

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 3021  
OFFERED BY M . \_\_\_\_\_**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “21st Century Green High-Performing Public School Fa-  
4 cilities Act”.

5 (b) TABLE OF CONTENTS.—The table of contents for  
6 this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Definitions.

TITLE I—GRANTS FOR MODERNIZATION, RENOVATION, OR  
REPAIR OF SCHOOL FACILITIES

Sec. 101. Purpose.  
Sec. 102. Allocation of funds.  
Sec. 103. Allowable uses of funds.

TITLE II—SUPPLEMENTAL GRANTS FOR LOUISIANA, MISSISSIPPI,  
AND ALABAMA

Sec. 201. Purpose.  
Sec. 202. Allocation to States.  
Sec. 203. Allowable uses of funds.

TITLE III—GENERAL PROVISIONS

Sec. 301. Impermissible uses of funds.  
Sec. 302. Supplement, not supplant.  
Sec. 303. Maintenance of effort.  
Sec. 304. Special rule on contracting.  
Sec. 305. Application of GEPA.  
Sec. 306. Green Schools.  
Sec. 307. Reporting.  
Sec. 308. Authorization of appropriations.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

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

6 (2) The term “charter school” has the meaning  
7 given such term in section 5210 of the Elementary  
8 and Secondary Education Act of 1965.

9 (3) The term “local educational agency”—

10 (A) has the meaning given to that term in  
11 section 9101 of the Elementary and Secondary  
12 Education Act of 1965, and shall also include  
13 the Recovery School District of Louisiana and  
14 the New Orleans Public Schools; and

15 (B) includes any public charter school that  
16 constitutes a local educational agency under  
17 State law.

18 (4) The term “outlying area”—

19 (A) means the United States Virgin Is-  
20 lands, Guam, American Samoa, and the Com-  
21 monwealth of the Northern Mariana Islands;  
22 and

23 (B) includes the freely associated states of  
24 the Republic of the Marshall Islands, the Fed-  
25 erated States of Micronesia, and the Republic  
26 of Palau.

1           (5) The term “State” means each of the 50  
2 States, the District of Columbia, and the Common-  
3 wealth of Puerto Rico.

4           (6) The term “LEED Green Building Rating  
5 System” means the United States Green Building  
6 Council Leadership in Energy and Environmental  
7 Design green building rating standard referred to as  
8 LEED Green Building Rating System.

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

13           (8) The term “CHPS Criteria” means the  
14 green building rating program developed by the Col-  
15 laborative for High Performance Schools.

16 **TITLE I—GRANTS FOR MOD-**  
17 **ERNIZATION, RENOVATION,**  
18 **OR REPAIR OF SCHOOL FA-**  
19 **CILITIES**

20 **SEC. 101. PURPOSE.**

21 Grants under this title shall be for the purpose of  
22 modernizing, renovating, or repairing public kindergarten,  
23 elementary, and secondary educational facilities that are  
24 safe, healthy, high-performing, and up-to-date techno-  
25 logically.

1 **SEC. 102. ALLOCATION OF FUNDS.**

2 (a) RESERVATION.—From the amount appropriated  
3 to carry out this title for each fiscal year pursuant to sec-  
4 tion 308(a), the Secretary shall reserve 1 percent of such  
5 amount, consistent with the purpose described in section  
6 101—

7 (1) to provide assistance to the outlying areas;  
8 and

9 (2) for payments to the Secretary of the Inte-  
10 rior to provide assistance to Bureau-funded schools;

11 (b) ALLOCATION TO STATES.—

12 (1) STATE-BY-STATE ALLOCATION.—Of the  
13 amount appropriated to carry out this title for each  
14 fiscal year pursuant to section 308(a), and not re-  
15 served under subsection (a), each State shall be allo-  
16 cated an amount in proportion to the amount re-  
17 ceived by all local educational agencies in the State  
18 under part A of title I of the Elementary and Sec-  
19 ondary Education Act of 1965 for the previous fiscal  
20 year relative to the total amount received by all local  
21 educational agencies in every State under such part  
22 for such fiscal year.

