

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 2187) TO DIRECT THE SECRETARY OF EDUCATION TO MAKE GRANTS TO STATE EDUCATIONAL AGENCIES FOR THE MODERNIZATION, RENOVATION, OR REPAIR OF PUBLIC SCHOOL FACILITIES, AND FOR OTHER PURPOSES

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MAY 12, 2009.—Referred to the House Calendar and ordered to be printed

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Mr. POLIS, from the Committee on Rules,  
submitted the following

R E P O R T

[To accompany H. Res. 427]

The Committee on Rules, having had under consideration House Resolution 427, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 2187, the “21st Century Green High-Performing Public School Facilities Act,” under a structured rule. The rule provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Education and Labor.

The rule waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI. The rule provides that the amendment in the nature of a substitute recommended by the Committee on Education and Labor shall be considered as an original bill for the purpose of amendment and shall be considered as read. The rule waives all points of order against the amendment in the nature of a substitute except those arising under clause 10 of rule XXI. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).

The rule makes in order only those amendments printed in this report. The amendments made in order may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments except those arising under

clause 9 or 10 of rule XXI are waived. Finally, the rule provides one motion to recommit with or without instructions.

#### EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the bill (except those arising under clause 9 or 10 of rule XXI) includes a waiver of clause 4(a) of rule XIII (requiring a three-day layover of the committee report). Although the rule waives all points of order against the amendment in the nature of a substitute (except those arising under clause 10 of rule XXI), the Committee is not aware of any points of order. The waiver of all points of order is prophylactic.

#### COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

##### *Rules Committee record vote No. 87*

Date: May 12, 2009.

Measure: H.R. 2187.

Motion by: Mr. Dreier.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Castle, Mike (DE), #9, which would require the title I program for low-income students (title I of ESEA) to be fully funded before states receive funds under bill's grant program.

Results: Defeated 4–7.

Vote by Members: McGovern—Nay; Hastings—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Sessions—Yea; Foxx—Yea.

##### *Rules Committee record vote No. 88*

Date: May 12, 2009.

Measure: H.R. 2187.

Motion by: Mr. Diaz-Balart.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Hastings, Doc (WA), #19, which would require funds provided under title VIII of the Elementary and Secondary Education Act (Impact Aid program) to be considered when allocating funds to state and local agencies under the bill.

Results: Defeated 4–7.

Vote by Members: McGovern—Nay; Hastings—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Sessions—Yea; Foxx—Yea.

##### *Rules Committee record vote No. 89*

Date: May 12, 2009.

Measure: H.R. 2187.

Motion by: Mr. Sessions.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Kline, John (MN), #10, which would provide that no funds may be appropriated or made available pursuant to an authorization under this Act for any fiscal year

unless the Individuals with Disabilities Education Act (IDEA) is fully funded for that year.

Results: Defeated 4–7.

Vote by Members: McGovern—Nay; Hastings—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Sessions—Yea; Foxx—Yea.

*Rules Committee record vote No. 90*

Date: May 12, 2009.

Measure: H.R. 2187.

Motion by: Dr. Foxx.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Foxx, Virginia (NC), #13, which would provide that if the provisions of the bill affecting authorization of appropriations have the net effect of increasing authorized appropriations for the period 2010 through 2015, this bill shall not take effect.

Results: Defeated 4–7.

Vote by Members: McGovern—Nay; Hastings—Nay; Cardoza—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Sessions—Yea; Foxx—Yea.

#### SUMMARY OF AMENDMENTS TO BE MADE IN ORDER

1. Miller, George (CA): Would replace the bill's provision regarding charter schools (section 308) with a new provision that makes technical corrections and clarifies the disposition of excess funds. Would expand the allowable uses of funds to include repairing, replacing, and installing water supply and building envelopes. Would add a new section to Title I of the bill giving priority consideration to schools that would use funding to remove asbestos, polychlorinated biphenyls, mold, mildew, lead-based hazards, or a proven carcinogen. Would increase the set-aside for tribal and outlying schools from 1% to 2%. (10 minutes)

2. McKeon (CA): Would require states to be in compliance with the public school choice, supplemental education services, private school participation, and military recruiters provisions of the Elementary and Secondary Education Act to be eligible to receive funding under the bill. (10 minutes)

3. Titus (NV)/Markey, Betsy (CO): Would add a new section 314 requiring the Secretary of Education to establish an Advisory Council to the Secretary on green, high-performing schools. The Council will advise the Secretary on the impact of green, high-performing schools on teaching and learning, health energy costs and environmental impact; work with the Secretary to recommend Federal policies to increase the number of green, high-performing schools; provide technical assistance to states; and identify Federal policies that are barriers to helping states make schools green and high-performing. The Council will consult with the Chair of the Council on Environmental Quality, the Commerce Secretary, Energy Secretary, Health and Human Services Secretary, Labor Secretary, EPA Administrator, and the GSA Administrator. (10 minutes)

