AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

112TH CONGRESS
*1st Session* " HOUSE OF REPRESENTATIVES ! REPORT
112–178

# EMPOWERING PARENTS THROUGH QUALITY CHARTER SCHOOLS ACT

JULY 22, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HUNTER, from the Committee on Education and the Workforce, submitted the following

## R E P O R T

together with

## ADDITIONAL VIEWS

[To accompany H.R. 2218]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and the Workforce, to whom was referred the bill (H.R. 2218) to amend the charter school program under the Elementary and Secondary Education Act of 1965, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Empowering Parents through Quality Charter Schools Act".

**SEC. 2. REFERENCES.**

Except as otherwise specifically provided, whenever in this Act a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

**SEC. 3. PURPOSE.**

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

**"SEC. 5201. PURPOSE.**

"It is the purpose of this subpart to—

"(1) provide financial assistance for the planning, program design, and initial implementation of charter schools;

99–006

"(2) expand the number of high-quality charter schools available to students across the Nation;

"(3) evaluate the impact of such schools on student achievement, families, and communities, and share best practices between charter schools and other public schools;

"(4) encourage States to provide support to charter schools for facilities financing in an amount more nearly commensurate to the amount the States have typically provided for traditional public schools;

"(5) improve student services to increase opportunities for students with disabilities, English language learners, and other traditionally underserved students to attend charter schools and meet challenging State academic achievement standards; and

"(6) support efforts to strengthen the charter school authorizing process to improve performance management, including transparency, monitoring, and evaluation of such schools.".

**SEC. 4. PROGRAM AUTHORIZED.**

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

**"SEC. 5202. PROGRAM AUTHORIZED.**

"(a) IN GENERAL.—This subpart authorizes the Secretary to carry out a charter school program that supports charter schools that serve elementary school and secondary school students by—

"(1) supporting the startup, replication, and expansion of charter schools;

"(2) assisting charter schools in accessing credit to acquire and renovate facilities for school use; and

"(3) carrying out national activities to support—

"(A) charter school development;

"(B) the dissemination of best practices of charter schools for all schools; and

"(C) the evaluation of the impact of the program on schools participating in the program.

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

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

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

"(3) use the remaining amount after the Secretary reserves funds under paragraphs (1) and (2) to carry out section 5203.

"(c) PRIOR GRANTS AND SUBGRANTS.—The recipient of a grant or subgrant under this subpart, as such subpart was in effect on the day before the date of enactment of the Empowering Parents through Quality Charter Schools Act, shall continue to receive funds in accordance with the terms and conditions of such grant or subgrant.".

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

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

**"SEC. 5203. GRANTS TO SUPPORT HIGH-QUALITY CHARTER SCHOOLS.**

"(a) IN GENERAL.—From the amount reserved under section 5202(b)(3), the Secretary shall award grants to State entities having applications approved pursuant to subsection (f) to enable such entities to—

"(1) award subgrants to eligible applicants for—

"(A) opening new charter schools;

"(B) opening replicable, high-quality charter school models; or

"(C) expanding high-quality charter schools; and

"(2) provide technical assistance to eligible applicants and authorized public chartering agencies in carrying out the activities described in paragraph (1) and work with authorized public chartering agencies in the State to improve authorizing quality.

"(b) STATE USES OF FUNDS.—

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

"(A) use 90 percent of the grant funds to award subgrants to eligible applicants, in accordance with the quality charter school program described in the entity's application approved pursuant to subsection (f), for the purposes described in subparagraphs (A) through (C) of subsection (a)(1); and

"(B) reserve 10 percent of such funds to carry out the activities described in subsection (a)(2), of which not more than 30 percent may be used for administrative costs which may include technical assistance.

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

"(c) PROGRAM PERIODS; PEER REVIEW; DIVERSITY OF PROJECTS.—

"(1) PROGRAM PERIODS.—

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

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

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

"(3) DIVERSITY OF PROJECTS.—Each State entity receiving a grant under this section shall award subgrants under this section in a manner that, to the extent possible, ensures that such subgrants—

"(A) are distributed throughout different areas, including urban, suburban, and rural areas; and

"(B) will assist charter schools representing a variety of educational approaches.

"(d) LIMITATIONS.—

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

"(2) SUBGRANTS.—An eligible applicant may not receive more than 1 subgrant under this section per charter school for a 5-year period.

"(e) APPLICATIONS.—A State entity desiring to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require. The application shall include the following:

"(1) DESCRIPTION OF PROGRAM.—A description of the entity's objectives in running a quality charter school program under this section and how the objectives of the program will be carried out, including a description—

"(A) of how the entity—

"(i) will support both new charter school startup and the expansion and replication of high-quality charter school models;

"(ii) will inform eligible charter schools, developers, and authorized public chartering agencies of the availability of funds under the program;

"(iii) will work with eligible applicants to ensure that the applicants access all Federal funds that they are eligible to receive, and help the charter schools supported by the applicants and the students attending the charter schools—

"(I) participate in the Federal programs in which the schools and students are eligible to participate; and

"(II) receive the commensurate share of Federal funds the schools and students are eligible to receive under such programs;

"(iv) in the case in which the entity is not a State educational agency—

"(I) will work with the State educational agency and the charter schools in the State to maximize charter school participation in Federal and State programs for charter schools; and

"(II) will work with the State educational agency to adequately operate the entity's program under this section, where applicable;

"(v) will ensure eligible applicants that receive a subgrant under the entity's program are prepared to continue to operate the charter schools receiving the subgrant funds once the funds have expired;

"(vi) will support charter schools in local educational agencies with large numbers of schools that must comply with the requirements of section 1116(b);

"(vii) will work with charter schools to promote inclusion of all students and support all students once they are enrolled to promote retention;

"(viii) will work with charter schools on recruitment practices, including efforts to engage groups that may otherwise have limited opportunities to participate in charter schools;

"(ix) will share best and promising practices between charter schools and other public schools;

"(x) will ensure the charter schools they support can meet the educational needs of their students, including students with disabilities and English language learners; and

"(xi) will support efforts to increase quality initiatives, including meeting the quality authorizing elements described in paragraph (2)(E);

"(B) of the extent to which the entity—

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

"(ii) is working to develop or strengthen a cohesive statewide system to support the opening of new charter schools and replicable, high-quality charter school models, and expanding high-quality charter schools;

"(C) how the entity will carry out the subgrant competition, including—

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

"(I) a description of the roles and responsibilities of eligible applicants, partner organizations, and management organizations, including the administrative and contractual roles and responsibilities; and

"(II) a description of the quality controls agreed to between the eligible applicant and the authorized public chartering agency involved, such as a contract or performance agreement, and how a school's performance on the State's academic accountability system will be a primary factor for renewal; and

"(ii) a description of how the entity will review applications; and

"(D) in the case of an entity that partners with an outside organization to carry out the entity's quality charter school program, in whole or in part, of the roles and responsibilities of this partner.

"(2) ASSURANCES.—Assurances, including a description of how the assurances will be met, that—

"(A) each charter school receiving funds under the entity's program will have a high degree of autonomy over budget and operations;

"(B) the entity will support charter schools in meeting the educational needs of their students as described in paragraph (1)(A)(x);

"(C) the entity will ensure that the authorized public chartering agency of any charter school that receives funds under the entity's program—

"(i) ensures that the charter school is meeting the obligations under this Act, part B of the Individuals with Disabilities Education Act, title VI of the Civil Rights Act of 1964, and section 504 of the Rehabilitation Act of 1973; and

"(ii) adequately monitors and helps the schools in recruiting, enrolling, and meeting the needs of all students, including students with disabilities and English language learners;

"(D) the entity will provide adequate technical assistance to eligible applicants to—

"(i) meet the objectives described in clauses (vii) and (viii) of paragraph (1)(A) and paragraph (2)(B); and

"(ii) enroll traditionally underserved students, including students with disabilities and English language learners, to promote an inclusive education environment;

"(E) the entity will promote quality authorizing, such as through providing technical assistance, to support all authorized public chartering agencies in the State to improve the monitoring of their charter schools, including by—

"(i) using annual performance data, which may include graduation rates and student growth data, as appropriate, to measure the progress of their schools toward becoming high-quality charter schools; and

"(ii) reviewing the schools' independent, annual audits of financial statements conducted in accordance with generally accepted accounting principles, and ensuring any such audits are publically reported; and

"(F) the entity will work to ensure that charter schools are included with the traditional public school system in decision-making about the public school system in the State.

"(3) REQUESTS FOR WAIVERS.—A request and justification for waivers of any Federal statutory or regulatory provisions that the entity believes are necessary for the successful operation of the charter schools that will receive funds under the entity's program under this section, and a description of any State or local rules, generally applicable to public schools, that will be waived, or otherwise not apply to such schools.

"(f) SELECTION CRITERIA; PRIORITY.—

"(1) SELECTION CRITERIA.—The Secretary shall award grants to State entities under this section on the basis of the quality of the applications submitted under subsection (e), after taking into consideration—

"(A) the degree of flexibility afforded by the State's public charter school law and how the entity will work to maximize the flexibility provided to charter schools under the law;

"(B) the ambitiousness of the entity's objectives for the quality charter school program carried out under this section;

"(C) the quality of the strategy for assessing achievement of those objectives;

"(D) the likelihood that the eligible applicants receiving subgrants under the program will meet those objectives and improve educational results for students;

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

"(F) the entity's plan to—

"(i) adequately monitor the eligible applicants receiving subgrants under the entity's program; and

"(ii) work with the authorized public chartering agencies involved to avoid duplication of work for the charter schools and authorized public chartering agencies;

"(G) the entity's plan to provide adequate technical assistance, as described in the entity's application under subsection (e), for the eligible applicants receiving subgrants under the entity's program under this section; and

"(H) the entity's plan to support quality authorizing efforts in the State, consistent with the objectives described in subparagraph (B).

"(2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to State entities to the extent that they meet the following criteria:

"(A) In the case in which a State entity is located in a State that allows an entity other than the State educational agency to be an authorized public chartering agency or a State in which only a local educational agency may be an authorized public chartering agency, the State has an appeals process for the denial of an application for a charter school.

"(B) The State entity is located in a State that does not impose any limitation on the number or percentage of charter schools that may exist or the number or percentage of students that may attend charter schools in the State.

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

"(D) The State entity supports full-, blended-, or hybrid-online charter school models.

"(E) The State entity is located in a State that uses charter schools and best practices from charter schools to help improve struggling schools and local educational agencies.

"(F) The State entity partners with an organization that has a demonstrated record of success in developing management organizations to support the development of charter schools in the State.

"(G) The State entity demonstrates quality policies and practices to support and monitor charter schools through factors, including—

"(i) the proportion of high-quality charter schools in the State; and

"(ii) the proportion of charter schools enrolling, at a rate similar to traditional public schools, traditionally underserved students, including students with disabilities and English language learners.

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

"(h) REPORTING REQUIREMENTS.—Each State entity receiving a grant under this section shall submit to the Secretary, at the end of the third year of the 5-year grant period and at the end of such grant period, a report on—

"(1) the number of students served and, if applicable, how many new students were served during each year of the grant period;

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

"(A) the opening of new charter schools;

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

"(C) the expansion of high-quality charter schools;

"(3) the progress the entity made toward meeting the priorities described in subsection (f)(2), as applicable;

"(4) how the entity met the objectives of the quality charter school program described in the entity's application under subsection (e);

"(5) how the entity complied with, and ensured that eligible applicants complied with, the assurances described in the entity's application; and

"(6) how the entity worked with authorized public chartering agencies, including how the agencies worked with the management company or leadership of the schools in which the subgrants were awarded.

