

113TH CONGRESS  
1ST SESSION

# S. 88

To amend the public charter school provisions of the Elementary and Secondary Education Act of 1965, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 23 (legislative day, JANUARY 3), 2013

Mr. VITTER 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 public charter school provisions of the Elementary and Secondary Education Act of 1965, and for other purposes.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “21st Century Charter School Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Purpose.
- Sec. 3. Program authorized.
- Sec. 4. Applications.
- Sec. 5. Administration.

- Sec. 6. National activities.
- Sec. 7. Federal formula allocation.
- Sec. 8. Credit enhancement.
- Sec. 9. Definitions.
- Sec. 10. Authorization of appropriations.
- Sec. 11. Reorganization.
- Sec. 12. Conforming amendments.

1 **SEC. 2. PURPOSE.**

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

4 (1) in paragraph (3), by striking “and”;

5 (2) by redesignating paragraph (4) as para-  
6 graph (6);

7 (3) by inserting after paragraph (3) the fol-  
8 lowing:

9 “(4) encouraging the growth of high-quality  
10 charter schools through the replication and expan-  
11 sion of successful charter school models;

12 “(5) disseminating charter school innovations  
13 throughout public education; and”; and

14 (4) in paragraph (6) (as redesignated by para-  
15 graph (2))—

16 (A) by striking “more nearly”; and

17 (B) by striking “have typically provided”  
18 and inserting “provide”.

19 **SEC. 3. PROGRAM AUTHORIZED.**

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

22 (1) in subsection (a)—

1 (A) by striking “State educational agen-  
2 cies” and inserting “eligible entities”;

3 (B) by striking “such agencies” and insert-  
4 ing “such entities”; and

5 (C) by striking “this subpart” and insert-  
6 ing “section 5204”;

7 (2) in subsection (b)—

8 (A) by striking “SPECIAL RULE.—If” and  
9 inserting the following: “SPECIAL RULE; RE-  
10 SERVE ACCOUNT.—

11 “(1) SPECIAL RULE.—If”;

12 (B) by striking “a State educational agen-  
13 cy” and inserting “an eligible entity”;

14 (C) by striking “subpart” and inserting  
15 “section”; and

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

17 “(2) RESERVE ACCOUNTS.—

18 “(A) IN GENERAL.—In order to assist eli-  
19 gible entities to accomplish the purposes de-  
20 scribed in section 5201, an eligible entity receiv-  
21 ing a grant under this section shall, directly or  
22 indirectly, alone or in collaboration with others,  
23 deposit the funds received under this section in  
24 a reserve account established and maintained

1 by the eligible entity for this purpose, in accord-  
2 ance with State and local law.

3 “(B) INVESTMENT.—Funds received under  
4 this section that are deposited in the reserve ac-  
5 count established under subparagraph (A), shall  
6 be invested, to the extent practicable, in obliga-  
7 tions issued or guaranteed by the United States  
8 or a State, or in other similarly low risk securi-  
9 ties, in the same manner as funds of a State  
10 are invested under chapter 65 of title 31,  
11 United States Code.

12 “(C) REINVESTMENT OF EARNINGS.—Any  
13 earnings on funds received under this section  
14 shall be deposited in a reserve account and used  
15 in support of public charter schools in accord-  
16 ance with activities authorized under this Act.”;  
17 (3) in subsection (c)—

18 (A) by striking “subpart” each place the  
19 term occurs and inserting “section”;

20 (B) in paragraph (1)—

21 (i) in the paragraph heading, by strik-  
22 ing “STATES” and inserting “ELIGIBLE  
23 ENTITIES”;

1           (ii) by striking “State educational  
2           agencies” and inserting “eligible entities”;  
3           and

4           (iii) by striking “not more than 3  
5           years” and inserting “not more than 5  
6           years”; and

7           (C) in paragraph (2)—

8           (i) by striking “State educational  
9           agencies” and inserting “eligible entities”;  
10          and

11          (ii) by striking “not more than 3  
12          years” and all that follows through the pe-  
13          riod at the end and inserting “not more  
14          than 5 years. An eligible applicant may use  
15          a portion of the grant period for planning  
16          and program design.”;

17          (4) by striking subsection (d) and inserting the  
18          following:

19          “(d) CHARTER SCHOOLS WITH MULTIPLE CAM-  
20          PUSES.—The Secretary shall allow an eligible entity to  
21          award multiple subgrants under section 5204(f)(1) to an  
22          eligible applicant in order to support multiple campuses  
23          of a charter school.”;

24          (5) in subsection (e)—

1 (A) by striking paragraph (1) and insert-  
 2 ing the following:

3 “(1) IN GENERAL.—In awarding grants under  
 4 this section for fiscal year 2013 or any succeeding  
 5 fiscal year from any funds appropriated under sec-  
 6 tion 5212 (other than funds reserved to carry out  
 7 section 5205(c)), the Secretary shall give priority to  
 8 an eligible entity to the extent that the State in  
 9 which the eligible entity proposes to carry out the  
 10 activities under the grant meets the criteria de-  
 11 scribed in paragraph (2) and one or more of the cri-  
 12 teria described in subparagraphs (A) through (H) of  
 13 paragraph (3).”;

