

119TH CONGRESS  
2D SESSION

# S. 4328

To amend the Elementary and Secondary Education Act of 1965 in order to provide for greater flexibility in the Federal programs supporting the planning and implementation of charter schools.

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## IN THE SENATE OF THE UNITED STATES

APRIL 16 (legislative day, APRIL 14), 2026

Mrs. MOODY (for herself, Mr. BUDD, and Mr. TUBERVILLE) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Elementary and Secondary Education Act of 1965 in order to provide for greater flexibility in the Federal programs supporting the planning and implementation of charter schools.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fostering Learning  
5 and Excellence in Charter Schools Act” or the “FLEX  
6 Act”.

1 **SEC. 2. FUNDING ALLOTMENT.**

2 Section 4302 of the Elementary and Secondary Edu-  
 3 cation Act of 1965 (20 U.S.C. 7221a) is amended—

4 (1) in subsection (a)(1)—

5 (A) by striking “and” after “the replica-  
 6 tion of high-quality charter schools,”; and

7 (B) by inserting “, and the addition or ex-  
 8 pansion of programs at high-quality charter  
 9 schools” after “the expansion of high-quality  
 10 charter schools”;

11 (2) in subsection (b)—

12 (A) in paragraph (1), by striking “12.5  
 13 percent” and inserting “at least 15 percent”;

14 (B) in paragraph (2), by striking “22.5  
 15 percent” and inserting “at least 25 percent”;  
 16 and

17 (C) in paragraph (3), by striking “use the  
 18 remaining” and all that follows through “para-  
 19 graphs (1) and (2)” and inserting “reserve at  
 20 least 30 percent”; and

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

22 “(d) REMAINING AMOUNTS.—In the case of a re-  
 23 maining amount after the Secretary makes reservations  
 24 of the amount made available under section 4311 for a  
 25 fiscal year in accordance with paragraphs (1), (2), and (3)  
 26 of subsection (b), the Secretary—

1 “(1) shall use all of such remaining amount to  
 2 support charter school facilities assistance under sec-  
 3 tion 4304, carry out national activities under section  
 4 4305, and carry out section 4303, as described in  
 5 such paragraphs; and

6 “(2) may determine how to allocate such re-  
 7 maining amount to support or carry out, as applica-  
 8 ble, the programs and activities described in each  
 9 such section.”.

10 **SEC. 3. GRANTS TO SUPPORT HIGH-QUALITY CHARTER**  
 11 **SCHOOLS.**

12 Section 4303 of the Elementary and Secondary Edu-  
 13 cation Act of 1965 (20 U.S.C. 7221b) is amended—

14 (1) in subsection (b)—

15 (A) in paragraph (1)—

16 (i) in subparagraph (B), by striking  
 17 “or” at the end;

18 (ii) in subparagraph (C), by striking  
 19 “and” at the end and inserting “or”; and

20 (iii) by inserting after subparagraph  
 21 (C) the following:

22 “(D) support the addition or expansion of  
 23 curricular or other offerings at a high-quality  
 24 charter school (provided that such addition or  
 25 expansion is designed and implemented in a

manner that will enable additional students to enroll in and benefit from the school), such as through the adoption of—

“(i) new academic programs or delivery models;

“(ii) personalized learning; or

“(iii) a new curricular approach; and”;

(B) in paragraph (2), by inserting “, including costs to provide such assistance,” after “provide technical assistance”;

(2) in subsection (c)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by inserting “, over the course of the grant period described in subsection (d)(1)(A)” after “shall”; and

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

“(C) SINGLE-SEX SCHOOLS AND SERVICES.—Nothing in this part shall be construed to prohibit schools from providing educational services to students of a single sex.”;

(3) in subsection (d)—

1 (A) in the heading of such subsection, by  
2 inserting “ADVANCE PAYMENTS; ” after “PEER  
3 REVIEW; ”;

