

111TH CONGRESS
2^D SESSION

H. R. 5989

To amend the Elementary and Secondary Education Act to enhance the credit program for charter schools through green initiatives, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 2010

Mr. POLIS of Colorado introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Elementary and Secondary Education Act to enhance the credit program for charter schools through green initiatives, 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.**

4 This Act may be cited as the “Green Credit Enhance-
5 ment Program Act of 2010”.

6 **SEC. 2. GREEN CREDIT ENHANCEMENT PROGRAM.**

7 (a) Section 5205 of the Elementary and Secondary
8 Education Act of 1965 (20 U.S.C. 7221 et seq.) is amend-
9 ed—

1 (1) by redesignating subsection (c) as sub-
2 section (d); and

3 (2) by inserting after subsection (b) the fol-
4 lowing new subsection:

5 “(d) GREEN CREDIT ENHANCEMENT INITIATIVES TO
6 ASSIST CHARTER SCHOOL FACILITY ACQUISITION, CON-
7 STRUCTION, AND RENOVATION.—

8 “(1) PURPOSE.—The purpose of this subsection
9 is to provide grants to eligible entities to permit such
10 entities to demonstrate innovative credit enhance-
11 ment initiatives of assisting charter schools for ad-
12 dressing the costs of acquiring, constructing, and
13 renovating facilities.

14 “(2) GRANTS TO ELIGIBLE ENTITIES.—

15 “(A) GRANTS.—Subject only to subpara-
16 graph (E), the Secretary shall award not less
17 than three grants to eligible entities that have
18 submitted applications that have been approved
19 under this subsection for use to demonstrate in-
20 novative methods of assisting charter schools in
21 addressing the cost of acquiring, constructing,
22 and renovating facilities by enhancing the avail-
23 ability of loans or bond financing.

24 “(B) ELIGIBILITY.—For purposes of this
25 subsection, an eligible entity is—

1 “(i) a public entity, such as a State or
2 local governmental entity;

3 “(ii) a private nonprofit entity; or

4 “(iii) a consortium of entities de-
5 scribed in clauses (i) or (ii).

6 “(C) GRANTEE SELECTION.—

7 “(i) EVALUATION OF APPLICATION.—

8 The Secretary shall evaluate each applica-
9 tion submitted under paragraph (3), and
10 may approve only applications that the
11 Secretary determines are sufficient to
12 merit approval.

13 “(ii) PRIORITY.—In evaluating each
14 application, the Secretary shall give pri-
15 ority to the applications of eligible entities
16 that propose to use at least 65 percent of
17 the amounts received from a grant under
18 this subsection to fund modernization, ren-
19 ovation, repair, or construction projects
20 consistent with the applicable provisions of
21 any one of the green building certification
22 programs specified in paragraph (4)(B)(i).

23 “(iii) DISTRIBUTION OF GRANTS.—If
24 a sufficient number of applications are
25 submitted that the Secretary determines

1 are of sufficient quality to merit approval,
2 the Secretary shall award at least one
3 grant to an eligible entity described in sub-
4 paragraph (A)(i), at least one grant to an
5 eligible entity described in paragraph
6 (A)(ii), and at least one grant to an eligi-
7 ble entity described in paragraph (A)(iii).

8 “(D) GRANT CHARACTERISTICS.—Grants
9 under this subsection shall be of a sufficient
10 size, scope, and quality so as to ensure an effec-
11 tive demonstration of an innovative means of
12 enhancing credit for the financing of charter
13 school acquisition, construction, or renovation.

14 “(E) SPECIAL RULE.—If the Secretary de-
15 termines that the funds made available under
16 this subsection are insufficient to permit the
17 Secretary to award three or more grants in ac-
18 cordance with subparagraphs (A), (C), and (D),
19 the requirement to award three grants under
20 subparagraph (A) and the requirements related
21 to the distribution of grants under subpara-
22 graph (C)(iii) shall not apply, and the Secretary
23 may determine the appropriate number of
24 grants to be awarded in accordance with sub-
25 paragraph (D).

1 “(3) APPLICATIONS.—

2 “(A) IN GENERAL.—To be eligible to re-
3 ceive a grant under this subsection, an eligible
4 entity shall submit to the Secretary an applica-
5 tion in such form as the Secretary may reason-
6 ably require.

