113TH CONGRESS  
1ST SESSION  

S. 1083

To provide high-quality public charter school options for students by enabling such public charter schools to expand and replicate.

IN THE SENATE OF THE UNITED STATES

MAY 23, 2013

Mr. DURBIN (for himself and Mr. KIRK) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide high-quality public charter school options for students by enabling such public charter schools to expand and replicate.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “All Students Achieving through Reform Act of 2013” or “All-STAR Act of 2013”.

SEC. 2. CHARTER SCHOOL EXPANSION AND REPLICATION.

(a) IN GENERAL.—Subpart 1 of part B of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7221 et seq.) is amended—
(1) by striking section 5211;
(2) by redesignating section 5210 as section 5211; and
(3) by inserting after section 5209 the following:

“SEC. 5210. CHARTER SCHOOL EXPANSION AND REPLICA-
TION.

“(a) PURPOSE.—It is the purpose of this section to
support State efforts to expand and replicate high-quality
public charter schools to enable such schools to serve addi-
tional students, with a priority to serve those students who
attend identified schools or schools with a low graduation
rate.

“(b) SUPPORT FOR PROVEN CHARTER SCHOOLS AND
INCREASING THE SUPPLY OF HIGH-QUALITY CHARTER
SCHOOLS.—

“(1) GRANTS AUTHORIZED.—From the
amounts appropriated under section 5200 for any
fiscal year, the Secretary shall award grants, on a
competitive basis, to eligible entities to enable the el-
igible entities to make subgrants to eligible public
charter schools under subsection (e)(1) and carry
out the other activities described in subsection (e),
in order to allow the eligible public charter schools
to serve additional students through the expansion
and replication of such schools.

“(2) AMOUNT OF GRANTS.—In determining the
grant amount to be awarded under this subsection
to an eligible entity, the Secretary shall consider—

“(A) the number of eligible public charter
schools under the jurisdiction or in the service
area of the eligible entity that are operating;

“(B) the number of new openings for stu-
dents that could be created in such schools with
such grant;

“(C) the number of students attending
identified schools or schools with a low gradua-
tion rate in the State or area where an eligible
entity intends to replicate or expand eligible
public charter schools; and

“(D) the success of the eligible entity in
overseeing public charter schools and the likeli-
hood of continued or increased success because
of the grant under this section.

“(3) DURATION OF GRANTS.—

“(A) IN GENERAL.—A grant under this
section shall be for a period of not more than
3 years, except that—
“(i) an eligible entity receiving such grant may, at the discretion of the Secretary, continue to expend grant funds after the end of the grant period; and

“(ii) the Secretary may renew such grant for 1 additional 2-year period, if the Secretary determines that the eligible entity is meeting the goals of the grant.

“(B) Subsequent Grants.—An eligible entity that has received a grant under this section may receive subsequent grants under this section.

“(c) Application Requirements.—

“(1) Application Requirements.—To be considered for a grant under this section, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

“(2) Contents.—The application described in paragraph (1) shall include, at a minimum, the following:

“(A) Record of Success.—Documentation of the record of success of the eligible entity in overseeing or operating public charter schools, including—
“(i) the performance of the students of such public charter schools on the student academic assessments described in section 1111(b)(3) of the State where such school is located (including a measurement of the students’ average academic longitudinal growth at each such school, if such measurement is required by a Federal or State law applicable to the entity), disaggregated by—

“(I) economic disadvantage;

“(II) race and ethnicity;

“(III) disability status; and

“(IV) status as a student with limited English proficiency;

“(ii)(I) the status of such schools in making adequate yearly progress, as defined in a State’s plan in accordance with section 1111(b)(2)(C) or, in the case of schools for which the Secretary has waived the applicability of such section pursuant to the authority under section 9401, the status of such schools under the accountability standards authorized by such waiver; and
“(II) the status of such schools as identified schools;

“(iii) documentation of demonstrated success by such public charter schools in closing historic achievement gaps between groups of students; and

“(iv) in the case of such public charter schools that are secondary schools—

“(I) the number of students enrolled in dual enrollment, Advanced Placement, International Baccalaureate, or other college level courses;

“(II) the number of students earning a professional certificate or license through the school;

“(III) student graduation rates;

and

“(IV) rates of student acceptance, enrollment, and persistence in institutions of higher education, where possible.