14 (B) in paragraph (3)—

15 (i) in subparagraph (A)—

16 (I) by striking “a State edu-  
 17 cational agency” and inserting “an el-  
 18 ible entity”; and

19 (II) by striking “subpart” and  
 20 inserting “section”;

21 (ii) by redesignating subparagraph  
 22 (C) as subparagraph (D);

23 (iii) in subparagraph (B)—

24 (I) by redesignating clause (ii) as  
 25 subparagraph (C), and aligning the

1 margins of such subparagraph with  
2 the margins of subparagraph (A);

3 (II) by striking “The State” and  
4 all that follows through “provides”  
5 and inserting “The State provides”;  
6 and

7 (III) by striking “law; or” and  
8 inserting “law.”;

9 (iv) in subparagraph (C) (as redesign-  
10 nated by clause (iii)(I)), by striking “in the  
11 case” and all that follows through “allows”  
12 and inserting “The State allows”;

13 (v) in subparagraph (D) (as redesign-  
14 nated by clause (ii))—

15 (I) by striking “school has a”  
16 and inserting “school has—  
17 “(i) a”;

18 (II) by striking “expenditures.”  
19 and inserting “expenditures; and”;  
20 and

21 (III) by adding at the end the  
22 following:

23 “(ii) an independent governing board  
24 that enters into a written performance con-

1           tract with an authorized public chartering  
2           agency.”; and

3                   (vi) by adding at the end the fol-  
4           lowing:

5           “(E) The State—

6                   “(i) provides public charter schools  
7           with funding commensurate with the fund-  
8           ing provided to other public schools, in-  
9           cluding capital or facilities aid distributed  
10          through a formula or revenue generated by  
11          bonds; and

12                   “(ii) ensures that the State edu-  
13          cational agency and local educational agen-  
14          cies provide public charter schools with the  
15          Federal, State, and local funds to which  
16          the public charter schools are entitled in a  
17          timely manner.

18                   “(F) The State makes it a priority to cre-  
19          ate charter schools in local educational agencies  
20          with large numbers of schools designated as in  
21          need of improvement, corrective action, or re-  
22          structuring under paragraph (1), (7), or (8) of  
23          section 1116(b).

24                   “(G) The State has developed a trans-  
25          parent authorizer accreditation, training, or re-



1 view process for evaluating the effectiveness and  
2 quality of the State’s authorized public char-  
3 tering agencies, or each authorized public char-  
4 tering agency in the State has implemented  
5 such a process, including—

6 “(i) a process for reviewing and evalu-  
7 ating the performance of the authorized  
8 public chartering agencies in the State in  
9 authorizing or approving public charter  
10 schools, including a process that enables  
11 the authorized public chartering agencies  
12 to respond to any State concerns or defi-  
13 ciencies regarding such authorizing or ap-  
14 proving; and

15 “(ii) any other necessary policies to  
16 ensure effective charter school authorizing  
17 in the State that are developed in conjunc-  
18 tion with the State’s charter school com-  
19 munity and in accordance with the prin-  
20 ciples of high quality charter school au-  
21 thorizing, as determined by the State in  
22 consultation with the charter school com-  
23 munity and stakeholders.

24 “(H) The State does not have a cap on  
25 charter schools that constrains growth and lim-

1 its parental options in an unreasonable man-  
2 ner.”; and

3 (6) in subsection (f)—

4 (A) by striking “subpart to a State edu-  
5 cational agency” and inserting “section to an  
6 eligible entity”; and

7 (B) by striking “in the State.” and insert-  
8 ing “in the State where the grant activities will  
9 be carried out.”.

10 **SEC. 4. APPLICATIONS.**

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

13 (1) by striking “this subpart” each place the  
14 term appears and inserting “section 5202”;

15 (2) in subsection (a), by striking “STATE  
16 AGENCIES.—Each State educational agency” and in-  
17 serting “ELIGIBLE ENTITIES.—An eligible entity”;

18 (3) in subsection (b)—

19 (A) in the subsection heading, by striking  
20 “A STATE EDUCATIONAL AGENCY” and insert-  
21 ing “AN ELIGIBLE ENTITY”;

22 (B) in paragraph (1)—

23 (i) by striking “State educational  
24 agency’s” each place the term appears and  
25 inserting “eligible entity’s”; and

1           (ii) by striking “State educational  
2 agency to” and inserting “eligible entity  
3 to”;

4           (C) in paragraph (2)—

5           (i) in the matter preceding subpara-  
6 graph (A), by striking “describe how the  
7 State educational agency—” and inserting  
8 “describe the State’s level of participation  
9 and involvement in the grant, including a  
10 letter from the State describing how the  
11 State—”;

12           (ii) in the matter preceding clause (i)  
13 of subparagraph (A), by striking “in the  
14 State” and inserting “area served by the  
15 grant”;

16           (iii) in subparagraph (B)—

17           (I) by striking “in the State” and  
18 inserting “in the area served by the  
19 grant”; and

20           (II) by striking “and” after the  
21 semicolon;

22           (iv) in subparagraph (C), by striking  
23 “to each local” and all that follows  
24 through “; and” and inserting “related to  
25 such areas as budgeting, scheduling, staff-

1 ing, and instruction to public schools, in-  
2 cluding public charter schools in the  
3 State;” and

4 (v) by adding at the end the following:

5 “(D) will ensure the proper handling and  
6 management of Federal funds; and

7 “(E) will oversee and hold accountable the  
8 authorized public chartering agencies in the  
9 State, including through a transparent author-  
10 izer accreditation, training, and review process  
11 described in section 5202(e)(3)(G);”;

12 (D) by redesignating paragraph (3) as  
13 paragraph (4);

14 (E) by inserting after paragraph (2) the  
15 following:

16 “(3) describe the criteria that the eligible entity  
17 will use to award subgrants to eligible applicants to  
18 ensure high-quality charter schools;”;

19 (F) in paragraph (4) (as redesignated by  
20 subparagraph (D))—

21 (i) in the matter preceding subpara-  
22 graph (A), by striking “State educational  
23 agency” each place the term appears and  
24 inserting “eligible entity”;

25 (ii) in subparagraph (A)—

1 (I) by redesignating clauses (ii)  
2 and (iii) as clauses (iii) and (iv), re-  
3 spectively; and

4 (II) by inserting after clause (i)  
5 the following:

6 “(ii) the charter school’s plan for  
7 using academic assessments to measure  
8 and report student academic progress;”;

9 (iii) in subparagraph (B), by striking  
10 “managed;” and inserting the following:  
11 “managed, including—

12 “(i) the charter school’s financial plan  
13 and policies, including financial controls  
14 and annual audit requirements;

15 “(ii) a clear description of the roles  
16 and responsibilities for the charter school’s  
17 governing board, leadership, and manage-  
18 ment team, and any other organizations  
19 critical to the charter school’s operations  
20 or success;

21 “(iii) plans for recruiting and devel-  
22 oping the charter school’s leadership and  
23 staff;

1 “(iv) the charter school’s leadership  
2 and teacher employment policies, including  
3 performance evaluation plans;

4 “(v) the proposed governing bylaws of  
5 the charter school; and

6 “(vi) a detailed charter school start-up  
7 plan that identifies tasks, timelines, and  
8 responsible parties;”;

9 (iv) in subparagraph (E), by inserting  
10 “, including documentation of the parents’  
11 and community members’ support for the  
12 school” before the semicolon;

13 (v) in subparagraph (F), by striking  
14 “a description of how” and inserting “an  
15 assurance from the authorized public char-  
16 tering agency that”;

17 (vi) in subparagraph (H), by inserting  
18 “and how such funds will be used for plan-  
19 ning, program design, and the initial im-  
20 plementation of a charter school” before  
21 the semicolon at the end;

22 (vii) in subparagraph (I)(ii), by insert-  
23 ing “, including through a lottery process  
24 if the number of applicants exceeds the

1           number of seats available at the charter  
2           school” before the semicolon;

3           (viii) in subparagraphs (J) and (K),  
4           by striking “State educational agency”  
5           each place the term appears and inserting  
6           “eligible entity”;

7           (ix) by striking subparagraph (M);

8           (x) by redesignating subparagraph  
9           (N) as subparagraph (O);

10          (xi) by inserting after subparagraph  
11          (L) the following:

12          “(M) a demonstration of support for the  
13          charter school from the State’s charter school  
14          community;

15          “(N) a description of how the independent  
16          governing board of the charter school, including  
17          a board overseeing multi-campus charters, is  
18          encouraged to include individuals with a diver-  
19          sity of skills, including business management,  
20          financial management, real estate finance, and  
21          curriculum and instruction; and”;

22          (xii) in subparagraph (O) (as redesign-  
23          ated by clause (x))—

1 (I) by striking “State educational  
2 agency” and inserting “eligible enti-  
3 ty”; and

4 (II) by striking the period at the  
5 end and inserting “; and”; and

6 (G) by adding at the end the following:

7 “(5) in the case of an eligible entity that is an  
8 authorized public chartering agency—

9 “(A) describe such eligible entity’s stra-  
10 tegic goal for chartering schools and progress  
11 towards that goal; and

12 “(B) provide an assurance that the eligible  
13 entity will annually file a plan with the State in  
14 which the eligible entity is located that covers  
15 such topics necessary for effective charter  
16 school oversight, including, at a minimum—

17 “(i) the academic and financial per-  
18 formance of all operating public charter  
19 schools overseen by the eligible entity, ac-  
20 cording to the performance expectations  
21 for each public charter school set forth in  
22 the school’s contract;

23 “(ii) the status of the eligible entity’s  
24 public charter school portfolio, identifying  
25 all public charter schools in each of the fol-



1           lowing categories: approved (but not yet  
2           open), operating, renewed, transferred, re-  
3           voked, not renewed, voluntarily closed, or  
4           never opened;

5           “(iii) the authorizing functions pro-  
6           vided by the eligible entity to the public  
7           charter schools the eligible entity oversees,  
8           including the eligible entity’s operating  
9           costs and expenses detailed in annual au-  
10          dited financial statements that conform  
11          with generally accepted accounting prin-  
12          ciples; and

13          “(iv) the services purchased from the  
14          eligible entity by the public charter schools  
15          overseen by the eligible entity, including an  
16          itemized accounting of the actual costs of  
17          these services.”; and

18          (4) in subsection (d)—

19                (A) in paragraph (1)—

20                   (i) by striking “(A) through (N) of  
21                   subsection (b)(3)” and inserting “(A)  
22                   through (O) of subsection (b)(4)”;

23                   (ii) by striking “and (N)” and insert-  
24                   ing “and (O)”;

1 (iii) by striking “State educational  
2 agency” and inserting “eligible entity”;  
3 and

4 (B) in paragraph (2)—

5 (i) in the matter preceding subpara-  
6 graph (A), by striking “State educational  
7 agency” and inserting “eligible entity”;  
8 and

9 (ii) in paragraph (3)—

10 (I) by striking “State educational  
11 agency” and inserting “eligible enti-  
12 ty”; and

13 (II) by striking “subgrant if”  
14 and all that follows through the period  
15 and inserting “subgrant.”.