4 (B) in paragraph (1)(B), by striking “of  
5 which” and all that follows through “program  
6 design” and inserting “of which an eligible ap-  
7 plicant may use not more than a period of time  
8 determined by the State entity (which may not  
9 exceed 2 years) for planning and program de-  
10 sign”;

11 (C) in paragraph (2), by striking “The  
12 Secretary, and each State entity awarding sub-  
13 grants under this section, shall” and inserting  
14 “The Secretary shall, and each State entity  
15 awarding subgrants under this section may,”;  
16 and

17 (D) by amending paragraph (3) to read as  
18 follows:

19 “(3) ADVANCE PAYMENTS.—Notwithstanding  
20 any other provision of law, the Secretary shall take  
21 such steps as are necessary to ensure that—

22 “(A) an eligible applicant awarded a  
23 subgrant by a State entity under this section  
24 may request advance payments of subgrant  
25 funds for the purposes described in subsection

(b)(1), and upon such request, such State entity shall provide advance payments of such funds awarded to the eligible applicant in accordance with section 200.305(b)(1) of title 2, Code of Federal Regulations (or successor regulations);

“(B) a State entity shall be provided with advance payments of grant funds in accordance with section 200.305(b)(1) of title 2, Code of Federal Regulations (or successor regulations) in an amount sufficient to provide advance payments to an eligible applicant under subparagraph (A); and

“(C) mutually agreed upon funding techniques, such as those described in part 205.12 of title 31, Code of Federal Regulations (or successor regulations), are in place with States or State entities, as appropriate, to receive funds under this section in a manner that permits a State entity to receive advance payments of grant funds, and provide to eligible applicants advance payments of subgrant funds, in accordance with subparagraphs (A) and (B).”;

(4) in subsection (e)(1), by striking “is currently using” and inserting “has not obligated all funds received pursuant to”;

(5) in subsection (f)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by amending clause (i) to read as follows:

“(i) support the opening, expansion, and strengthening of charter schools through the startup of new charter schools, the replication of high-quality charter schools, the expansion of high-quality charter schools, and the addition of programs in high-quality schools, which shall include an initial projection (which may not be used to determine a State entity’s allocation of subgrant funds if the State entity determines that an alternative allocation would better meet the purposes of this program) of—

“(I) the number of charter schools to be opened through the startup of new charter schools under the program;

1                   “(II) the number of charter  
2 schools to be opened as a result of the  
3 replication of a high-quality charter  
4 school under the program; or

5                   “(III) the number of high-quality  
6 charter schools to be expanded under  
7 the program;”;

8                   (II) in subclause (II) of clause  
9 (vi), by striking “in a manner con-  
10 sistent with the eligible applicant’s ap-  
11 plication for such subgrant”;

12                   (III) in clause (xi), by inserting  
13 “in the case of a State entity de-  
14 scribed in subsection (a)(1) or  
15 (a)(3),” before “support”; and

16                   (IV) in clause (xii)—

17                   (aa) in subclause (I)—

18                   (AA) by striking “(I)”;

19                   and

20                   (BB) by striking “not  
21 described in subclause (II)”  
22 and inserting “described in  
23 paragraphs (1), (2), or (3)  
24 of subsection (a)”;



1 (bb) by striking subclause

2 (II);

3 (ii) in subparagraph (B)(iii), by strik-  
4 ing “to develop or strengthen a cohesive  
5 strategy”;

6 (iii) in subparagraph (C)—

7 (I) in clause (i)(VI), by striking  
8 “and” at the end;

9 (II) in clause (ii), by inserting  
10 “and” at the end; and

11 (III) by adding at the end the  
12 following:

13 “(iii) a description of whether and  
14 how, in lieu of requiring an application in  
15 accordance with clause (i), the State entity  
16 will opt to use an eligible applicant’s ap-  
17 proved charter authorization application,  
18 provided that such charter authorization  
19 application was approved in accordance  
20 with relevant State law during the year  
21 preceding the date on which the State enti-  
22 ty first accepts applications for such sub-  
23 grants;”;

