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1ST SESSION

H. R. 2218

IN THE SENATE OF THE UNITED STATES

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Received; read twice and referred to the Committee on Health, Education,
Labor, and Pensions

AN ACT

To amend the charter school program under the Elementary
and Secondary Education Act of 1965.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Empowering Parents
3 through Quality Charter Schools Act”.

4 **SEC. 2. REFERENCES.**

5 Except as otherwise specifically provided, whenever in
6 this Act a section or other provision is amended or re-
7 pealed, such amendment or repeal shall be considered to
8 be made to that section or other provision of the Elemen-
9 tary and Secondary Education Act of 1965 (20 U.S.C.
10 6301 et seq.).

11 **SEC. 3. PURPOSE.**

12 Section 5201 (20 U.S.C. 7221) is amended to read
13 as follows:

14 **“SEC. 5201. PURPOSE.**

15 “It is the purpose of this subpart to—

16 “(1) improve the United States education sys-
17 tem and educational opportunities for all Americans
18 by supporting innovation in public education in pub-
19 lic school settings that prepare students to compete
20 and contribute to the global economy;

21 “(2) provide financial assistance for the plan-
22 ning, program design, and initial implementation of
23 charter schools;

24 “(3) expand the number of high-quality charter
25 schools available to students across the Nation;

1 “(4) evaluate the impact of such schools on stu-
2 dent achievement, families, and communities, and
3 share best practices between charter schools and
4 other public schools;

5 “(5) encourage States to provide support to
6 charter schools for facilities financing in an amount
7 more nearly commensurate to the amount the States
8 have typically provided for traditional public schools;

9 “(6) improve student services to increase oppor-
10 tunities for students with disabilities, limited
11 English proficient students, and other traditionally
12 underserved students to attend charter schools and
13 meet challenging State academic achievement stand-
14 ards; and

15 “(7) support efforts to strengthen the charter
16 school authorizing process to improve performance
17 management, including transparency, monitoring,
18 and evaluation of such schools.”.

19 **SEC. 4. PROGRAM AUTHORIZED.**

20 Section 5202 (20 U.S.C. 7221a) is amended to read
21 as follows:

22 **“SEC. 5202. PROGRAM AUTHORIZED.**

23 “(a) IN GENERAL.—This subpart authorizes the Sec-
24 retary to carry out a charter school program that supports

1 charter schools that serve elementary school and sec-
2 ondary school students by—

3 “(1) supporting the startup, replication, and ex-
4 pansion of charter schools;

5 “(2) assisting charter schools in accessing cred-
6 it to acquire and renovate facilities for school use;
7 and

8 “(3) carrying out national activities to sup-
9 port—

10 “(A) charter school development;

11 “(B) the dissemination of best practices of
12 charter schools for all schools; and

13 “(C) the evaluation of the impact of the
14 program on schools participating in the pro-
15 gram.

16 “(b) FUNDING ALLOTMENT.—From the amount
17 made available under section 5211 for a fiscal year, the
18 Secretary shall—

19 “(1) reserve 15 percent to support charter
20 school facilities assistance under section 5204;

21 “(2) reserve not more than 5 percent to carry
22 out national activities under section 5205; and

23 “(3) use the remaining amount after the Sec-
24 retary reserves funds under paragraphs (1) and (2)
25 to carry out section 5203.

1 “(c) PRIOR GRANTS AND SUBGRANTS.—The recipi-
2 ent of a grant or subgrant under this subpart or subpart
3 2, as such subpart was in effect on the day before the
4 date of enactment of the Empowering Parents through
5 Quality Charter Schools Act, shall continue to receive
6 funds in accordance with the terms and conditions of such
7 grant or subgrant.”.

8 **SEC. 5. GRANTS TO SUPPORT HIGH-QUALITY CHARTER**
9 **SCHOOLS.**

10 Section 5203 (20 U.S.C. 7221b) is amended to read
11 as follows:

12 **“SEC. 5203. GRANTS TO SUPPORT HIGH-QUALITY CHARTER**
13 **SCHOOLS.**

14 “(a) IN GENERAL.—From the amount reserved
15 under section 5202(b)(3), the Secretary shall award
16 grants to State entities having applications approved pur-
17 suant to subsection (f) to enable such entities to—

18 “(1) award subgrants to eligible applicants
19 for—

20 “(A) opening new charter schools;

21 “(B) opening replicable, high-quality char-
22 ter school models; or

23 “(C) expanding high-quality charter
24 schools; and

1 “(2) provide technical assistance to eligible ap-
2 plicants and authorized public chartering agencies in
3 carrying out the activities described in paragraph (1)
4 and work with authorized public chartering agencies
5 in the State to improve authorizing quality.

