

112TH CONGRESS  
1ST SESSION

# S. 686

To amend the Elementary and Secondary Education Act of 1965 to improve public charter schooling by addressing quality issues.

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## IN THE SENATE OF THE UNITED STATES

MARCH 30, 2011

Ms. LANDRIEU (for herself, Mr. BENNET, Mr. CARPER, Mr. COONS, Mr. DURBIN, Mrs. HAGAN, and Mr. LIEBERMAN) 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 to improve public charter schooling by addressing quality issues.

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 “Charter School Quality  
5 Act of 2011”.

6 **SEC. 2. PURPOSE.**

7 Section 5201 of the Elementary and Secondary Edu-  
8 cation Act of 1965 (20 U.S.C. 7221) is amended—

1 (1) in paragraph (3), by striking “and” after  
2 the semicolon;

3 (2) in paragraph (4), by striking the period and  
4 inserting “; and”; and

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

6 “(5) promoting high-quality professional au-  
7 thorizing standards and practices.”.

8 **SEC. 3. PROGRAM AUTHORIZED.**

9 Section 5202 of the Elementary and Secondary Edu-  
10 cation Act of 1965 (20 U.S.C. 7221a) is amended—

11 (1) in subsection (c)(2)(C), by striking “section  
12 5204(f)(6)(B)” and inserting “section 5205”; and

13 (2) in subsection (e)—

14 (A) in paragraph (1), by striking “sub-  
15 paragraph (A), (B), or (C) of paragraph (3)”  
16 and inserting “subparagraph (A), (B), (C), (D),  
17 (E), (F), (G), (H), or (I) of paragraph (3)”;

18 (B) in paragraph (2), by inserting “en-  
19 sures that each authorized public chartering  
20 agency holds every charter school that the agen-  
21 cy oversees to student performance standards  
22 set forth in the charter school’s performance  
23 contract, holds each public chartering agency  
24 accountable under the evaluation system devel-

1           oped under paragraph (3)(G), and” after “that  
2           the State”; and

3                   (C) in paragraph (3), by adding at the end  
4           the following:

5                   “(D) The State has—

6                           “(i) a statewide authorized public  
7                           chartering agency with authority to—

8                                   “(I) offer a statewide authorizing  
9                                   option for charter applicants;

10                                   “(II) assume authorizing respon-  
11                                   sibilities from another authorizer that  
12                                   has been determined through a  
13                                   State’s authorizer oversight process,  
14                                   as described in subparagraph (G), to  
15                                   be underperforming; or

16                                   “(III) become the authorizer,  
17                                   upon appeal, for a school for which  
18                                   another authorizer has refused to ap-  
19                                   prove a charter application that the  
20                                   statewide authorized public chartering  
21                                   agency determines deserves to be au-  
22                                   thorized under the statewide author-  
23                                   ized public chartering agency’s own  
24                                   application process; and

1           “(ii) a funding mechanism in place to  
2           adequately support the operations of its  
3           statewide authorized public chartering  
4           agency.

5           “(E) The State works cooperatively with  
6           its authorized public chartering agency to  
7           streamline data collection and reporting and  
8           avoid duplicative reporting requirements.

9           “(F) The State ensures that authorized  
10          public chartering agencies follow high-quality  
11          standards that reflect research-based best prac-  
12          tices.

13          “(G) The State has developed a trans-  
14          parent process for accrediting, training, or eval-  
15          uating the effectiveness of the State’s author-  
16          ized public chartering agencies, or each author-  
17          ized public chartering agency in the State has  
18          implemented such a process, including—

19                 “(i) a process for annually reviewing  
20                 and periodically evaluating the perform-  
21                 ance of the authorized public chartering  
22                 agencies in the State in authorizing or ap-  
23                 proving public charter schools, including a  
24                 process that enables the authorized public  
25                 chartering agencies to respond to any

1 State concerns or deficiencies regarding  
2 such authorizing or approving; and

3 “(ii) any other necessary policies to  
4 ensure effective charter school authorizing  
5 in the State that are developed in conjunc-  
6 tion with the State’s charter school com-  
7 munity in accordance with the principles of  
8 quality charter school authorizing, as de-  
9 termined by the State in consultation with  
10 the charter school community and stake-  
11 holders.

