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Funding for Public Charter School Facilities: Federal Policy Under the ESEA

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Summary

A public charter school is a type of public elementary or secondary school that is exempted from certain rules and regulations otherwise applicable to public schools, in exchange for a commitment toward attaining positive results in meeting state content and performance standards in accordance with the terms and conditions of a charter granted by an authorized public chartering agency. Charter schools may enroll students who reside within a particular local school district or a geographic area spanning a number of districts. Chartering agencies may include state, local, and intermediate boards of education, public and private universities, community colleges, municipal governments, or other entities authorized by state law. Depending on how a school is chartered, it may be treated as an independent local educational agency (LEA), as a school within an LEA, or even as a school within a school. Forty states and the District of Columbia have enacted charter school laws.

Just as states differ in how they authorize charter schools, they also differ in how they fund charter schools. States generally require that charter schools be provided funds for operating expenses on a per-pupil basis. However, only in some states is a per-pupil allotment provided specifically for facilities or capital expenses. Many charter school operators report one of their greatest challenges to be obtaining adequate facilities in which to locate their schools. Specific challenges include limited funding for facilities and capital expenses; limited available and affordable space; difficulty in securing access to pre-existing public school facilities; and difficulty in obtaining financing for renovating, constructing, or leasing facilities.

This report examines the federal role in providing funding for public charter school facilities. Under the Elementary and Secondary Education Act (ESEA), federal support for public charter school facilities is authorized under Title V-B — Public Charter Schools. The U.S. Department of Education (ED) administers two programs under ESEA Title V-B that support charter school facilities: the State Charter School Facilities Incentive Grants Program, and the Credit Enhancement for Charter School Facilities Program. Under the State Charter School Facilities Incentive Grants Program, competitive grants are awarded to states to provide federal matching funds on a per-pupil basis for public charter schools facilities. Under the Credit Enhancement Initiatives for Charter School Facilities Program, competitive grants are awarded to enhance the availability of financing for the acquisition, construction, or renovation of public charter school facilities.

In addition to the two ESEA Title V-B programs that provide funding specifically in support of charter school facilities, charter schools also may benefit from three programs authorized under the Internal Revenue Code (IRC) that provide bond financing or tax credits for targeted purposes. These are the Qualified Zone Academy Bond Program, the Qualified Public Education Facility Bond Program, and the New Markets Tax Credit Program.

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Background

Public charter schools are publicly funded elementary or secondary schools that are operated according to the terms and conditions of charters or contracts granted by public chartering agencies. Charter schools are schools of choice, and thus parents elect to enroll their children in a charter school rather than in the school to which they would otherwise be assigned by their LEA. Charter schools typically are allocated funding for operating expenses on a per-pupil basis. However, in most states funding for facilities and capital expenses is not provided on a per-pupil basis, and relatively few states provide substantial financial support for charter school facilities.

Among the primary factors affecting charter schools' success as educational institutions is their ability to provide quality educational facilities to their students, teachers, and communities. The quality or adequacy of the facilities that a charter school is able to secure depends largely on available funding which, in turn, is impacted by such factors as characteristics of its state's charter school law, the specific terms of its school charter, state and local public finances, and the interaction of these and other factors.

In a study conducted after charter schools had been in existence for nearly ten years, but prior to enactment of the No Child Left Behind Act of 2001 (NCLBA, P.L. 107-110), charter school operators reported that being able to provide adequate facilities ranked high among the challenges they faced in implementing their charters and in establishing or continuing their education programs.[1] In that study, three of the top four issues charter school operators cited most often as challenges involved funding: start-up costs, inadequate operating funds, and inadequate facilities. These types of funding issues often were interrelated with respect to facilities, with the adequacy of charter school facilities often dependent upon the availability of funds for start-up costs and the level of funding provided for operating expenses.

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[1] U.S. Department of Education, Office of Educational Research and Improvement, *The State of Charter Schools 2000: National Study of Charter Schools, Fourth-Year Report*, by Beryl Nelson et al., RPP International, Jan. 2000, pp. 44-45, at [https://www.ed.gov/PDFDocs/4yrrpt.pdf]. (Hereafter cited as ED, *The State of Charter Schools 2000*).