6 “(b) STATE USES OF FUNDS.—

7 “(1) IN GENERAL.—A State entity receiving a
8 grant under this section shall—

9 “(A) use 90 percent of the grant funds to
10 award subgrants to eligible applicants, in ac-
11 cordance with the quality charter school pro-
12 gram described in the entity’s application ap-
13 proved pursuant to subsection (f), for the pur-
14 poses described in subparagraphs (A) through
15 (C) of subsection (a)(1); and

16 “(B) reserve 10 percent of such funds to
17 carry out the activities described in subsection
18 (a)(2), of which not more than 30 percent may
19 be used for administrative costs which may in-
20 clude technical assistance.

21 “(2) CONTRACTS AND GRANTS.—A State entity
22 may use a grant received under this section to carry
23 out the activities described in subparagraphs (A)
24 and (B) of paragraph (1) directly or through grants,
25 contracts, or cooperative agreements.

1 “(c) PROGRAM PERIODS; PEER REVIEW; GRANT
2 NUMBER AND AMOUNT; DIVERSITY OF PROJECTS; WAIV-
3 ERS.—

4 “(1) PROGRAM PERIODS.—

5 “(A) GRANTS.—A grant awarded by the
6 Secretary to a State entity under this section
7 shall be for a period of not more than 5 years.

8 “(B) SUBGRANTS.—A subgrant awarded
9 by a State entity under this section shall be for
10 a period of not more than 5 years, of which an
11 eligible applicant may use not more than 18
12 months for planning and program design.

13 “(2) PEER REVIEW.—The Secretary, and each
14 State entity receiving a grant under this section,
15 shall use a peer review process to review applications
16 for assistance under this section.

17 “(3) GRANT NUMBER AND AMOUNT.—The Sec-
18 retary shall ensure that the number of grants award-
19 ed under this section and the award amounts will
20 allow for a sufficient number of new grants to be
21 awarded under this section for each succeeding fiscal
22 year.

23 “(4) DIVERSITY OF PROJECTS.—Each State en-
24 tity receiving a grant under this section shall award

1 subgrants under this section in a manner that, to
2 the extent possible, ensures that such subgrants—

3 “(A) are distributed throughout different
4 areas, including urban, suburban, and rural
5 areas; and

6 “(B) will assist charter schools rep-
7 resenting a variety of educational approaches.

8 “(5) WAIVERS.—The Secretary may waive any
9 statutory or regulatory requirement over which the
10 Secretary exercises administrative authority except
11 any such requirement relating to the elements of a
12 charter school described in section 5210(1), if—

13 “(A) the waiver is requested in an ap-
14 proved application under this section; and

15 “(B) the Secretary determines that grant-
16 ing such a waiver will promote the purpose of
17 this subpart.

18 “(d) LIMITATIONS.—

19 “(1) GRANTS.—A State entity may not receive
20 more than 1 grant under this section for a 5-year
21 period.

22 “(2) SUBGRANTS.—An eligible applicant may
23 not receive more than 1 subgrant under this section
24 per charter school for a 5-year period, unless the eli-
25 gible applicant demonstrates to the State entity not

1 less than 3 years of improved educational results in
2 the areas described in subparagraphs (A) and (D) of
3 section 5210(6) for students enrolled in such charter
4 school.

5 “(e) APPLICATIONS.—A State entity desiring to re-
6 ceive a grant under this section shall submit an application
7 to the Secretary at such time and in such manner as the
8 Secretary may require. The application shall include the
9 following:

10 “(1) DESCRIPTION OF PROGRAM.—A descrip-
11 tion of the entity’s objectives in running a quality
12 charter school program under this section and how
13 the objectives of the program will be carried out, in-
14 cluding a description—

15 “(A) of how the entity—

16 “(i) will support both new charter
17 school startup and the expansion and rep-
18 lication of high-quality charter school mod-
19 els;

20 “(ii) will inform eligible charter
21 schools, developers, and authorized public
22 chartering agencies of the availability of
23 funds under the program;

24 “(iii) will work with eligible applicants
25 to ensure that the applicants access all

1 Federal funds that they are eligible to re-
2 ceive, and help the charter schools sup-
3 ported by the applicants and the students
4 attending the charter schools—

5 “(I) participate in the Federal
6 programs in which the schools and
7 students are eligible to participate;
8 and

9 “(II) receive the commensurate
10 share of Federal funds the schools
11 and students are eligible to receive
12 under such programs;

13 “(iv) in the case in which the entity is
14 not a State educational agency—

15 “(I) will work with the State edu-
16 cational agency and the charter
17 schools in the State to maximize char-
18 ter school participation in Federal and
19 State programs for charter schools;
20 and