7 “(B) CONTENTS.—An application sub-
8 mitted under subparagraph (A) shall contain—

9 “(i) a statement identifying the activi-
10 ties the eligible entity proposes to under-
11 take with funds received under this sub-
12 section, including the methods such entity
13 shall use to determine which charter
14 schools receive assistance, and how much
15 and what types of assistance charter
16 schools shall receive;

17 “(ii) a description of the involvement
18 of charter schools in the development of
19 such application and the design of the pro-
20 posed activities described in such applica-
21 tion;

22 “(iii) a description of the expertise of
23 the eligible entity in capital market financ-
24 ing;

1 “(iv) a description of how the pro-
2 posed activities leverage the maximum
3 amount of private-sector capital relative to
4 the amount of government funding used
5 and how such activities otherwise enhance
6 credit available to charter schools, includ-
7 ing how the eligible entity plans to offer a
8 combination of financing rates and terms
9 more favorable than such rates and terms
10 that a charter school could receive without
11 assistance under this subsection;

12 “(v) a description of how the eligible
13 entity possesses sufficient expertise in edu-
14 cation to evaluate the likelihood of success
15 of a charter school program for which fa-
16 cilities financing is sought;

17 “(vi) in the case of an application
18 submitted by a State governmental entity,
19 a description of the actions that the entity
20 has taken, or intends to take, to ensure
21 that charter schools within the State re-
22 ceive the funding the charter schools need
23 to have adequate facilities; and

24 “(vii) such other information as the
25 Secretary may reasonably require.

1 “(4) CHARTER SCHOOL OBJECTIVES.—

2 “(A) IN GENERAL.—Subject to subpara-
3 graph (B), an eligible entity receiving a grant
4 under this subsection shall use the funds depos-
5 ited in the reserve account established under
6 paragraph (5)(A) to assist one or more charter
7 schools to access private-sector capital to ac-
8 complish one or both of the following objectives:

9 “(i) The acquisition (by purchase,
10 lease, donation, or otherwise) of an interest
11 (including an interest held by a third party
12 for the benefit of a charter school) in im-
13 proved or unimproved real property that is
14 necessary to commence or continue the op-
15 eration of a charter school.

16 “(ii) The construction of new facilities
17 (including predevelopment costs), or the
18 renovation, repair, or alteration of existing
19 facilities, necessary to commence or con-
20 tinue the operation of a charter school.

21 “(B) CONDITION.—

22 “(i) IN GENERAL.—Except as pro-
23 vided in clause (ii), as a condition of re-
24 ceiving a grant under this subsection, an
25 eligible entity shall agree to use not less

1 than 50 percent of the amounts received
2 from a grant under this subsection to fund
3 projects consistent with the applicable pro-
4 visions of any one of the following green
5 building certification programs:

6 “(I) The United States Green
7 Building Council Leadership in En-
8 ergy and Environmental Design green
9 building rating standard referred to
10 as LEED Green Building Rating Sys-
11 tem.

12 “(II) The Energy Star program
13 of the United States Department of
14 Energy and the United States Envi-
15 ronmental Protection Agency.

16 “(III) The CHPS green building
17 rating program developed by the Col-
18 laborative for High Performance
19 Schools.

20 “(IV) The Green Building Initia-
21 tive environmental design and rating
22 system referred to as Green Globes.

23 “(V) Any other program adopted
24 by a State or entity within a State
25 having authority over a local edu-

1 cational agency that provides for
2 green building certification.

3 “(ii) SPECIAL RULE.—The condition
4 under clause (i) shall not apply if—

5 “(I) the Secretary waives such
6 condition upon application to the Sec-
7 retary for such waiver by the eligible
8 entity; or

9 “(II) compliance with such condi-
10 tion causes the cost of a project fund-
11 ed under the grant to increase by
12 more than 10 percent.

13 “(5) RESERVE ACCOUNT.—

14 “(A) USE OF FUNDS.—To assist charter
15 schools to accomplish the objectives described in
16 paragraph (4), an eligible entity receiving a
17 grant under this subsection shall, in accordance
18 with State and local law, directly or indirectly,
19 alone or in collaboration with others, deposit
20 the funds received under this subsection (other
21 than funds used for administrative costs in ac-
22 cordance with paragraph (6)) in a reserve ac-
23 count established and maintained by the eligible
24 entity. Amounts deposited in such account shall
25 be used by the eligible entity for the objectives

1 described in paragraph (4) through one or more
2 of the following methods:

3 “(i) Guaranteeing, insuring, and rein-
4 suring bonds, notes, evidences of debt,
5 loans, and interests therein.