Most charter schools begin operations as newly created schools. For example, in 2001-2002, 77% of new charter schools were newly created schools.[2] Operators of newly created charter schools must not only implement their new education plans, but also must surmount the obstacle of acquiring adequate facilities in which to house their schools. In addition, many charter schools are designed to be smaller in size than traditional public schools; and oftentimes, charter schools begin operations with only a few of their planned eventual grade levels, intending to add an additional grade level each successive year. These factors often require charter school operators to arrange initially for temporary facilities as they obtain financing for, and acquire, renovate, or build, long-term facilities. Specific difficulties charter school operators face in obtaining adequate facilities include limited dedicated funds for facilities; lack of available and affordable space; problems in purchasing, leasing, or occupying pre-existing public school facilities; an inability to issue bonds or assume debt; and difficulty obtaining adequate facilities financing.

Charter School Facilities in the States

State and Local Funding

State charter school laws generally require charter schools to be provided with operational funding on a per-pupil basis — usually a certain percentage of the per-pupil funding provided to other public schools by the state or LEA. Some states and the federal government also provide limited funding for charter school start-up costs.[3] Among those states and LEAs that provide charter schools with support for facilities, the nature and extent of this assistance varies considerably.

It can be difficult to summarize how much and what kind of state and local assistance is made available for charter school facilities due to the considerable variation from state to state in the types of assistance offered. An examination of various reviews of state charter school laws illustrates the many different types of assistance made available, and the subtle distinctions that may be made when categorizing these types of assistance. These reviews do show, however, that while charter school laws in more than half of the states with them do authorize some type of facilities assistance, in many states this assistance is limited. For example:

- In 2003, the General Accounting Office (GAO) reviewed state charter school laws and found that 28 states (including the District of Columbia) provided charter schools either with facilities funding or with other forms of assistance in financing or obtaining facilities.[4]

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[2] U.S. Department of Education, Office of the Under Secretary, *Evaluation of the Public Charter Schools Program: Final Report*, Washington, D.C., 2004, p. 6, at [http://www.ed.gov/rschstat/eval/choice/pcsp-final/finalreport.pdf].

[3] Federal funding to support start-up costs for charter schools is available under ESEA Title V-B-1 — Charter School Programs.

[4] United States General Accounting Office, *Charter Schools: New Charter Schools Across*
(continued...)

Specifically, GAO found that 12 states provided funding for facilities, 19 states provided charter schools with some type of access to facilities, and 8 provided both.

- In 2003, the Education Commission of the States reviewed state charter school laws and found that 24 states (including the District of Columbia) provide either facilities funding or some other type of facilities assistance to charter schools.[5]
- In 2005, the Local Initiatives Support Corporation found that 26 states (including the District of Columbia) allow charter schools some type of access to public school facilities; 15 states authorize some form of financial support for charter school facilities (including public funding, loan, or credit enhancement programs); and only 8 states provide facilities funding on a per-pupil basis.[6]
- In 2005, the Thomas B. Fordham Institute, the Progress Analytics Institute, and Public Impact jointly conducted an analysis of funding for charter schools in a sample of states and found that on average, charter schools receive less funding on a per-pupil basis than do traditional public schools. They also found that this gap is primarily due to charter schools not being provided access to local and capital funding in a manner comparable to that provided to traditional public schools.[7]

These studies show that the nature of support for facilities varies from state to state. Relatively few states provide per-pupil allotments to charter schools specifically for facilities costs. Some allow charter schools access to funds obtained through local school tax levies or state bonding authority. In some states, charter schools are authorized to assume bonded indebtedness. A plurality of states provide charter schools with some form of access to public buildings, such as authorization to lease excess space or the right of first refusal to purchase surplus public school buildings that become available for sale.

When public charter schools were first being considered as alternatives to conventional public schools, in some instances, the rationale for their support was the

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[4] (...continued)
the Country and in the District of Columbia Face Similar Start-Up Challenges, GAO-03-899, Sept. 2003, pp. 3, 30-32, and 35-36, at [http://www.gao.gov/new.items/d03899.pdf]. (Hereafter cited as GAO, *Charter Schools*.)