16 **SEC. 5. ADMINISTRATION.**

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

19 (1) in subsection (a)—

20 (A) in the subsection heading, by striking  
21 “STATE EDUCATIONAL AGENCIES” and insert-  
22 ing “ELIGIBLE ENTITIES”;

23 (B) by striking “this subpart” each place  
24 the term appears and inserting “section 5202”;

1 (C) in the matter preceding paragraph (1),  
2 by striking “State educational agencies” and in-  
3 serting “eligible entities”;

4 (D) in paragraph (1), by inserting “, in-  
5 cluding efforts at closing the achievement gap  
6 by meeting the annual objectives described in  
7 section 1111(b)(2)(C)(v)” before the semicolon;

8 (E) in paragraph (2), by inserting “and  
9 autonomy” after “flexibility”;

10 (F) in paragraph (5), by inserting “and”  
11 after the semicolon;

12 (G) in paragraph (6), by striking “; and”  
13 and inserting a period; and

14 (H) by striking paragraph (7);

15 (2) in subsection (b)—

16 (A) by striking “this subpart” and insert-  
17 ing “section 5202”; and

18 (B) by striking paragraph (7);

19 (3) in subsection (c)—

20 (A) by striking “this subpart” and insert-  
21 ing “section 5202”; and

22 (B) by striking “State educational agency”  
23 and inserting “eligible entity”;

24 (4) in subsection (d)—

1 (A) in the matter preceding paragraph

2 (1)—

3 (i) by striking “State educational  
4 agency receiving a grant under this sub-  
5 part” and inserting “eligible entity receiv-  
6 ing a grant under section 5202”; and

7 (ii) by striking “this subpart in” and  
8 inserting “such section in”; and

9 (B) in paragraph (2), by inserting “or use  
10 non-traditional curricula” before the period at  
11 the end;

12 (5) in subsection (e)—

13 (A) in the matter preceding subparagraph  
14 (1), by striking “5210(1)” and inserting  
15 “5211(2)”; and

16 (B) in paragraph (1), by striking “this  
17 subpart” and inserting “section 5203”;

18 (6) in subsection (f)—

19 (A) in paragraph (1)—

20 (i) in the paragraph heading, by strik-  
21 ing “STATE EDUCATIONAL AGENCIES.—”  
22 and inserting the following: STATE EDU-  
23 CATIONAL AGENCIES.—

24 “(A) IN GENERAL.—Each eligible entity”;

1 (ii) by striking “under this subpart”  
2 and inserting “under section 5202”;

3 (iii) by inserting “, including a new  
4 campus or expansion of an existing charter  
5 school,” after “charter school”;

6 (iv) by striking “in the State” and in-  
7 serting “in the area to be served by the  
8 grant”; and

9 (v) by striking “, except that” and all  
10 that follows through “paragraph (6).” and  
11 inserting a period;

12 (B) by striking paragraph (6);

13 (C) by redesignating paragraphs (2)  
14 through (5) as paragraphs (4) through (7), re-  
15 spectively;

16 (D) by inserting after paragraph (1) the  
17 following:

18 “(2) CHARTER SCHOOL DEVELOPERS.—In  
19 awarding subgrants under this section, an eligible  
20 entity shall ensure that—

21 “(A) most of the subgrant funds are  
22 awarded to eligible applicants described in sec-  
23 tion 5211(5)(A); and

24 “(B) subgrants are awarded, to the extent  
25 practicable, to a mix of such eligible applicants.

1           “(3) AMOUNT OF SUBGRANTS.—An eligible en-  
2           tity may vary the amount of a subgrant under this  
3           section based upon a variety of factors, including—

4                   “(A) whether the eligible applicant is a  
5                   start-up charter school or a conversion charter  
6                   school (as defined by the eligible entity); and

7                   “(B) whether the eligible applicant is cre-  
8                   ating a charter school under a new charter or  
9                   an existing charter.”;

10                  (E) in paragraph (4) (as redesignated by  
11                  subparagraph (C))—

12                          (i) by striking “a State educational  
13                          agency” and inserting “an eligible entity”;  
14                          and

15                          (ii) by striking “, or to disseminate in-  
16                          formation about the charter school and  
17                          successful practices in the charter school,”;

18                  (F) in paragraph (5) (as redesignated by  
19                  subparagraph (C))—

20                          (i) in the matter preceding subpara-  
21                          graph (A), by striking “this subpart” and  
22                          inserting “section 5202”;

23                          (ii) in subparagraph (A)(ii), by strik-  
24                          ing “and” after the semicolon;