"(i) STATE ENTITY DEFINED.—For purposes of this section, the term 'State entity' means—

"(1) a State educational agency;

"(2) a State charter school board; or

"(3) a Governor of a State.".

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

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

**"SEC. 5204. FACILITIES FINANCING ASSISTANCE.**

"(a) GRANTS TO ELIGIBLE ENTITIES.—

"(1) IN GENERAL.—From the amount reserved under section 5202(b)(1), the Secretary shall award not less than 3 grants to eligible entities that have applications approved under subsection (d) to demonstrate innovative methods of assisting charter schools to address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans or bond financing.

"(2) ELIGIBLE ENTITY DEFINED.—For purposes of this section, the term 'eligible entity' means—

"(A) a public entity, such as a State or local governmental entity;

"(B) a private nonprofit entity; or

"(C) a consortium of entities described in subparagraphs (A) and (B).

"(b) GRANTEE SELECTION.—

"(1) EVALUATION OF APPLICATION.—The Secretary shall evaluate each application submitted under subsection (d), and shall determine whether the application is sufficient to merit approval.

"(2) DISTRIBUTION OF GRANTS.—The Secretary shall award at least one grant to an eligible entity described in subsection (a)(2)(A), at least one grant to an eligible entity described in subsection (a)(2)(B), and at least one grant to an eligible entity described in subsection (a)(2)(C), if applications are submitted that permit the Secretary to do so without approving an application that is not of sufficient quality to merit approval.

"(c) GRANT CHARACTERISTICS.—Grants under subsection (a) shall be of a sufficient size, scope, and quality so as to ensure an effective demonstration of an innovative means of enhancing credit for the financing of charter school acquisition, construction, or renovation.

"(d) APPLICATIONS.—

"(1) IN GENERAL.—To receive a grant under subsection (a), an eligible entity shall submit to the Secretary an application in such form as the Secretary may reasonably require.

"(2) CONTENTS.—An application submitted under paragraph (1) shall contain—

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

"(B) a description of the involvement of charter schools in the application's development and the design of the proposed activities;

"(C) a description of the eligible entity's expertise in capital market financing;

"(D) a description of how the proposed activities will leverage the maximum amount of private-sector financing capital relative to the amount of government funding used and otherwise enhance credit available to charter schools, including how the entity will offer a combination of rates and terms more favorable than the rates and terms that a charter school could receive without assistance from the entity under this section;

"(E) a description of how the eligible entity possesses sufficient expertise in education to evaluate the likelihood of success of a charter school program for which facilities financing is sought; and

"(F) in the case of an application submitted by a State governmental entity, a description of the actions that the entity has taken, or will take, to

ensure that charter schools within the State receive the funding the charter schools need to have adequate facilities.

"(e) CHARTER SCHOOL OBJECTIVES.—An eligible entity receiving a grant under this section shall use the funds deposited in the reserve account established under subsection (f) to assist one or more charter schools to access private sector capital to accomplish one or both of the following objectives:

"(1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a charter school.

"(2) The construction of new facilities, including predevelopment costs, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a charter school.

"(f) RESERVE ACCOUNT.—

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

"(A) Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein, the proceeds of which are used for an objective described in subsection (e).

"(B) Guaranteeing and insuring leases of personal and real property for an objective described in subsection (e).

"(C) Facilitating financing by identifying potential lending sources, encouraging private lending, and other similar activities that directly promote lending to, or for the benefit of, charter schools.

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

"(2) INVESTMENT.—Funds received under this section and deposited in the reserve account established under paragraph (1) shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities.

"(3) REINVESTMENT OF EARNINGS.—Any earnings on funds received under subsection (a) shall be deposited in the reserve account established under paragraph (1) and used in accordance with such subsection.

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

"(h) AUDITS AND REPORTS.—

"(1) FINANCIAL RECORD MAINTENANCE AND AUDIT.—The financial records of each eligible entity receiving a grant under subsection (a) shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

"(2) REPORTS.—

"(A) GRANTEE ANNUAL REPORTS.—Each eligible entity receiving a grant under subsection (a) annually shall submit to the Secretary a report of its operations and activities under this section.

"(B) CONTENTS.—Each annual report submitted under subparagraph (A) shall include—

"(i) a copy of the most recent financial statements, and any accompanying opinion on such statements, prepared by the independent public accountant reviewing the financial records of the eligible entity;

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

"(iii) an evaluation by the eligible entity of the effectiveness of its use of the Federal funds provided under subsection (a) in leveraging private funds;

"(iv) a listing and description of the charter schools served during the reporting period, including the amount of funds used by each school, the type of project facilitated by the grant, and the type of assistance provided to the charter schools;

"(v) a description of the activities carried out by the eligible entity to assist charter schools in meeting the objectives set forth in subsection (e); and

"(vi) a description of the characteristics of lenders and other financial institutions participating in the activities undertaken by the eligible entity under this section (excluding subsection (k)) during the reporting period.

"(C) SECRETARIAL REPORT.—The Secretary shall review the reports submitted under subparagraph (A) and shall provide a comprehensive annual report to Congress on the activities conducted under this section (excluding subsection (k)).

"(i) NO FULL FAITH AND CREDIT FOR GRANTEE OBLIGATION.—No financial obligation of an eligible entity entered into pursuant to this section (such as an obligation under a guarantee, bond, note, evidence of debt, or loan) shall be an obligation of, or guaranteed in any respect by, the United States. The full faith and credit of the United States is not pledged to the payment of funds which may be required to be paid under any obligation made by an eligible entity pursuant to any provision of this section.

"(j) RECOVERY OF FUNDS.—

"(1) IN GENERAL.—The Secretary, in accordance with chapter 37 of title 31, United States Code, shall collect—

"(A) all of the funds in a reserve account established by an eligible entity under subsection (f)(1) if the Secretary determines, not earlier than 2 years after the date on which the eligible entity first received funds under this section (excluding subsection (k)), that the eligible entity has failed to make substantial progress in carrying out the purposes described in subsection (f)(1); or

"(B) all or a portion of the funds in a reserve account established by an eligible entity under subsection (f)(1) if the Secretary determines that the eligible entity has permanently ceased to use all or a portion of the funds in such account to accomplish any purpose described in subsection (f)(1).

"(2) EXERCISE OF AUTHORITY.—The Secretary shall not exercise the authority provided in paragraph (1) to collect from any eligible entity any funds that are being properly used to achieve one or more of the purposes described in subsection (f)(1).

"(3) PROCEDURES.—The provisions of sections 451, 452, and 458 of the General Education Provisions Act shall apply to the recovery of funds under paragraph (1).

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

"(k) PER-PUPIL FACILITIES AID PROGRAM.—

"(1) DEFINITION OF PER-PUPIL FACILITIES AID PROGRAM.—In this subsection, the term 'per-pupil facilities aid program' means a program in which a State makes payments, on a per-pupil basis, to charter schools to provide the schools with financing—

"(A) that is dedicated solely for funding charter school facilities; or

"(B) a portion of which is dedicated for funding charter school facilities.

"(2) GRANTS.—

"(A) IN GENERAL.—From the amount reserved under section 5202(b)(1) remaining after the Secretary makes grants under subsection (a), the Secretary shall make grants, on a competitive basis, to States to pay for the Federal share of the cost of establishing or enhancing, and administering per-pupil facilities aid programs.

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

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

"(i) 90 percent of the cost, for the first fiscal year for which the program receives assistance under this subsection;

"(ii) 80 percent in the second such year;

"(iii) 60 percent in the third such year;

"(iv) 40 percent in the fourth such year; and

"(v) 20 percent in the fifth such year.

"(D) STATE SHARE.—A State receiving a grant under this subsection may partner with 1 or more organizations to provide up to 50 percent of the State share of the cost of establishing or enhancing, and administering the per-pupil facilities aid program.

"(E) MULTIPLE GRANTS.—A State may receive more than 1 grant under this subsection, so long as the amount of such funds provided to charter schools increases with each successive grant.

"(3) USE OF FUNDS.—

"(A) IN GENERAL.—A State that receives a grant under this subsection shall use the funds made available through the grant to establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the State of the applicant.

"(B) EVALUATIONS; TECHNICAL ASSISTANCE; DISSEMINATION.—From the amount made available to a State through a grant under this subsection for a fiscal year, the State may reserve not more than 5 percent to carry out evaluations, to provide technical assistance, and to disseminate information.

"(C) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this subsection shall be used to supplement, and not supplant, State, and local public funds expended to provide per pupil facilities aid programs, operations financing programs, or other programs, for charter schools.

"(4) REQUIREMENTS.—

"(A) VOLUNTARY PARTICIPATION.—No State may be required to participate in a program carried out under this subsection.

"(B) STATE LAW.—

"(i) IN GENERAL.—To be eligible to receive a grant under this subsection, a State shall establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the State, that—

"(I) is specified in State law; and

"(II) provides annual financing, on a per-pupil basis, for charter school facilities.

"(ii) SPECIAL RULE.—A State that is required under State law to provide its charter schools with access to adequate facility space may be eligible to receive a grant under this subsection if the State agrees to use the funds to develop a per-pupil facilities aid program consistent with the requirements of this subsection.

"(5) APPLICATIONS.—To be eligible to receive a grant under this subsection, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.".

**SEC. 7. NATIONAL ACTIVITIES.**

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

**"SEC. 5205. NATIONAL ACTIVITIES.**

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

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

"(2) use the remainder of such funds to—

"(A) disseminate technical assistance to State entities in awarding subgrants under section 5203;

"(B) disseminate best practices; and

"(C) evaluate the impact of the charter school program, including the impact on student achievement, carried out under this subpart.

"(b) GRANTS.—

"(1) IN GENERAL.—The Secretary shall make grants, on a competitive basis, to eligible applicants for the purpose of carrying out the activities described in section 5202(a)(1), subparagraphs (A) through (C) of section 5203(a)(1), and section 5203(g).

"(2) TERMS AND CONDITIONS.—Except as otherwise provided in this subsection, grants awarded under this subsection shall have the same terms and conditions as grants awarded to State entities under section 5203.

"(3) ELIGIBLE APPLICANT DEFINED.—For purposes of this subsection, the term 'eligible applicant' means an eligible applicant that desires to open a charter school in—

"(A) a State that did not apply for a grant under section 5203;

"(B) a State that did not receive a grant under section 5203; or

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

"(c) CONTRACTS AND GRANTS.—The Secretary may carry out any of the activities described in this section directly or through grants, contracts, or cooperative agreements.".

**SEC. 8. RECORDS TRANSFER.**

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

(1) by inserting "as quickly as possible and" before "to the extent practicable"; and

(2) by striking "section 602" and inserting "section 602(14)".