[5] Education Commission of the States, *Charter School Finance*, Apr. 2003, at [http://www.ecs.org/clearinghouse/24/13/2413.htm].

[6] Barbara Page, Elise Balboni, Clara Chae, and Katje King, *The Charter School Facility Finance Landscape: A National Mapping Survey of Private Nonprofit Providers and Public Initiatives*, Local Initiatives Support Corporation, Educational Facilities Financing Center, May 2005, p. 24, at [http://www.lisc.org/resources/assets/asset_upload_file355_8088.pdf]. (Hereafter referred to as, Page et al., *The Charter School Facility Finance Landscape*.)

[7] Sheree Speakman, Bryan Hassel, and Chester E. Finn, Jr., *Charter School Funding: Inequity's Next Frontier*, Thomas B. Fordham Institute, Progress Analytics Institute, and Public Impact, Aug. 2005, pp. 11-15, at [http://www.edexcellence.net/doc/Charter%20School%20Funding%202005%20FINAL.pdf].

presumption that charter schools would be able to operate more efficiently and at lower cost than conventional public schools. Occasionally, it was also presumed that some of the financial support for public charter schools might be provided through philanthropy. However, while some schools have been successful in obtaining funding or the use of space from private donors or the private sector, many philanthropic organizations have policies prohibiting the use of funds for capital expenses. Over the years, however, a number of non-profit organizations have emerged as providers of facilities financing for charter schools.[8]

Access to Available and Affordable Space

Obtaining access to adequate and affordable space has been a challenge to many public charter schools. As the nation's school age population continues to grow, there continues to be an increasing demand for education facilities. According to the National Center for Education Statistics (NCES), billions of dollars are needed to fund the construction of new schools and large numbers of existing schools are badly in need of repair.[9] The facility needs of charter schools are not dissimilar to those of conventional public schools, with the level of need often varying according to geopolitical and socioeconomic factors. A majority of charter schools are concentrated in high growth states or in cities with troubled urban school districts. In high growth states, there is an overall shortage of public school facilities. In these locations, both charter schools and conventional public schools are struggling to obtain new or expanded facilities. Often conventional school districts welcome the arrival of charter schools because they relieve some of the pressure for building new facilities. In urban school districts, it is more likely that existing educational facilities are underutilized; however, often they also are in need of repair or renovation. While charter school operators can sometimes acquire excess facilities in which to operate a charter school, they often must bear the cost of renovation.

In general, the limited amount of funds allocated specifically for facilities and capital expenses has resulted in some charter school operators experiencing difficulty in obtaining adequate school space in which to educate their students, resulting, at least initially, in charter schools being housed in non-conventional or less than desirable facilities.[10] Examples of non-conventional charter school facilities include churches, museums, movie theaters, and former commercial or industrial buildings — places where charter school operators have been able to obtain space at affordable rates while they work to secure more adequate facilities. Other charter school

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[8] A number of such organizations are highlighted in Page et al., *The Charter School Facility Finance Landscape*.

[9] U.S. Department of Education, National Center for Education Statistics, *Condition of America's Public School Facilities: 1999, NCES 2000-032*, Washington, D.C., June 2000, p. B-29, at [http://nces.ed.gov/pubs2000/2000032.pdf].

[10] While charter schools are relieved of many education rules and regulations in exchange for increased accountability, under the ESEA Title V Public Charter Schools program they are required to adhere to Part B of the Individuals with Disabilities Education Act and "all applicable Federal, State, and local health and safety requirements" [ESEA Title V, Section 5210 (1)(G) & (J)] [20 U.S.C. § 7221i(1)(G) & (J)].

facilities include space formerly used by private schools or organizations such as YMCAs and recreation centers.