“(B) PLAN.—A plan for—

“(i) replicating and expanding eligible public charter schools operated or overseen by the eligible entity;
“(ii) identifying eligible public charter schools, or networks of eligible public charter schools, to receive subgrants under this section;

“(iii) increasing the number of openings in eligible public charter schools for students attending identified schools and schools with a low graduation rate;

“(iv) ensuring that eligible public charter schools receiving a subgrant under this section enroll students through a random lottery for admission, unless the charter school is using the subgrant to expand the school to serve additional grades, in which case such school may reserve seats in the additional grades for—

“(I) each student enrolled in the grade preceding each such additional grade;

“(II) siblings of students enrolled in the charter school, if such siblings desire to enroll in such grade; and

“(III) children of the charter school’s founders, staff, or employees;
“(v)(I) in the case of an eligible entity described in subparagraph (A) or (C) of subsection (k)(4), the manner in which the eligible entity will work with identified schools and schools with a low graduation rate that are eligible to enroll students in a public charter school receiving a subgrant under this section and that are under the eligible entity’s jurisdiction, and the local educational agencies serving such schools (as applicable), to—

“(aa) engage in community outreach, provide information in a language that the parents can understand, and communicate with parents of students at identified schools and schools with a low graduation rate who are eligible to attend a public charter school receiving a subgrant under this section about the opportunity to enroll in or transfer to such school, in a manner consistent with section 444 of the General Education Provisions Act (commonly known as
the ‘Family Educational Rights and Privacy Act of 1974’); and

“(bb) ensure that a student can transfer to an eligible public charter school if the public charter school such student was attending in the previous school year is no longer an eligible public charter school; and

“(II) in the case of an eligible entity described in subparagraph (B) or (D) of subsection (k)(4), the manner in which the eligible entity will work with the local educational agency to carry out the activities described in items (aa) and (bb) of subclause (I);

“(vi) disseminating to public schools under the jurisdiction or in the service area of the eligible entity, in a manner consistent with section 444 of the General Education Provisions Act (commonly known as the ‘Family Educational Rights and Privacy Act of 1974’), the best practices, programs, or strategies learned by awarding subgrants to eligible public charter schools under this section, with par-
ticular emphasis on the best practices with respect to—

“(I) focusing on closing achievement gaps; or

“(II) successfully addressing the education needs of low-income students; and

“(vii) in the case of an eligible entity described in subsection (k)(4)(D)—

“(I) supporting the short-term and long-term success of the proposed project, by—

“(aa) developing a multi-year financial and operating model for the eligible entity; and

“(bb) including, with the plan, evidence of the demonstrated commitment of current partners, as of the time of the application, for the proposed project and of broad support from stakeholders critical to the project’s long-term success;
“(II) closing public charter schools that do not meet acceptable standards of performance; and

“(III) achieving the objectives of the proposed project on time and within budget, which shall include the use of clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

“(C) CHARTER SCHOOL INFORMATION.—

The number of—

“(i) eligible public charter schools that are operating in the State in which the eligible entity intends to award subgrants under this section;

“(ii) public charter schools approved to open or likely to open during the grant period in such State;

“(iii) available openings in eligible public charter schools in such State that could be created through the replication or expansion of such schools if the grant is awarded to the eligible entity;
“(iv) students on public charter school waiting lists (if such lists are available) in—

“(I) the State in which the eligible entity intends to award subgrants under this section; and

“(II) each local educational agency serving an eligible public charter school that may receive a subgrant under this section from the eligible entity; and

“(v) students, and the percentage of students, in a local educational agency who are attending eligible public charter schools that may receive a subgrant under this section from the eligible entity.

“(D) TRADITIONAL PUBLIC SCHOOL INFORMATION.—In the case of an eligible entity described in subparagraph (A) or (C) of subsection (k)(4), a list of the following schools under the jurisdiction of the eligible entity, including the name and location of each such school, the number and percentage of students under the jurisdiction of the eligible entity who are attending such school, and such demo-
graphic and socioeconomic information as the Secretary may require:

“(i) Identified schools.