6 “(ii) Guaranteeing and insuring leases
7 of personal and real property.

8 “(iii) Facilitating financing by identi-
9 fying potential lending sources, encour-
10 aging private lending, and other similar ac-
11 tivities that directly promote lending to, or
12 for the benefit of, charter schools.

13 “(iv) Facilitating the issuance of
14 bonds by charter schools, or by other pub-
15 lic entities for the benefit of charter
16 schools, by providing technical, administra-
17 tive, and other appropriate assistance (in-
18 cluding the recruitment of bond counsel,
19 underwriters, and potential investors and
20 the consolidation of multiple charter school
21 projects within a single bond issue).

22 “(B) INVESTMENT.—Funds received under
23 this subsection and deposited in the reserve ac-
24 count established under subparagraph (A) shall
25 be invested in obligations issued or guaranteed

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

3 “(C) REINVESTMENT OF EARNINGS.—Any
4 earnings on funds received under this sub-
5 section shall be deposited in the reserve account
6 established under subparagraph (A) and used in
7 accordance with such subparagraph.

8 “(6) LIMITATION AND ADMINISTRATIVE
9 COSTS.—An eligible entity may use not more than
10 2.5 percent of the funds received under this sub-
11 section for the administrative costs of carrying out
12 this subsection.

13 “(7) AUDITS AND REPORTS.—

14 “(A) FINANCIAL RECORD MAINTENANCE
15 AND AUDIT.—The financial records of each eli-
16 gible entity receiving a grant under this sub-
17 section shall be maintained in accordance with
18 generally accepted accounting principles and
19 shall be audited by an independent public ac-
20 countant.

21 “(B) REPORTS.—

22 “(i) GRANTEE ANNUAL REPORTS.—
23 Each eligible entity receiving a grant under
24 this subsection shall annually submit to the

1 Secretary a report of its operations and ac-
2 tivities under this subsection.

3 “(ii) CONTENTS.—Each annual report
4 submitted under clause (i) shall include—

5 “(I) a copy of the most recent fi-
6 nancial statements of the eligible enti-
7 ty, and any accompanying opinion on
8 such statements, prepared by the
9 independent public accountant review-
10 ing the financial records of the eligible
11 entity;

12 “(II) a copy of any report made
13 on the audit of the financial records
14 of the eligible entity that was con-
15 ducted under subparagraph (A) dur-
16 ing the annual reporting period;

17 “(III) an evaluation by the eligi-
18 ble entity of the effectiveness of its
19 use of the funds provided under this
20 subsection in leveraging private funds;

21 “(IV) a listing and description of
22 the charter schools served by the eligi-
23 ble entity during the annual reporting
24 period, including the amount of funds
25 used by each charter school and the

1 type of project facilitated by the fund-
2 ing;

3 “(V) a description of the activi-
4 ties carried out by the eligible entity
5 to assist charter schools in meeting
6 the objectives set forth in paragraph
7 (4); and

8 “(VI) a description of the charac-
9 teristics of lenders and other financial
10 institutions participating in the activi-
11 ties undertaken by the eligible entity
12 under this subsection during the re-
13 porting period.

14 “(iii) SECRETARIAL REPORT.—The
15 Secretary shall review the reports sub-
16 mitted under clause (i) and shall provide a
17 comprehensive annual report to the Con-
18 gress on the activities conducted under this
19 subsection.

20 “(8) NO FULL FAITH AND CREDIT FOR GRANT-
21 EE OBLIGATIONS.—No financial obligation of an eli-
22 gible entity entered into pursuant to this subsection
23 (such as an obligation under a guarantee, bond,
24 note, evidence of debt, or loan) shall be an obligation
25 of, or guaranteed in any respect by, the United

1 States. The full faith and credit of the United States
2 is not pledged to the payment of funds which may
3 be required to be paid under any obligation made by
4 an eligible entity pursuant to any provision of this
5 subsection.

