

112TH CONGRESS  
1ST SESSION

# H. R. 2218

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## 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 ible 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.”;

17 and

18 (3) by striking subpart 2 of part B of title V.  
Passed the House of Representatives September 13,  
2011.

Attest:

*Clerk.*





112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 2218**

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**AN ACT**

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