21 “(II) will work with the State
22 educational agency to adequately op-
23 erate the entity’s program under this
24 section, where applicable;

1 “(v) will ensure eligible applicants
2 that receive a subgrant under the entity’s
3 program are prepared to continue to oper-
4 ate the charter schools receiving the
5 subgrant funds once the funds have ex-
6 pired;

7 “(vi) will support charter schools in
8 local educational agencies with large num-
9 bers of schools that must comply with the
10 requirements of section 1116(b);

11 “(vii) will work with charter schools to
12 promote inclusion of all students and sup-
13 port all students once they are enrolled to
14 promote retention;

15 “(viii) will work with charter schools
16 on recruitment practices, including efforts
17 to engage groups that may otherwise have
18 limited opportunities to participate in char-
19 ter schools;

20 “(ix) will share best and promising
21 practices between charter schools and
22 other public schools, including, where ap-
23 propriate, instruction and professional de-
24 velopment in science, math, technology,
25 and engineering education;

1 “(x) will ensure the charter schools
2 they support can meet the educational
3 needs of their students, including students
4 with disabilities and limited English pro-
5 ficient students; and

6 “(xi) will support efforts to increase
7 quality initiatives, including meeting the
8 quality authorizing elements described in
9 paragraph (2)(E);

10 “(B) of the extent to which the entity—

11 “(i) is able to meet and carry out the
12 priorities listed in subsection (f)(2); and

13 “(ii) is working to develop or
14 strengthen a cohesive statewide system to
15 support the opening of new charter schools
16 and replicable, high-quality charter school
17 models, and the expansion of high-quality
18 charter schools;

19 “(C) of how the entity will carry out the
20 subgrant competition, including—

21 “(i) a description of the application
22 each eligible applicant desiring to receive a
23 subgrant will submit, including—

24 “(I) a description of the roles
25 and responsibilities of eligible appli-

1 cants, partner organizations, and
2 management organizations, including
3 the administrative and contractual
4 roles and responsibilities;

5 “(II) a description of the quality
6 controls agreed to between the eligible
7 applicant and the authorized public
8 chartering agency involved, such as a
9 contract or performance agreement,
10 and how a school’s performance on
11 the State’s academic accountability
12 system will be a primary factor for re-
13 newal; and

14 “(III) a description of how the el-
15 igible applicant will solicit and con-
16 sider input from parents and other
17 members of the community on the im-
18 plementation and operation of each
19 charter school receiving funds under
20 the entity’s program; and

21 “(ii) a description of how the entity
22 will review applications;

23 “(D) in the case of an entity that partners
24 with an outside organization to carry out the
25 entity’s quality charter school program, in

1 whole or in part, of the roles and responsibil-
2 ities of this partner;

3 “(E) of how the entity will help the charter
4 schools receiving funds under the entity’s pro-
5 gram consider the transportation needs of the
6 schools’ students; and

7 “(F) of how the entity will support diverse
8 charter school models, including models that
9 serve rural communities.

10 “(2) ASSURANCES.—Assurances, including a
11 description of how the assurances will be met,
12 that—

13 “(A) each charter school receiving funds
14 under the entity’s program will have a high de-
15 gree of autonomy over budget and operations;

16 “(B) the entity will support charter schools
17 in meeting the educational needs of their stu-
18 dents as described in paragraph (1)(A)(x);

19 “(C) the entity will ensure that the author-
20 ized public chartering agency of any charter
21 school that receives funds under the entity’s
22 program—

23 “(i) ensures that each charter school
24 is meeting the obligations under this Act,
25 part B of the Individuals with Disabilities

1 Education Act, title VI of the Civil Rights
2 Act of 1964, section 504 of the Rehabilita-
3 tion Act of 1973, the Age Discrimination
4 Act of 1975, and title IX of the Education
5 Amendments of 1972;

6 “(ii) adequately monitors and helps
7 each charter school in recruiting, enrolling,
8 and meeting the needs of all students, in-
9 cluding students with disabilities and lim-
10 ited English proficient students; and

11 “(iii) ensures that each charter school
12 solicits and considers input from parents
13 and other members of the community on
14 the implementation and operation of the
15 school;

16 “(D) the entity will provide adequate tech-
17 nical assistance to eligible applicants to—

18 “(i) meet the objectives described in
19 clauses (vii) and (viii) of paragraph (1)(A)
20 and paragraph (2)(B); and

21 “(ii) enroll traditionally underserved
22 students, including students with disabil-
23 ities and limited English proficient stu-
24 dents, to promote an inclusive education
25 environment;

1 “(E) the entity will promote quality au-
2 thorizing, such as through providing technical
3 assistance, to support all authorized public
4 chartering agencies in the State to improve the
5 monitoring of their charter schools, including
6 by—