23 (2) STATE ADMINISTRATION.—A State may re-  
24 serve up to 1 percent of its allocation under para-  
25 graph (1) to carry out its responsibilities under this  
26 title, including—

1 (A) providing technical assistance to local  
2 educational agencies;

3 (B) developing within 6 months of receiv-  
4 ing its allocation under paragraph (1) a plan to  
5 develop a database that includes an inventory of  
6 public school facilities in the State and the  
7 modernization, renovation, and repair needs of,  
8 energy use by, and the carbon footprint of such  
9 schools; and

10 (C) developing a school energy efficiency  
11 quality plan.

12 (3) GRANTS TO LOCAL EDUCATIONAL AGEN-  
13 CIES.—From the amount allocated to a State under  
14 paragraph (1), each local educational agency in the  
15 State that meets the requirements of section  
16 1112(a) of the Elementary and Secondary Edu-  
17 cation Act of 1965 shall receive an amount in pro-  
18 portion to the amount received by such local edu-  
19 cational agency under part A of title I of that Act  
20 for the previous fiscal year relative to the total  
21 amount received by all local educational agencies in  
22 the State under such part for such fiscal year, ex-  
23 cept that no local educational agency that received  
24 funds under title I of that Act for such fiscal year

1 shall receive a grant of less than \$5,000 in any fiscal  
2 year under this title.

3 (4) SPECIAL RULE.—Section 1122(c)(3) of the  
4 Elementary and Secondary Education Act of 1965  
5 shall not apply to paragraphs (1) or (3).

6 (c) SPECIAL RULES.—

7 (1) DISTRIBUTIONS BY SECRETARY.—The Sec-  
8 retary shall make and distribute the reservations  
9 and allocations described in subsections (a) and (b)  
10 not later than 30 days after an appropriation of  
11 funds for this title is made.

12 (2) DISTRIBUTIONS BY STATES.—A State shall  
13 make and distribute the allocations described in sub-  
14 section (b)(3) within 30 days of receiving such funds  
15 from the Secretary.

16 **SEC. 103. ALLOWABLE USES OF FUNDS.**

17 A local educational agency receiving a grant under  
18 this title may use the grant for modernization, renovation,  
19 or repair of public school facilities, including—

20 (1) repairing, replacing, or installing roofs, elec-  
21 trical wiring, plumbing systems, sewage systems,  
22 lighting systems, or components of such systems,  
23 windows, or doors;

24 (2) repairing, replacing, or installing heating,  
25 ventilation, air conditioning systems, or components

1 of such systems (including insulation), including in-  
2 door air quality assessments;

3 (3) bringing public schools into compliance with  
4 fire and safety codes, including modernizations, ren-  
5 ovations, and repairs that ensure that schools are  
6 prepared for emergencies;

7 (4) modifications necessary to make public  
8 school facilities accessible to comply with the Ameri-  
9 cans with Disabilities Act of 1990 (42 U.S.C. 12101  
10 et seq.) and section 504 of the Rehabilitation Act of  
11 1973 (29 U.S.C. 794), except that such modifica-  
12 tions shall not be the primary use of the grant;

13 (5) asbestos abatement or removal from public  
14 school facilities;

15 (6) implementation of measures designed to re-  
16 duce or eliminate human exposure to lead-based  
17 paint hazards through methods including interim con-  
18 trols, abatement, or a combination of each;

19 (7) upgrading or installing educational tech-  
20 nology infrastructure to ensure that students have  
21 access to up-to-date educational technology;

22 (8) other modernization, renovation, or repair  
23 of public school facilities to—

24 (A) improve teachers' ability to teach and  
25 students' ability to learn;

1 (B) ensure the health and safety of stu-  
2 dents and staff; or

3 (C) make them more energy efficient; and

4 (9) required environmental remediation related  
5 to school modernization, renovation, or repair de-  
6 scribed in paragraphs (1) through (8).