“(ii) Schools with a low graduation rate.

“(E) ASSURANCE.—In the case of an eligible entity described in subsection (k)(4)(A), an assurance that the eligible entity will include information (in a language that the parents can understand) about the eligible public charter schools receiving subgrants under this section—

“(i) in the notifications provided under section 1116(c)(6) to parents of each student enrolled in a school served by a local educational agency identified for school improvement or corrective action under paragraph (1) or (7) of section 1116(c); or

“(ii) in any case where the requirements under section 1116(c) have been waived in whole or in part by the Secretary under the authority of section 9401, to parents of each student enrolled in a school served by a local educational agency that has been identified as in need of addi-
tional assistance under any accountability
system established under such section.

“(3) MODIFICATIONS.—The Secretary may
modify or waive any information requirement under
paragraph (2)(C) for an eligible entity that dem-
onstrates that the eligible entity cannot reasonably
obtain the information.

“(d) PRIORITIES FOR AWARDING GRANTS.—

“(1) IN GENERAL.—In awarding grants under
this section, the Secretary shall give priority to an
eligible entity that—

“(A) serves or plans to serve a large per-
centage of low-income students from identified
schools or public schools with a low graduation
rate;

“(B) oversees or plans to oversee one or
more eligible public charter schools;

“(C) provides evidence of effective moni-
toring of the academic success of students who
attend public charter schools under the jurisdic-
tion of the eligible entity;

“(D) has established goals, objectives, and
outcomes for the proposed project that are
clearly specified, measurable, and attainable;
“(E) in the case of an eligible entity that is a local educational agency under State law, has a cooperative agreement under section 1116(b)(11); and

“(F) is under the jurisdiction of, or plans to award subgrants under this section in, a State that—

“(i) ensures that all public charter schools (including such schools served by a local educational agency and such schools considered to be a local educational agency under State law) receive, in a timely manner, the Federal, State, and local funds to which such schools are entitled under applicable law;

“(ii) provides funding (such as capital aid distributed through a formula or access to revenue generated bonds, and including funding for school facilities) on a per-pupil basis to public charter schools commensurate with the amount of funding (including funding for school facilities) provided to traditional public schools;

“(iii) provides strong evidence of support for public charter schools and has in
place innovative policies that support academically successful charter school growth;

“(iv) authorizes public charter schools to offer early childhood education programs, including prekindergarten, in accordance with State law;

“(v) authorizes or allows public charter schools to serve as school food authorities;

“(vi) ensures that each public charter school in the State—

“(I) has a high degree of autonomy over the public charter school’s budget and expenditures;

“(II) has a written performance contract with an authorized public chartering agency that ensures that the school has an independent governing board with a high degree of autonomy; and

“(III) in the case of an eligible public charter school receiving a subgrant under this section, amends its charter to reflect the growth activities described in subsection (e);
“(vii) has an appeals process for the
denial of an application for a public charter school;

“(viii) provides that an authorized
public chartering agency that is not a local educational agency, such as a State chartering board, is available for each individual or entity seeking to operate a public charter school pursuant to such State law;

“(ix) allows any public charter school to be a local educational agency in accordance with State law;

“(x) ensures that each authorized public chartering agency in the State submits annual reports to the State educational agency, and makes such reports available to the public, on the performance of the schools authorized or approved by such public chartering agency, which reports shall include—

“(I) the authorized public chartering agency’s strategic plan for authorizing or approving public charter schools and any progress toward
achieving the objectives of the strategic plan;

“(II) the authorized public chartering agency’s policies for authorizing or approving public charter schools, including how such policies examine a school’s—

“(aa) financial plan and policies, including financial controls and audit requirements;

“(bb) plan for identifying and successfully (in compliance with all applicable laws and regulations) serving students with disabilities, students who are English language learners, students who are academically behind their peers, and gifted students; and

“(cc) capacity and capability to successfully launch and subsequently operate a public charter school, including the backgrounds of the individuals applying to the agency to operate such school
and any record of such individuals operating a school;

