

112TH CONGRESS  
1ST SESSION

# S. 1566

To amend the Elementary and Secondary Education Act of 1965 regarding public charter schools.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 2011

Mr. KIRK (for himself, Mr. ALEXANDER, Mr. BURR, Mr. ISAKSON, Mr. MCCAIN, Mr. ROBERTS, Mr. RUBIO, and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Elementary and Secondary Education Act of 1965 regarding public charter schools.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Empowering Parents  
5 through Quality Charter Schools Act”.

6 **SEC. 2. REFERENCES.**

7 Except as otherwise specifically provided, whenever in  
8 this Act a section or other provision is amended or re-  
9 pealed, such amendment or repeal shall be considered to

1 be made to that section or other provision of the Elemen-  
2 tary and Secondary Education Act of 1965 (20 U.S.C.  
3 6301 et seq.).

4 **SEC. 3. PURPOSE.**

5 Section 5201 (20 U.S.C. 7221) is amended to read  
6 as follows:

7 **“SEC. 5201. PURPOSE.**

8 “It is the purpose of this subpart to—

9 “(1) provide financial assistance for the plan-  
10 ning, program design, and initial implementation of  
11 charter schools;

12 “(2) expand the number of high-quality charter  
13 schools available to students across the Nation;

14 “(3) evaluate the impact of such schools on stu-  
15 dent achievement, families, and communities, and  
16 share best practices between charter schools and  
17 other public schools;

18 “(4) encourage States to provide support to  
19 charter schools for facilities financing in an amount  
20 more nearly commensurate to the amount the States  
21 have typically provided for traditional public schools;

22 “(5) improve student services to increase oppor-  
23 tunities for students who are children with disabil-  
24 ities, English language learners, and other tradition-  
25 ally underserved students to attend charter schools

1 and meet challenging State academic achievement  
2 standards; and

3 “(6) support efforts to strengthen the charter  
4 school authorizing process to improve performance  
5 management, including transparency, monitoring,  
6 and evaluation of such schools.”.

7 **SEC. 4. PROGRAM AUTHORIZED.**

8 Section 5202 (20 U.S.C. 7221a) is amended to read  
9 as follows:

10 **“SEC. 5202. PROGRAM AUTHORIZED.**

11 “(a) IN GENERAL.—The Secretary is authorized to  
12 carry out a charter school program that supports charter  
13 schools that serve elementary school and secondary school  
14 students by—

15 “(1) supporting the startup, replication, and ex-  
16 pansion of charter schools;

17 “(2) assisting charter schools in accessing cred-  
18 it to acquire and renovate facilities for school use;  
19 and

20 “(3) carrying out national activities to sup-  
21 port—

22 “(A) charter school development;

23 “(B) the dissemination of best practices of  
24 charter schools for all schools; and

1           “(C) the evaluation of the impact of the  
2           program on schools participating in the pro-  
3           gram.

4           “(b) FUNDING ALLOTMENT.—From the amount  
5           made available under section 5211 for a fiscal year, the  
6           Secretary shall—

7           “(1) reserve 15 percent to support charter  
8           school facilities assistance under section 5204;

9           “(2) reserve not more than 5 percent to carry  
10          out national activities under section 5205; and

11          “(3) use the remaining amount after the Sec-  
12          retary reserves funds under paragraphs (1) and (2)  
13          to carry out section 5203.

14          “(c) PRIOR GRANTS AND SUBGRANTS.—The recipi-  
15          ent of a grant or subgrant under this subpart, as such  
16          subpart was in effect on the day before the date of enact-  
17          ment of the Empowering Parents through Quality Charter  
18          Schools Act, shall continue to receive funds in accordance  
19          with the terms and conditions of such grant or subgrant.”.

20       **SEC. 5. GRANTS TO SUPPORT HIGH-QUALITY CHARTER**  
21                               **SCHOOLS.**

22          Section 5203 (20 U.S.C. 7221b) is amended to read  
23          as follows:

1 **“SEC. 5203. GRANTS TO SUPPORT HIGH-QUALITY CHARTER**  
2 **SCHOOLS.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) CHARTER MANAGEMENT ORGANIZATION.—

5 The term ‘charter management organization’ means  
6 a nonprofit organization that operates, manages, or  
7 oversees multiple charter schools by centralizing or  
8 sharing certain functions and resources among  
9 schools, or a group or consortium of such organiza-  
10 tions.

11 “(2) ELIGIBLE ENTITY.—The term ‘eligible en-  
12 tity’ means—

13 “(A) a State entity;

14 “(B) an authorized public chartering agen-  
15 cy;

16 “(C) a local educational agency; or

17 “(D) a charter management organization.

18 “(3) STATE ENTITY.—The term ‘State entity’  
19 means—

20 “(A) a State educational agency;

21 “(B) a State charter school board; or

22 “(C) a Governor of a State.