4. Roe (TN): Would add a new section 314 requiring the Education Secretary to enter into an agreement with the Department's Institute of Educational Sciences to evaluate the impact of projects

funded under the bill on student academic achievement, including a comparison of students attending public schools receiving funding under the bill with students attending public schools that are not receiving such funding. (10 minutes)

5. Ellsworth (IN): Would amend section 309 (green schools) to provide that nothing in the bill shall be construed to prohibit a local educational agency from using sustainable, domestic hardwood lumber for public school modernization, renovation, repairs, or construction. It also would amend section 310 (reporting) to require agencies receiving grant funds under the bill to disclose whether any flooring installed was from renewable sources. (10 minutes)

6. Flake, Jeff (AZ): Would prohibit funds appropriated under the bill to be used for congressional earmarks as defined by clause 9(d) of rule XXI of the Rules of the House of Representatives. (10 minutes)

7. Giffords (AZ)/Cleaver (MO): Would specify that local educational agencies receiving funds under the act may encourage schools receiving funds for projects to educate students about those projects, including how they function, and their environmental, energy, sustainability, and other benefits. (10 minutes)

8. Reichert (WA): Would allow funds to be used to install or upgrade technology to ensure schools are able to respond to emergencies such as acts of terrorism, campus violence, and natural disasters. (10 minutes)

9. Maffei (NY)/Schwartz (PA): Would require the Education Secretary, in consultation with the Labor Secretary, to work with funding recipients to promote opportunities for individuals enrolled in Job Corps to gain employment experience on modernization, repair, and construction projects funded under the Act. The amendment would also require the Secretary of Education in consultation with the Secretary of Labor, to work with recipients of funds to promote appropriate opportunities for individuals enrolled in a junior or community college. (10 minutes)

10. Bright (AL): Would require the Secretary to reserve 5 percent of section 102 grant funds for grants to local educational agencies serving geographic areas with significant economic distress or recovering from a natural disaster. (10 minutes)

11. Griffith (AL)/Teague (NM): Would include reducing the incidence and effects of asthma and other respiratory illnesses in children among the voluntary guidelines for high performing school buildings. It also would add reducing the incidence and effects of asthma and other respiratory illnesses to the list of demonstrable and expected benefits. The amendment also includes the reduction and elimination of human exposure to airborne particles such as dust, sand, and pollens among the approved uses for grant funds used by local educational agencies. (10 minutes)

12. Heinrich (NM): Would allow funds to be used to install and upgrade recreational structures and physical education facilities. (10 minutes)

13. Luján (NM)/Schwartz (PA): Would permit funds to be used for constructing greenhouses, gardens (including trees), and other facilities for environmental, scientific, or other educational purposes, or to produce energy savings. (10 minutes)

14. Schrader (OR): Would require the GAO to conduct a study within one year of enactment on the extent and types of projects in keeping with the uses of funds authorized, the geographic distribution of green, high-performing schools (including by urban, suburban, and rural areas), and the relative access to such schools of the demographic groups described in section 1111(b)(2)(C)(v) of the Elementary and Secondary Education Act of 1965. These groups include: economically-disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency. (10 minutes)

TEXT OF AMENDMENTS TO BE MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GEORGE MILLER OF CALIFORNIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In the table of contents in section 1(b) of the bill, after the item relating to section 103, insert the following:

Sec. 104. Priority projects.

In section 102(a)(1), strike “1 percent” and insert “2 percent”.

In section 103, in the matter preceding paragraph (1), strike “facilities—” and insert “facilities, including—”.

In section 103(1), insert “water supply and” after “wiring.”

In section 103(1), insert “building envelope,” after “such systems.”

After section 103, insert the following:

**SEC. 104. PRIORITY PROJECTS.**

In selecting a project under section 103, a local educational agency may give priority to projects involving the abatement, removal, or interim controls of asbestos, polychlorinated biphenyls, mold, mildew, lead-based hazards, including lead-based paint hazards, or a proven carcinogen.

Strike section 308 and insert the following:

**SEC. 308. CHARTER SCHOOLS.**

(a) IN GENERAL.—A local educational agency receiving an allocation under this Act shall reserve an amount of that allocation for charter schools within its jurisdiction for modernization, renovation, repair, and construction of charter school facilities.

(b) DETERMINATION OF RESERVED AMOUNT.—The amount to be reserved by a local educational agency under subsection (a) shall be determined based on the combined percentage of students eligible under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) in the schools of the agency who—

(1) are enrolled in charter schools; and

(2) the local educational agency, in consultation with the authorized public chartering agency, expects to be enrolled, during the year with respect to which the reservation is made, in charter schools that are scheduled to commence operation during such year.