1 (iii) in subparagraph (B)(iv), by strik-  
2 ing the period and inserting “; and”;

3 (iv) by adding at the end the fol-  
4 lowing:

5 “(C) providing assistance, through activi-  
6 ties described in section 5205(b)(4), in imple-  
7 menting charter school innovations and dissemi-  
8 nating information regarding such innova-  
9 tions.”;

10 (G) in paragraph (6)(A) (as redesignated  
11 by subparagraph (C))—

12 (i) in the subparagraph heading, by  
13 striking “STATE EDUCATIONAL AGENCY”  
14 and inserting “ELIGIBLE ENTITY”;

15 (ii) by striking “State educational  
16 agency” and inserting “eligible entity”;

17 (iii) by striking “pursuant to this sub-  
18 part” and inserting “pursuant to section  
19 5202”;

20 (iv) by striking “this subpart” and in-  
21 serting “such section”; and

22 (v) by adding at the end the following:  
23 “An eligible entity may use a portion of  
24 the reserved funds to improve the charter  
25 school authorizing policies and practices of

1 the area served by the eligible entity, which  
 2 may include the approval, monitoring, and  
 3 renewal of charter schools.”; and

4 (H) in paragraph (7) (as redesignated by  
 5 subparagraph (C))—

6 (i) by striking “State educational  
 7 agency” and inserting “eligible entity”;

8 (ii) by striking “this subpart” and in-  
 9 serting “section 5202”;

10 (iii) by striking “10” and inserting  
 11 “20”; and

12 (iv) by striking “the State educational  
 13 agency” and all that follows through  
 14 “sources.” and inserting “the eligible enti-  
 15 ty, for expenses necessary to plan, begin  
 16 operations, and subsequently operate a  
 17 public charter school.”; and

18 (7) by striking subsection (g).

19 **SEC. 6. NATIONAL ACTIVITIES.**

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

22 (1) in subsection (a)—

23 (A) in paragraph (3)(E), by striking  
 24 “schools” each place the term occurs and in-  
 25 serting “schools, authorized public chartering



1 agencies, and charter support organizations”;  
2 and

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

4 “(6) To provide technical assistance to charter  
5 schools on how to meet the requirements of part B  
6 of the Individuals with Disabilities Education Act.”;

7 (2) by redesignating subsections (b) and (c) as  
8 subsections (c) and (d), respectively;

9 (3) by inserting after subsection (a) the fol-  
10 lowing:

11 “(b) NATIONAL DISSEMINATION.—

12 “(1) IN GENERAL.—To carry out this sub-  
13 section, the Secretary shall reserve for each fiscal  
14 year not more than \$8,000,000 of the amount ap-  
15 propriated to carry out this subpart.

16 “(2) ELIGIBILITY.—In order to receive a grant  
17 under this subsection, an entity shall—

18 “(A) be—

19 “(i) a charter school;

20 “(ii) an eligible applicant;

21 “(iii) an eligible entity; or

22 “(iv) a consortium of entities de-  
23 scribed in clauses (i), (ii), or (iii); and

24 “(B) submit an application to the Sec-  
25 retary at such time, in such manner, and con-

1           taining such information as the Secretary may  
2           require.

3           “(3) CRITERIA.—The Secretary shall award  
4           grants under this subsection on the basis of—

5                   “(A) the quality of the application;

6                   “(B) the capacity of the applicant to exe-  
7           cute the application; and

8                   “(C) the scale of the expected impact of  
9           the application.

10          “(4) ACTIVITIES.—A recipient of a grant under  
11          this subsection shall use funds received under the  
12          grant to assist other schools in the recipient’s State  
13          and in other States in adopting charter school inno-  
14          vations, or to disseminate information about charter  
15          school innovations, through activities such as—

16                   “(A) assisting other entities with the plan-  
17          ning and start-up of one or more new public  
18          schools, including charter schools;

19                   “(B) developing partnerships designed to  
20          improve student academic achievement;

21                   “(C) developing curriculum materials, as-  
22          sessments, and other materials that promote in-  
23          creased student achievement and are based on  
24          successful practices at charter schools;

1           “(D) conducting evaluations and devel-  
2           oping materials that document successful prac-  
3           tices at charter schools and that are designed to  
4           improve student performance in other schools;  
5           and

6           “(E) training, regarding the innovative  
7           practices developed at the original site, for per-  
8           sonnel of—

9                   “(i) local educational agencies that  
10                  are adopting innovations or successful  
11                  practices used at charter schools;

12                  “(ii) authorized public chartering  
13                  agencies; or

14                  “(iii) charter support organizations.”;  
15                  and

16           (4) in subsection (c) (as redesignated by para-  
17           graph (2))—

18                   (A) in paragraph (2)(A), by striking  
19                   “paragraphs (2) and (3)(B) of section 5211(b)”  
20                   and inserting “section 5212”;

21                   (B) by redesignating paragraphs (5) and  
22                   (6) as paragraphs (6) and (7), respectively;

23                   (C) by inserting after paragraph (4) the  
24                   following:

1           “(5) SPECIAL RULE.—A State that provides  
2 public charter schools with access to existing ade-  
3 quate facility space may apply for a grant under this  
4 subsection, if the State agrees that the State will,  
5 upon receipt of the grant, develop a capital aid pro-  
6 gram consistent with the program described in this  
7 subsection during the grant period.”; and

8           (D) in paragraph (7) (as redesignated by  
9 subparagraph (B)), by striking “(A), (B), and  
10 (C)” and inserting “(A) through (F)”.

