1 project, including, as appropriate, the functioning of the
2 project and its environmental, energy, sustainability, and
3 other benefits.

4 **SEC. 345. AVAILABILITY OF FUNDS.**

5 (a) CHAPTER 1.—There are authorized to be appro-
6 priated, and there are appropriated, to carry out chapter
7 1 of this subtitle (in addition to any other amounts appro-
8 priated to carry out such chapter and out of any money
9 in the Treasury not otherwise appropriated),
10 \$2,020,000,000 for each of fiscal years 2010 and 2011.

11 (b) CHAPTER 2.—There are authorized to be appro-
12 priated, and there are appropriated, to carry out chapter
13 2 of this subtitle (in addition to any other amounts appro-
14 priated to carry out such chapter and out of any money
15 in the Treasury not otherwise appropriated), \$30,000,000
16 for each of fiscal years 2010 and 2011.

17 (c) PROHIBITION ON EARMARKS.—None of the funds
18 appropriated under this section may be used for a Con-
19 gressional earmark as defined in clause 9(d) of rule XXI
20 of the Rules of the House of Representatives.

21 (d) SUNSET.—The authority to award grants under
22 this subtitle shall expire at the end of fiscal year 2011.