“(III) the authorized public chartering agency’s policies for renewing, not renewing, and revoking a public charter school’s charter, including the role of student academic achievement in such decisions;

“(IV) the authorized public chartering agency’s transparent, timely, and effective process for closing down academically unsuccessful public charter schools;

“(V) the academic performance of each operating public charter school authorized or approved by the authorized public chartering agency, including the information reported by the State in the State annual report card under section 1111(h)(1)(C) for such school (or any similar reporting requirement authorized by the Secretary through a waiver under section 9401);
“(VI) the status of the authorized public chartering agency’s charter school portfolio, by identifying all charter schools served by the public chartering agency in each of the following categories: approved (but not yet open), operating, renewed, transferred, revoked, not renewed, voluntarily closed, or never opened;

“(VII) the authorizing functions provided by the authorized public chartering agency to the public charter schools under its purview, including such agency’s operating costs and expenses as detailed through annual auditing of financial statements that conform with general accepted accounting principles; and

“(VIII) the services purchased (such as accounting, transportation, and data management and analysis) from the authorized public chartering agency by the public charter schools authorized or approved by such agency, including an itemized accounting
of the actual costs of such services;

and

“(xi) has or will have (within 1 year after receiving a grant under this section) a State policy and process for overseeing and reviewing the effectiveness and quality of the State’s authorized public chartering agencies, including—

“(I) a process for reviewing and evaluating the performance of the authorized public chartering agencies in authorizing or approving public charter schools, including a process that enables the authorized public chartering agencies to respond to any State concerns; and

“(II) any other necessary policies to ensure effective charter school authorizing in the State in accordance with the principles of quality charter school authorizing, as determined by the State in consultation with the charter school community and stakeholders.”
“(2) SPECIAL RULE.—In awarding grants under this section, the Secretary may determine how the priorities described in paragraph (1) will apply to the different types of eligible entities defined in subsection (k)(4).

“(e) USE OF FUNDS.—An eligible entity receiving a grant under this section shall use the grant funds for the following:

“(1) SUBGRANTS.—

“(A) IN GENERAL.—An eligible entity shall award subgrants, in such amount as the eligible entity determines is appropriate, to eligible public charter schools to replicate or expand such schools.

“(B) APPLICATION.—An eligible public charter school desiring to receive a subgrant under this subsection shall submit an application to the eligible entity at such time, in such manner, and containing such information as the eligible entity may require.

“(C) USES OF FUNDS.—An eligible public charter school receiving a subgrant under this subsection shall use the subgrant funds to provide for an increase in the school’s enrollment of students through the replication or expansion
of the school, which may include use of funds to—

“(i) support the physical expansion of school buildings, including financing the development of new buildings and campuses to meet increased enrollment needs;

“(ii) pay costs associated with hiring additional teachers to serve additional students;

“(iii) provide transportation to additional students to and from the school (including providing transportation to students who transfer to the school under a cooperative agreement established under section 1116(b)(11)), as long as the eligible public charter school demonstrates to the eligible entity, in the application required under subparagraph (B), that the public charter school has the capability to continue providing such transportation after the expiration of the subgrant funds;

“(iv) purchase instructional materials, implement teacher and principal professional development programs, and hire additional non-teaching staff; and
“(v) support any necessary activities associated with the school carrying out the purposes of this section, including data collection and management.

“(D) PRIORITY.—In awarding subgrants under this subsection, an eligible entity shall give priority to an eligible public charter school that—

“(i)(I) has significantly closed any achievement gaps on the State academic assessments described in section 1111(b)(3) among the groups of students described in section 1111(b)(2)(C)(v) by improving scores; or

“(II) in the case of a school in a State for which the Secretary has granted a waiver under section 9401, has significantly closed any achievement gaps among groups of students, as determined by the Secretary in accordance with any accountability standards that the Secretary has authorized through such waiver; and

“(ii) has been in operation for not less than 3 consecutive years and has demonstrated overall success, including—
“(I) substantial progress in improving student achievement, as measured—

“(aa) for tested grades and subjects, by a student’s score on State academic assessments required under this Act, and other rigorous measures of student learning that are comparable across classrooms, such as the measures described in item (bb); and

“(bb) for non-tested grades and subjects, alternative measures of student learning and performance, such as student scores on pretests and end-of-course tests, student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across classrooms; and

“(II) the management and leadership necessary to overcome initial
start-up problems and establish a
thriving, financially viable charter
school.