23 “(b) PROGRAM AUTHORIZED.—From the amount re-  
24 served under section 5202(b)(3), the Secretary shall  
25 award grants, on a competitive basis, to eligible entities  
26 to enable—

1           “(1) eligible entities described in subparagraph  
2 (A), (B), or (C) of subsection (a)(2) to—

3           “(A) award subgrants to eligible appli-  
4 cants—

5           “(i) to open new charter schools;

6           “(ii) to open replicable, high-quality  
7 charter school models; or

8           “(iii) to expand high-quality charter  
9 schools; and

10          “(B) provide technical assistance to eligible  
11 applicants and authorized public chartering  
12 agencies in carrying out the activities described  
13 in subparagraph (A) and work with authorized  
14 public chartering agencies in the State to im-  
15 prove authorizing quality; or

16          “(2) eligible entities described in subparagraph  
17 (B), (C), or (D) of subsection (a)(2) to open new  
18 charter schools or replicable high-quality charter  
19 school models or to expand high-quality charter  
20 schools.

21          “(c) USES OF FUNDS.—

22          “(1) SPECIAL RULE FOR SUBGRANTING ENTI-  
23 TIES.—An eligible entity receiving a grant under  
24 subsection (b)(1) shall—

1           “(A) use 90 percent of the grant funds to  
 2           carry out subsection (b)(1)(A), in accordance  
 3           with the quality charter school program de-  
 4           scribed in the entity’s application approved pur-  
 5           suant to subsection (g); and

6           “(B) reserve 10 percent of such funds to  
 7           carry out the activities described in subsection  
 8           (b)(1)(B), of which not more than 30 percent  
 9           may be used for administrative costs which may  
 10          include technical assistance.

11          “(2) CONTRACTS AND GRANTS.—An eligible en-  
 12          tity may use a grant received under this section to  
 13          carry out the activities described in subsection (b)  
 14          directly or through grants, contracts, or cooperative  
 15          agreements.

16          “(d) PROGRAM PERIODS; PEER REVIEW; DIVERSITY  
 17          OF PROJECTS.—

18                 “(1) PROGRAM PERIODS.—

19                         “(A) GRANTS.—A grant awarded by the  
 20                         Secretary to an eligible entity under this section  
 21                         shall be for a period of 5 years.

22                         “(B) SUBGRANTS.—A subgrant awarded  
 23                         by an eligible entity under this section shall be  
 24                         for a period of not more than 5 years, of which

1 an eligible applicant may use not more than 18  
2 months for planning and program design.

3 “(2) PEER REVIEW.—The Secretary, and each  
4 eligible entity awarding subgrants under this section,  
5 shall use a peer review process to review applications  
6 for assistance under this section.

7 “(3) DIVERSITY OF PROJECTS.—Each eligible  
8 entity awarding subgrants under this section shall  
9 award subgrants in a manner that, to the extent  
10 practicable and applicable, ensures that such sub-  
11 grants—

12 “(A) are distributed throughout different  
13 areas, including urban, suburban, and rural  
14 areas; and

15 “(B) will assist charter schools rep-  
16 resenting a variety of educational approaches.

17 “(e) LIMITATIONS.—

18 “(1) GRANTS.—An eligible entity may not re-  
19 ceive more than 1 grant under this section for a 5-  
20 year period, unless the eligible entity demonstrates  
21 to the Secretary that, for each charter school sup-  
22 ported under the first grant, the education results,  
23 in the areas described in subparagraphs (A) and (D)  
24 of section 5210(6), for the students enrolled in the



1 charter school have improved for not less than 3  
2 consecutive years during the grant period.

3 “(2) SUBGRANTS.—An eligible applicant may  
4 not receive more than 1 subgrant under this section  
5 per charter school for a 5-year period.

6 “(f) APPLICATIONS.—An eligible entity desiring to  
7 receive a grant under this section shall submit an applica-  
8 tion to the Secretary at such time and in such manner  
9 as the Secretary may require. The application shall include  
10 the following:

11 “(1) A description of the entity’s objectives in  
12 running a quality charter school program under this  
13 section and how the objectives of the program will  
14 be carried out, including—

15 “(A) a description of how the entity will—

16 “(i) support both new charter school  
17 startup and the expansion and replication  
18 of high-quality charter school models;

19 “(ii) will work with charter schools to  
20 promote inclusion of all students and sup-  
21 port all students once they are enrolled to  
22 promote retention;

23 “(iii) will work with charter schools on  
24 recruitment practices, including efforts to  
25 engage groups that may otherwise have

1 limited opportunities to participate in char-  
2 ter schools;

3 “(iv) will share best and promising  
4 practices between charter schools and  
5 other public schools;

6 “(v) will ensure the charter schools  
7 the eligible entity supports can meet the  
8 educational needs of their students, includ-  
9 ing students who are children with disabil-  
10 ities and English language learners; and

11 “(vi) will support efforts to increase  
12 quality initiatives, including meeting the  
13 quality authorizing elements described in  
14 paragraph (2)(D)(ii);

15 “(B) in the case of any eligible entity that  
16 will be awarding subgrants under subsection  
17 (b)(1)(A), a description of how the entity—

18 “(i) will inform eligible charter  
19 schools, developers, authorized public char-  
20 tering agencies, and other entities of the  
21 availability of funds under the program;