**SEC. 9. DEFINITIONS.**

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

(1) in paragraph (1)—

(A) by striking "and" at the end of subparagraph (K);

(B) by striking the period at the end of subparagraph (L) and inserting "; and"; and

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

"(M) may serve prekindergarten or post secondary students.";

(2) in paragraph (3)(B), by striking "under section 5203(d)(3)"; and

(3) by inserting at the end the following:

"(5) EXPANSION OF A HIGH-QUALITY CHARTER SCHOOL.—The term 'expansion of a high-quality charter school' means a high-quality charter school that either significantly increases its enrollment or adds one or more grades to its school.

"(6) HIGH-QUALITY CHARTER SCHOOL.—The term 'high-quality charter school' means a charter school that—

"(A) shows evidence of strong academic results, which may include strong academic growth as determined by a State;

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

"(C) has demonstrated success in significantly increasing student academic achievement and attainment for all students served by charter schools; and

"(D) has demonstrated success in increasing student academic achievement for the subgroups of students described in section 1111(b)(2)(C)(v)(II).

"(7) REPLICABLE, HIGH-QUALITY CHARTER SCHOOL MODEL.—The term 'replicable, high-quality charter school model' means a high-quality charter school that will open a new campus under an existing charter.".

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

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

**"SEC. 5211. AUTHORIZATION OF APPROPRIATIONS.**

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

**SEC. 11. CONFORMING AMENDMENTS.**

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

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

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

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

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

"Sec. 5204. Facilities Financing Assistance."; and

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

## PURPOSE

H.R. 2218, the Empowering Parents through Quality Charter Schools Act, reauthorizes and modernizes the Charter School Program under the Elementary and Secondary Education Act. The bill increases the number of charter schools available to students and families, ensures charter schools share their best practices with all public schools, and improves access to charter schools for all students, including students with disabilities and English language learners.

## COMMITTEE ACTION

This bill is the second in a series of bills designed to reauthorize the Elementary and Secondary Education Act (ESEA). H.R. 2218 builds upon the Committee's efforts to examine the federal invest-

ment in education and evaluate elementary and secondary education programs.

## 111TH CONGRESS

### *Hearings*

On June 4, 2009, the Committee on Education and Labor held a hearing entitled, "Building on What Works at Charter Schools." The purpose of the hearing was to learn how representatives from the U.S. Department of Education, states, charter school authorizers, and charter school providers produce high-quality charter schools and how those programs can be replicated and brought to scale. Testifying before the Committee were: The Honorable Barbara O'Brien, Lieutenant Governor, State of Colorado, Denver, CO; Mr. James Shelton, Assistant Deputy Secretary for Innovation and Improvement, U.S. Department of Education, Washington, DC; Mr. Steve Barr, Founder and Chairman, Green Dot Public Schools, Los Angeles, CA; Dr. John King, Managing Director, Excellence and Preparatory Network of Uncommon Schools, New York, NY; Mr. David Dunn, Executive Director, Texas Charter Schools Association, Austin, TX; and Mr. James Goenner, Executive Director, The Center for Charter Schools at Central Michigan University, Mount Pleasant, MI.

On February 24, 2010, the Committee on Education and Labor held a hearing on quality charter schools and H.R. 4330, the All Students Achieving through Reform Act. The purpose of the hearing was to learn how charter school providers maintain quality in charter schools, what student populations charter schools serve, and the importance of keeping charter schools autonomous. The hearing also focused on H.R. 4430, which created a new program under the Charter School Program to provide funding for the expansion and replication of charter schools. Testifying before the Committee were: Ms. Eva Moskowitz, Founder, Success Charter Network, New York, NY; Ms. Robin J. Lake, Associate Director, Center on Reinventing Public Education, Seattle, WA; Dr. Thomas Hehir, Professor of Practice, Harvard Graduate School of Education, Cambridge, MA; Mr. Greg Richmond, President and CEO, National Association of Charter School Authorizers, Chicago, IL; Ms. Eileen Ahern, Director, National Association of State Directors of Special Education, Alexandria, VA; and Dr. Caprice Young, President and CEO, KC Distance Learning, Portland, OR.

### *Legislative Action*

In H.R. 3288, the FY 2010 Consolidated Appropriations Act, the Committee on Appropriations provided $256 million for the Charter School Program and reserved $50 million of those funds to support the expansion and replication of existing high-quality charter schools. H.R. 3288 was signed into law on December 16, 2009.

## 112TH CONGRESS

### *Hearings*

On April 7, 2011, the Committee on Education and the Workforce held a hearing entitled, "Education Reforms: Promoting Flexibility and Innovation." The purpose of the hearing was to discuss the appropriate federal role in K–12 education and explore the work of

state and local education leaders who are pushing for innovative approaches to education reform and greater state and local flexibility. Testifying before the Committee were: Dr. Janet Barresi, Oklahoma State Superintendent of Public Instruction, Oklahoma City, OK; Dr. Gary Amoroso, Superintendent, Lakeville Area Public Schools, Lakeville, MN; Mr. Yohance Maqubela, Chief Operating Officer, Howard University Middle School of Mathematics and Science, Washington, DC; and Dr. Terry Grier, Superintendent, Houston Independent School District, Houston, TX.

On June 1, 2011, the Committee on Education and the Workforce Subcommittee on Early Childhood, Elementary, and Secondary Education held a hearing entitled, "Education Reforms: Exploring the Vital Role of Charter Schools." The purpose of the hearing was to examine the contributions of charter schools to state and local efforts to improve public education and the importance of empowering parents to choose the best school environment for their children. Specifically, the hearing looked at: (1) how charter schools serve special populations, including students with disabilities and English Language Learners; (2) how charter schools serve the needs of the local community; and (3) how charter school authorizers work to improve quality. Testifying before the Subcommittee were: Ms. DeAnna Rowe, Executive Director, Arizona State Board for Charter Schools, Phoenix, AZ; Ms. Debbie Beyer, Executive Director, Literacy First Charter Schools, El Cajon, CA; Dr. Gary Miron, College of Education, Western Michigan University, Kalamazoo, MI; and Dr. Beth Purvis, Executive Director, Chicago International Charter School, Chicago, IL.

*Legislative Action*

H.R. 1473, the Department of Defense and Full-Year Continuing Appropriations Act of 2011, included $256 million for the Charter School Program, and reserved $50 million to support the expansion and replication of existing high-quality charter schools. H.R. 1473 was signed into law on April 15, 2011.

On June 16, 2011, Rep. Duncan Hunter (R–CA) and Rep. John Kline (R–MN) introduced H.R. 2218, the Empowering Parents through Quality Charter Schools Act. This bill reauthorizes and improves the existing charter school provisions under the Elementary and Secondary Education Act. H.R. 2218 is cosponsored by Rep. George Miller (D–CA), Rep. Tom Petri (R–WI), Rep. Howard P. "Buck" McKeon (R–CA), Rep. Phil Roe (R–TN), Rep. Trey Gowdy (R–SC), Rep. Larry Bucshon (R–IN), Rep. Tim Walberg (R–MI), Rep. Scott DesJarlais (R–TN), Rep. Mike Kelly (R–PA), Rep. Jared Polis (D–CO), Rep. Todd Rokita (R–IN), and Rep. Ander Crenshaw (R–FL).

The Committee on Education and the Workforce considered H.R. 2218 in legislative session on June 22, 2011, and reported it favorably, as amended, to the House of Representatives by a bipartisan vote of 34–5. The Committee considered and adopted one amendment to the bill, an Amendment in the Nature of a Substitute, offered by Rep. Duncan Hunter (R–CA).

This amendment:

- Clarifies that charter schools must have autonomy from state and local policies and practices over their budgets and operations.

- Clarifies language requiring states and charter school authorizers to provide technical assistance to charter schools. It provides examples of the factors that charter school authorizers must look for as they approve and monitor charter schools in their state.
- Adds a priority in the grant application encouraging states to support quality policies and practices in monitoring charter schools in their state.
- Clarifies that charter schools should be part of any discussion or decision made about the public school system in the state.
- Adds a provision encouraging charter schools and traditional public schools to share best practices.
- Requires grantees to state they will assist charter schools in ensuring they support all students in an inclusive education environment.
- Clarifies that the Secretary of Education will examine student achievement when conducting an evaluation of the program's effects on participating charter schools.

The Committee received letters of support for H.R. 2218 from the following organizations: The U.S. Chamber of Commerce, Business Roundtable, Chiefs for Change, Knowledge Is Power Program (KIPP) Foundation, Council for Exceptional Children, Charter School Lenders Coalition, Democrats for Education Reform, National Association for Charter School Authorizers, National Alliance for Public Charter Schools, National Association of State Directors of Special Education, New Schools Venture Fund, the California Charter Schools Association, and the Texas Charter Schools Association.

## LETTERS OF SUPPORT

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
EXECUTIVE VICE PRESIDENT
GOVERNMENT AFFAIRS

1615 H STREET, N.W.
WASHINGTON, D.C. 20062-2000
202/463-5310

June 21, 2011

The Honorable John Kline
Chairman
Committee on Education and the Workforce
United States House of Representatives
Washington, DC 20515

The Honorable George Miller
Ranking Member
Committee on Education and the Workforce
United States House of Representatives
Washington, DC 20515

Dear Chairman Kline and Ranking Member Miller:

The U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector, and region, supports H.R. 2218, the "Empowering Parents through Quality Charter Schools Act," which would improve the Federal government's support of charter schools.

The Chamber believes that dramatically improving the performance of the K–12 education system in the United States is essential to providing a strong foundation for both U.S. competitiveness and for individuals to succeed. Public charter schools are one of the most promising education reform innovations of the last several decades. Charter schools provide much needed options for parents and allow greater flexibility to innovate and improve student performance. With more than 1.5 million children attending nearly 5,000 charter schools in 40 states, charter schools provide choices to disadvantaged students who were formerly trapped in schools with few options to access a better education.

The bill would encourage the removal of state charter caps; authorize funding for expansion grants to high performing charter schools; and continue the Federal role in supporting charter schools facilities, which is the biggest barrier to entry for those seeking to organize new charters. This bill would also improve the program's accountability and transparency provisions and encourage states to aid education entrepreneurs who are seeking to support the charter school movement. The bill advances these priorities in a fiscally responsible manner.

The Chamber urges the Committee to report this important legislation to the full House as expeditiously as practicable.

Sincerely,

Bruce Josten

cc: The Members of the Committee on Education and the Workforce

1717 Rhode Island Avenue, NW
Suite 800
Washington, DC 20036

Telephone 202 872 1260
Facsimile 202.466 3509
Website brt.org

Ivan G. Seidenberg
Verizon Communications
Chairman

Kenneth I. Chenault
American Express Company
Vice Chairman

Edward B. Rust, Jr.
State Farm Insurance Companies
Vice Chairman

John Engler
President

Larry D. Burton
Executive Director

Johanna L. Schneider
Executive Director, External Relations

LeAnne Redick Wilson
Executive Director, Membership

June 20, 2011

Representative John Kline
Chairman
Education & the Workforce Committee
2439 Rayburn House Office Building
Washington, DC 20515

Representative George Miller
Ranking Member
Education & the Workforce Committee
2205 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Kline and Representative Miller:

Business Roundtable, an association of chief executive officers of leading U.S. companies with nearly $6 trillion in annual revenues and more than 13 million employees, supports H.R. 2218, Empowering Parents through Quality Charter Schools Act.