7 “(i) assessing annual performance
8 data of the schools, including, as appro-
9 priate, graduation rates and student
10 growth; and

11 “(ii) reviewing the schools’ inde-
12 pendent, annual audits of financial state-
13 ments conducted in accordance with gen-
14 erally accepted accounting principles, and
15 ensuring any such audits are publically re-
16 ported;

17 “(F) the entity will work to ensure that
18 charter schools are included with the traditional
19 public school system in decision-making about
20 the public school system in the State; and

21 “(G) the entity will ensure that each char-
22 ter school in the State make publicly available,
23 consistent with the dissemination requirements
24 of the annual State report card, the information
25 parents need to make informed decisions about

1 the educational options available to their chil-
2 dren, including information on the educational
3 program, student support services, and annual
4 performance and enrollment data for the groups
5 of students described in section
6 1111(b)(2)(C)(v)(II).

7 “(3) REQUESTS FOR WAIVERS.—A request and
8 justification for waivers of any Federal statutory or
9 regulatory provisions that the entity believes are nec-
10 essary for the successful operation of the charter
11 schools that will receive funds under the entity’s pro-
12 gram under this section, and a description of any
13 State or local rules, generally applicable to public
14 schools, that will be waived, or otherwise not apply
15 to such schools.

16 “(f) SELECTION CRITERIA; PRIORITY.—

17 “(1) SELECTION CRITERIA.—The Secretary
18 shall award grants to State entities under this sec-
19 tion on the basis of the quality of the applications
20 submitted under subsection (e), after taking into
21 consideration—

22 “(A) the degree of flexibility afforded by
23 the State’s public charter school law and how
24 the entity will work to maximize the flexibility
25 provided to charter schools under the law;

1 “(B) the ambitiousness of the entity’s ob-
2 jectives for the quality charter school program
3 carried out under this section;

4 “(C) the quality of the strategy for assess-
5 ing achievement of those objectives;

6 “(D) the likelihood that the eligible appli-
7 cants receiving subgrants under the program
8 will meet those objectives and improve edu-
9 cational results for students;

10 “(E) the proposed number of new charter
11 schools to be opened, and the proposed number
12 of high-quality charter schools to be replicated
13 or expanded under the program;

14 “(F) the entity’s plan to—

15 “(i) adequately monitor the eligible
16 applicants receiving subgrants under the
17 entity’s program; and

18 “(ii) work with the authorized public
19 chartering agencies involved to avoid dupli-
20 cation of work for the charter schools and
21 authorized public chartering agencies;

22 “(G) the entity’s plan to provide adequate
23 technical assistance, as described in the entity’s
24 application under subsection (e), for the eligible

1 applicants receiving subgrants under the enti-
2 ty's program under this section;

3 “(H) the entity's plan to support quality
4 authorizing efforts in the State, consistent with
5 the objectives described in subparagraph (B);
6 and

7 “(I) the entity's plan to solicit and con-
8 sider input from parents and other members of
9 the community on the implementation and oper-
10 ation of the charter schools in the State.

11 “(2) PRIORITY.—In awarding grants under this
12 section, the Secretary shall give priority to State en-
13 tities to the extent that they meet the following cri-
14 teria:

15 “(A) In the case of a State entity located
16 in a State that allows an entity other than a
17 local educational agency to be an authorized
18 public chartering agency, the State has a qual-
19 ity authorized public chartering agency that is
20 an entity other than a local educational agency.

21 “(B) The State entity is located in a State
22 that does not impose any limitation on the
23 number or percentage of charter schools that
24 may exist or the number or percentage of stu-

1 dents that may attend charter schools in the
2 State.

3 “(C) The State entity is located in a State
4 that ensures equitable financing, as compared
5 to traditional public schools, for charter schools
6 and students in a prompt manner.

7 “(D) The State entity is located in a State
8 that uses charter schools and best practices
9 from charter schools to help improve struggling
10 schools and local educational agencies.

11 “(E) The State entity partners with an or-
12 ganization that has a demonstrated record of
13 success in developing management organiza-
14 tions to support the development of charter
15 schools in the State.

16 “(F) The State entity demonstrates quality
17 policies and practices to support and monitor
18 charter schools through factors including—

19 “(i) the proportion of high-quality
20 charter schools in the State; and

21 “(ii) the proportion of charter schools
22 enrolling, at a rate similar to traditional
23 public schools, traditionally underserved
24 students, including students with disabil-

1 ities and limited English proficient stu-
2 dents.

3 “(G) The State entity supports charter
4 schools that support at-risk students through
5 activities such as dropout prevention or dropout
6 recovery.

7 “(H) The State entity authorizes all char-
8 ter schools in the State to serve as school food
9 authorities.