22 “(ii) will work with eligible applicants  
23 to ensure that the applicants access all  
24 Federal funds that they are eligible to re-  
25 ceive, and help the charter schools sup-

1 ported by the applicants and the students  
2 attending the charter schools—

3 “(I) participate in the Federal  
4 programs in which the schools and  
5 students are eligible to participate;  
6 and

7 “(II) receive the commensurate  
8 share of Federal funds the schools  
9 and students are eligible to receive  
10 under such programs;

11 “(iii) will ensure eligible applicants  
12 that receive a subgrant under the entity’s  
13 program are prepared to continue to oper-  
14 ate the charter schools receiving the  
15 subgrant funds once the funds have ex-  
16 pired;

17 “(iv) will support charter schools in  
18 local educational agencies with large num-  
19 bers of schools that are required to comply  
20 with the requirements of section 1116(b);  
21 and

22 “(v) will carry out the subgrant com-  
23 petition, including—

24 “(I) a description of the applica-  
25 tion each eligible applicant desiring to

1 receive a subgrant will submit, which  
2 application shall include—

3 “(aa) a description of the  
4 roles and responsibilities of eligi-  
5 ble applicants, partner organiza-  
6 tions, and management organiza-  
7 tions, including the administra-  
8 tive and contractual roles and re-  
9 sponsibilities; and

10 “(bb) a description of the  
11 quality controls agreed to be-  
12 tween the eligible applicant and  
13 the authorized public chartering  
14 agency involved, such as a con-  
15 tract or performance agreement,  
16 and how a school’s performance  
17 on the State’s academic account-  
18 ability system will be a primary  
19 factor for renewal; and

20 “(II) a description of how the en-  
21 tity will review applications;

22 “(C) except in the case of an eligible entity  
23 described in subsection (a)(3)(A), a description  
24 of how the entity—

1           “(i) will work with the State edu-  
2           cational agency and the charter schools in  
3           the State to maximize charter school par-  
4           ticipation in Federal and State programs  
5           for charter schools; and

6           “(ii) will work with the State edu-  
7           cational agency to adequately operate the  
8           entity’s program under this section, where  
9           applicable;

10          “(D) in the case of an eligible entity that  
11          is a State entity, a description of the extent to  
12          which the entity—

13               “(i) is able to meet and carry out the  
14               priorities described in subsection (g)(2);  
15               and

16               “(ii) is working to develop or  
17               strengthen a cohesive statewide system to  
18               support the opening of new charter schools  
19               and replicable, high-quality charter school  
20               models, and expanding high-quality charter  
21               schools; and

22          “(E) in the case of an entity that partners  
23          with an outside organization to carry out the  
24          entity’s quality charter school program, in

1 whole or in part, of the roles and responsibil-  
2 ities of this partner.

3 “(2) Assurances, including a description of how  
4 the assurances will be met, that—

5 “(A) the eligible entity, if awarding sub-  
6 grants, will—

7 “(i) consider applications from eligible  
8 charter schools, authorized public char-  
9 tering agencies, charter management orga-  
10 nizations, and other entities as applicable  
11 under State law; and

12 “(ii) provide adequate technical assist-  
13 ance to eligible applicants to—

14 “(I) meet the objectives described  
15 in clauses (ii) and (iii) of paragraph  
16 (1)(A) and subparagraph (B); and

17 “(II) enroll traditionally under-  
18 served students, including students  
19 who are children with disabilities and  
20 English language learners, to promote  
21 an inclusive education environment;

22 “(B) each charter school receiving funds  
23 under the entity’s program will have a high de-  
24 gree of autonomy over budget and operations;

1           “(C) the entity will support charter schools  
2 in meeting the educational needs of their stu-  
3 dents as described in paragraph (1)(A)(v);

4           “(D) in the case of an eligible entity that  
5 is a State entity—

6           “(i) the entity will ensure that the au-  
7 thorized public chartering agency of any  
8 charter school that receives funds under  
9 the entity’s program—

10           “(I) ensures that the charter  
11 school is meeting the obligations  
12 under this Act, part B of the Individ-  
13 uals with Disabilities Education Act,  
14 title VI of the Civil Rights Act of  
15 1964, and section 504 of the Rehabili-  
16 tation Act of 1973; and

17           “(II) adequately monitors and  
18 helps the schools in recruiting, enroll-  
19 ing, and meeting the needs of all stu-  
20 dents, including students who are chil-  
21 dren with disabilities and English lan-  
22 guage learners; and

23           “(ii) the entity will promote quality  
24 authorizing, such as through providing  
25 technical assistance, to support all author-

1            ized public chartering agencies in the State  
2            to improve the monitoring of their charter  
3            schools, including by—

4                    “(I) using annual performance  
5                    data, which may include graduation  
6                    rates and student growth data, as ap-  
7                    propriate, to measure the progress of  
8                    their schools toward becoming high-  
9                    quality charter schools; and

10                   “(II) reviewing the schools’ inde-  
11                   pendent, annual audits of financial  
12                   statements conducted in accordance  
13                   with generally accepted accounting  
14                   principles, and ensuring any such au-  
15                   dits are publically reported.