Depending on characteristics of a state's charter school law and the size of the local school age population, some charter schools are able to obtain facilities from local school districts. Options include converting a pre-existing school to a charter school and retaining use of the building or occupying excess facilities made available by a local school district. As previously mentioned, some state charter laws require local school districts to provide charter schools access to excess facilities, either at no expense or for a nominal fee. Other state laws require school districts to offer charter schools the right of first refusal when existing public school facilities are sold or allow charter schools to purchase public school facilities at a discount. In many instances, the availability of excess public school facilities is strongly correlated with growth or decline in the local school age population. In high growth areas, few, if any, excess school facilities may be available and public school districts may be struggling to provide adequate school facilities for their burgeoning student populations. In areas with declining school-age populations, while excess school facilities may be available, they may be outmoded or poorly maintained.

Facilities Financing Options

Whereas conventional public schools generally finance the construction or renovation of facilities through local tax levies or the issuance of municipal bonds, in most cases such options are not available to public charter schools. However, in some states with charter school laws, public charter schools are authorized to assume debt for purposes of financing facilities, although the entity ultimately responsible for the debt varies from state to state. In some states, the charter school is fully responsible for the debt, whereas in others, the local school district or the chartering authority would become responsible should the charter school become unable to retire the debt. In a number of states, bonding authorities have been established to issue securities to finance charter school facilities. Access to state or local bonding authority is important because federal tax exemption of interest earned on state and local bonds[11] supports the ability of bonding authorities to issue bonds at a lower interest rate than purchasers otherwise might accept if their interest earned were taxable.

In instances where charter schools are not able to assume debt under state or local bonding authority, a variety of factors make obtaining financing difficult. Lenders decide whether to provide financing, and if so, set the interest rate at which they provide financing, based on their perception of risk. Financial institutions have tended to regard charter schools as risky ventures because of their novelty and uncertainty about their long-term viability. Charter schools are still a relatively new concept in education and lenders do not have much experience working with them. Also, lenders have been reluctant to issue loans for periods exceeding the length of a school's approved charter.[12] Analysts in public finance have found that over a

[11] Internal Revenue Code, § 103.

[12] Charters in most other states are approved for a period of up to five years, however, they (continued...)

nine-year period charter schools experienced a closure rate of 4.0% compared with a 20-year school district default rate of 0.05%. This represents an 80-to-1 margin when comparing charter school and public school district risk.[13] Higher interest rates and shorter repayment periods often combine to limit charter schools' opportunities for financing facilities. Other observers, however, have suggested that data on charter school closings must be examined more closely. While a cursory look at the data may make charter schools appear to the real estate and lending industries as riskier clients than they actually are, a closer examination shows that some charter schools reported as having closed either did not actually close down, but rather continue to operate under a new authority; or did close down, but did not default on a lease or mortgage.[14]

In some states, financing for charter schools facilities is made available through revolving loan funds. Revolving loan funds may be established by a public or private entity and provide capital to charter schools, usually at a lower interest rate than otherwise might be available. As the loans are repaid, the capital and interest that flow back into the fund become available to make future loans. Revolving loan funds have been used to finance charter school facilities and cover start-up costs. Still, along with all other types of debt, unless a charter school has access to funds specifically allocated for facilities, it must pay off any debt it incurs with a portion of its revenues — usually its operating funds.

Federal Policy

Brief History of Federal Assistance for Charter Schools and Charter School Facilities

Several years prior to the ESEA being amended by the NCLBA, the federal government established itself as a provider of financial assistance to public charter schools.[15] In response to concerns about charter school start-up costs and the availability of operating funds, the 103rd Congress authorized the Federal Public Charter School (PCS) program in 1994 as Title X, Part C of the ESEA. The 105th Congress amended and expanded the PCS program under the Charter School Expansion Act of 1998. Under the PCS program, funding has been provided for the design, implementation, and evaluation of public charter schools since FY1995.

[12] (...continued)
may be granted for up to 15 years in Arizona, the District of Columbia, and Florida.

[13] Jason F. Dickerson, Frederic J. Martucci, and Pamela K. Clayton, *Charter Schools: Growth, Challenges, and Policy Options*, Fitch IBCA, Duff & Phelps, May 31, 2001, at [http://www.fitchratings.com/corporate/reports/report_frame.cfm?rpt_id=127036].

[14] The Kauffman Foundation, *Debunking the Real Estate Risk of Charter Schools*, 2005, p. 4, at [http://www.kauffman.org/pdf/CharterSchools071805E.pdf].