11 **SEC. 7. FEDERAL FORMULA ALLOCATION.**

12           Section 5206 of the Elementary and Secondary Edu-  
13 cation Act of 1965 (20 U.S.C. 7221e) is amended—

14           (1) by striking the section heading and insert-  
15 ing the following:

16 **“SEC. 5206. FEDERAL FORMULA ALLOCATION.”;**

17           and

18           (2) in subsection (a), by inserting “or is in op-  
19 eration” after “actually opens”.

20 **SEC. 8. CREDIT ENHANCEMENT.**

21           Subpart 1 of part B of title V of the Elementary and  
22 Secondary Education Act of 1965 (as amended by this  
23 Act) (20 U.S.C. 7221 et seq.) is further amended—

1           (1) by redesignating sections 5207 through  
2           5211 as sections 5208 through 5212, respectively;  
3           and

4           (2) by inserting after section 5206 the fol-  
5           lowing:

6           **“SEC. 5207. CREDIT ENHANCEMENT FOR CHARTER SCHOOL**  
7                                   **FACILITIES PROGRAMS.**

8           “(a) PURPOSE.—The purpose of this section is to  
9           provide grants to eligible entities to permit the eligible en-  
10          tities to demonstrate innovative credit enhancement initia-  
11          tives that assist charter schools to address the cost of ac-  
12          quiring, constructing, and renovating facilities.

13          “(b) GRANTS TO ELIGIBLE ENTITIES.—After reserv-  
14          ing any funds as necessary for grant evaluation or admin-  
15          istration consistent with any applicable provisions (includ-  
16          ing section 9601(a) of this Act and section 402(b)(1) of  
17          the Department of Education Organization Act), the Sec-  
18          retary shall use the amounts available to carry out this  
19          section to award, on a competitive basis, not less than 3  
20          grants to eligible entities that have applications approved  
21          under this section to demonstrate innovative methods of  
22          assisting charter schools to address the cost of acquiring,  
23          constructing, and renovating facilities by enhancing the  
24          availability of loans or bond financing for charter schools.

25          “(c) GRANTEE SELECTION.—

1           “(1) EVALUATION OF APPLICATION.—The Sec-  
2           retary shall evaluate each application submitted  
3           under subsection (e), and shall determine whether  
4           the application is sufficient to merit approval.

5           “(2) DISTRIBUTION OF GRANTS.—

6           “(A) IN GENERAL.—Subject to subpara-  
7           graph (B) and paragraph (3), the Secretary  
8           shall award—

9                   “(i) not less than 1 grant to an eligi-  
10                  ble entity described in section 5211(6)(A);

11                   “(ii) not less than 1 grant to an eligi-  
12                  ble entity described in section 5211(6)(B);

13                  and

14                   “(iii) not less than 1 grant to an eligi-  
15                  ble entity described in section 5211(6)(C).

16           “(B) EXCEPTION.—Subparagraph (A)  
17           shall only apply if applications are submitted  
18           that permit the Secretary to do so without ap-  
19           proving an application that is not of sufficient  
20           quality to merit approval.

21           “(3) SPECIAL RULE.—In the event the Sec-  
22           retary determines that the funds made available  
23           under this section are insufficient to permit the Sec-  
24           retary to award not less than 3 grants in accordance  
25           with this section, the 3-grant minimum under para-

1 graph (2) shall not apply, and the Secretary may de-  
2 termine the appropriate number of grants to be  
3 awarded in accordance with subsection (d).

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

9 “(e) APPLICATIONS.—

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

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

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

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

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

3           “(D) a description of how the proposed ac-  
4 tivities will leverage the maximum amount of  
5 private-sector financing capital relative to the  
6 amount of Federal and State funds used and  
7 otherwise enhance credit available to charter  
8 schools, including how the applicant will offer a  
9 combination of rates and terms more favorable  
10 than rates and terms that a charter school  
11 could receive without assistance under this sec-  
12 tion;

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

18           “(F) in the case of an application sub-  
19 mitted by an eligible entity that is a State gov-  
20 ernmental entity, a description of the actions  
21 that the entity has taken, or will take, to ensure  
22 that charter schools within the State receive the  
23 funding needed to have adequate facilities; and

24           “(G) such other information as the Sec-  
25 retary may reasonably require.



1       “(f) CHARTER SCHOOL OBJECTIVES.—An eligible en-  
2 tity receiving a grant under this section shall use the funds  
3 deposited in the reserve account established under sub-  
4 section (g)(1) to assist 1 or more charter schools to access  
5 private sector capital in order to accomplish one or more  
6 of the following objectives:

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

13           “(2) The construction (including predevelop-  
14 ment costs in a case where construction or renova-  
15 tion cannot proceed as a result of predevelopment  
16 findings) of new facilities, or the renovation, repair,  
17 or alteration of existing facilities, necessary to com-  
18 mence or continue the operation of a charter school.