16                   “(3) A request and justification for waivers of  
17                   any Federal statutory or regulatory provisions that  
18                   the entity believes are necessary for the successful  
19                   operation of the charter schools that will receive  
20                   funds under the entity’s program under this section,  
21                   and a description of any State or local rules, gen-  
22                   erally applicable to public schools, that will be  
23                   waived, or otherwise not apply to such schools.

24                   “(g) SELECTION CRITERIA; PRIORITY.—



1           “(1) SELECTION CRITERIA.—The Secretary  
2 shall award grants to eligible entities under this sec-  
3 tion on the basis of the quality of the applications  
4 submitted under subsection (f), after taking into  
5 consideration—

6           “(A) the degree of flexibility afforded by  
7 the State’s public charter school law and, in the  
8 case of an eligible entity described in subsection  
9 (a)(2)(A), how the entity will work to maximize  
10 the flexibility provided to charter schools under  
11 the law;

12           “(B) the quality of the strategy for assess-  
13 ing achievement of the entity’s objectives under  
14 subsection (f)(1);

15           “(C) the likelihood that the eligible entity,  
16 and any eligible applicants receiving subgrants  
17 from the eligible entity, will meet those objec-  
18 tives and improve educational results for stu-  
19 dents;

20           “(D) the proposed number of new charter  
21 schools to be opened, and the number of high-  
22 quality charter schools to be replicated or ex-  
23 panded under the program;

1           “(E) in the case of an eligible entity  
2           awarding subgrants under subsection (b)(1)(A),  
3           the entity’s plan to—

4                   “(i) adequately monitor the eligible  
5                   applicants receiving subgrants under the  
6                   entity’s program;

7                   “(ii) work with the authorized public  
8                   chartering agencies involved to avoid dupli-  
9                   cation of work for the charter schools and  
10                  authorized public chartering agencies; and

11                  “(iii) provide adequate technical as-  
12                  sistance, as described in the entity’s appli-  
13                  cation under subsection (f), for the eligible  
14                  applicants receiving subgrants under the  
15                  entity’s program; and

16                  “(F) the entity’s plan to support quality  
17                  authorizing efforts in the State, consistent with  
18                  the objectives under subsection (f)(1).

19           “(2) PRIORITY.—In selecting State entities to  
20           receive a portion of the grants awarded under this  
21           section, the Secretary shall give priority to State en-  
22           tities to the extent that they meet the following cri-  
23           teria:

24                   “(A) In the case in which a State entity is  
25                   located in a State that allows an entity other

1 than the State educational agency to be an au-  
2 thorized public chartering agency or a State in  
3 which only a local educational agency may be  
4 an authorized public chartering agency, the  
5 State has an appeals process for the denial of  
6 an application for a charter school.

7 “(B) The State entity is located in a State  
8 that ensures equitable financing, as compared  
9 to traditional public schools, for charter schools  
10 and students in a prompt manner.

11 “(C) The State entity is located in a State  
12 that uses charter schools and best practices  
13 from charter schools to help improve struggling  
14 schools and local educational agencies.

15 “(D) The State entity partners with an or-  
16 ganization that has a demonstrated record of  
17 success in developing management organiza-  
18 tions to support the development of charter  
19 schools in the State.

20 “(E) The State entity supports charter  
21 schools that support at-risk students through  
22 activities such as dropout prevention or dropout  
23 recovery.

24 “(h) LOCAL USES OF FUNDS.—An eligible applicant  
25 receiving a subgrant under this section shall use such

1 funds to open new charter schools or replicable, high-quality  
2 ity charter school models, or expand existing high-quality  
3 charter schools.

4 “(i) REPORTING REQUIREMENTS.—Each eligible en-  
5 tity receiving a grant under this section shall submit to  
6 the Secretary, at the end of the third year of the 5-year  
7 grant period and at the end of such grant period, a report  
8 on—

9 “(1) the number of students served and, if ap-  
10 plicable, how many new students were served during  
11 each year of the grant period;

12 “(2) in the case of an eligible entity awarding  
13 subgrants under subsection (b)(1)(A), the number of  
14 subgrants awarded under this section to carry out  
15 each of the following:

16 “(A) the opening of new charter schools;

17 “(B) the opening of replicable, high-quality  
18 charter school models; and

19 “(C) the expansion of high-quality charter  
20 schools;

21 “(3) in the case of an eligible entity receiving  
22 a grant under subsection (b)(2), the number of new  
23 charter schools opened, the number of replicable  
24 high-quality charter school models opened, and the

1 number of high-quality charter schools expanded  
2 under the grant;

3 “(4) in the case of a State entity, the progress  
4 the State entity made toward meeting the priorities  
5 described in subsection (g)(2), as applicable;

6 “(5) how the entity met the objectives of the  
7 quality charter school program described in the enti-  
8 ty’s application under subsection (f);

9 “(6) how the entity complied with, and, if appli-  
10 cable, ensured that eligible applicants complied with,  
11 the assurances described in the entity’s application;  
12 and

13 “(7) how the entity worked with authorized  
14 public chartering agencies, including how the agen-  
15 cies worked with the management company or lead-  
16 ership of the schools in which the subgrants were  
17 awarded, if applicable.”.

