

112TH CONGRESS
1ST SESSION

S. 1566

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

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

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.”.

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