19       “(g) RESERVE ACCOUNT.—

20           “(1) USE OF FUNDS.—To assist charter schools  
21 to accomplish the objectives described in subsection  
22 (f), an eligible entity receiving a grant under this  
23 section shall, in accordance with State and local law,  
24 directly or indirectly, alone or in collaboration with  
25 others, deposit the funds received under this section

1 (other than funds used for administrative costs in  
2 accordance with subsection (h)) in a reserve account  
3 established and maintained by the eligible entity for  
4 this purpose. Amounts deposited in such account  
5 shall be used by the eligible entity for one or more  
6 of the following purposes:

7 “(A) Guaranteeing, insuring, and rein-  
8 suring bonds, notes, evidences of debt, loans,  
9 and interests therein, the proceeds of which are  
10 used for an objective described in subsection (f).

11 “(B) Guaranteeing and insuring leases of  
12 personal and real property for an objective de-  
13 scribed in subsection (f).

14 “(C) Facilitating financing by identifying  
15 potential lending sources, encouraging private  
16 lending, and other similar activities that di-  
17 rectly promote lending to, or for the benefit of,  
18 charter schools.

19 “(D) Facilitating the issuance of bonds by  
20 charter schools, or by other public entities for  
21 the benefit of charter schools, by providing  
22 technical, administrative, and other appropriate  
23 assistance (including the recruitment of bond  
24 counsel, underwriters, and potential investors

1 and the consolidation of multiple charter school  
2 projects within a single bond issue).

3 “(E) Making limited loans to charter  
4 schools, under such terms and conditions as the  
5 Secretary may prescribe.

6 “(2) INVESTMENT.—Funds received under this  
7 section and deposited in the reserve account estab-  
8 lished under paragraph (1) shall be invested in obli-  
9 gations issued or guaranteed by the United States or  
10 a State, or in other similarly low-risk securities.

11 “(3) REINVESTMENT OF EARNINGS.—Any earn-  
12 ings on funds received under this section shall be de-  
13 posited in the reserve account established under  
14 paragraph (1) and used in accordance with such  
15 paragraph.

16 “(h) LIMITATION ON ADMINISTRATIVE COSTS.—An  
17 eligible entity may use not more than 2 percent of the  
18 funds received for any fiscal year under this section for  
19 the administrative costs of carrying out its responsibilities  
20 under this section.

21 “(i) AUDITS AND REPORTS.—

22 “(1) FINANCIAL RECORD MAINTENANCE AND  
23 AUDIT.—The financial records of each eligible entity  
24 receiving a grant under this section shall be main-  
25 tained in accordance with generally accepted ac-

1 counting principles and shall be subject to an annual  
2 audit by an independent public accountant.

3 “(2) REPORTS.—

4 “(A) GRANTEE ANNUAL REPORTS.—Each  
5 eligible entity receiving a grant under this sec-  
6 tion annually shall submit to the Secretary a re-  
7 port of the eligible entity’s operations and ac-  
8 tivities under this section.

9 “(B) CONTENTS.—Each annual report  
10 submitted under subparagraph (A) shall in-  
11 clude—

12 “(i) a copy of the most recent finan-  
13 cial statements, and any accompanying  
14 opinion on such statements, prepared by  
15 the independent public accountant review-  
16 ing the financial records of the eligible en-  
17 tity;

18 “(ii) a copy of any report made on an  
19 audit of the financial records of the eligible  
20 entity that was conducted under paragraph  
21 (1) during the reporting period;

22 “(iii) an evaluation by the eligible en-  
23 tity of the effectiveness of its use of the  
24 Federal funds provided under this section  
25 in leveraging private funds;

1           “(iv) a listing and description of the  
2 charter schools served during the reporting  
3 period;

4           “(v) a description of the activities car-  
5 ried out by the eligible entity to assist  
6 charter schools in meeting the objectives  
7 set forth in subsection (f); and

8           “(vi) a description of the characteris-  
9 tics of lenders and other financial institu-  
10 tions participating in the activities under-  
11 taken by the eligible entity under this sec-  
12 tion during the reporting period.

13           “(C) SECRETARIAL REPORT.—The Sec-  
14 retary shall review the reports submitted under  
15 paragraph (2)(A) and shall provide a com-  
16 prehensive annual report to Congress on the ac-  
17 tivities conducted under this section.

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

1 made by an eligible entity pursuant to any provision of  
2 this section.

3 “(k) RECOVERY OF FUNDS.—

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

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

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

22 “(2) EXERCISE OF AUTHORITY.—The Secretary  
23 shall not exercise the authority provided in para-  
24 graph (1) to collect from any eligible entity any

1 funds that are being properly used to achieve one or  
2 more of the objectives described in subsection (f).

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

7 “(4) CONSTRUCTION.—Nothing in this section  
8 shall be construed to impair or affect the authority  
9 of the Secretary to recover funds under part D of  
10 the General Education Provisions Act.

11 “(1) RESERVATION.—To carry out this section, the  
12 Secretary shall reserve for each fiscal year not less than  
13 5 percent and not more than 15 percent of the amount  
14 appropriated under section 5212.”.