18 **SEC. 6. FACILITIES FINANCING ASSISTANCE.**

19 Section 5204 (20 U.S.C. 7221c) is amended to read  
20 as follows:

21 **“SEC. 5204. FACILITIES FINANCING ASSISTANCE.**

22 “(a) GRANTS TO ELIGIBLE ENTITIES.—

23 “(1) IN GENERAL.—From the amount reserved  
24 under section 5202(b)(1), the Secretary shall award  
25 not less than 3 grants to eligible entities that have

1 applications approved under subsection (d) to dem-  
2 onstrate innovative methods of assisting charter  
3 schools to address the cost of acquiring, con-  
4 structing, and renovating facilities by enhancing the  
5 availability of loans or bond financing.

6 “(2) ELIGIBLE ENTITY DEFINED.—For pur-  
7 poses of this section, the term ‘eligible entity’  
8 means—

9 “(A) a public entity, such as a State or  
10 local governmental entity;

11 “(B) a private nonprofit entity; or

12 “(C) a consortium of entities described in  
13 subparagraphs (A) and (B).

14 “(b) GRANTEE SELECTION.—

15 “(1) EVALUATION OF APPLICATION.—The Sec-  
16 retary shall evaluate each application submitted  
17 under subsection (d), and shall determine whether  
18 the application is sufficient to merit approval.

19 “(2) DISTRIBUTION OF GRANTS.—The Sec-  
20 retary shall award not less than one grant to an eli-  
21 gible entity described in subsection (a)(2)(A), not  
22 less than one grant to an eligible entity described in  
23 subsection (a)(2)(B), and not less than one grant to  
24 an eligible entity described in subsection (a)(2)(C),  
25 if applications are submitted that permit the Sec-

1       retary to do so without approving an application  
2       that is not of sufficient quality to merit approval.

3       “(c) GRANT CHARACTERISTICS.—Grants under sub-  
4       section (a) shall be of a sufficient size, scope, and quality  
5       so as to ensure an effective demonstration of an innovative  
6       means of enhancing credit for the financing of charter  
7       school acquisition, construction, or renovation.

8       “(d) APPLICATIONS.—

9               “(1) IN GENERAL.—To receive a grant under  
10       subsection (a), an eligible entity shall submit to the  
11       Secretary an application in such form as the Sec-  
12       retary may reasonably require.

13              “(2) CONTENTS.—An application submitted  
14       under paragraph (1) shall contain—

15                   “(A) a statement identifying the activities  
16       proposed to be undertaken with funds received  
17       under subsection (a), including how the eligible  
18       entity will determine which charter schools will  
19       receive assistance, and how much and what  
20       types of assistance charter schools will receive;

21                   “(B) a description of the involvement of  
22       charter schools in the application’s development  
23       and the design of the proposed activities;

24                   “(C) a description of the eligible entity’s  
25       expertise in capital market financing;

1           “(D) a description of how the proposed ac-  
2           tivities will leverage the maximum amount of  
3           private-sector financing capital relative to the  
4           amount of government funding used and other-  
5           wise enhance credit available to charter schools,  
6           including how the entity will offer a combina-  
7           tion of rates and terms more favorable than the  
8           rates and terms that a charter school could re-  
9           ceive without assistance from the entity under  
10          this section;

11           “(E) a description of how the eligible enti-  
12          ty possesses sufficient expertise in education to  
13          evaluate the likelihood of success of a charter  
14          school program for which facilities financing is  
15          sought; and

16           “(F) in the case of an application sub-  
17          mitted by a State governmental entity, a de-  
18          scription of the actions that the entity has  
19          taken, or will take, to ensure that charter  
20          schools within the State receive the funding the  
21          charter schools need to have adequate facilities.

22          “(e) CHARTER SCHOOL OBJECTIVES.—An eligible  
23          entity receiving a grant under this section shall use the  
24          funds deposited in the reserve account established under  
25          subsection (f) to assist one or more charter schools to ac-



1 cess private sector capital to accomplish one or both of  
2 the following objectives:

3           “(1) The acquisition (by purchase, lease, dona-  
4 tion, or otherwise) of an interest (including an inter-  
5 est held by a third party for the benefit of a charter  
6 school) in improved or unimproved real property  
7 that is necessary to commence or continue the oper-  
8 ation of a charter school.

9           “(2) The construction of new facilities, includ-  
10 ing predevelopment costs, or the renovation, repair,  
11 or alteration of existing facilities, necessary to com-  
12 mence or continue the operation of a charter school.

13           “(f) RESERVE ACCOUNT.—

14           “(1) USE OF FUNDS.—To assist charter schools  
15 to accomplish the objectives described in subsection  
16 (e), an eligible entity receiving a grant under sub-  
17 section (a) shall, in accordance with State and local  
18 law, directly or indirectly, alone or in collaboration  
19 with others, deposit the funds received under sub-  
20 section (a) (other than funds used for administrative  
21 costs in accordance with subsection (g)) in a reserve  
22 account established and maintained by the eligible  
23 entity for this purpose. Amounts deposited in such  
24 account shall be used by the eligible entity for one  
25 or more of the following purposes:

1           “(A) Guaranteeing, insuring, and rein-  
2           suring bonds, notes, evidences of debt, loans,  
3           and interests therein, the proceeds of which are  
4           used for an objective described in subsection  
5           (e).