10 “(g) LOCAL USES OF FUNDS.—An eligible applicant
11 receiving a subgrant under this section shall use such
12 funds to open new charter schools or replicable, high-qual-
13 ity charter school models, or expand existing high-quality
14 charter schools.

15 “(h) REPORTING REQUIREMENTS.—Each State enti-
16 ty receiving a grant under this section shall submit to the
17 Secretary, at the end of the third year of the 5-year grant
18 period and at the end of such grant period, a report on—

19 “(1) the number of students served by each
20 subgrant awarded under this section and, if applica-
21 ble, how many new students were served during each
22 year of the subgrant period;

23 “(2) the number of subgrants awarded under
24 this section to carry out each of the following—

25 “(A) the opening of new charter schools;

1 “(B) the opening of replicable, high-quality
2 charter school models; and

3 “(C) the expansion of high-quality charter
4 schools;

5 “(3) the progress the entity made toward meet-
6 ing the priorities described in subsection (f)(2), as
7 applicable;

8 “(4) how the entity met the objectives of the
9 quality charter school program described in the enti-
10 ty’s application under subsection (e);

11 “(5) how the entity complied with, and ensured
12 that eligible applicants complied with, the assurances
13 described in the entity’s application; and

14 “(6) how the entity worked with authorized
15 public chartering agencies, including how the agen-
16 cies worked with the management company or lead-
17 ership of the schools that received subgrants under
18 this section.

19 “(i) STATE ENTITY DEFINED.—For purposes of this
20 section, the term ‘State entity’ means—

21 “(1) a State educational agency;

22 “(2) a State charter school board; or

23 “(3) a Governor of a State.”.

1 **SEC. 6. FACILITIES FINANCING ASSISTANCE.**

2 Section 5204 (20 U.S.C. 7221e) is amended to read
3 as follows:

4 **“SEC. 5204. FACILITIES FINANCING ASSISTANCE.**

5 “(a) GRANTS TO ELIGIBLE ENTITIES.—

6 “(1) IN GENERAL.—From the amount reserved
7 under section 5202(b)(1), the Secretary shall award
8 grants to eligible entities that have the highest-qual-
9 ity applications approved under subsection (d), after
10 considering the diversity of such applications, to
11 demonstrate innovative methods of assisting charter
12 schools to address the cost of acquiring, con-
13 structing, and renovating facilities by enhancing the
14 availability of loans or bond financing.

15 “(2) ELIGIBLE ENTITY DEFINED.—For pur-
16 poses of this section, the term ‘eligible entity’
17 means—

18 “(A) a public entity, such as a State or
19 local governmental entity;

20 “(B) a private nonprofit entity; or

21 “(C) a consortium of entities described in
22 subparagraphs (A) and (B).

23 “(b) GRANTEE SELECTION.—The Secretary shall
24 evaluate each application submitted under subsection (d),
25 and shall determine whether the application is sufficient
26 to merit approval.

1 “(c) GRANT CHARACTERISTICS.—Grants under sub-
2 section (a) shall be of a sufficient size, scope, and quality
3 so as to ensure an effective demonstration of an innovative
4 means of enhancing credit for the financing of charter
5 school acquisition, construction, or renovation.

6 “(d) APPLICATIONS.—

7 “(1) IN GENERAL.—To receive a grant under
8 subsection (a), an eligible entity shall submit to the
9 Secretary an application in such form as the Sec-
10 retary may reasonably require.

11 “(2) CONTENTS.—An application submitted
12 under paragraph (1) shall contain—

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

19 “(B) a description of the involvement of
20 charter schools in the application’s development
21 and the design of the proposed activities;

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

24 “(D) a description of how the proposed ac-
25 tivities will leverage the maximum amount of

1 private-sector financing capital relative to the
2 amount of government funding used and other-
3 wise enhance credit available to charter schools,
4 including how the entity will offer a combina-
5 tion of rates and terms more favorable than the
6 rates and terms that a charter school could re-
7 ceive without assistance from the entity under
8 this section;

9 “(E) a description of how the eligible enti-
10 ty possesses sufficient expertise in education to
11 evaluate the likelihood of success of a charter
12 school program for which facilities financing is
13 sought; and

14 “(F) in the case of an application sub-
15 mitted by a State governmental entity, a de-
16 scription of the actions that the entity has
17 taken, or will take, to ensure that charter
18 schools within the State receive the funding the
19 charter schools need to have adequate facilities.

20 “(e) CHARTER SCHOOL OBJECTIVES.—An eligible
21 entity receiving a grant under this section shall use the
22 funds deposited in the reserve account established under
23 subsection (f) to assist one or more charter schools to ac-
24 cess private sector capital to accomplish one or both of
25 the following objectives:

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

7 “(2) The construction of new facilities, includ-
8 ing predevelopment costs, or the renovation, repair,
9 or alteration of existing facilities, necessary to com-
10 mence or continue the operation of a charter school.