6 “(9) RECOVERY OF FUNDS.—

7 “(A) IN GENERAL.—The Secretary, in ac-
8 cordance with chapter 37 of title 31, United
9 States Code, shall collect—

10 “(i) all of the funds in a reserve ac-
11 count established by an eligible entity
12 under paragraph (5)(A) if the Secretary
13 determines, not earlier than 2 years after
14 the date on which the eligible entity first
15 received funds under this subsection, that
16 the eligible entity has failed to make sub-
17 stantial progress in carrying out the pur-
18 poses described in such paragraph; or

19 “(ii) all or a portion of the funds in
20 a reserve account established by an eligible
21 entity under such paragraph if the Sec-
22 retary determines that the eligible entity
23 has permanently ceased to use all or a por-
24 tion of the funds in such account to accom-

1 plish any purpose described in such para-
2 graph.

3 “(B) LIMITATION.—The Secretary shall
4 not exercise the authority under subparagraph
5 (A) to collect from any eligible entity any funds
6 that are being properly used to achieve one or
7 more of the purposes described in paragraph
8 (5)(A).

9 “(C) PROCEDURES.—The provisions of
10 sections 451, 452, and 458 of the General Edu-
11 cation Provisions Act (20 U.S.C. 1234, 1234a,
12 and 1234g) shall apply to the recovery of funds
13 under subparagraph (A).

14 “(D) OTHER AUTHORITY TO RECOVER
15 FUNDS.—This paragraph shall not be construed
16 to impair or affect the authority of the Sec-
17 retary to recover funds under part D of the
18 General Education Provisions Act.”.

19 (b) CONFORMING AMENDMENTS.—Part B of title V
20 of such Act (20 U.S.C. 7221 et seq.) is amended—

21 (1) by striking subpart 2;

22 (2) by redesignating subpart 3 as subpart 2;

23 (3) by redesignating sections 5241 through
24 5248 as sections 5231 through 5238, respectively;

25 and

1 (4) by amending the items of the table of con-
 2 tents of such Act that follow subpart 1 to read as
 3 follows:

“SUBPART 2—VOLUNTARY PUBLIC SCHOOL CHOICE PROGRAMS

“Sec. 5231. Grants.

“Sec. 5232. Uses of funds.

“Sec. 5233. Applications.

“Sec. 5234. Priorities.

“Sec. 5235. Requirements and voluntary participation.

“Sec. 5236. Evaluations.

“Sec. 5237. Definitions.

“Sec. 5238. Authorization of appropriations.”.

4 **SEC. 3. FUNDING.**

5 (a) **AUTHORIZATION OF APPROPRIATIONS.**—Section
 6 5211 of the Elementary and Secondary Education Act of
 7 1965 (20 U.S.C. 7221j) is amended to read as follows:

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

9 “(a) **IN GENERAL.**—There are authorized to be ap-
 10 propriated to carry out this subpart \$750,000,000 for fis-
 11 cal year 2011 and such sums as may be necessary for each
 12 of the 5 succeeding fiscal years.

13 “(b) **ALLOCATION.**—In allocating funds made avail-
 14 able pursuant to subsection (a), for any fiscal year, the
 15 Secretary shall consider—

16 “(1) the relative need for assistance under the
 17 programs established under sections 5202 and 5205;
 18 and

19 “(2) the relative quality of the applications sub-
 20 mitted for grants funded under such sections.”.

21 (b) **CONFORMING AMENDMENTS.**—

1 (1) PRIORITY TREATMENT.—Section 5202(e)(1)
2 of such Act (20 U.S.C. 7221a(e)(1)) is amended by
3 striking “5211 (other than funds reserved to carry
4 out section 5205(b)),” and inserting “5211,”.

5 (2) NATIONAL ACTIVITIES.—Section 5205 of
6 such Act (20 U.S.C. 7221d) is amended—

7 (A) in subsection (a), in the matter pre-
8 ceding paragraph (1), by striking “reserve for
9 each fiscal year the greater of 5 percent or
10 \$5,000,000 of the amount appropriated to carry
11 out this subpart, except that in no fiscal year
12 shall the total amount so reserved exceed
13 \$8,000,000, to”; and

14 (B) in subsection (b)(2)(A), by striking
15 “From the amount made available to carry out
16 this subsection under paragraphs (2) and
17 (3)(B) of section 5211(b) for any fiscal year,
18 the” and inserting “The”.

○