6           “(B) Guaranteeing and insuring leases of  
7           personal and real property for an objective de-  
8           scribed in subsection (e).

9           “(C) Facilitating financing by identifying  
10          potential lending sources, encouraging private  
11          lending, and other similar activities that di-  
12          rectly promote lending to, or for the benefit of,  
13          charter schools.

14          “(D) Facilitating the issuance of bonds by  
15          charter schools, or by other public entities for  
16          the benefit of charter schools, by providing  
17          technical, administrative, and other appropriate  
18          assistance (including the recruitment of bond  
19          counsel, underwriters, and potential investors  
20          and the consolidation of multiple charter school  
21          projects within a single bond issue).

22          “(2) INVESTMENT.—Funds received under this  
23          section and deposited in the reserve account estab-  
24          lished under paragraph (1) shall be invested in obli-

1 gations issued or guaranteed by the United States or  
2 a State, or in other similarly low-risk securities.

3 “(3) REINVESTMENT OF EARNINGS.—Any earn-  
4 ings on funds received under subsection (a) shall be  
5 deposited in the reserve account established under  
6 paragraph (1) and used in accordance with such  
7 subsection.

8 “(g) LIMITATION ON ADMINISTRATIVE COSTS.—An  
9 eligible entity may use not more than 2.5 percent of the  
10 funds received under subsection (a) for the administrative  
11 costs of carrying out its responsibilities under this section  
12 (excluding subsection (k)).

13 “(h) AUDITS AND REPORTS.—

14 “(1) FINANCIAL RECORD MAINTENANCE AND  
15 AUDIT.—The financial records of each eligible entity  
16 receiving a grant under subsection (a) shall be main-  
17 tained in accordance with generally accepted ac-  
18 counting principles and shall be subject to an annual  
19 audit by an independent public accountant.

20 “(2) REPORTS.—

21 “(A) GRANTEE ANNUAL REPORTS.—Each  
22 eligible entity receiving a grant under sub-  
23 section (a) annually shall submit to the Sec-  
24 retary a report of its operations and activities  
25 under this section.

1           “(B) CONTENTS.—Each annual report  
2 submitted under subparagraph (A) shall in-  
3 clude—

4           “(i) a copy of the most recent finan-  
5 cial statements, and any accompanying  
6 opinion on such statements, prepared by  
7 the independent public accountant review-  
8 ing the financial records of the eligible en-  
9 tity;

10           “(ii) a copy of any report made on an  
11 audit of the financial records of the eligible  
12 entity that was conducted under paragraph  
13 (1) during the reporting period;

14           “(iii) an evaluation by the eligible en-  
15 tity of the effectiveness of its use of the  
16 Federal funds provided under subsection  
17 (a) in leveraging private funds;

18           “(iv) a listing and description of the  
19 charter schools served during the reporting  
20 period, including the amount of funds used  
21 by each school, the type of project facili-  
22 tated by the grant, and the type of assist-  
23 ance provided to the charter schools;

24           “(v) a description of the activities car-  
25 ried out by the eligible entity to assist

1 charter schools in meeting the objectives  
2 set forth in subsection (e); and

3 “(vi) a description of the characteris-  
4 ties of lenders and other financial institu-  
5 tions participating in the activities under-  
6 taken by the eligible entity under this sec-  
7 tion (excluding subsection (k)) during the  
8 reporting period.

9 “(C) SECRETARIAL REPORT.—The Sec-  
10 retary shall review the reports submitted under  
11 subparagraph (A) and shall provide a com-  
12 prehensive annual report to Congress on the ac-  
13 tivities conducted under this section (excluding  
14 subsection (k)).

15 “(i) NO FULL FAITH AND CREDIT FOR GRANTEE  
16 OBLIGATION.—No financial obligation of an eligible entity  
17 entered into pursuant to this section (such as an obliga-  
18 tion under a guarantee, bond, note, evidence of debt, or  
19 loan) shall be an obligation of, or guaranteed in any re-  
20 spect by, the United States. The full faith and credit of  
21 the United States is not pledged to the payment of funds  
22 which may be required to be paid under any obligation  
23 made by an eligible entity pursuant to any provision of  
24 this section.

25 “(j) RECOVERY OF FUNDS.—

1           “(1) IN GENERAL.—The Secretary, in accord-  
2           ance with chapter 37 of title 31, United States  
3           Code, shall collect—

4                   “(A) all of the funds in a reserve account  
5                   established by an eligible entity under sub-  
6                   section (f)(1) if the Secretary determines, not  
7                   earlier than 2 years after the date on which the  
8                   eligible entity first received funds under this  
9                   section (excluding subsection (k)), that the eli-  
10                  gible entity has failed to make substantial  
11                  progress in carrying out the purposes described  
12                  in such subsection; or

13                  “(B) all or a portion of the funds in a re-  
14                  serve account established by an eligible entity  
15                  under subsection (f)(1) if the Secretary deter-  
16                  mines that the eligible entity has permanently  
17                  ceased to use all or a portion of the funds in  
18                  such account to accomplish any purpose de-  
19                  scribed in such subsection.