[15] For more information on how related federal programs apply to public charter schools, see CRS Report 97-519, *Public Charter Schools: State Developments and Federal Policy Options*, by Wayne Riddle and James Stedman, pp. 13-20 (archived report; available from author: 7-7382).

Federal funds for charter school facilities first were authorized and appropriated by the 106th Congress under the FY2001 Omnibus Appropriations Act (P.L. 106-554). P.L. 106-554 amended the PCS program with the creation of the Charter School Facilities Financing Demonstration Program. This program authorized ED to award a minimum of three competitive grants totaling $100 million to various entities (e.g., a public entity, private nonprofit entity, or consortium of each) to assist public charter schools in the acquisition, construction, or renovation of facilities by enhancing the availability of loans or bond financing. The program was authorized for one year and $25 million was appropriated. (A history of federal funding for charter schools is provided in **Table 1**, at the end of this section.)

In June 2002, ED announced the recipients of the $25 million in Charter School Facilities Financing Demonstration Grants. Five recipients were awarded grants ranging from $3 million to $6.4 million to demonstrate credit enhancement initiative to assist charter schools in leveraging capital for the financing of charter school facilities.[16]

The $25 million for Charter School Facilities Financing Demonstration Grants was part of a one-time $1.2 billion appropriation for school renovation and repair in P.L. 106-554. Also included in that appropriation was approximately $823 million in emergency renovation funds distributed to states, which in turn were required to award grants on a competitive basis, for school renovation. States were required to ensure that schools in high poverty and rural LEAs received a proportionate share of funds. Charter schools classified as separate LEAs were eligible to apply through their state on a competitive basis for these emergency renovation grants.[17]

Federal Assistance for Charter School Facilities Under ESEA Title V-B — Public Charter Schools

Under the NCLBA, the ESEA was amended to authorize two programs under Title V-B — Public Charter Schools (PCS), both of which are specifically aimed at providing financial assistance for public charter school facilities. These are the State Charter School Facilities Incentive Grants Program, and the Credit Enhancement for Charter School Facilities Program.[18]

State Charter School Facilities Incentive Grants Program. Title V-B-1 — Charter School Programs (CSP), National Activities, authorizes grants to states to "establish or enhance, and administer, a per-pupil facilities aid program for charter

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[16] For further information and a listing of grantees, see U.S. Department of Education, "Paige Announces Charter Schools Facilities Financing Demonstration Grant Recipients," *News*, June 6, 2002, at [http://www.ed.gov/news/pressreleases/2002/06/06062002a.html].

[17] For more information, see CRS Report RS20171, *School Facilities Infrastructure: Background and Legislative Proposals*, by Susan Boren.

[18] See ESEA Title V-B-1, Section 5205(b) Per-Pupil Facilities Aid Programs (20 U.S.C. § 7221d(b)); and Title V-B-2 Credit Enhancement Initiatives To Assist Charter School Facility Acquisition, Construction, and Renovation,(20 U.S.C. §§ 7223 through 7223j), respectively.

schools in the State."[19] Under the State Charter School Facilities Incentive Grants Program, the Secretary may award competitive grants to states that have per-pupil charter school facilities aid programs specified in state law, and that annually provide financing on a per-pupil basis for charter school facilities. Grants awarded under the program are authorized to be provided over a five-year time frame to supplement state and local funding. The federal share of funding provided through the grant decreases according to a sliding scale over the five-year period. In the first year of the program, no more than 90% of its costs may be met with federal funds, declining to no more than 80% in the second year, 60% in the third year, 40% in the fourth year, and 20% in the fifth year. The non-federal share must supplement and not supplant state and local funding for charter schools. Out of funds appropriated for ESEA Title V-B-1, 100% of the first $100 million appropriated over $200 million is reserved for the State Charter School Facilities Incentive Grants Program, as are 50% of any funds appropriated over $300 million. In FY2002 and FY2003, no funds in excess of $200 million were appropriated for Title V-B-1. Since FY2004, sufficient funds have been appropriated to fund the State Charter School Facilities Incentive Grants Program. (See **Table 1**.)