The bill will strengthen the current federal charter school program and increase the number of high-quality charter schools that provide additional options for students and their parents. It also includes an important emphasis on the replication of high-quality models and on sharing best practices with all schools.

We look forward to working with you to update the accountability provisions and other parts of the Elementary and Secondary Education Act (ESEA) that affect all public schools, including charters.

Sincerely,

John Engler

JE/st

June 24, 2011

Representative John Kline
Chairman
Education and the Workforce
U.S. House of Representatives
Washington, DC 20515

Representative Duncan Hunter
Chairman, Subcommittee on Early Childhood, Elementary and Secondary Education, Education and the Workforce Committee
Washington, DC 20515

Dear Chairman Kline and Subcommittee Chairman Hunter:

On behalf of more than 11 million students in our states, the Chiefs for Change commends you for your leadership in promoting high quality public charter school options for students and their families. We strongly support the approach of empowering states to tailor grant programs in a way that best meets our unique state and local needs.

The introduction of H.R. 2218, the Empowering Parents through Quality Charter Schools Act, modernizes the current charter school program and provides incentives and critical support to help high-achieving charter schools grow, replicate, and expand to meet the rising demands of students across the country. We appreciate the effort made to streamline the programs as well as the emphasis placed on replicating high performing schools.

We strongly support the provisions in Empowering Parents through Quality Charter Schools Act that provide incentives for states to provide equitable funding to charter schools as well as support new models that use online, hybrid, or blended learning. The legislation also provides needed grants for credit enhancement initiatives that assist charter operators with the cost of acquiring, constructing and renovating facilities.

We strongly support this effort to provide more viable options for students and lend our support for H.R. 2218, the Empowering Parents through Quality Charter Schools Act.

Sincerely,

Chiefs for Change

www.ChiefsforChange.org
• P.O. Box 10691 • Tallahassee, Florida 32302 • (850) 391-4090 • (786) 664-1794 fax •

**KIPP:**

**Opportunity within the *Empowering Parents through Quality Charter Schools Act (H.R. 2218)***

June 17, 2011

The Honorable Duncan Hunter
223 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Hunter:

We applaud your aim within the *Empowering Parents through Quality Charter Schools Act* to enable successful charter schools to replicate, expand and serve more students. We appreciate that this legislation encourages rigorous levels of reporting, oversight and accountability for charter school authorizers. We would also like to thank you for increasing the reauthorization from $256M to $300M. While demand for high quality charter school seats still significantly exceeds supply, we greatly appreciate this step forward and want to work with you through the legislative process to ensure that we do as much as possible to reach our shared goal of giving all parents who want it the choice to send their child to a high quality public school. **However, as you move to mark up this bill we strongly encourage you to incorporate the ability for high quality charter management organizations operating in more than one state to apply directly to the U.S. Department of Education to seek start-up funding.**

The Knowledge Is Power Program ("KIPP") is a national network of free, open-enrollment, college-preparatory public schools with a track record of preparing students in underserved communities for success in college and in life. Today, the KIPP network is comprised of 99 schools serving more than 28,000 students in 20 states and the District of Columbia. Currently, nearly as many students are on our waitlists as we are able to educate in our classrooms. To meet this growing demand we aspire to open approximately twenty new schools annually. With your support we are on pace to serve over 60,000 students by 2015.

While the role of the federal government is limited when it comes to the work of our schools, there is one federal program that plays an absolutely unique and catalytic role in supporting our dramatic expansion. That program is the Charter Schools Program which provides grants to plan, design and implement new charter schools, as well as to disseminate information on successful charter schools. *Unfortunately, in 2009, only 6 of KIPP's 18 new schools were able to successfully seek federal Charter Schools Program start-up funding due to a host of state-level barriers to accessing it.*

In FY2010, thanks to the Appropriations Committees' interest in growing high quality public education options, a portion of the Charter Schools Program's funding was designated for the replication and expansion of high-performing charter schools. This is something the federal government had never before supported. This $50M investment by the Congress has allowed 76,000 more students to attend 127 new and 31 expanded charter schools in a dozen charter school networks nation-wide. To put this figure in

**Knowledge Is Power Program**

www.kipp.org

**KIPP Foundation**
135 Main Street, Suite 1700
San Francisco, CA 94105
Tel. 415-399-1556
Fax 415-348-0588

perspective, prior to this grant program's inception, it took some twenty years to create 167,000 high quality charter school seats under the traditional state Charter Schools Program approach.[1]

As a current grant recipient of the Charter Schools Program Grants for Replication and Expansion of High quality Charter Schools, this funding is supporting the opening and expansion of over 30 KIPP schools in 14 unique communities in 2010 and 2011. We have great concerns, however, that we will again be unable to access start-up funding to grow if this process is left entirely in the hands of the states as currently proposed within the *Empowering Parents through Quality Charter Schools Act*. While the bill has many strengths, it puts the expansion of high performing, multi-state charter school networks at risk.

As you move to mark up the *Empowering Parents through Quality Charter Schools Act*, we ask that you consider incorporating the opportunity for high quality charter management organizations operating in more than one state to continue to be able to apply directly to the Secretary to replicate and expand. Specifically, we hope you will allow for this competition to continue with ample funding as part of the national activities portion of the bill.

During this difficult economic time when resources are scarce, we are ever-mindful of opportunities to shine a light on measures that will help to ensure that all students have access to a high quality public education. We are confident that helping to drive the expansion of proven high quality charter networks into multiple states is one of the most powerful, catalytic education investments the federal government can make.

Sincerely,

Richard Barth
CEO of KIPP

Mike Feinberg
Co-Founder of KIPP

Dave Levin
Co-Founder of KIPP

cc: U.S. Secretary Arne Duncan
Members of the U.S. House Education and Labor Committee
Members of the U.S. Senate Committee on Health, Education, Labor and Pensions

[1] Public Impact. "Going Exponential: Growing the Charter School Sector's Best." Washington, DC: The Progressive Policy Institute, 2011.

2900 Crystal Drive, Suite 1000 | Arlington, VA 22202-3557
(P) +1.703.620.3660 | (Toll Free) 888.232.7733 | (TTY) 866.915.5000 | (F) 703.264.9494
www.cec.sped.org

June 21, 2011

**RE: Support Amendment in the Nature of a Substitute to H.R. 2218**

Dear Member of the House Education and Workforce Committee:

The Council for Exceptional Children (CEC), the largest professional organization of teachers, administrators, parents, and others concerned with the education of children with disabilities, gifts and talents, or both, is writing to ask you to **vote yes on the Substitute Amendment to H.R. 2218**, the amendment to the *Empowering Parents through Quality Charter Schools Act.*

CEC has long been concerned by the lack of access for students with disabilities to charter schools and the lack of oversight ensuring that students with disabilities in charter schools are appropriately served and receive all of their rights under the Individuals with Disabilities Education Act (IDEA). CEC is pleased to see several provisions within the original bill and the Substitute which would support increased access, service and accountability for these schools. Specifically, CEC is encouraged to see the following:

- A requirement that State entities describe in their applications how they will ensure charters can meet the educational needs of students with disabilities;
- An assurance that State entities will ensure authorizing agencies ensure charter schools are meeting the obligations of IDEA and section 504;
- An assurance that State entities will adequately monitor and help charter schools to recruit, enroll, and meet the needs of all students with disabilities; and
- The definition of High Quality Charter School specifically includes schools that have demonstrated success in significantly increasing academic achievement for all students, and specifically students with disabilities.

These provisions represent a step forward for education policy in our nation and an acknowledgement that charter schools must include and do more for students with disabilities.

While CEC supports the overall bill, we are concerned that in the Substitute Amendment the requirement that charter schools enroll students with disabilities and other traditionally underserved populations at a rate similar to traditional public schools has been downgraded to a priority. CEC will continue to work with Congress, the Administration, states and local entities to ensure that the needs of students with disabilities are met in all settings.

2900 Crystal Drive, Suite 1000 | Arlington, VA 22202-3557
(P) +1.703.620.3660 | (Toll Free) 888.232.7733 | (TTY) 866.915.5000 | (F) 703.264.9494
www.cec.sped.org

This bill is a step in the right direction, but there is still work to be done. **For these reasons, we urge you to support the Amendment in the Nature of a Substitute to H.R. 2218.**

Sincerely,

Deborah A. Ziegler
Associate Executive Director
Policy and Advocacy Services
Council for Exceptional Children

Charter School
Lenders' Coalition

1050 Connecticut Ave, NW | 10th Floor | Washington, DC 20036

June 20, 20011

Representative John Kline
Chairman, House Committee on
Education and the Workforce
U.S. House of Representatives
Washington, DC 20515

Representative Duncan Hunter
Chairman, House Subcommittee Early
Childhood, Elementary and
Secondary Education
Washington, DC 20515

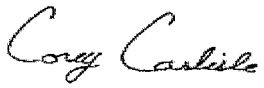
Dear Chairman Kline and Subcommittee Chairman Hunter:

On behalf of the Charter School Lenders Coalition*, I want to thank you for your leadership in promoting educational opportunities for disadvantaged communities through the replication of high-performing public charter schools. We believe your proposed legislation, H.R. 2218, the "Empowering Parents through Quality Charter Schools Act," would provide essential tools and resources to address the dire need for quality education for low-income students.

In particular, we are grateful that your proposed legislation includes provisions to address the capital funding gaps that public charter schools face. As you well know, one of the most recognized barriers to the growth of public charter schools is the access to private capital to ensure quality facilities, particularly to arrange acquisition and development funding for facilities. Your bill ensures at least 15% of the total appropriation for public charter schools will be available for facilities, including the highly successful Credit Enhancement for Charter School Facilities Program at the U.S. Department of Education. This will go a long way in helping public charter schools address the capital funding gap, as well as strengthen the public-private partnerships between the schools and the mission-driven organizations that provide these capital resources.

Thank you again for your commitment to our nation's children and your leadership in striving to give our students the best possible education and learning opportunities.

Sincerely,



Corey Carlisle

Chair, Charter School Lenders Coalition

Cc: Mandy Schaumburg, professional staff, House Committee on Education and the Workforce

* The Charter School Lenders Coalition is an unincorporated advocacy and information sharing collaborative that brings together mission driven, community development practitioners who are currently providing capital to charter schools in low-income communities.

# DEMOCRATS *for* EDUCATION REFORM

June 21, 2011

The Honorable John Kline
Chairman
Committee on Education and the Workforce
2181 Rayburn, HOB
Washington, DC 20515

The Honorable Duncan Hunter
Chairman, Subcommittee on
Early Childhood, Elementary and
Secondary Education
223 Cannon, HOB
Washington, DC 20515

The Honorable George Miller
Ranking Democrat
Committee on Education and the Workforce
2205 Rayburn, HOB
Washington, DC 20515

The Honorable Dale Kildee
Ranking Democrat
Early Childhood, Elementary,
and Secondary Education
Washington, DC 20515

Dear Chairmen Kline and Hunter and Ranking Members Miller and Kildee:

Democrats for Education Reform strongly supports the *Empowering Parents through Quality Charter Schools Act (*H.R. 2218) that will be marked up Wednesday in Full Committee. H.R. 2218 includes important provisions that allow high-quality public charter schools to serve more students and incentivize states to expand and replicate high-performers. The bill also rightly compels states to ensure that public charter schools meet their obligations to English Language Learners and students with disabilities, and makes important improvements with regard to reporting, oversight, and accountability.