20           “(2) EXERCISE OF AUTHORITY.—The Secretary  
21           shall not exercise the authority provided in para-  
22           graph (1) to collect from any eligible entity any  
23           funds that are being properly used to achieve one or  
24           more of the purposes described in subsection (f)(1).

1           “(3) PROCEDURES.—The provisions of sections  
2           451, 452, and 458 of the General Education Provi-  
3           sions Act shall apply to the recovery of funds under  
4           paragraph (1).

5           “(4) CONSTRUCTION.—This subsection shall  
6           not be construed to impair or affect the authority of  
7           the Secretary to recover funds under part D of the  
8           General Education Provisions Act.

9           “(k) PER-PUPIL FACILITIES AID PROGRAM.—

10           “(1) DEFINITION OF PER-PUPIL FACILITIES AID  
11           PROGRAM.—In this subsection, the term ‘per-pupil  
12           facilities aid program’ means a program in which a  
13           State makes payments, on a per-pupil basis, to char-  
14           ter schools to provide the schools with financing—

15                   “(A) that is dedicated solely for funding  
16                   charter school facilities; or

17                   “(B) a portion of which is dedicated for  
18                   funding charter school facilities.

19           “(2) GRANTS.—

20                   “(A) IN GENERAL.—From the amount re-  
21                   served under section 5202(b)(1) remaining  
22                   after the Secretary makes grants under sub-  
23                   section (a), the Secretary shall make grants, on  
24                   a competitive basis, to States to pay for the  
25                   Federal share of the cost of establishing or en-

1           hancing, and administering per-pupil facilities  
2           aid programs.

3           “(B) PERIOD.—The Secretary shall award  
4           grants under this subsection for periods of not  
5           more than 5 years.

6           “(C) FEDERAL SHARE.—The Federal  
7           share of the cost described in subparagraph (A)  
8           for a per-pupil facilities aid program shall be  
9           not more than—

10                   “(i) 90 percent of the cost, for the  
11                   first fiscal year for which the program re-  
12                   ceives assistance under this subsection;

13                   “(ii) 80 percent in the second such  
14                   year;

15                   “(iii) 60 percent in the third such  
16                   year;

17                   “(iv) 40 percent in the fourth such  
18                   year; and

19                   “(v) 20 percent in the fifth such year.

20           “(D) STATE SHARE.—A State receiving a  
21           grant under this subsection may partner with 1  
22           or more organizations to provide up to 50 per-  
23           cent of the State share of the cost of estab-  
24           lishing or enhancing, and administering the per-  
25           pupil facilities aid program.



1           “(E) MULTIPLE GRANTS.—A State may  
2 receive more than 1 grant under this sub-  
3 section, so long as the amount of such funds  
4 provided to charter schools increases with each  
5 successive grant.

6           “(3) USE OF FUNDS.—

7           “(A) IN GENERAL.—A State that receives  
8 a grant under this subsection shall use the  
9 funds made available through the grant to es-  
10 tablish or enhance, and administer, a per-pupil  
11 facilities aid program for charter schools in the  
12 State of the applicant.

13           “(B) EVALUATIONS; TECHNICAL ASSIST-  
14 ANCE; DISSEMINATION.—From the amount  
15 made available to a State through a grant  
16 under this subsection for a fiscal year, the State  
17 may reserve not more than 5 percent to carry  
18 out evaluations, to provide technical assistance,  
19 and to disseminate information.

20           “(C) SUPPLEMENT, NOT SUPPLANT.—  
21 Funds made available under this subsection  
22 shall be used to supplement, and not supplant,  
23 State and local public funds expended to pro-  
24 vide per-pupil facilities aid programs, operations

1 financing programs, or other programs, for  
2 charter schools.

3 “(4) REQUIREMENTS.—

4 “(A) VOLUNTARY PARTICIPATION.—No  
5 State may be required to participate in a pro-  
6 gram carried out under this subsection.

7 “(B) STATE LAW.—

8 “(i) IN GENERAL.—To be eligible to  
9 receive a grant under this subsection, a  
10 State shall establish or enhance, and ad-  
11 minister, a per-pupil facilities aid program  
12 for charter schools in the State, that—

13 “(I) is specified in State law; and

14 “(II) provides annual financing,  
15 on a per-pupil basis, for charter  
16 school facilities.

17 “(ii) SPECIAL RULE.—A State that is  
18 required under State law to provide its  
19 charter schools with access to adequate fa-  
20 cility space may be eligible to receive a  
21 grant under this subsection if the State  
22 agrees to use the funds to develop a per-  
23 pupil facilities aid program consistent with  
24 the requirements of this subsection.