As noted above, only those states whose charter school laws meet the requirements of the act are authorized to compete for grants under the State Charter School Facilities Incentive Grants Program. As reviews of state charter school laws have identified that few states with charter school laws provide funding for charter school facilities on a per-pupil basis, only charter schools in a minority of states are able to benefit from the program. In FY2004, four states received funding under the program: California, the District of Columbia, Minnesota, and Utah.[20] Awards ranged from $1.0 million for the District of Columbia to $9.8 million for California.

The prospect of providing states the opportunity to apply for competitive grants for per-pupil facilities funding might provide encouragement for states to modify their state charter school laws so that they would meet the requirements of the State Charter School Facilities Incentive Grants Program (i.e., by requiring the provision of per-pupil facilities funding). However, some states might be reluctant to amend their charter school law because the costs of providing facilities funding on a per-pupil basis could be greater than the funding potentially made available under the federal program.

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[19] ESEA Section 5205(b)(3)(B). As implemented by ED, this is termed the State Charter School Facilities Incentive Grants Program.

[20] U.S. Department of Education. Office of Innovation and Improvement, *State Charter School Facilities Incentive Grants Program: 2004 Awards*, at [http://www.ed.gov/programs/statecharter/awards.html].

Credit Enhancement Initiatives for Charter School Facilities Program. This program, authorized under Title V-B-2, succeeded the former Charter School Facilities Financing Demonstration Program.[21] Under the program, grantees are required to deposit funds from their grants into a reserve account and use the funds for one or more of the following purposes:

> 1) Guaranteeing, insuring, and reinsuring bonds, notes, loans, or other types of debt that will be used to assist charter schools to acquire, renovate, or construct school facilities that are needed to begin or continue the operation of these schools.
> 2) Guaranteeing or insuring leases of personal or real property that are needed to begin or continue the operation of the charter schools.
> 3) Facilitating financing by potential lenders, encouraging private lending, and other similar activities that directly promote lending to or for the benefit of charter schools.
> 4) Facilitating the issuance of bonds by charter schools or other public entities for the benefit of charter schools, by providing technical, administrative, and other appropriate assistance designed to obtain or attract investors (such as retaining bond counsel and underwriters and consolidating multiple charter school projects into a single bond issue).[22]

Since first being authorized in FY2001, funds have been appropriated for the Credit Enhancements for Charter School Facilities program each year except FY2002.[23] (See **Table 1**.)

History of Federal Funding for Public Charter Schools

Since FY1995, federal funding has been provided in support of public charter schools. However, funding specifically for charter school facilities has been provided only in FY2001, and FY2003 through FY2006. Historical information on federal funding for charter schools in general, and for charter school facilities in particular, is provided below in **Table 1**.

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[21] The ESEA provides authorization for the appropriation of funds for the Credit Enhancement for Charter School Facilities Program only for FY2002 and FY2003; however, funds have been appropriated for the program annually since FY2003.

[22] U.S. Department of Education, Office of Innovation and Improvement, *The Credit Enhancement for Charter School Facilities Program: Guidance*, Mar. 24, 2005, p. 13, at [http://www.ed.gov/programs/charterfacilities/facilitiesguidance.pdf].

[23] In FY2001, the program was called the Charter Schools Facilities Financing Demonstration Grant program.

Table 1. History of Federal Funding for Charter Schools and Charter School Facilities
(in thousands of dollars)

Fiscal year	Public Charter Schools grants (including State Charter School Facilities Incentive Grants Program for FY2002 and later)[a]		Credit Enhancements for Charter School Facilities Program	
	President's request	Appropriation	President's request	Appropriation
FY1995	15,000	6,000	—	—
FY1996	20,000	18,000	—	—
FY1997	40,000	50,987	—	—
FY1998	100,000	80,000	—	—
FY1999	100,000	100,000	—	—
FY2000	130,000	145,000	—	—
FY2001	175,000	190,000	—	$25,000[b]
FY2002	200,000	200,000	175,000	0
FY2003	200,000	198,700	100,000	24,838
FY2004	220,000	218,702	100,000	37,279
FY2005	218,702	216,952	100,000	36,981
FY2006	218,702	214,782	36,981	36,611
FY2007	214,782	N/A	36,611	N/A

Sources: U.S. Department of Education, Budget Service, *Department of Education Fiscal Year 2007 President's Budget*, Feb. 6, 2006; and historical budget tables.

a. For FY2002-FY2007, only in instances where the appropriation exceeds $200 million are funds reserved for per-pupil facilities aid programs.
b. The program first was authorized in the FY2001 Omnibus Appropriations Act (P.L. 106-554).