We are disappointed that the bill lowers the authorized funding levels for programs under the federal Charter Schools Program from the $450 million in current law. We do, however, appreciate that the $300 million authorization in H.R. 2218 is at least higher than the current $256 million in *actual* funding. While it would take a much higher increase to serve all children across the country who are on charter school waiting lists, we appreciate this small step forward and hope to work with Congress throughout the legislative process to ensure that we do as much as possible to reach our shared goal of giving all parents the choice of sending their child to a high-quality public school.

We do have some additional concerns that we believe should be addressed as the bill makes its way through the legislative process.

Our main concern with H.R. 2218 is in regard to state oversight of charter school quality and

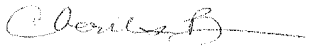
integrity. The bill itself recognizes this issue as it has improving the quality of the charter school authorization process as one of its main goals. We likewise have serious doubts about the ability or willingness of some states to monitor and maintain the quality of charter schools that receive grants through this bill, at least until its provisions take full effect.

For example, in Ohio, long known as the "wild west" of charter school authorizing, Governor Kasich is right now pushing policies that focus mainly on expansion and that allow chronically low-performing charter schools to continue to operate. We are seeing a similar lack of oversight in other states. This is an injustice to children and a disservice to taxpayers, especially in this time of scarce state and local education funding.

It should be remembered that it was the U.S. Congress and President Obama that in 2010 first set aside $50 million to fund the expansion and replication of high-quality public charter schools. The result is that barely a year later, 76,000 more students attend 127 new and 31 expanded public charter schools in a dozen charter school networks nation-wide. In contrast, there is nothing in HR 2218 that really requires any state to pay much more than lip service to high-quality charter expansion and replication. We hope that, as the bill moves forward, Congress reconsiders the possibility of maintaining the national competition approach given it demonstrated success and integrity.

Also, while we are strong supporters of high-quality charter schools, we do not believe that they are the only or primary means for ensuring that every child in the U.S has the opportunity to a high-quality education. In fact, we think game-changing, systemic reform can only come about through a combination of strategies that include: raising academic standards, improving assessments, overhauling teacher preparation, establishing rigorous teacher evaluation policies, reforming tenure, and providing bonus pay to teachers who teach in high need schools and subjects and rewarding those who are most effective in educating the most at-risk students. It is for these reasons that we are disappointed in the House's slow pace on reauthorizing the Elementary and Secondary Education Act/No Child Left Behind. After more than 9 years of inaction, we urge you to redouble your efforts to comprehensively update and modernize federal education policy via a full ESEA/NCLB reauthorization bill before the end of the 112th Congress.

Sincerely,



Charles Barone, DFER Director of Federal Policy

June 21, 2011

Honorable John Kline
Chairman
Committee on Education and the Workforce
2181 Rayburn House Office Building
Washington, DC 20515

Honorable Duncan Hunter
Chairman, Subcommittee on Early
Childhood, Elementary and Secondary Education
2181 Rayburn House Office Building
Washington, DC 20515

Honorable George Miller
2205 Rayburn House Office Building
Washington, DC 20515

Honorable Dale Kildee
2107 Rayburn House Office Building
Washington, DC 20515

Dear Chairmen Kline and Hunter and Ranking Members Miller and Kildee:

As a strong proponent of quality charter schools, the National Association of Charter School Authorizers (NACSA) supports H.R. 2218, the "Empowering Parents through Quality Charter Schools Act," which will improve the quality of charter school authorizing.

Across the country, charter school authorizers are the agencies that approve and monitor charter schools and determine which charter schools are performing well enough to stay open.

We have learned from experience and analysis that authorizers can have a significant impact on the quality of charter schools in their cities and states. Some places have strong authorizing agencies in place and a strong, growing charter school sector. Other cities and states have weak authorizing in place and too many weak charter schools. Unfortunately, too little attention has been paid to the work of authorizers.

NACSA supports H.R. 2218 because, for the first time ever, funds are reserved within the federal Charter Schools Program to strengthen authorizing throughout the country. H.R. 2218 also requires states that receive grants to work with charter schools and their authorizers to ensure that schools meet their obligations to students with disabilities and English Language Learners.

We look forward to continuing to work with Congress to put in place firm assurances that would require charter schools receiving federal grants to have basic quality control standards in place which protect the interests of the schools, students and taxpayers. These standards include a detailed legal contract with its authorizer; independent, annual financial audits; and defined academic and operational performance standards.

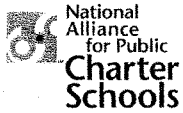
Thousands of charter schools have provided a quality education to millions of students over the past two decades. Indeed, the charter school movement has enjoyed significant bipartisan support, including from each Republican and Democratic nominee for President since 1996. Yet there remains room for improvement.

Too many children across America still do not have access to a quality school. While there are many excellent charter schools, there are also too many failing charter schools. By strengthening charter school authorizing, H.R. 2218 will support the growth in both the number and quality of charter schools while also ensuring that charter schools are open to and serve all students.

Sincerely,

Greg Richmond

President & CEO




1101 15th Street, NW
Suite 1010
Washington, DC 20005
T. 202.289.2700
F. 202.289.4009
www.publiccharters.org

June 21, 2011

Representative John Kline
Chairman
Education and the Workforce
U.S. House of Representatives
Washington, DC 20515

Representative Duncan Hunter
Chairman, Subcommittee on Early Childhood, Elementary and Secondary Education, Education and the Workforce Committee
Washington, DC 20515

Representative George Miller
Ranking Member
Education and the Workforce
U.S. House of Representatives
Washington, DC 20515

Representative Dale Kildee
Ranking Member, Subcommittee on Early Childhood, Elementary and Secondary Education, Education and the Workforce Committee
Washington, DC 20515

Dear Representatives Kline, Hunter, Miller and Kildee:

On behalf of more than 1.8 million children attending the 5,000 public charter schools across the country, the charter school community thanks you for your leadership in promoting more high-quality public charter school options for families and students nationwide. Your introduction of H.R. 2218, the Empowering Parents through Quality Charter Schools Act, brings to House consideration a significant reauthorization proposal that has the support of the charter school movement. This legislation provides the much-needed resources to help high-achieving charter schools overcome the myriad of obstacles that prevent them from growing to serve thousands more students. It streamlines the programs to improve and bring efficiency to the grant process and focuses on quality practices so charter schools continue to be models of operational and academic success for the public education system.

Specifically, H.R. 2218 authorizes the expansion and replication of top-performing charter schools that address the needs of at-risk and underserved students. Charter schools will have the opportunity to continue practices proven to deliver results and expand innovations designed to meet the needs of 21st century learners. The Empowering Parents through Quality Charter Schools Act will also drive the next generation of state policies around quality and accountability for all parties involved in the chartering process. The legislation's focus on improving and supporting the practices of charter authorizers will prompt states to recognize that there are many parties that affect the quality of public charter schools—and all should all be held accountable for their performance.

Moreover, H.R. 2218 will provide grants to create innovative credit enhancement initiatives that assist charter schools with addressing the cost of acquiring, constructing and renovating facilities. The legislation will also provide funds to help states establish or enhance and administer per-pupil facilities aid programs for public charter schools.

As Congressional efforts continue on the reauthorization of the Charter School Programs, your proposal represents a significant contribution to shaping the debate. It should be noted however that there are significant concerns with capping authorization levels and potentially stifling growth of the programs in the forthcoming years. We look forward to working with Congress to address this concern as the legislation moves through the process. For now, the public charter school movement stands ready to back this cause and to lend our support for H.R. 2218, the Empowering Parents through Quality Charter Schools Act.

Sincerely,

American Federation for Children
Arizona Charter Schools Association
Aspire Public Schools
Charter School Lenders Coalition
Democracy Builders
Democracy Prep Public Schools
Democrats for Education Reform
Green Dot Public Schools
IDEA Public Schools
K12. Inc.
Mastery Charter Schools Network
National Alliance for Public Charter Schools
NewSchools Venture Fund
Success Charter Network
Texas Charter School Association
Uncommon Schools

cc: U.S. Secretary Arne Duncan
Members of the U.S. House Education and Labor Committee
Members of the U.S. Senate Committee on Health, Education, Labor and Pensions

**National Association of State Directors of Special Education, Inc.**
King Street Station I • 1800 Diagonal Road • Suite 320 • Alexandria, VA 22314
Tel: 703-519-3800 • Fax: 703-519-3808 • • www.nasdse.org

June 21, 2011

Representative John Kline
Chairman, House Education and Workforce Committee
2257 Rayburn House Office Building
Washington, DC. 20515

Representative George Miller
Ranking Member, House Education and Workforce Committee
H2-230 Ford House Office Building
Washington, DC. 20515

Representative Duncan Hunter
Chairman, Subcommittee on Early Childhood, Elementary and Secondary Education
House Education and Workforce Committee
223 Cannon House Office Building
Washington, DC. 20515

Dear Chairman Kline, Ranking Member Miller and Rep. Hunter:

On behalf of the National Association of State Directors of Special Education (NASDSE), which represents the state directors of special education in the states, federal territories, the Department of Defense Education Agency and the Freely Associated States, I write in support of H.R. 2218, the Empowering Parents Through Quality Charter Schools Act.

We are pleased that this bill will protect access to charter schools for students with disabilities. Charter schools can be a valuable educational option for students with disabilities, and we are encouraged by the steps Congress is taking to ensure that their needs are met.

NASDSE believes that the monitoring and technical assistance that the bill calls for will help provide access to charter schools for all students, including those with disabilities and will help charter school authorizers and operators understand the commitment that they must make to ensuring that students with disabilities have access to a free, appropriate public education in a charter school, if that is the choice made by the student and his/her family.

NASDSE has a long history of working with states, charter school authorizers and operators, providing technical assistance to help them understand their responsibilities under the Individuals with Disabilities Education Act (IDEA). We are currently working with the federally funded National Charter Schools Resource Center to provide guidance on the inclusion of students with disabilities in charter schools. This legislation will serve to enhance and ensure that more guidance and technical assistance is provided.

We look forward to working with you on the implementation of this important legislation as states and local communities seek to expand the availability of charter school options.

Sincerely,

Bill East

Bill East, Ed.D.
Executive Director

**newschools**
venture fund

June 21, 2011

The Honorable John Kline, Chairman
Committee on Education and the Workforce
U.S. House of Representatives
2181 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Duncan Hunter, Chairman
Subcommittee on Early Childhood, Elementary & Secondary Education
2181 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Kline and Subcommittee Chairman Hunter:

We are pleased to support H.R. 2218, the Empowering Parents through Quality Charter Schools Act.

In particular, we appreciate the important provisions that the Committee has included to allow for the funding of expansion grants to existing schools, continued support for funding charter schools facilities, and making important improvements to the accountability and transparency provisions of the Federal charter schools program. We also are pleased by the renewed attention to improving the quality of charter authorizers, which we believe is critical to improving the performance of charter schools in improving student academic achievement.

In addition, we are particularly thankful for the inclusion of language to ensure that the Secretary gives priority to funding States that partner with intermediary organizations to expand the capacity of States to support the development of high-quality charter schools. As successful, single-site charter schools look to expand capacity and grow to scale, we think that their chances of success are strongest when they receive support from organizations with a strong track record providing a program of investment and management assistance to help them expand and replicate the number of high-quality charter school campuses. We look forward to continuing to work with your staff to ensure this legislative intent is preserved in the bill.