12 “(H) The State’s authorizer evaluation  
13 process described in subparagraph (G) is acces-  
14 sible to the public via online methods that  
15 school leaders, policymakers, parents, and other  
16 stakeholders can easily understand. The evalua-  
17 tion system tracks each authorizer’s perform-  
18 ance over time and in determining each author-  
19 izer’s annual rating, examines such factors as  
20 the following:

21 “(i) The academic and financial (in-  
22 cluding annual audits) performance of all  
23 operating public charter schools overseen  
24 by the authorizer, according to the per-  
25 formance expectations for public charter

1 schools set forth in each charter as well as  
2 determined by the State standardized as-  
3 sements administered to all public  
4 schools and any additional testing mutually  
5 agreed upon between each school and au-  
6 thorizer clearly delineated in each school's  
7 charter.

8 “(ii) The status of each authorizer’s  
9 public charter school portfolio, identifying  
10 all public charter schools in each of the fol-  
11 lowing categories:

12 “(I) Approved (but not yet open).

13 “(II) Operating.

14 “(III) Renewed.

15 “(IV) Transferred.

16 “(V) Revoked.

17 “(VI) Not renewed.

18 “(VII) Voluntarily closed.

19 “(VIII) Never opened.

20 “(iii) Any additional factors necessary  
21 to ensure authorizers continually work to-  
22 wards building charter school quality.

23 “(I) The State has laws, policies, or proce-  
24 dures in place requiring that student academic  
25 achievement for all groups of students described

1 in section 1111(b)(2)(C)(v) be a primary factor  
 2 in authorizer decisions around charter school  
 3 approval, renewal, and revocation, and the  
 4 State has a record of, or demonstrated commit-  
 5 ment to, effective authorizer oversight and re-  
 6 voking or not renewing the charters of low-per-  
 7 forming charter schools.”.

8 **SEC. 4. IMPROVING SUBGRANT PROCEDURES AND AU-**  
 9 **THORIZER TRANSPARENCY.**

10 Section 5203 of the Elementary and Secondary Edu-  
 11 cation Act of 1965 (20 U.S.C. 7221b) is amended—

12 (1) in subsection (b)—

13 (A) in paragraph (2)(C), by striking “and”  
 14 after the semicolon;

15 (B) by redesignating paragraph (3) as  
 16 paragraph (4);

17 (C) by inserting after paragraph (2) the  
 18 following:

19 “(3) describe the criteria that the State edu-  
 20 cational agency will use to award subgrants to eligi-  
 21 ble applicants to ensure high-quality charter schools,  
 22 including through competitive subgrant competitions;  
 23 and”; and

1 (D) in paragraph (4) (as redesignated by  
2 subparagraph (B)), by striking subparagraph  
3 (D) and inserting the following:

4 “(D) a description of the administrative re-  
5 lationship between the charter school and the  
6 authorized public chartering agency, includ-  
7 ing—

8 “(i) how the school and authorizer will  
9 report publically the authorizing functions  
10 (such as approval, monitoring, and over-  
11 sight) provided by the authorized public  
12 chartering agency to the public charter  
13 schools authorized or approved by such  
14 agency, including the authorizer’s oper-  
15 ating costs and expenses detailed in annual  
16 audited financial statements that conform  
17 with generally accepted accounting prin-  
18 ciples; and

19 “(ii) how the services purchased (such  
20 as accounting, transportation, or data  
21 management and analysis) from the public  
22 chartering agency by the public charter  
23 schools authorized or approved by such  
24 agency will be reported publically, includ-



1                   ing an itemized accounting of the actual  
2                   costs of these services;” and

3                   (2) in subsection (d)(1), by striking “subsection  
4                   (b)(3)” and inserting “subsection (b)(4)”.