Federal Programs Authorized Under the Internal Revenue Code

In addition to the two ESEA Title V-B programs that provide funding specifically in support of charter school facilities, charter schools also may benefit from three programs authorized under the Internal Revenue Code that provide bond financing or tax credits for targeted purposes. These are the Qualified Zone Academy Bond Program, the Qualified Public Education Facility Bond Program, and the New Markets Tax Credit Program. Each is briefly described below.

Qualified Zone Academy Bond (QZAB) Program

QZABs are bonds issued by state or local governments that allow no-interest loans to be made to LEAs to fund the rehabilitation or repair of educational facilities, the purchase of educational equipment, the development of course materials, or the training of teachers at qualified zone academies. Qualified zone academies are public schools or programs that are either located in an Empowerment Zone (EZ) or an Enterprise Community (EC), or at which at least 35% of the students enrolled are eligible for free or reduced-priced school lunches under the Richard B. Russell National School Lunch Act. LEAs awarded QZABs are required to repay only the principal that they have borrowed. Holders of QZABs receive a federal tax credit in lieu of receiving interest payments from the borrower. This arrangement can substantially reduce the cost to borrowers of renovating educational facilities — typically by as much as half.[24]

Qualified Public Education Facility (QPEF) Bond Program

QPEF bonds are tax exempt facility bonds designed to encourage private-for-profit entities to enter into partnerships with SEAs or LEAs to construct or renovate public schools.[25] Under the program, developers use the proceeds from QPEF bonds to finance the construction or renovation of school facilities and then lease the facilities back to SEAs or LEAs (including charter schools) at less than cost. Michigan is an example of a state that has used the QPEF bond program to provide financing for charter schools.[26]

New Markets Tax Credit (NMTC) Program

The New Markets Tax Credit (NMTC) Program is administered by the U.S. Department of the Treasury, Community Development Financial Institution (CDFI) Fund.[27] Under the NMTC Program, tax credits are allocated by the CDFI fund to qualified community development entities (CDEs). CDEs then offer these tax credits to investors in exchange for making a qualified equity investment. Investors are then eligible to receive a federal income tax credit over a period of seven years for having invested in a CDE. To participate in the program, community development entities are required to serve a low-income community or low-income individuals, maintain

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[24] For additional information on QZABs, see CRS Report RS20606, Qualified Zone Academy Bonds: A Brief Explanation, by Steven Maguire; and U.S. Department of Education, Office of Elementary and Secondary Education, *Qualified Zone Academy Bonds, Frequently Asked Questions*, at [http://www.ed.gov/programs/qualifiedzone/faq.html].

[25] QPEF Bonds are authorized under the Internal Revenue Code (IRC) at § 142(a)(13), and rules are provided at § 142(k). For additional information, see CRS Report RS20932, *Tax-Exempt Bond Provisions in the "Economic Growth and Tax Relief Reconciliation Act of 2001*," by Steven Maguire.

[26] State of Michigan Department of Treasury, *Michigan Public Education Facilities: Annual Report 2004*, at [http://www.michigan.gov/documents/AnnualReport2004(MPEFA)_124255_7.pdf].

[27] The New Markets Tax Credit is authorized under the IRC at § 45D.

accountability to the low-income community through a governing board or advisory board, and be certified by the CDFI Fund.[28] Recipients of awards under the NMTC program have included non-profit organizations that provide financing to charter schools.

[28] For additional information on the NMTC Program, see CRS Report RS20972, *Community Development Financial Institutions (CDFI) Fund*, by Pauline H. Smale; and U.S. Department of the Treasury, Community Development Finance Institution Fund, New Markets Tax Credit Program, at [http://www.cdfifund.gov/programs/programs.asp?programID=5].