Finally, we appreciate the fact that the Committee has included an authorization level of $300 million for the first year of funding for the charter school program. We are concerned, however, that this program is "level funded" for the five year period of the authorization, and potentially longer if the next reauthorization does not proceed as scheduled. Unfortunately this could put a "cap" on the growth of Federal support for the charter sector at the very time when Federal, State, and local governments are encouraging its expansion. We hope that efforts are made to raise the out year authorization levels in the bill to keep alive the hope that additional funding can be found in future years. And, we also urge you to increase the support for national activities, as the charter movement needs national charter operators to provide evidence of success in multiple cities with varying demographics.

Thank you for your consideration of our views and for your support of high-quality charter schools.

Sincerely,

Theodore R. Mitchell

Ted Mitchell
Chief Executive Officer

cc: The Honorable George Miller

NewSchools Venture Fund
49 Stevenson Street, #575
San Francisco, CA 94105

T: 415.615.6860
F: 415.615.6861
www.newschools.org

CCSA California Charter Schools Association

www.calcharters.org
Sacramento Office: 1107 9th Street, Suite 200 • Sacramento, CA 95814 • p 916-448-0995 • f 916-448-0998
Los Angeles Office: 250 East 1st Street, Suite 1000 • Los Angeles, CA 90012 • p 213-244-1446 • f 213-244-1448

June 21, 2011

The Honorable Duncan Hunter
Chair, Subcommittee on Early Childhood, Elementary, and Secondary Education
223 Cannon House Office Building
Washington, DC 20515

**RE: Support for Empowering Parents through Quality Charter Schools Act (H.R. 2218)**

Dear Congressman Hunter:

California is home to 912 charter schools serving more than 365,000 students who are supported by parents, educators and communities; we project another 100 schools to open each year. The California Charter Schools Association (CCSA) supports the foundational concepts of H.R. 2218, the *Empowering Parents through Quality Charter Schools Act.* The proposal – one of several planned in the comprehensive overhaul of the Elementary and Secondary Education Act (ESEA) – focuses on amending the charter schools section of the federal law.

We appreciate the acknowledgement that charter schools are providing innovative and viable options in public education, and a modern federal law must include policies that support, encourage and continue the increasing momentum of the charter schools movement. Moreover, a modern federal education law must recognize that both learning and teaching, including educational delivery and evaluation, must also evolve to reflect the advances of technology and information, not only in the power of data to drive effective pedagogy, but the myriad learning styles and needs of students.

We support the inclusion of incentives to support the continued development of high-quality charter models and improvements to the Charter Schools Program that will facilitate improved access to critical funds necessary to replicate and expand innovative and successful charter models able to serve more students currently attending underperforming schools. We appreciate the inclusion of timelines and recourse within H.R. 2218 to encourage and ensure the timely allocation of funds so that charter schools can have the needed infusion of moneys critical for start-up costs, facilities and expansion.

CCSA encourages the inclusion of rigorous levels of reporting and accountability of taxpayer dollars. It is only through high standards and high expectations focused on providing effective learning environments for students that we will close the achievement gap and help all students meet their highest potential.

As Congress further deliberates the reauthorization of the ESEA, inclusion of the charter model as an effective option to create learning environments where both students and teachers thrive, will be critical to ensuring an educational system that is rigorous and robust. CCSA awaits the

series of bills and welcomes the opportunity to provide additional comments on how the individual proposals not only influence the overarching goal of meaningful education reform, but how the amended policies promote and support the replication and expansion of innovative and successful charter school programs.

Sincerely,

Cynthia Bryant
Senior Vice President, Government Affairs

cc: The Honorable John Kline, Chair, House Education and the Workforce Committee
The Honorable George Miller, Ranking Member, House Education and the Workforce Committee
The Honorable Dale Kildee, Ranking Member, Subcommittee on Early Childhood, Elementary, and Secondary Education

via electronic transmittal: Members, House Education and the Workforce Committee

512.584.8272 Phone
512.584.8492 Fax

700 Lavaca Street, Suite 930
Austin, Texas 78701

www.txcharterschools.org

**2011 Board Members**
*William Glasgow, Chair*
*President, Prime Management*
*Austin*

*Lori Fey, Secretary*
*Global Policy Initiative*
*Michael & Susan Dell Foundation*
*Austin*

*Chuck Cook, Treasurer*
*Chief Executive Officer*
*Responsive Education Solutions, Inc.*
*Dallas*

*Chris Barbic*
*Founder and Head of Schools*
*YES Prep Public Schools*
*Houston*

*Albert Black*
*Chief Executive Officer*
*On Target Supplies and Logistics*
*Dallas*

*Christi Martin*
*Senior Program Officer*
*Bill & Melinda Gates Foundation*
*Seattle*

*David Ray*
*Superintendent, St. Anthony Academy*
*Dallas*

*Lisa Robinson*
*Director, Eden Park Academy*
*Austin*

*Bruce Rockstroh*
*Superintendent*
*John H. Wood, Jr. Public Charter District*
*San Antonio*

*Arturo Suarez*
*Executive Director, Positive Solutions, Inc.*
*San Antonio*

*Dr. Cheryl Washington*
*Superintendent*
*Shekinah Learning Institute*
*San Antonio*

**TCSA Executive Staff**
*David Dunn, Executive Director*

*Teresa Elliott, Chief Operations Officer*

*Chris Busse, Vice President*
*Quality Initiatives*

*Josie Duckett, Vice President*
*Public & Government Affairs*

*Denise Pierce, Vice President*
*Member Services*

June 20, 2011

RE: H.R. 2218, Empowering Parents through Quality Charter Schools Act

Dear Chairman Kline and Subcommittee Chairman Hunter:

On behalf of the over 390 Texas charter school members educating more than 100,000 students, the Texas Charter Schools Association (TCSA) supports H.R. 2218, the Empowering Parents through Quality Charter Schools Act.

Like other states, Texas does not provide direct facilities aid to its open-enrollment charter schools and charter schools cannot levy local property taxes. State-wide, there are approximately 120,000 students enrolled in charter schools with 56,000 more on waiting lists. The demand for charter schools strongly exists in Texas, the facilities in which to educate these students do not. The grants that H.R. 2218 would provide in credit enhancement initiatives is a much needed component that will help high-quality charter schools meet the demand of parents and students.

TCSA appreciates the provisions that authorize the expansion and replication of high-quality charter schools that address the needs of at-risk and underserved populations. According to the Texas Education Agency (TEA), Texas charter schools deliver strong results, demonstrating higher student achievement on state assessment tests and lower percentages of drop-outs than traditional public schools for African-American, Hispanic, and economically disadvantaged students. Additionally, at-risk students in charter schools recently showed the largest gains in state assessment test passage rates. H.R. 2218 will help ensure that charter schools continue to deliver proven results with these population groups.

Your efforts on the Empowering Parents through Quality Charter Schools Act are a step in the right direction. However, it should be noted that TCSA has concerns regarding the language in Section 5 (f)(2)(B) of the bill which prioritizes states which do not "impose any limitation on the number or percentage of charter schools that may exist." Such language may impede Texas from participating in this much needed grant program. While the Texas statutory cap of 215 limits the number of open-enrollment charter holders, the TEA has worked with charter holders to streamline the replication and expansion process for high-quality charter schools. This has allowed

charter schools to grow to 463 charter school campuses in Texas. Therefore, while Texas has a statutory cap, the charter school movement is energized and continues to grow.

Public charter schools play a critical role in Texas' public education system and we thank you for your leadership in promoting the expansion of high-quality charter schools as well as encouraging states to provide support to charter schools for facilities financing. We look forward to working with you and Congress on this important piece of education reform legislation as it continues to move through the process.

Sincerely,

David Dunn

Executive Director

Texas Charter Schools Association

Below is a summary of H.R. 2218:

SUMMARY

H.R. 2218, the Empowering Parents through Quality Charter Schools Act, streamlines and modernizes the existing charter school programs under the Elementary and Secondary Education Act (ESEA) from two provisions to one. The two current programs are:

- The Charter School Program supports grants for charter school developers to open or start new charter schools. The program also provides funds to disseminate best practices and provide state facilities aid to charter schools. The program was last authorized at $300 million in fiscal year 2002 and such sums as necessary for fiscal year 2003 through 2007.
- The Charter School Credit Enhancement Program assists charter schools in accessing better credit terms to acquire and renovate facilities to operate a charter school. The program was last authorized at $150 million in fiscal year 2002 and such sums as necessary for fiscal year 2003.

H.R. 2218 consolidates the two provisions in current law into one program, refocuses the program to promote charter schools at the state and local level, and allows states to use federal funds to start new charter schools and expand and replicate existing high-quality charter schools. The new Charter School Program will consist of three parts:

- *State Quality Charter School Grants* will be awarded to a State Educational Agency, the State Charter School Board, or the Governor. These grants will support the expansion and replication of high-quality charter schools, new, innovative charter school models, and quality initiatives to improve charter school authorizing.
- *Facilities Aid* will be awarded to continue credit enhancement activities and support state facilities aid for charter schools.
- *National Activities* will allow the Secretary of Education to operate a start-up competition for charter schools in states that did not win or compete for a State Quality Charter School Grant, or whose state is in the fourth or fifth year of the grant. This section also requires the Secretary to offer technical assistance to eligible grantees that are interested in applying for the grant and technical assistance to help grantees properly implement the grant. The Secretary will also be allowed to disseminate best practices to ensure all public schools may benefit from the lessons learned from charter schools. Finally, the Secretary will conduct an evaluation to examine the effects of the legislation on charter schools, including student achievement.

H.R. 2218, the Empowering Parents through Quality Charter Schools Act authorizes the Charter School Program at $300,000,000 for fiscal year 2012 through 2017. The bill makes technical corrections to other provisions in the Charter School Program, including modifying the definition of a charter school to clarify that a charter school can serve early childhood students as well as post-secondary students. The legislation adds three new definitions to the law: a high-quality charter school; the expansion of a high-quality charter school; and a replicable, high-quality charter school model.

## COMMITTEE VIEWS

### *Background*

A public charter school is a publicly funded elementary or secondary school operated according to the terms of a charter or contract granted by a public chartering agency. The terms of a charter typically provide the charter school operator with increased autonomy in how to operate the school in exchange for greater accountability for results or student outcomes. Charters are usually granted for a limited time period, typically ranging from less than five years to as many as 15 years. In order to retain or renew its charter, a school must adhere to the accountability requirements written into its charter and attract enough students to continue functioning as a viable school.

Charter schools are a state education reform initiative that began in Minnesota in 1991. The Improving America's Schools Act of 1994 included support for starting charter schools. The credit enhancement program, which began in 2001 through the appropriations process, provides grants to eligible entities to leverage funds through credit enhancement initiatives to help charter schools leverage other funds to acquire, construct, renovate, or lease academic facilities.