“(E) Duration of Subgrant.—A
subgrant under this subsection shall be awarded
for a period of not more than 3 years, except
that an eligible public charter school receiving a
subgrant under this subsection may, at the dis-
cretion of the eligible entity, continue to expend
subgrant funds after the end of the subgrant
period.

“(2) Facility Financing and Revolving
Loan Fund.—An eligible entity may use not more
than 25 percent of the amount of the grant funds
received under this section to establish a reserve ac-
count described in subsection (f) to facilitate public
charter school facility acquisition and development
by—

“(A) conducting credit enhancement initia-
tives (as referred to in subpart 2) in support of
the development of facilities for eligible public
charter schools serving students;

“(B) establishing a revolving loan fund for
use by an eligible public charter school receiving
a subgrant under this subsection from the eligi-
ble entity under such terms as may be determined by the eligible entity to allow such school to expand to serve additional students;

“(C) facilitating, through direct expenditure or financing, the acquisition or development of public charter school buildings by the eligible entity or an eligible public charter school receiving a subgrant under this subsection from the eligible entity, which may be used as both permanent locations for eligible public charter schools or incubators for growing charter schools; or

“(D) establishing a partnership with 1 or more community development financial institutions (as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702)) or other mission-based financial institutions to carry out the activities described in subparagraphs (A), (B), and (C).

“(3) ADMINISTRATIVE TASKS, DISSEMINATION ACTIVITIES, RESEARCH, AND DATA COLLECTION.—

“(A) IN GENERAL.—An eligible entity may use not more than 7.5 percent of the grant funds awarded under this section to cover ad-
ministrative tasks, dissemination activities, and outreach, including data collection and manage-
ment.

“(B) NONPROFIT ASSISTANCE.—In car-
rying out the administrative tasks, dissemina-
tion activities, and outreach described in sub-
paragraph (A), an eligible entity may contract
with an organization described in section
501(c)(3) of the Internal Revenue Code of 1986
(26 U.S.C. 501(c)(3)) and exempt from tax
under section 501(a) of such Code (26 U.S.C.
501(a)).

“(f) RESERVE ACCOUNT.—

“(1) IN GENERAL.—To assist eligible entities in
the development of new public charter school build-
ings or facilities for eligible public charter schools,
an eligible entity receiving a grant under this section
may, in accordance with State and local law, directly
or indirectly, alone or in collaboration with others,
deposit the amount of funds described in subsection
(e)(2) in a reserve account established and main-
tained by the eligible entity.

“(2) INVESTMENT.—Funds received under this
section and deposited in the reserve account estab-
lished under this subsection shall be invested in obli-
gations issued or guaranteed by the United States or a State, or in other similarly low-risk securities.

“(3) Reinvestment of Earnings.—Any earnings on funds received under this subsection shall be deposited in the reserve account established under this subsection and used in accordance with the purpose described in subsection (a).

“(4) Recovery of Funds.—

“(A) In General.—The Secretary, in accordance with chapter 37 of title 31, United States Code, shall collect—

“(i) all funds in a reserve account established by an eligible entity under this subsection if the Secretary determines, not earlier than 2 years after the date the eligible entity first received funds under this section, that the eligible entity has failed to make substantial progress carrying out the purpose described in paragraph (1); or

“(ii) all or a portion of the funds in a reserve account established by an eligible entity under this subsection if the Secretary determines that the eligible entity has permanently ceased to use all or a por-
tion of funds in such account to accomplish
the purpose described in paragraph (1).

“(B) EXERCISE OF AUTHORITY.—The Sec-
retary shall not exercise the authority provided
under subparagraph (A) to collect from any eli-
gible entity any funds that are being properly
used to achieve such purpose.