11 “(f) RESERVE ACCOUNT.—

12 “(1) USE OF FUNDS.—To assist charter schools
13 to accomplish the objectives described in subsection
14 (e), an eligible entity receiving a grant under sub-
15 section (a) shall, in accordance with State and local
16 law, directly or indirectly, alone or in collaboration
17 with others, deposit the funds received under sub-
18 section (a) (other than funds used for administrative
19 costs in accordance with subsection (g)) in a reserve
20 account established and maintained by the eligible
21 entity for this purpose. Amounts deposited in such
22 account shall be used by the eligible entity for one
23 or more of the following purposes:

24 “(A) Guaranteeing, insuring, and rein-
25 suring bonds, notes, evidences of debt, loans,

1 and interests therein, the proceeds of which are
2 used for an objective described in subsection
3 (e).

4 “(B) Guaranteeing and insuring leases of
5 personal and real property for an objective de-
6 scribed in subsection (e).

7 “(C) Facilitating financing by identifying
8 potential lending sources, encouraging private
9 lending, and other similar activities that di-
10 rectly promote lending to, or for the benefit of,
11 charter schools.

12 “(D) Facilitating the issuance of bonds by
13 charter schools, or by other public entities for
14 the benefit of charter schools, by providing
15 technical, administrative, and other appropriate
16 assistance (including the recruitment of bond
17 counsel, underwriters, and potential investors
18 and the consolidation of multiple charter school
19 projects within a single bond issue).

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

1 “(3) REINVESTMENT OF EARNINGS.—Any earn-
2 ings on funds received under subsection (a) shall be
3 deposited in the reserve account established under
4 paragraph (1) and used in accordance with such
5 paragraph.

6 “(g) LIMITATION ON ADMINISTRATIVE COSTS.—An
7 eligible entity may use not more than 2.5 percent of the
8 funds received under subsection (a) for the administrative
9 costs of carrying out its responsibilities under this section
10 (excluding subsection (k)).

11 “(h) AUDITS AND REPORTS.—

12 “(1) FINANCIAL RECORD MAINTENANCE AND
13 AUDIT.—The financial records of each eligible entity
14 receiving a grant under subsection (a) shall be main-
15 tained in accordance with generally accepted ac-
16 counting principles and shall be subject to an annual
17 audit by an independent public accountant.

18 “(2) REPORTS.—

19 “(A) GRANTEE ANNUAL REPORTS.—Each
20 eligible entity receiving a grant under sub-
21 section (a) annually shall submit to the Sec-
22 retary a report of its operations and activities
23 under this section.

1 “(B) CONTENTS.—Each annual report
2 submitted under subparagraph (A) shall in-
3 clude—

4 “(i) a copy of the most recent finan-
5 cial statements, and any accompanying
6 opinion on such statements, prepared by
7 the independent public accountant review-
8 ing the financial records of the eligible en-
9 tity;

10 “(ii) a copy of any report made on an
11 audit of the financial records of the eligible
12 entity that was conducted under paragraph
13 (1) during the reporting period;

14 “(iii) an evaluation by the eligible en-
15 tity of the effectiveness of its use of the
16 Federal funds provided under subsection
17 (a) in leveraging private funds;

18 “(iv) a listing and description of the
19 charter schools served during the reporting
20 period, including the amount of funds used
21 by each school, the type of project facili-
22 tated by the grant, and the type of assist-
23 ance provided to the charter schools;

24 “(v) a description of the activities car-
25 ried out by the eligible entity to assist

1 charter schools in meeting the objectives
2 set forth in subsection (e); and

3 “(vi) a description of the characteris-
4 ties of lenders and other financial institu-
5 tions participating in the activities under-
6 taken by the eligible entity under this sec-
7 tion (excluding subsection (k)) during the
8 reporting period.

9 “(C) SECRETARIAL REPORT.—The Sec-
10 retary shall review the reports submitted under
11 subparagraph (A) and shall provide a com-
12 prehensive annual report to Congress on the ac-
13 tivities conducted under this section (excluding
14 subsection (k)).

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

25 “(j) RECOVERY OF FUNDS.—

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

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

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

20 “(2) EXERCISE OF AUTHORITY.—The Secretary
21 shall not exercise the authority provided in para-
22 graph (1) to collect from any eligible entity any
23 funds that are being properly used to achieve one or
24 more of the purposes described in subsection (f)(1).

1 “(3) PROCEDURES.—The provisions of sections
2 451, 452, and 458 of the General Education Provi-
3 sions Act shall apply to the recovery of funds under
4 paragraph (1).