24 (iv) by striking subparagraph (E);

25 and

1 (v) by redesignating subparagraphs

2 (F) and (G) as subparagraphs (E) and

3 (F), respectively; and

4 (B) in paragraph (2)—

5 (i) in subparagraph (F), by striking

6 “and” at the end;

7 (ii) in subparagraph (G)(v), by strik-

8 ing the period at the end and inserting “;

9 and”; and

10 (iii) by adding at the end the fol-

11 lowing:

12 “(H) the State entity will ensure that each

13 charter school receiving funds under the State

14 entity’s program will address the transportation

15 needs of their students.”;

16 (6) in subsection (g)(1)—

17 (A) by striking subparagraph (B);

18 (B) by redesignating subparagraphs (C)

19 through (E) as subparagraphs (B) through (D),

20 respectively; and

21 (C) in subparagraph (B), as so redesign-

22 nated, by striking “meet those objectives and”;

23 (7) in subsection (h)—

24 (A) by amending paragraph (1)(B) to read

25 as follows:

1           “(B) hiring and compensating teachers,  
2           school leaders, or specialized instructional sup-  
3           port personnel.”;

4           (B) in paragraph (2)—

5                 (i) by inserting “academic subscrip-  
6                 tions (including digital and online subscrip-  
7                 tions),” after “training,”; and

8                 (ii) by inserting “curricular support,”  
9                 after “(including technology),”;

10           (C) by amending paragraph (3) to read as  
11           follows:

12                 “(3) In order to ensure that a school building  
13                 complies with applicable statutes and regulations,  
14                 carrying out necessary renovations, upgrades, or fa-  
15                 cilities repairs, or acquiring portable classrooms.”;

16           (D) in paragraph (4), by striking “one-  
17           time, startup”;

18           (E) in paragraph (6), by striking “appro-  
19           priate, non-sustained”; and

20           (F) by adding at the end the following:

21                 “(7) Providing costs associated with operations  
22                 and management of the charter school facility.”; and

23           (8) in subsection (i)—

24                 (A) by striking “of the third year”; and

1 (B) by striking “(or at the end of the sec-  
 2 ond year of the grant period if the grant is less  
 3 than 5 years), and at the end of such grant pe-  
 4 riod”.

5 **SEC. 4. NATIONAL ACTIVITIES; GRANTS TO CHARTER MAN-**  
 6 **AGEMENT ORGANIZATIONS.**

7 Section 4305 of the Elementary and Secondary Edu-  
 8 cation Act of 1965 (20 U.S.C. 7221d) is amended—

9 (1) by amending subsection (a) to read as fol-  
 10 lows:

11 “(a) IN GENERAL.—From the amount reserved  
 12 under section 4302(b)(2), the Secretary shall—

13 “(1) use not more than 10 percent of such  
 14 funds to—

15 “(A) provide support and technical assist-  
 16 ance to—

17 “(i) State entities in awarding sub-  
 18 grants under section 4303(b)(1); and

19 “(ii) eligible entities and States receiv-  
 20 ing grants under section 4304;

21 “(B) disseminate best practices regarding  
 22 charter schools;

23 “(C) increase access to facilities (including  
 24 funding and financing for facilities) for charter  
 25 schools;

1           “(D) increase the number of available  
2           seats in charter schools through early-stage  
3           charter school planning;

4           “(E) increase the number of available seats  
5           in charter schools that—

6                   “(i) are located in States that have  
7                   enacted legislation within a period of 5  
8                   years prior to the award of a grant under  
9                   this section for such purpose;

10                   “(ii) serve rural students; and

11                   “(iii) serve students with disabilities;

12                   and

13           “(F) evaluate the impact of the charter  
14           school program carried out under this part, in-  
15           cluding with respect to student achievement;