(c) SCHOOL SHARE.—Individual charter schools shall receive a share of the amount reserved under subsection (a) based on the need of each school for modernization, renovation, repair, or con-

struction, as determined by the local educational agency in consultation with charter school administrators.

(d) **EXCESS FUNDS.**—After the consultation described in subsection (c), if the local educational agency determines that the amount of funds reserved under subsection (a) exceeds the modernization, renovation, repair, and construction needs of charter schools within the local educational agency’s jurisdiction, the agency may use the excess funds for other public school facility modernization, renovation, repair, or construction consistent with this Act and is not required to carry over such funds to the following fiscal year for use for charter schools.

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2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MCKEON OF CALIFORNIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Amend section 102(b)(3)(B)(i) to read as follows:

(i) meets the requirements for—

(I) a local educational agency plan under section 1112(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6312(a));

(II) public school choice under section 1116(b)(1)(E) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)(1)(E));

(III) transportation funding for public school choice under section 1116(b)(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)(9));

(IV) supplemental educational services funding under section 1116(b)(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)(10));

(V) supplemental educational services under section 1116(e) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(e));

(VI) private school participation under section 9501 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7881); and

(VII) armed forces recruiter access under section 9528 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7908); and

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3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE TITUS OF NEVADA, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

After section 313, insert the following:

**SEC. 314. ADVISORY COUNCIL ON GREEN, HIGH-PERFORMING SCHOOLS.**

(a) **ESTABLISHMENT OF ADVISORY COUNCIL.**— The Secretary shall establish an advisory council to be known as the “Advisory Council on Green, High-Performing Schools” (in this section referred to as the “Advisory Council”) which shall be composed of—

(1) appropriate officials from the Department of Education;

(2) representatives of the academic, architectural, business, education, engineering, environmental, labor and scientific communities; and

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

(b) DUTIES OF ADVISORY COUNCIL.—

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

(A) teaching and learning;

(B) health;

(C) energy costs;

(D) environmental impact; and

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

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

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

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

(C) providing technical assistance and outreach to States and local educational agencies under section 309(c) ; and

(D) providing the Secretary such other assistance as the Secretary deems appropriate.

(c) CONSULTATION.—In carrying out its duties under subsection (b), the Advisory Council shall consult with the Chair of the Council on Environmental Quality and the heads of appropriate Federal agencies, including the Secretary of Commerce, the Secretary of Energy, the Secretary of Health and Human Services, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and the Administrator of the General Services Administration (through the Office of Federal High-Performance Green Buildings).

In the table of contents in section 1(b), after the item relating to section 313, insert the following:

Sec. 314. Advisory Council on Green, High-Performing Schools.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ROE OF TENNESSEE, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

After section 313, insert the following:

**SEC. 314. EVALUATION.**

(a) EVALUATION.—

(1) IN GENERAL.—The Secretary shall enter into an agreement with the Institute of Educational Sciences of the Department of Education to evaluate the impact of projects funded under this Act on student academic achievement, including a comparison of students attending public schools receiving funding under this Act with students attending public schools that are not receiving such funding.

(2) RESEARCH DESIGN; DISSEMINATION.—The Secretary, through a grant, contract, or cooperative agreement, shall—

(A) ensure that the evaluation described in paragraph (1) is conducted using the strongest possible research design for determining the effectiveness of the projects funded under this Act; and

(B) disseminate information on the impact of the projects in increasing the academic achievement of students.

(b) REPORT.—Not later than 1 year after the final year for which a grant is made under this Act, the Secretary shall submit to the Committee on Appropriations, and the Committee on Education and Labor, of the House of Representatives, and the Committee on Appropriations, and the Committee on Health, Education, Labor, and Pensions, of the Senate, a report on the results of the evaluation described in subsection (a).

(c) PUBLIC AVAILABILITY.—Following the submission of the report under subsection (b), all reports and underlying data gathered pursuant to this section shall be made available, in a timely manner, to the public upon request.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to permit the disclosure of any personally identifiable information regarding a student, except to the parents of the student.

(e) LIMIT ON AMOUNT EXPENDED.—The amount expended by the Secretary to carry out this section for a fiscal year shall not exceed 0.5 percent of the total amount appropriated to carry out this Act for such fiscal year.

In the table of contents in section 1(b), after the item relating to section 313, insert the following:

Sec. 314. Evaluation.

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5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ELLSWORTH OF INDIANA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 309, redesignate subsection (c) as subsection (d).

In section 309, insert after subsection (b) the following:

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a local educational agency from using sustainable, domestic hardwood lumber as ascertained through the forest inventory and analysis program of the Forest Service of the Department of Agriculture under the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1641 et seq.) for public school modernization, renovation, repairs, or construction.