The first charter school opened in 1992; today, 5,200 charter schools in 39 states and the District of Columbia serve 1.8 million students. Forty states have enacted charter school laws, giving parents and students an education alternative to traditional public schools. However, this growth is not enough to meet the demand. An estimated 420,000 students are on waitlists to enter charter schools. Charter schools also face challenges in serving certain populations of students and, in particular, students with disabilities, including students with lower incidence disabilities, and English language learners.

### *Legislative Changes*

H.R. 2218, the Empowering Parents through Quality Charter Schools Act, builds on the success of the charter school community, improves access for traditionally underserved populations, supports high-quality charter schools, and strengthens accountability. Consolidating the two charter school provisions into one program better focuses support for all elements important to creating high-quality charter schools.

The charter school movement has seen robust growth over the past decade. There are now several examples of high-quality schools that could receive federal and state support to expand and replicate their successes. While the Committee on Appropriations has supported this effort through a reservation for the Charter School Program appropriation, the Committee believes it is important to update the authorizing legislation to ensure states have a role in ensuring thoughtful development of charter schools in each state. The Empowering Parents through Quality Charter Schools Act includes the expansion and replication of high-quality charter schools as an added use of funds under each State Quality Charter School Grant to support the start-up of new, innovative charter school models, as well as the expansion and replication of high-quality charter schools.

Charter schools receiving funds under this program must admit their students through a lottery system, as approved by state law, if the demand for attendance exceeds the available slots in the schools. The more than 400,000 students on waitlists demonstrate an intense demand for charter schools. It is important to assist these schools in reaching all students who may benefit from the opening or expansion of new charter schools. But the focus must be on increasing the number of quality education options for parents, not just increasing the number of charter schools available. The legislation, therefore, includes provisions to help grantees reach out to charter school developers and school leaders to recruit traditionally underserved students, including students with disabilities and English language learners; promote inclusion; and meet the needs of those students.

The Empowering Parents through Quality Charter Schools Act supports charter schools in serving students with disabilities, including students with lower incidence disabilities, English language learners, and other traditionally underserved students. The legislation recognizes that charter schools need support in recruiting and serving students with special needs and includes provisions to help charter schools address those challenges. The Committee believes the technical assistance and other provisions required of grantees will help charter schools recruit, enroll, and serve these students.

When recruiting students, charter schools should ensure parents have the information they need to make the best decisions possible for their children. This includes encouraging parents to examine the academic success of the school, the teaching philosophy of the school, and the ability of the school to meet the education needs of any student admitted to the school. The legislation helps charter schools avoid application barriers that exclude students based on socioeconomic status, language proficiency, academic performance, disability, or parental involvement. The legislation supports charter schools that promote an inclusive environment. High-quality charter schools, as defined in the legislation, raise the achievement of all students, including students with disabilities, English language learners, and other traditionally underserved populations.

In modernizing the Charter School Program, H.R. 2218 includes a new provision that reserves 10 percent of each state grant to support initiatives to improve charter school authorizing. While a small percentage will be used for state administrative costs, the majority of the funds will benefit all charter schools in the state by helping charter school authorizers identify key indicators of quality, including how to ensure the school and the authorizer are clear on the goals and expectations of each party, including helping charter schools meet their obligations under existing laws and this Act. The funds will also be used to increase the number of quality charter schools available for students, not just the opening of new charter schools, and support access and services for all students by helping charter schools recruit, enroll, and meet the needs of students with disabilities, including students with lower incidence disabilities, and English language learners.

The bill requires eligible applicants to describe the quality controls agreed to with their authorizers in their contract, and the terms of contracts with other organizations. In the applications,

charter schools must describe how their authorizers evaluate the success of the schools primarily on the academic achievement of all of their students, as well as through other performance measures determined by state law, the authorizer, and the school, as outlined in a legally binding performance contract. The legislation requires charter schools to be transparent about contractual relationships with management organizations. As stipulated in the U.S. Department of Education nonregulatory guidance for the Charter School Program, charter schools that receive grants under this program should avoid conflicts of interest. In promoting quality authorizing, grantees should support authorizers that ensure annual, independent financial audits are publicly reported and easily accessible, such as through posting on the school or authorizer website. The Committee believes it is important that authorizers and charter schools have as much flexibility in complying with these provisions as possible in order to ensure charter schools can meet the expectations of their respective authorizers and still operate in an autonomous manner to meet the goals of the school.

In addition, the Empowering Parents through Quality Charter Schools Act allows new eligible grantees to compete for funding under State Quality Charter School Grants and provides more flexibility in the operation of the state grant competition for the start-up of charter schools. The bill allows state charter school boards and governors to apply for state grants, in addition to the State Educational Agency (SEA), which is allowed under current law. This expansion of eligible grantees is meant to ensure that charter schools have an opportunity to open and expand with the support of a grantee who believes in the benefit of charter schools and offers the greatest assistance to those schools that win subgrants. To ensure grantees are able to meet the requirements of the program, the legislation allows states to partner with an entity that can help it operate a quality program that adequately supports the thoughtful growth of charter schools in the state. While there may be multiple eligible grantees for each state, the Committee supports limiting each state to one grant to avoid duplication in the state and ensure funds reach as many states, and therefore schools, as possible across the nation.

The new eligible grantees are also required to collaborate with the State Educational Agency, where appropriate. While this provision does not give the SEA any authority over the grantee or program the grantee is running, it should ensure that the SEA and charter school operators are working together in a cohesive, statewide system rather than creating parallel systems. The SEA may help distribute grants to schools, help the entity run the grant competition, or provide guidance to support the peer review requirement in the law.

H.R. 2218 includes a clear listing of assurances and priorities for awarding charter school grants, which will improve charter schools, improve access to high-quality charter schools, and expand the availability of high-quality charter schools as an integral component of state public school systems. The bill includes an assurance that charter schools comply with all applicable federal laws—an obligation that these schools are already required to follow—such as the Individuals with Disabilities Education Act, section 504 of the Rehabilitation Act, Title VI of the Civil Rights Act of 1964, and the

other applicable provisions of the Elementary and Secondary Education Act. This measure ensures state grantees and the charter schools they support are clear about the requirements that must be met. The bill also includes an assurance that grantees will ensure charter schools actively participate in decisions about the public school system, providing charter schools, as public schools, the same voice in decisions that will affect the schools and their students as traditional public schools. The Committee believes this important change is an opportunity to share best practices between all public schools and ensure all schools have an equal voice in the public school system. An assurance that each charter school has a high level of autonomy, particularly over budgets and operations, will also ensure the schools can be innovative in responding to the needs of the community.

The legislation's priorities will provide an incentive to states to support more high-quality charter schools that meet the needs of the local community. Provisions that support the elimination of caps on students or schools will help get funds to states that can open new schools. The bill includes a priority for those states that have more than one statewide authorizer, or an appeals process if the only local authorizer is the Local Educational Agency. The Committee believes this will ensure charter schools are not held hostage to the traditional public school system that sees charter schools as competition rather than an enhancement to the public school system. A priority is also included for those states whose charter schools serve students with disabilities and other traditionally underserved students at a similar rate as the local schools. The Committee believes that states with a high proportion of charter schools demonstrating this commitment have created a state environment and the state infrastructure to help charter schools serve these students.

The Committee believes that reporting requirements are an important tool for evaluating the success of grantees in fulfilling the purpose of the program. H.R. 2218 requires grantees to report to the Secretary of Education at the end of the third year of the five-year grant period. The information submitted to the Secretary on the number of students served during each year of the grant period should be reported by subgrant, but is not intended to create any increased burdens for the schools participating in the program.

The legislation consolidates the existing credit enhancement program and the state facilities aid program to clarify the law. The direction to reserve 15 percent of the total appropriated funds ensures there are sufficient funds to award more than one grant each year under the credit enhancement program. This program helps charter schools access credit to obtain or renovate facilities to open the school. The legislative changes made to this provision increase the administrative reservation to 2.5 percent of each grant to ensure the grantee can reach out to, serve, and properly monitor charter schools assisted under the grant. The bill also removes the priority of awards under the credit enhancement program to ensure the best grantees are winning.

The Empowering Parents through Quality Charter Schools Act updates the national activities portion of the grant to allow the Secretary of Education to run a competition for charter schools that want to open in states that did not win or compete for a state

grant, or are in a state that is in the fourth or fifth year of their grant. This will ensure students are not left behind in states that have not demonstrated the leadership to support charter schools or those that have already obligated their funds under the grant. It is the Committee's expectation that the Secretary will assess the quality of applicants in the same manner as in the state competition. The Secretary will also be required to offer technical assistance to assist grantees in implementing their grants to maximize the impact of the funds. The Secretary will also disseminate best practices to help all public schools benefit from the success of charter schools. Finally, the Secretary is required to conduct an evaluation that will measure the effects of the program on charter schools, including student achievement. A rigorous evaluation is critical to determining whether the program has been successful in meeting its purpose of supporting high-quality charter schools.

*Conclusion*

H.R. 2218, the Empowering Parents through Quality Charter Schools Act, modernizes and streamlines the charter school provisions under the Elementary and Secondary Education Act. The bill updates the Charter School Program in line with the charter school landscape to better support high-quality charter schools. The bill consolidates the current funding streams for charter schools under one authorization at $300 million to increase efficiencies within the operation of the program and better leverage federal funding to improve the program.

## SECTION-BY-SECTION ANALYSIS

*Section 1—Short title*

States the short title as the "Empowering Parents through Quality Charter Schools Act."

*Section 2—References*

References the Elementary and Secondary Education Act.

*Section 3—Purpose*

States the purpose of the Charter School Program.

*Section 4—Program authorized*

Authorizes the Charter School Program.

*Section 5—Grants to support quality charter schools*

Specifies the general requirements of state grants to support the startup or expansion of charter schools. Specifies the information the Secretary of Education will look for in the state application, what assurances the grantee will be required to provide, the criteria the Secretary will use to determine grant winners, and the priorities for grant awards.

*Section 6—Facilities financing assistance*

Specifies the general requirements for facilities financing assistance. Prioritizes credit enhancement activities over state facilities aid.

*Section 7—National activities*

Specifies the activities the Secretary of Education will support under the program, including disseminating best practices, providing technical assistance, operating a startup competition, and conducting an evaluation of the program.

*Section 8—Records transfer*

Modifies the provision to encourage more timely delivery of records transfer and amends the reference to the Individuals with Disabilities Education Act.

*Section 9—Definitions*

Makes a change to the definition of a 'charter school' and adds definitions for 'Expansion of a High-Quality Charter School,' 'High-Quality Charter School,' and 'Replicable, High-Quality Charter School Model.'

*Section 10—Authorization of appropriations*

Authorizes the program at $300 million for fiscal years 2012 through 2017.

*Section 11—Conforming amendments*

Modifies the Elementary and Secondary Education Act to address the changes made under this legislation.

## EXPLANATION OF AMENDMENTS

The amendments, including the amendment in the nature of a substitute, are explained in the body of this report.

## APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch. H.R. 2218 reforms and simplifies the federal charter schools program within the Elementary and Secondary Education Act. H.R. 2218 would have no direct impact on the Legislative Branch.

## UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement of whether the provisions of the reported bill include unfunded mandates. This issue is addressed in the CBO letter.

## EARMARK STATEMENT

H.R. 2218 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of House Rule XXI.

## ROLLCALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each record vote on a motion to report the measure or matter and on any amendments offered to the measure or matter the total number of votes

for and against and the names of the Members voting for and against.