“(C) PROCEDURES.—Sections 451, 452,
and 458 of the General Education Provisions
Act shall apply to the recovery of funds under
subparagraph (A).

“(D) CONSTRUCTION.—This paragraph
shall not be construed to impair or affect the
authority of the Secretary to recover funds
under part D of the General Education Provi-
sions Act.

“(5) REALLOCATION.—Any funds collected by
the Secretary under paragraph (4) shall be awarded
to eligible entities receiving grants under this section
in the next fiscal year.

“(g) FINANCIAL RESPONSIBILITY.—The financial
records of each eligible entity and eligible public charter
school receiving a grant or subgrant, respectively, under
this section shall be maintained in accordance with gen-
erally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

“(h) NATIONAL EVALUATION.—

“(1) NATIONAL EVALUATION.—From the amounts appropriated under section 5200, the Secretary shall conduct an independent, comprehensive, and scientifically sound evaluation, by grant or contract and using the highest quality research design available, of the impact of the activities carried out under this section on—

“(A) student achievement, including State standardized assessment scores and, if available, student academic longitudinal growth (as described in subsection (c)(2)(A)(i)) based on such assessments; and

“(B) other areas, as determined by the Secretary.

“(2) REPORT.—Not later than 4 years after the date of the enactment of the All Students Achieving through Reform Act of 2013, and biannually thereafter, the Secretary shall submit to Congress a report on the results of the evaluation described in paragraph (1).
“(i) REPORTS.—Each eligible entity receiving a grant under this section shall prepare and submit to the Secretary the following:

“(1) REPORT.—A report that contains such information as the Secretary may require concerning use of the grant funds by the eligible entity, including the academic achievement of the students attending eligible public charter schools as a result of the grant. Such report shall be submitted before the end of the 3-year period beginning on the date of enactment of the All Students Achieving through Reform Act of 2013 and every 2 years thereafter.

“(2) PERFORMANCE INFORMATION.—Such performance information as the Secretary may require for the national evaluation conducted under subsection (h)(1).

“(j) INAPPLICABILITY.—The provisions of sections 5201 through 5209 shall not apply to the program under this section.

“(k) DEFINITIONS.—In this section:

“(1) ADEQUATE YEARLY PROGRESS.—The term ‘adequate yearly progress’ has the meaning given such term in a State’s plan in accordance with section 1111(b)(2)(C).
“(2) Administrative tasks, dissemination activities, and outreach.—The term ‘administrative tasks, dissemination activities, and outreach’ includes costs and activities associated with—

“(A) recruiting and selecting students to attend eligible public charter schools;

“(B) outreach to parents of students enrolled in identified schools or schools with low graduation rates;

“(C) providing information to such parents and school officials at such schools regarding eligible public charter schools receiving subgrants under subsection (c);

“(D) necessary oversight of the grant program under this section; and

“(E) initiatives and activities to disseminate the best practices, programs, or strategies learned in eligible public charter schools to other public schools operating in the State where the eligible entity intends to award subgrants under this section.

“(3) Charter school.—The term ‘charter school’ means—

“(A) a charter school, as defined in section 5211(1); or
“(B) a school that meets the requirements of such section, except for subparagraph (D) of the section, and provides prekindergarten or adult education services.

“(4) ELIGIBLE ENTITY.—The term ‘eligible entity’ means—

“(A) a State educational agency;

“(B) an authorized public chartering agency;

“(C) a local educational agency that has authorized or is planning to authorize a public charter school;

“(D) an organization (including a non-profit charter management organization) that has an organizational mission and record of success supporting the replication and expansion of high-quality charter schools and is—

“(i) described in section 501(e)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(e)(3)); and

“(ii) exempt from tax under section 501(a) of such Code (26 U.S.C. 501(a)); or

“(E) a consortium of organizations described in subparagraph (D).
“(5) Eligible public charter school.—

The term ‘eligible public charter school’ means a charter school that has no significant compliance issue and shows evidence of strong academic results for the past three years (or over the life of the school if the school has been open for fewer than three years), based on—

“(A) increased student academic achievement and attainment for all students, including, as applicable, educationally disadvantaged students served by the charter school;