5 **SEC. 5. ADMINISTRATION.**

6                   Section 5204 of the Elementary and Secondary Edu-  
7                   cation Act of 1965 (20 U.S.C. 7221c) is amended—

8                   (1) in subsection (a)—

9                   (A) in paragraph (6), by striking “and”  
10                  after the semicolon;

11                  (B) in paragraph (7)—

12                   (i) by striking “subsection (f)(6)(B),”  
13                   and inserting “section 5205”; and

14                   (ii) by striking the period and insert-  
15                   ing “; and”; and

16                  (C) by adding at the end the following:

17                   “(8) the rigor of the State’s subgrant competi-  
18                   tion to ensure that subgrants are awarded only to  
19                   high-quality applicants that are likely to create high-  
20                   performing charter schools.”;

21                  (2) in subsection (b)(7), by striking “subsection  
22                  (f)(6)(B),” and inserting “section 5205”; and

23                  (3) in subsection (f)—

24                   (A) in paragraph (1), by striking “para-  
25                   graph (6)” and inserting “section 5205”; and

1 (B) by striking paragraph (6).

2 **SEC. 6. NATIONAL ACTIVITIES.**

3 Section 5205 of the Elementary and Secondary Edu-  
4 cation Act of 1965 (20 U.S.C. 7221d) is amended—

5 (1) in subsection (a), in the matter preceding  
6 paragraph (1), by striking “The Secretary shall re-  
7 serve for each fiscal year the greater of 5 percent or  
8 \$5,000,000 of the amount appropriated to carry out  
9 this subpart, except that in no fiscal year shall the  
10 total amount so reserved exceed \$10,000,000, to  
11 carry out the following activities:” and inserting  
12 “The Secretary shall reserve for each fiscal year the  
13 necessary sums from amounts appropriated to carry  
14 out this subpart, except that in no fiscal year shall  
15 the total amount so reserved exceed 15 percent of  
16 such amount appropriated, to carry out the following  
17 activities:”; and

18 (2) by adding at the end the following:

19 “(d) NATIONAL DISSEMINATION.—

20 “(1) IN GENERAL.—From amounts appro-  
21 priated to carry out this subpart for a fiscal year,  
22 the Secretary shall reserve not more than  
23 \$10,000,000 to award grants to entities to carry out  
24 activities under this subsection.

1           “(2) ELIGIBILITY.—In order to be eligible to  
2 receive a grant under this subsection, an entity  
3 shall—

4           “(A) be—

5           “(i) a charter school that has been in  
6 operation for not less than 3 consecutive  
7 years and has demonstrated overall suc-  
8 cess, including—

9           “(I) substantial progress in im-  
10 proving student academic achieve-  
11 ment;

12           “(II) high levels of parent satis-  
13 faction; and

14           “(III) the management and lead-  
15 ership necessary to overcome initial  
16 start-up problems and establish a  
17 thriving, financially viable charter  
18 school;

19           “(ii) a high-quality public chartering  
20 agency;

21           “(iii) a nonprofit entity with a track  
22 record of success in meeting the objective  
23 of this subsection; or

24           “(iv) a consortium of entities de-  
25 scribed in clauses (i), (ii), and (iii); and

1           “(B) submit an application to the Sec-  
2           retary at such time, in such manner, and con-  
3           taining such information as the Secretary may  
4           require.

5           “(3) CRITERIA FOR AWARDING GRANTS.—The  
6           Secretary shall award grants under this subsection  
7           on the basis of—

8                   “(A) the quality of the applicant and appli-  
9                   cation;

10                   “(B) the capacity of the applicant to exe-  
11                   cute the application; and

12                   “(C) the scale of the expected impact of  
13                   the application.