15 **SEC. 9. DEFINITIONS.**

16 Section 5211 of the Elementary and Secondary Edu-  
17 cation Act of 1965 (as redesignated by section 8(1)) (20  
18 U.S.C. 7221i) is amended—

19 (1) in paragraph (1)—

20 (A) by striking subparagraph (L);

21 (B) by redesignating subparagraphs (D)  
22 through (K) as subparagraphs (E) through (L),  
23 respectively;

24 (C) by inserting after subparagraph C) the  
25 following:

1           “(D) has an independent governing board  
2 that enters into a performance-based agreement  
3 that encompasses one or more campuses with  
4 an authorized public chartering agency in the  
5 State, which agreement shall include a descrip-  
6 tion of—

7                   “(i) how student performance will be  
8 measured in each charter school pursuant  
9 to the State assessments that are required  
10 of other schools and any other assessments  
11 or evaluations mutually agreeable to the  
12 authorized public chartering agency and  
13 the charter school; and

14                   “(ii) criteria for renewal or revocation  
15 of the charter;”;

16           (D) in subparagraph (E) (as redesignated  
17 by subparagraph (B)), by striking “elementary  
18 or secondary education, or both” and inserting  
19 “prekindergarten, elementary, or secondary  
20 education, or adult education if permitted by  
21 State charter law, or any combination of such  
22 types of education”;

23           (E) in subparagraph (I) (as redesignated  
24 by subparagraph (B))—



- 1 (i) by striking “school to” and insert-  
2 ing “school—  
3 “(i) to”;  
4 (ii) by striking “children, and that”  
5 and inserting “children;  
6 “(ii) that”; and  
7 (iii) by striking “accommodated;” and  
8 inserting “accommodated; and  
9 “(iii) that does not give admissions  
10 preference to any student on the basis of  
11 prior academic achievement;”;  
12 (F) in subparagraph (K) (as redesignated  
13 by subparagraph (B)), by inserting “and” after  
14 the semicolon; and  
15 (G) in subparagraph (L) (as redesignated  
16 by subparagraph (B)), by striking “; and” and  
17 inserting a period;  
18 (2) by striking paragraph (3) and inserting the  
19 following:  
20 “(3) ELIGIBLE APPLICANT.—The term ‘eligible  
21 applicant’ means—  
22 “(A) a developer that has applied to an au-  
23 thorized public chartering agency to operate a  
24 charter school and provided adequate and time-

1 ly notice to that authority under section  
2 5203(d)(3); or

3 “(B) a charter support organization.”;

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

5 “(5) CHARTER SUPPORT ORGANIZATION.—The  
6 term ‘charter support organization’ means a public  
7 or private nonprofit organization that provides as-  
8 sistance to a developer of a charter school during the  
9 planning, program design, and initial implementa-  
10 tion of a charter school.

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

13 “(A) a public entity, such as a State edu-  
14 cational agency or other State or local govern-  
15 mental entity;

16 “(B) a private nonprofit entity; or

17 “(C) a consortium of entities described in  
18 subparagraph (A) or (B).”; and

19 (4) by redesignating paragraphs (1) through  
20 (6) as paragraphs (2), (4), (5), (1), (3), and (6), re-  
21 spectively.

22 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

23 Section 5212 of the Elementary and Secondary Edu-  
24 cation Act of 1965 (as redesignated by section 8(1)) (20  
25 U.S.C. 7221j) is amended to read as follows:

1 **“SEC. 5212. AUTHORIZATION OF APPROPRIATIONS.**

2 “(a) IN GENERAL.—There are authorized to be ap-  
3 propriated to carry out this subpart \$650,000,000 for fis-  
4 cal year 2013 and such sums as may be necessary for each  
5 of the 5 succeeding fiscal years.

6 “(b) ALLOCATION.—In allocating funds under this  
7 subpart for any fiscal year, the Secretary shall consider  
8 the relative need between the programs under section  
9 5202, section 5205(c), and section 5207 and the quality  
10 of the applications submitted under such sections.”.

11 **SEC. 11. REORGANIZATION.**

12 Part B of title V of the Elementary and Secondary  
13 Education Act of 1965 (20 U.S.C. 7221 et seq.) is amend-  
14 ed—

15 (1) by striking subpart 2; and

16 (2) by redesignating subpart 3 as subpart 2.

17 **SEC. 12. CONFORMING AMENDMENTS.**

18 (a) CONFORMING AMENDMENT.—Section 5247(1) of  
19 the Elementary and Secondary Education Act of 1965 (20  
20 U.S.C. 7225f(1)) is amended by striking “5210” and in-  
21 serting “5211”.

22 (b) TABLE OF CONTENTS.—The table of contents in  
23 section 2 of the Elementary and Secondary Education Act  
24 of 1965 is amended—

25 (1) by striking the items relating to sections  
26 5206 through 5211 and inserting the following:

“Sec. 5206. Federal formula allocation.

“Sec. 5207. Credit enhancement for charter school facilities programs.

“Sec. 5208. Solicitation of input from charter school operators.

“Sec. 5209. Records transfer.

“Sec. 5210. Paperwork reduction.

“Sec. 5211. Definitions.

“Sec. 5212. Authorization of appropriations.”;

1           (2) by striking the item relating to subpart 2  
2           of part B of title V;

3           (3) by striking the items relating to sections  
4           5221 through 5231; and

5           (4) by striking the item relating to subpart 3  
6           of part B of title V and inserting the following:

“SUBPART 2—VOLUNTARY PUBLIC SCHOOL CHOICE PROGRAMS”.

○