7 **TITLE II—SUPPLEMENTAL**  
8 **GRANTS FOR LOUISIANA, MIS-**  
9 **SISSIPPI, AND ALABAMA**

10 **SEC. 201. PURPOSE.**

11 Grants under this title shall be for the purpose of  
12 modernizing, renovating, repairing or constructing public  
13 kindergarten, elementary, and secondary educational fa-  
14 cilities that are safe, healthy, high-performing, and up-to-  
15 date technologically in order to address such needs caused  
16 by damage resulting from Hurricane Katrina or Hurri-  
17 cane Rita.

18 **SEC. 202. ALLOCATION TO STATES.**

19 (a) STATE-BY-STATE ALLOCATION.—Of the amount  
20 appropriated to carry out this title for each fiscal year pur-  
21 suant to section 308(b), the Secretary shall allocate to  
22 Louisiana, Mississippi, and Alabama an amount equal to  
23 the number of schools in each of those states that were  
24 closed for 60 days or more during the period beginning  
25 on August 29, 2005 and ending on December 31, 2005



1 due to Hurricane Katrina or Hurricane Rita, relative to  
2 the number of schools in all of those states combined that  
3 were so closed.

4 (b) STATE ADMINISTRATION.—A State that receives  
5 funds under this title may reserve one-half of one percent  
6 of such funds for administrative purposes related to this  
7 title.

8 (c) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—  
9 States receiving funds under subsection (a) shall allocate  
10 such funds to local educational agencies within the state  
11 according to the criteria described in subsection (a).

12 (d) SPECIAL RULES.—Distributions by Secretary—

13 (1) The Secretary shall make and distribute the  
14 allocations described in subsection (a) not later than  
15 30 days after an appropriation of funds for this title  
16 is made.

17 (2) A State shall make and distribute the allo-  
18 cations described in subsection (c) within 30 days of  
19 receiving such funds from the Secretary.

20 **SEC. 203. ALLOWABLE USES OF FUNDS.**

21 A local educational agency receiving a grant under  
22 this title may use the grant for any of the activities de-  
23 scribed in section 103, except that an agency receiving a  
24 grant under this title also may use such grant for such

1 activities in the construction of new public kindergarten,  
2 elementary, and secondary school facilities.

3 **TITLE III—GENERAL**  
4 **PROVISIONS**

5 **SEC. 301. IMPERMISSIBLE USES OF FUNDS.**

6 No funds received under this Act may be used for—

7 (1) payment of maintenance costs; or

8 (2) stadiums or other facilities primarily used  
9 for athletic contests or exhibitions or other events  
10 for which admission is charged to the general public.

11 **SEC. 302. SUPPLEMENT, NOT SUPPLANT.**

12 A local educational agency receiving a grant under  
13 this Act shall use such Federal funds only to supplement  
14 and not supplant the amount of funds that would, in the  
15 absence of such Federal funds, be available for moderniza-  
16 tion, renovation, and repair of public kindergarten, ele-  
17 mentary, and secondary educational facilities.

18 **SEC. 303. MAINTENANCE OF EFFORT.**

19 A local educational agency may receive a grant under  
20 this Act for any fiscal year only if either the combined  
21 fiscal effort per student or the aggregate expenditures of  
22 the agency and the State involved with respect to the pro-  
23 vision of free public education by the agency for the pre-  
24 ceding fiscal year was not less than 90 percent of the com-

1 bined fiscal effort or aggregate expenditures for the second  
2 preceding fiscal year.

3 **SEC. 304. SPECIAL RULE ON CONTRACTING.**

4 Each local educational agency receiving a grant under  
5 this Act shall ensure that, if the agency carries out mod-  
6 ernization, renovation, or repair through a contract, the  
7 process for any such contract ensures the maximum num-  
8 ber of qualified bidders, including local, small, minority,  
9 and women- and veteran-owned businesses, through full  
10 and open competition.

11 **SEC. 305. APPLICATION OF GEPA.**

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

16 **SEC. 306. GREEN SCHOOLS.**

17 (a) IN GENERAL.—In a given fiscal year, a local edu-  
18 cational agency shall use not less than the applicable per-  
19 centage of funds received under this Act described in sub-  
20 section (b) for public school modernization, renovation, or  
21 repairs that are—

22 (1) LEED Green Building Rating System-cer-  
23 tified or consistent with any applicable provisions of  
24 the LEED Green Building Rating System;

1           (2) Energy Star-certified or consistent with any  
2           applicable provisions of Energy Star; or

3           (3) certified, designed, or verified under or meet  
4           any applicable provisions of an equivalent program  
5           to the LEED Green Building Rating System or En-  
6           ergy Star adopted by the State or another jurisdic-  
7           tion with authority over the local educational agency,  
8           such as the CHPS Criteria.