14           “(4) ACTIVITIES.—An entity that receives a  
15           grant under this subsection shall use funds received  
16           under the grant to assist other schools, authorized  
17           public chartering agencies, charter support organiza-  
18           tions, and eligible entities in the grant recipient’s  
19           State and in other States in adopting successful in-  
20           novations, or to disseminate information about inno-  
21           vations, through activities such as—

22                   “(A) assisting other entities with the plan-  
23                   ning, start-up, and improvement of 1 or more  
24                   new public schools, including charter schools, or  
25                   new authorized public chartering agencies;

1           “(B) developing partnerships designed to  
2           improve student academic achievement, includ-  
3           ing implementation and improvement plans for  
4           partnerships funded with dissemination grants;

5           “(C) developing systems or materials that  
6           promote increased student achievement and are  
7           based on successful practices at charter schools,  
8           authorized public chartering agencies, charter  
9           support organizations, or eligible entities;

10          “(D) conducting evaluations and devel-  
11          oping materials that document successful prac-  
12          tices at charter schools, authorized public char-  
13          tering agencies, charter support organizations,  
14          or eligible entities and that are designed to im-  
15          prove student performance in other schools; and

16          “(E) training, regarding the innovative  
17          practices developed at the original site, for per-  
18          sonnel that are adopting innovations or success-  
19          ful practices.”.

20 **SEC. 7. DEFINITIONS.**

21           Section 5210 of the Elementary and Secondary Edu-  
22           cation Act of 1965 (20 U.S.C. 7221i) is amended—

23           (1) in paragraph (1)—

24           (A) by striking subparagraph (I) and in-  
25           serting the following:

1           “(I) agrees to conduct an annual, inde-  
2           pendent, and timely financial audit that is filed  
3           with the charter school’s authorized public char-  
4           tering agency and carried out in accordance  
5           with applicable Federal and State require-  
6           ments;”;

7           (B) in subparagraph (K), by striking  
8           “and” after the semicolon;

9           (C) by striking subparagraph (L) and in-  
10          serting the following:

11          “(L) has a written, legally-binding per-  
12          formance contract or charter with an authorized  
13          public chartering agency in the State that—

14               “(i) includes a description of how stu-  
15               dent performance and growth will be meas-  
16               ured in the charter school pursuant to  
17               State assessments that are required of  
18               other schools and pursuant to any other  
19               assessments mutually agreeable to the au-  
20               thorized public chartering agency and the  
21               charter school;

22               “(ii) describes the obligations and re-  
23               sponsibilities of the school and of the au-  
24               thorized public chartering agency;

1 “(iii) identifies the material aspects of  
2 the charter school’s operations;

3 “(iv) describes the school’s edu-  
4 cational objectives and outcomes and how  
5 such objectives and outcomes will be meas-  
6 ured;

7 “(v) articulates the autonomies the  
8 charter school will have; and

9 “(vi) is negotiated and executed by 2  
10 separate legal entities, the charter school  
11 and the authorized public chartering agen-  
12 cy, capable of entering into and enforcing  
13 the contract or charter; and”;

14 (D) by adding at the end the following:

15 “(M) is governed by a governing board  
16 that is independent from the authorized public  
17 chartering agency and has autonomy over deci-  
18 sions, including matters concerning finance,  
19 personnel, scheduling, curriculum, and instruc-  
20 tion.”; and

21 (2) in paragraph (4)—

22 (A) in the heading, by inserting “OR AU-  
23 THORIZER” after “CHARTERING AGENCY”;

24 (B) by inserting “or authorizer” after  
25 “chartering agency”; and

1           (C) by adding after “charter school” the  
2 following: “and that uses student performance  
3 and growth, at the whole school level and for  
4 each subgroup described in section  
5 1111(b)(2)(C)(v) served by the school as a pri-  
6 mary factor when assessing the performance of  
7 charter schools and when determining whether  
8 to renew or revoke a school’s charter, in addi-  
9 tion to other criteria”.

○