In section 310(a)(5)(C)(ii), insert “and renewable” after “sustainable”.

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6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FLAKE OF ARIZONA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 311, add at the end the following:

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

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7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GIFFORDS OF ARIZONA, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

In the table of contents in section 1(b) of the bill, add at the end the following:

Sec. 314. Education regarding projects.

At the end of the bill, add the following:

**SEC. 314. EDUCATION REGARDING PROJECTS.**

A local educational agency receiving funds under this Act may encourage schools at which projects are undertaken with such funds to educate students about the project, including, as appropriate, the functioning of the project and its environmental, energy, sustainability, and other benefits.

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8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE REICHERT OF WASHINGTON, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 103(3), before the semicolon at the end, insert the following: “and installing or upgrading technology to ensure that schools are able to respond to emergencies such as acts of terrorism, campus violence, and natural disasters”.

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9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MAFFEI OF NEW YORK, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In the table of contents in section 1(b) of the bill, add at the end the following:

Sec. 314. Job Corps.

Sec. 315. Junior and community college students.

At the end of the bill, add the following:

**SEC. 314. JOB CORPS.**

The Secretary of Education, in consultation with the Secretary of Labor, shall work with recipients of funds under this Act to promote appropriate opportunities for individuals enrolled in the Job Corps program carried out under subtitle C of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2881 et seq.) to gain employment experience on modernization, renovation, repair, and construction projects funded under this Act.

**SEC. 315. JUNIOR AND COMMUNITY COLLEGE STUDENTS.**

The Secretary of Education, in consultation with the Secretary of Labor, shall work with recipients of funds under this Act to promote appropriate opportunities for individuals enrolled in a junior or community college (as defined in section 312(f) of the Higher Education Act of 1965 (20 U.S.C. 1088(f))) certificate or degree program relating to projects described in section 309(a) to gain employment experience working on such projects funded under this Act.

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10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BRIGHT OF ALABAMA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 102(a), add at the end the following:

(3) DISTRESSED AREAS AND NATURAL DISASTERS.—From the amount appropriated to carry out this title for each fiscal year pursuant to section 311(a), the Secretary shall reserve 5 percent of such amount for grants to—

(A) local educational agencies serving geographic areas with significant economic distress, to be used consistent with the purpose described in section 101 and the allowable uses of funds described in section 103; and

(B) local educational agencies serving geographic areas recovering from a natural disaster, to be used consistent with the purpose described in section 201 and the allowable uses of funds described in section 203.

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11. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GRIFFITH OF ALABAMA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 102(b)(2)(C)(v) of the bill, strike “air quality,” and insert “air quality (including with reference to reducing the incidence and effects of asthma and other respiratory illnesses),”.

In section 103(12), strike “through (11)” and insert “through (12)”.

In section 103, redesignate paragraphs (11) and (12) as paragraphs (12) and (13), respectively.

In section 103, insert after paragraph (10) the following:

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

In section 310(a)(5)(D) of the bill, after “quality,” insert “student and staff health (including with reference to reducing the incidence and effects of asthma and other respiratory illnesses),”.

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12. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HEINRICH OF NEW MEXICO, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 103(12), strike “through (11)” and insert “through (12)”.

In section 103, redesignate paragraphs (11) and (12) as paragraphs (12) and (13), respectively.

In section 103, insert after paragraph (10) the following:

(11) upgrading or installing recreational structures, including physical education facilities for students, made from post consumer recovered materials in accordance with the comprehensive procurement guidelines prepared by the Administrator of the Environmental Protection Agency under section 6002(e) of the Solid Waste Disposal Act (42 U.S.C. 6962(e));

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13. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LUJÁN OF NEW MEXICO, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 103(12), strike “through (11)” and insert “through (12)”.

In section 103, redesignate paragraphs (11) and (12) as paragraphs (12) and (13), respectively.

In section 103, insert after paragraph (10) the following: S6602

(11) creating greenhouses, gardens (including trees), and other facilities for environmental, scientific, or other educational purposes, or to produce energy savings;

14. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SCHRADER OF OREGON, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In the table of contents of the bill, add at the end the following:  
Sec. 314. GAO study.

At the end of the bill, add the following:

**SEC. 314. GAO STUDY.**

Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study to determine, and report to the Congress on, the extent and types of projects in keeping with the uses of funds authorized under this Act being undertaken in schools around the United States, the geographic distribution of green, high-performing schools in the United States, including by urban, suburban, and rural areas, and the relative access to such schools of the demographic groups described in section 1111(b)(2)(C)(v) of the Elementary and Secondary Education Act of 1965 (20 USC 6311(b)(2)(C)(v)).