1           “(5) APPLICATIONS.—To be eligible to receive a  
2           grant under this subsection, a State shall submit an  
3           application to the Secretary at such time, in such  
4           manner, and containing such information as the Sec-  
5           retary may require.”.

6 **SEC. 7. NATIONAL ACTIVITIES.**

7           Section 5205 (20 U.S.C. 7221d) is amended to read  
8 as follows:

9 **“SEC. 5205. NATIONAL ACTIVITIES.**

10          “(a) IN GENERAL.—From the amount reserved  
11 under section 5202(b)(2), the Secretary shall—

12           “(1) use not less than 50 percent of such funds  
13 to award grants in accordance with subsection (b);  
14 and

15           “(2) use the remainder of such funds to—

16           “(A) disseminate technical assistance to  
17 State entities in awarding subgrants under sec-  
18 tion 5203(b)(1)(A);

19           “(B) disseminate best practices regarding  
20 public charter schools; and

21           “(C) evaluate the impact of the charter  
22 school program, including the impact on stu-  
23 dent achievement, carried out under this sub-  
24 part.

25          “(b) GRANTS.—

1           “(1) IN GENERAL.—From the amounts de-  
2           scribed in subsection (a)(1), the Secretary shall  
3           make grants, on a competitive basis, to eligible ap-  
4           plicants for the purpose of carrying out the activities  
5           described in section 5202(a)(1) and section 5203(b).

6           “(2) TERMS AND CONDITIONS.—Except as oth-  
7           erwise provided in this subsection, grants awarded  
8           under this subsection shall have the same terms and  
9           conditions as grants awarded under section 5203.

10           “(3) ELIGIBLE APPLICANT DEFINED.—For pur-  
11           poses of this subsection, the term ‘eligible applicant’  
12           means an eligible applicant that desires to open a  
13           charter school in a State that—

14                   “(A) did not apply for a grant under sec-  
15                   tion 5203;

16                   “(B) did not receive a grant under section  
17                   5203; or

18                   “(C) received a grant under section 5203  
19                   and is in the fourth or fifth year of the grant  
20                   period for such grant.

21           “(c) CONTRACTS AND GRANTS.—The Secretary may  
22           carry out any of the activities described in this section di-  
23           rectly or through grants, contracts, or cooperative agree-  
24           ments.”.

1 **SEC. 8. RECORDS TRANSFER.**

2 Section 5208 (20 U.S.C. 7221g) is amended by in-  
3 serting “as quickly as possible and” before “to the extent  
4 practicable”.

5 **SEC. 9. DEFINITIONS.**

6 Section 5210 (20 U.S.C. 7221i) is amended—

7 (1) in paragraph (1)—

8 (A) in subparagraph (K), by striking  
9 “and” at the end;

10 (B) in subparagraph (L), by striking the  
11 period at the end and inserting “; and”; and

12 (C) by adding at the end, the following:

13 “(M) may serve prekindergarten or post-  
14 secondary students.”;

15 (2) in paragraph (3), by striking “under section  
16 5203(d)(3)”; and

17 (3) by adding at the end the following:

18 “(5) EXPANSION OF A HIGH-QUALITY CHARTER  
19 SCHOOL.—The term ‘expansion of a high-quality  
20 charter school’ means a high-quality charter school  
21 that either significantly increases its enrollment or  
22 adds one or more grades to its school.

23 “(6) HIGH-QUALITY CHARTER SCHOOL.—The  
24 term ‘high-quality charter school’ means a charter  
25 school that—

1           “(A) shows evidence of strong academic re-  
2           sults;

3           “(B) has no significant issues in the areas  
4           of student safety, financial management, or  
5           statutory or regulatory compliance;

6           “(C) has demonstrated success in signifi-  
7           cantly increasing student academic achievement  
8           and attainment for all students served by char-  
9           ter schools; and

10           “(D) has demonstrated success in increas-  
11           ing student academic achievement for the sub-  
12           groups of students described in section  
13           1111(b)(2)(C)(v)(II).

14           “(7) **REPLICABLE, HIGH-QUALITY CHARTER**  
15           **SCHOOL MODEL.**—The term ‘replicable, high-quality  
16           charter school model’ means a high-quality charter  
17           school that will open a new campus under an exist-  
18           ing charter.”.

19 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

20           Section 5211 (20 U.S.C. 7221j) is amended to read  
21 as follows:

22 **“SEC. 5211. AUTHORIZATION OF APPROPRIATIONS.**

23           “‘There are authorized to be appropriated to carry out  
24 this subpart \$300,000,000 for fiscal year 2012 and each  
25 of the 5 succeeding fiscal years.’”.

1 **SEC. 11. CONFORMING AMENDMENTS.**

2 (a) REPEAL.—Subpart 2 of part B of title V (20  
3 U.S.C. 7223 et seq.) is repealed.

4 (b) TABLE OF CONTENTS.—The table of contents in  
5 section 2 is amended—

6 (1) by striking the item relating to section 5203  
7 and inserting the following:

“Sec. 5203. Grants to support high-quality charter schools.”;

8 and

9 (2) by striking the item relating to section 5204  
10 and inserting the following:

“Sec. 5204. Facilities financing assistance.”.

○