5 “(4) CONSTRUCTION.—This subsection shall
6 not be construed to impair or affect the authority of
7 the Secretary to recover funds under part D of the
8 General Education Provisions Act.

9 “(k) PER-PUPIL FACILITIES AID PROGRAM.—

10 “(1) DEFINITION OF PER-PUPIL FACILITIES AID
11 PROGRAM.—In this subsection, the term ‘per-pupil
12 facilities aid program’ means a program in which a
13 State makes payments, on a per-pupil basis, to char-
14 ter schools to provide the schools with financing—

15 “(A) that is dedicated solely for funding
16 charter school facilities; or

17 “(B) a portion of which is dedicated for
18 funding charter school facilities.

19 “(2) GRANTS.—

20 “(A) IN GENERAL.—From the amount re-
21 served under section 5202(b)(1) remaining
22 after the Secretary makes grants under sub-
23 section (a), the Secretary shall make grants, on
24 a competitive basis, to States to pay for the
25 Federal share of the cost of establishing or en-

1 hancing, and administering per-pupil facilities
2 aid programs.

3 “(B) PERIOD.—The Secretary shall award
4 grants under this subsection for periods of not
5 more than 5 years.

6 “(C) FEDERAL SHARE.—The Federal
7 share of the cost described in subparagraph (A)
8 for a per-pupil facilities aid program shall be
9 not more than—

10 “(i) 90 percent of the cost, for the
11 first fiscal year for which the program re-
12 ceives assistance under this subsection;

13 “(ii) 80 percent in the second such
14 year;

15 “(iii) 60 percent in the third such
16 year;

17 “(iv) 40 percent in the fourth such
18 year; and

19 “(v) 20 percent in the fifth such year.

20 “(D) STATE SHARE.—A State receiving a
21 grant under this subsection may partner with 1
22 or more organizations to provide up to 50 per-
23 cent of the State share of the cost of estab-
24 lishing or enhancing, and administering the per-
25 pupil facilities aid program.

1 “(E) MULTIPLE GRANTS.—A State may
2 receive more than 1 grant under this sub-
3 section, so long as the amount of such funds
4 provided to charter schools increases with each
5 successive grant.

6 “(3) USE OF FUNDS.—

7 “(A) IN GENERAL.—A State that receives
8 a grant under this subsection shall use the
9 funds made available through the grant to es-
10 tablish or enhance, and administer, a per-pupil
11 facilities aid program for charter schools in the
12 State of the applicant.

13 “(B) EVALUATIONS; TECHNICAL ASSIST-
14 ANCE; DISSEMINATION.—From the amount
15 made available to a State through a grant
16 under this subsection for a fiscal year, the State
17 may reserve not more than 5 percent to carry
18 out evaluations, to provide technical assistance,
19 and to disseminate information.

20 “(C) SUPPLEMENT, NOT SUPPLANT.—
21 Funds made available under this subsection
22 shall be used to supplement, and not supplant,
23 State, and local public funds expended to pro-
24 vide per pupil facilities aid programs, oper-

1 ations financing programs, or other programs,
2 for charter schools.

3 “(4) REQUIREMENTS.—

4 “(A) VOLUNTARY PARTICIPATION.—No
5 State may be required to participate in a pro-
6 gram carried out under this subsection.

7 “(B) STATE LAW.—

8 “(i) IN GENERAL.—Except as pro-
9 vided in clause (ii), to be eligible to receive
10 a grant under this subsection, a State shall
11 establish or enhance, and administer, a
12 per-pupil facilities aid program for charter
13 schools in the State, that—

14 “(I) is specified in State law; and

15 “(II) provides annual financing,
16 on a per-pupil basis, for charter
17 school facilities.

18 “(ii) SPECIAL RULE.—Notwith-
19 standing clause (i), a State that is required
20 under State law to provide its charter
21 schools with access to adequate facility
22 space, but which does not have a per-pupil
23 facilities aid program for charter schools
24 specified in State law, may be eligible to
25 receive a grant under this subsection if the

1 State agrees to use the funds to develop a
2 per-pupil facilities aid program consistent
3 with the requirements of this subsection.

4 “(5) APPLICATIONS.—To be eligible to receive a
5 grant under this subsection, a State shall submit an
6 application to the Secretary at such time, in such
7 manner, and containing such information as the Sec-
8 retary may require.”.