16           “(2) use not more than 15 percent of such  
17           funds to award grants, on a competitive basis, to eli-  
18           gible applicants for the purpose of carrying out the  
19           activities described in section 4303(h) in a State  
20           that did not receive a grant under section 4303; and

21           “(3) after the uses described in paragraphs (1)  
22           and (2), use the remainder of such funds to award  
23           grants in accordance with subsection (b).”; and

24           (2) in subsection (b)—

25                   (A) in paragraph (3)(B)—

1 (i) in clause (ii)—

2 (I) in subclause (I), by inserting

3 “and” at the end;

4 (II) in subclause (II), by striking

5 “and” and the end; and

6 (III) by striking subclause (III);

7 and

8 (ii) in clause (iii), by striking “, which

9 shall include a multi-year financial and op-

10 erating model for the eligible entity”; and

11 (B) in paragraph (5)—

12 (i) in subparagraph (C)(ii), by strik-

13 ing “or” at the end;

14 (ii) in subparagraph (D), by striking

15 the period at the end and inserting “; or”;

16 and

17 (iii) by adding at the end the fol-

18 lowing:

19 “(E) plan to operate or manage high-qual-

20 ity charter schools in—

21 “(i) States in which, as of the date on

22 which the eligible entity submits an appli-

23 cation under paragraph (3), the eligible en-

24 tity does not operate or manage a charter

25 school; or

1 “(ii) States with limited charter school  
2 options.”.

3 **SEC. 5. SOLICITATION OF INPUT FROM CHARTER SCHOOL**  
4 **OPERATORS.**

5 Section 4307 of the Elementary and Secondary Edu-  
6 cation Act of 1965 (20 U.S.C. 7221f) is amended—

7 (1) by striking “To the extent practicable, the  
8 Secretary” and inserting “The Secretary”;

9 (2) by inserting “, prior to the issuance of a no-  
10 tice of proposed rulemaking,” after “are consulted”;  
11 and

12 (3) by striking “this subpart” and inserting  
13 “this part”.

14 **SEC. 6. PAPERWORK REDUCTION AND REGULATION.**

15 Section 4309 of the Elementary and Secondary Edu-  
16 cation Act of 1965 (20 U.S.C. 7221h) is amended—

17 (1) in the heading, by inserting “**AND REGU-**  
18 **LATION**” at the end;

19 (2) by striking “To the extent practicable, the”  
20 and inserting the following:

21 “(a) PAPERWORK REDUCTION.—The”;

22 (3) by striking “this subpart” and inserting  
23 “this part”;

1           (4) by striking “or charter school” and insert-  
 2           ing “, charter school, or State entity (as defined in  
 3           section 4303)”; and

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

5           “(b) REGULATION.—In meeting the requirement  
 6           under subsection (a), the Secretary shall promulgate only  
 7           such regulations as are necessary for the administration  
 8           of this part and shall not impose additional nonstatutory  
 9           requirements on those entities subject to the regulations.”.

10   **SEC. 7. DEFINITIONS.**

11           Section 4310(2)(D) of the Elementary and Secondary  
 12           Education Act of 1965 (20 U.S.C. 7221i(2)(D)) is amend-  
 13           ed by inserting “(which may include other educational pro-  
 14           grams, pursuant to State law)” after “education”.

15   **SEC. 8. APPLICABILITY.**

16           (a) IN GENERAL.—This Act and the amendments  
 17           made by this Act shall apply with respect to grants award-  
 18           ed under sections 4303 and 4305 of the Elementary and  
 19           Secondary Education Act of 1965 (20 U.S.C. 7221b;  
 20           7221d) on or after the date of the enactment of this Act.

21           (b) EXCEPTION.—An entity that received a grant  
 22           under a section described in subsection (a) prior to the  
 23           date of the enactment of this Act for which the applicable  
 24           grant period has not expired may elect to, for the remain-



1 der of such grant period, carry out such grant in accord-  
2 ance with this Act and the amendments made by this Act.

○