“(B)(i) demonstrated success in closing historic achievement gaps for the subgroups of students described in section 1111(b)(2)(C)(v)(II) at the charter school or, in the case of a school in a State for which the Secretary has granted a waiver under section 9401, demonstrated success in closing achievement gaps among groups of students, as determined by the Secretary in accordance with any accountability standards that the Secretary has authorized through such waiver; or

“(ii) no significant achievement gaps between any of the subgroups of students described in section 1111(b)(2)(C)(v)(II) (or as
determined by the Secretary in accordance with any accountability standards authorized through a waiver under section 9401) and significant gains in student achievement with all populations of students served by the charter school; and

“(C) results (including, where applicable and available, performance on statewide tests, attendance and retention rates, secondary school graduation rates, and attendance and persistence rates at institutions of higher education) for low-income and other educationally disadvantaged students served by the charter school that are above the average achievement results for such students in the State.

“(6) Graduation rate.—The term ‘graduation rate’ has the meaning given the term in section 1111(b)(2)(C)(vi), as clarified in section 200.19(b)(1) of title 34, Code of Federal Regulations.

“(7) Identified school.—The term ‘identified school’ means a school—

“(A) identified for school improvement, corrective action, or restructuring under paragraph (1), (7), or (8) of section 1116(b); or
“(B) in the case of a school for which the Secretary has waived the applicability of such paragraphs pursuant to section 9401, identified as a priority school, a focus school, or a school otherwise in need of significant assistance, as determined by the accountability standards authorized by such waiver

“(8) LOCAL EDUCATIONAL AGENCY.—The term ‘local educational agency’ includes any charter school that is a local educational agency, as determined by State law.

“(9) LOW-INCOME STUDENT.—The term ‘low-income student’ means a student eligible for free or reduced price lunches under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

“(10) SCHOOL FOOD AUTHORITY.—The term ‘school food authority’ has the meaning given the term in section 250.3 of title 7, Code of Federal Regulations (or any corresponding similar regulation or ruling).

“(11) SCHOOL YEAR.—The term ‘school year’ has the meaning given such term in section 12(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d)).
“(12) **Traditional public school.**—The term ‘traditional public school’ does not include any charter school, as defined in section 5211.”.

(b) **Authorization of Appropriations.**—Part B of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7221 et seq.) is amended—

(1) by striking section 5231; and

(2) by inserting before subpart 1 the following:

```
“SEC. 5200. AUTHORIZATION OF APPROPRIATIONS FOR SUBPARTS 1 AND 2.

“(a) **In general.**—There are authorized to be appropriated to carry out subparts 1 and 2, $700,000,000 for fiscal year 2014 and such sums as may be necessary for each of the 5 succeeding fiscal years.

“(b) **Allocation.**—In allocating funds appropriated under this section for any fiscal year, the Secretary shall consider—

“(1) the relative need among the programs carried out under sections 5202, 5205, 5210, and subpart 2; and

“(2) the quality of the applications submitted for such programs.”.
```

(e) **Conforming Amendments.**—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—
(1) in section 2102(2) (20 U.S.C. 6602(2)), by striking “5210” and inserting “5211”;
(2) in section 5204(e) (20 U.S.C. 7221c(e)), by striking “5210(1)” and inserting “5211(1)”;
(3) in section 5211(1) (as redesignated by subsection (a)(2)) (20 U.S.C. 7221i(1)), by striking “The term” and inserting “Except as otherwise provided, the term”;
(4) in section 5230(1) (20 U.S.C. 7223i(1)), by striking “5210” and inserting “5211”; and
(5) in section 5247(1) (20 U.S.C. 7225f(1)), by striking “5210” and inserting “5211”.
(d) Table of Contents.—The table of contents in section 2 of the Elementary and Secondary Education Act of 1965 is amended—
(1) by inserting before the item relating to subpart 1 of part B of title V the following:
“Sec. 5200. Authorization of appropriations for subparts 1 and 2.”;
(2) by striking the items relating to sections 5210 and 5211;
(3) by inserting after the item relating to section 5209 the following:
“Sec. 5211. Definitions.”;
and
(4) by striking the item relating to section 5231.