9           (b) **APPLICABLE PERCENTAGES.**—The applicable  
10          percentages described in subsection (a) are—

11           (1) in fiscal year 2009, 50 percent;

12           (2) in fiscal year 2010, 60 percent;

13           (3) in fiscal year 2011, 70 percent;

14           (4) in fiscal year 2012, 80 percent; and

15           (5) in fiscal year 2013, 90 percent.

16          (c) **TECHNICAL ASSISTANCE.**—The Secretary, in con-  
17          sultation with the Secretary of Energy and the Adminis-  
18          trator of the Environmental Protection Agency, shall pro-  
19          vide outreach and technical assistance to States and school  
20          districts concerning the best practices in school mod-  
21          ernization, renovation, and repair, including those related  
22          to student academic achievement and student and staff  
23          health, energy efficiency, and environmental protection.

1 **SEC. 307. REPORTING.**

2 (a) **REPORTS BY LOCAL EDUCATIONAL AGENCIES.—**

3 Local educational agencies receiving a grant under this  
4 Act shall annually compile a report describing the projects  
5 for which such funds were used, including—

6 (1) the number of public schools in the agency;

7 (2) the number of schools in the agency with a  
8 metro-centric locale code of 41, 42, or 43 as deter-  
9 mined by the National Center for Education Statis-  
10 tics and the percentage of funds received by the  
11 agency under title I or title II of this Act that were  
12 used for projects at such schools;

13 (3) the number of schools in the agency that  
14 are eligible for schoolwide programs under section  
15 1114 of the Elementary and Secondary Education  
16 Act of 1965 and the percentage of funds received by  
17 the agency under title I or title II of this Act that  
18 were used for projects at such schools; and

19 (4) for each project—

20 (A) the cost;

21 (B) the standard described in section  
22 306(a) with which the use of the funds com-  
23 plied or if the use of funds did not comply with  
24 a standard described in section 306(a), the rea-  
25 son such funds were not able to be used in com-  
26 pliance with such standards and the agency's

1 efforts to use such funds in an environmentally  
2 sound manner; and

3 (C) any demonstrable or expected benefits  
4 as a result of the project (such as energy sav-  
5 ings, improved indoor environmental quality,  
6 improved climate for teaching and learning,  
7 etc.).

8 (b) AVAILABILITY OF REPORTS.—A local educational  
9 agency shall—

10 (1) submit the report described in subsection  
11 (a) to the State educational agency, which shall com-  
12 pile such information and report it annually to the  
13 Secretary; and

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

16 (c) REPORTS BY SECRETARY.—Not later than De-  
17 cember 31 of each fiscal year, the Secretary shall submit  
18 to the Committee on Education and Labor of the House  
19 of Representatives and the Committee on Health, Edu-  
20 cation, Labor, and Pensions of the Senate a report on  
21 grants made under this Act, including the information de-  
22 scribed in subsection (b)(1), the types of modernization,  
23 renovation, and repair funded, and the number of students  
24 impacted, including the number of students counted under

1 section 1113(a)(5) of the Elementary and Secondary Edu-  
2 cation Act of 1965.

3 **SEC. 308. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) To carry out title I, there are authorized to be  
5 appropriated \$6,400,000,000 for fiscal year 2009 and  
6 such sums as may be necessary for each of fiscal years  
7 2010 through 2013.

8 (b) To carry out title II, there are authorized to be  
9 appropriated \$100,000,000 for each of fiscal years 2009  
10 through 2013.

Amend the title so as to read: “A bill to direct the Secretary of Education to make grants to State educational agencies for the modernization, renovation, or repair of public kindergarten, elementary, and secondary educational facilities, and for other purposes.”.