9 **SEC. 7. NATIONAL ACTIVITIES.**

10 Section 5205 (20 U.S.C. 7221d) is amended to read
11 as follows:

12 **“SEC. 5205. NATIONAL ACTIVITIES.**

13 “(a) IN GENERAL.—From the amount reserved
14 under section 5202(b)(2), the Secretary shall—

15 “(1) use not less than 50 percent of such funds
16 to award grants in accordance with subsection (b);
17 and

18 “(2) use the remainder of such funds to—

19 “(A) disseminate technical assistance to
20 State entities in awarding subgrants under sec-
21 tion 5203, and eligible entities and States re-
22 ceiving grants under section 5204;

23 “(B) disseminate best practices; and

24 “(C) evaluate the impact of the charter
25 school program, including the impact on stu-

1 dent achievement, carried out under this sub-
2 part.

3 “(b) GRANTS.—

4 “(1) IN GENERAL.—The Secretary shall make
5 grants, on a competitive basis, to eligible applicants
6 for the purpose of carrying out the activities de-
7 scribed in section 5202(a)(1), subparagraphs (A)
8 through (C) of section 5203(a)(1), and section
9 5203(g).

10 “(2) TERMS AND CONDITIONS.—Except as oth-
11 erwise provided in this subsection, grants awarded
12 under this subsection shall have the same terms and
13 conditions as grants awarded to State entities under
14 section 5203.

15 “(3) ELIGIBLE APPLICANT DEFINED.—For pur-
16 poses of this subsection, the term ‘eligible applicant’
17 means an eligible applicant that desires to open a
18 charter school in—

19 “(A) a State that did not apply for a grant
20 under section 5203;

21 “(B) a State that did not receive a grant
22 under section 5203; or

23 “(C) a State that received a grant under
24 section 5203 and is in the 4th or 5th year of
25 the grant period for such grant.

1 “(c) CONTRACTS AND GRANTS.—The Secretary may
2 carry out any of the activities described in this section di-
3 rectly or through grants, contracts, or cooperative agree-
4 ments.”.

5 **SEC. 8. RECORDS TRANSFER.**

6 Section 5208 (20 U.S.C. 7221g) is amended—

7 (1) by inserting “as quickly as possible and”
8 before “to the extent practicable”; and

9 (2) by striking “section 602” and inserting
10 “section 602(14)”.

11 **SEC. 9. DEFINITIONS.**

12 Section 5210 (20 U.S.C. 7221i) is amended—

13 (1) in paragraph (1)—

14 (A) by striking “and” at the end of sub-
15 paragraph (K);

16 (B) by striking the period at the end of
17 subparagraph (L) and inserting “; and”; and

18 (C) by adding at the end, the following:

19 “(M) may serve prekindergarten or post
20 secondary students.”;

21 (2) in paragraph (3)(B), by striking “under
22 section 5203(d)(3)”;

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

24 “(5) EXPANSION OF A HIGH-QUALITY CHARTER
25 SCHOOL.—The term ‘expansion of a high-quality

1 charter school’ means a high-quality charter school
2 that either significantly increases its enrollment or
3 adds one or more grades to its school.

4 “(6) HIGH-QUALITY CHARTER SCHOOL.—The
5 term ‘high-quality charter school’ means a charter
6 school that—

7 “(A) shows evidence of strong academic re-
8 sults, which may include strong academic
9 growth as determined by a State;

10 “(B) has no significant issues in the areas
11 of student safety, financial management, or
12 statutory or regulatory compliance;

13 “(C) has demonstrated success in signifi-
14 cantly increasing student academic achievement
15 and attainment for all students served by char-
16 ter schools; and

17 “(D) has demonstrated success in increas-
18 ing student academic achievement for the
19 groups of students described in section
20 1111(b)(2)(C)(v)(II).

21 “(7) REPLICABLE, HIGH-QUALITY CHARTER
22 SCHOOL MODEL.—The term ‘replicable, high-quality
23 charter school model’ means a high-quality charter
24 school that will open a new campus under an exist-
25 ing charter.”.

1 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 5211 (20 U.S.C. 7221j) is amended to read
3 as follows:

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

5 “There are authorized to be appropriated to carry out
6 this subpart \$300,000,000 for fiscal year 2012 and each
7 of the 5 succeeding fiscal years.”.

8 **SEC. 11. CONFORMING AMENDMENTS.**

9 (a) REPEAL.—Subpart 2 of part B of title V (20
10 U.S.C. 7223 et seq.) is repealed.

11 (b) TABLE OF CONTENTS.—The table of contents in
12 section 2 is amended—

13 (1) by striking the item relating to section 5203
14 and inserting the following:

“Sec. 5203. Grants to support high-quality charter schools.”;

15 (2) by striking the item relating to section 5204
16 and inserting the following:

“Sec. 5204. Facilities Financing Assistance.”; and

17 (3) by striking subpart 2 of part B of title V.

Passed the House of Representatives September 13,
2011.

Attest:

KAREN L. HAAS,

Clerk.