Date: June 22, 2011

**COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE**

Roll Call: 1 Bill: H.R. 2218

Disposition: Ordered favorably reported, as amended, to the House by a vote of 34-5

Sponsor/Amendment: Mr. Hunter / motion to report the bill to the House with an amendment, and with the recommendation that the amendment be agreed to, and that the bill as amended do pass

| Name and State | Aye | No | Not Voting | Name and State | Aye | No | Not Voting |
|---|---|---|---|---|---|---|---|
| Mr. KLINE (MN) (Chairman) | x | | | Mr. MILLER (CA) (Ranking) | x | | |
| Mr. PETRI (WI) | x | | | Mr. KILDEE (MI) | x | | |
| Mr. McKEON (CA) | x | | | Mr. PAYNE (NJ) | x | | |
| Mrs. BIGGERT (IL) | x | | | Mr. ANDREWS (NJ) | x | | |
| Mr. PLATTS (PA) | x | | | Mr. SCOTT (VA) | x | | |
| Mr. WILSON (SC) | x | | | Ms. WOOLSEY (CA) | x | | |
| Mrs. FOXX (NC) | x | | | Mr. HINOJOSA (TX) | x | | |
| Mr. GOODLATTE (VA) | x | | | Mrs. McCARTHY (NY) | x | | |
| Mr. HUNTER (CA) | x | | | Mr. TIERNEY (MA) | | x | |
| Mr. ROE (TN) | x | | | Mr. KUCINICH (OH) | | x | |
| Mr. THOMPSON (PA) | x | | | Mr. WU (OR) | x | | |
| Mr. WALBERG (MI) | x | | | Mr. HOLT (NJ) | x | | |
| Mr. DesJARLAIS (TN) | x | | | Mrs. DAVIS (CA) | x | | |
| Mr. HANNA (NY) | x | | | Mr. GRIJALVA (AZ) | | x | |
| Mr. ROKITA (IN) | | | x | Mr. BISHOP (NY) | | x | |
| Mr. BUCSHON (IN) | x | | | Mr. LOEBSACK (IA) | | x | |
| Mr. GOWDY (SC) | x | | | Ms. HIRONO (HI) | x | | |
| Mr. BARLETTA (PA) | x | | | | | | |
| Mrs. NOEM (SD) | x | | | | | | |
| Mrs. ROBY (AL) | x | | | | | | |
| Mr. HECK (NV) | x | | | | | | |
| Mr. ROSS (FL) | x | | | | | | |
| Mr. KELLY (PA) | x | | | | | | |

## STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause (3)(c) of House Rule XIII, the goal of H.R. 2188 is to reform and simplify the federal charter schools program within the Elementary and Secondary Education Act. The Committee expects the Department of Education to comply with these provisions and implement the changes to the law in accordance with these stated goals.

## STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

## NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for H.R. 2218 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, June 30, 2011.*

Hon. JOHN KLINE,
*Chairman, Committee on Education and the Workforce, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2218, the Empowering Parents through Quality Charter Schools Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Justin Humphrey.

Sincerely,

ROBERT A. SUNSHINE
(For Douglas W. Elmendorf, Director).

Enclosure.

*H.R. 2218—Empowering Parents through Quality Charter Schools Act*

H.R. 2218 would amend and reauthorize both the Charter School Programs and the Credit Enhancement for Charter School Initiatives under Title V of the Elementary and Secondary Education Act of 1965 through fiscal year 2017 and combine them into a single authorization. (That authorization would automatically be extended by one year through 2018 under the General Education Provisions Act.) The bill would authorize the appropriation of $300 million for each of fiscal years 2012 through 2018 for grants to states to develop and expand charter school facilities and to public and private, nonprofit entities to develop means of enhancing credit to finance the construction and renovation of charter schools.

For fiscal year 2011, the Department of Education allocated $256 million for Charter School Programs and did not allocate any funding for Credit Enhancement Initiatives. The previous authorization for Charter School Programs expired in 2008 and the previous authorization for Credit Enhancement for Charter School Initiatives expired in 2004.[1]

As shown in the following table, CBO estimates that implementing the bill would cost about $1 billion over the 2012–2016 period, assuming appropriation of the authorized amounts. Additional authorized amounts under H.R. 2218 would be spent after 2016. The costs of this legislation fall within budget function 500 (education, training, employment, and social services). For this estimate, CBO assumes that spending will follow historical patterns.

| | By fiscal year, in millions of dollars— | | | | | |
|---|---|---|---|---|---|---|
| | 2012 | 2013 | 2014 | 2015 | 2016 | 2012–2016 |
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION | | | | | | |
| Authorization Level | 300 | 300 | 300 | 300 | 300 | 1,500 |
| Estimated Outlays | 15 | 150 | 255 | 300 | 300 | 1,020 |

Enacting the bill would have no impact on direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 2218 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. State and local entities would benefit from continued federal grant funding for charter schools. Any costs associated with receiving such grants would be incurred voluntarily as conditions of aid.

The CBO staff contact for this estimate is Justin Humphrey. This estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

## COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 2218. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

[1] For Charter School Programs, prior law authorized the appropriation of $300 million for fiscal year 2002 and such sums as may be necessary through fiscal year 2008. For Credit Enhancement for Charter School Initiatives, prior law authorized the appropriation of $150 million for fiscal year 2002 and such sums as may be necessary through fiscal year 2004.

## ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

* * * * * * *

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

* * * * * * *

TITLE V—PROMOTING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS

* * * * * * *

PART B—PUBLIC CHARTER SCHOOLS

SUBPART 1—CHARTER SCHOOL PROGRAMS

* * * * * * *

¿Sec. 5203. Applications.
¿Sec. 5204. Administration.
*Sec. 5203. Grants to support high-quality charter schools.*
*Sec. 5204. Facilities Financing Assistance.*

* * * * * * *

¿SUBPART 2—CREDIT ENHANCEMENT INITIATIVES TO ASSIST CHARTER SCHOOL FACILITY ACQUISITION, CONSTRUCTION, AND RENOVATION

¿Sec. 5221. Purpose.
¿Sec. 5222. Grants to eligible entities.
¿Sec. 5223. Applications.
¿Sec. 5224. Charter school objectives.
¿Sec. 5225. Reserve account.
¿Sec. 5226. Limitation on administrative costs.
¿Sec. 5227. Audits and reports.
¿Sec. 5228. No full faith and credit for grantee obligations.
¿Sec. 5229. Recovery of funds.
¿Sec. 5230. Definitions.
¿Sec. 5231. Authorization of appropriations.

* * * * * * *

# TITLE V—PROMOTING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS

* * * * * * *

## PART B—PUBLIC CHARTER SCHOOLS

### Subpart 1—Charter School Programs

**¿SEC. 5201. PURPOSE.**

¿It is the purpose of this subpart to increase national understanding of the charter schools model by—

¿(1) providing financial assistance for the planning, program design, and initial implementation of charter schools;

¿(2) evaluating the effects of such schools, including the effects on students, student academic achievement, staff, and parents;

¿(3) expanding the number of high-quality charter schools available to students across the Nation; and

¿(4) encouraging the States to provide support to charter schools for facilities financing in an amount more nearly commensurate to the amount the States have typically provided for traditional public schools.

¿**SEC. 5202. PROGRAM AUTHORIZED.**

¿(a) IN GENERAL.—The Secretary may award grants to State educational agencies having applications approved pursuant to section 5203 to enable such agencies to conduct a charter school grant program in accordance with this subpart.

¿(b) SPECIAL RULE.—If a State educational agency elects not to participate in the program authorized by this subpart or does not have an application approved under section 5203, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 5203(c).

¿(c) PROGRAM PERIODS.—

¿(1) GRANTS TO STATES.—Grants awarded to State educational agencies under this subpart shall be for a period of not more than 3 years.

¿(2) GRANTS TO ELIGIBLE APPLICANTS.—Grants awarded by the Secretary to eligible applicants or subgrants awarded by State educational agencies to eligible applicants under this subpart shall be for a period of not more than 3 years, of which the eligible applicant may use—

¿(A) not more than 18 months for planning and program design;

¿(B) not more than 2 years for the initial implementation of a charter school; and

¿(C) not more than 2 years to carry out dissemination activities described in section 5204(f)(6)(B).

¿(d) LIMITATION.—A charter school may not receive—

¿(1) more than one grant for activities described in subparagraphs (A) and (B) of subsection (c)(2); or

¿(2) more than one grant for activities under subparagraph (C) of subsection (c)(2).

¿(e) PRIORITY TREATMENT.—

¿(1) IN GENERAL.—In awarding grants under this subpart for fiscal year 2002 or any succeeding fiscal year from any funds appropriated under section 5211 (other than funds reserved to carry out section 5205(b)), the Secretary shall give priority to States to the extent that the States meet the criteria described in paragraph (2) and one or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3).

¿(2) REVIEW AND EVALUATION PRIORITY CRITERIA.—The criteria referred to in paragraph (1) are that the State provides for periodic review and evaluation by the authorized public chartering agency of each charter school, at least once every 5 years unless required more frequently by State law, to determine whether the charter school is meeting the terms of the school's charter, and is meeting or exceeding the student academic achievement requirements and goals for charter schools as set forth under State law or the school's charter.

¿(3) PRIORITY CRITERIA.—The criteria referred to in paragraph (1) are the following:

¿(A) The State has demonstrated progress, in increasing the number of high-quality charter schools that are held

accountable in the terms of the schools' charters for meeting clear and measurable objectives for the educational progress of the students attending the schools, in the period prior to the period for which a State educational agency or eligible applicant applies for a grant under this subpart.

¿(B) The State—

¿(i) provides for one authorized public chartering agency that is not a local educational agency, such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to such State law; or

¿(ii) in the case of a State in which local educational agencies are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school.

¿(C) The State ensures that each charter school has a high degree of autonomy over the charter school's budgets and expenditures.

¿(f) AMOUNT CRITERIA.—In determining the amount of a grant to be awarded under this subpart to a State educational agency, the Secretary shall take into consideration the number of charter schools that are operating, or are approved to open, in the State.

¿**SEC. 5203. APPLICATIONS.**

¿(a) APPLICATIONS FROM STATE AGENCIES.—Each State educational agency desiring a grant from the Secretary under this subpart shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

¿(b) CONTENTS OF A STATE EDUCATIONAL AGENCY APPLICATION.—Each application submitted pursuant to subsection (a) shall—

¿(1) describe the objectives of the State educational agency's charter school grant program and a description of how such objectives will be fulfilled, including steps taken by the State educational agency to inform teachers, parents, and communities of the State educational agency's charter school grant program; and

¿(2) describe how the State educational agency—

¿(A) will inform each charter school in the State regarding—

¿(i) Federal funds that the charter school is eligible to receive; and

¿(ii) Federal programs in which the charter school may participate;

¿(B) will ensure that each charter school in the State receives the charter school's commensurate share of Federal education funds that are allocated by formula each year, including during the first year of operation of the charter school; and

¿(C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and

¿(3) contain assurances that the State educational agency will require each eligible applicant desiring to receive a

subgrant to submit an application to the State educational agency containing—

¿(A) a description of the educational program to be implemented by the proposed charter school, including—

¿(i) how the program will enable all students to meet challenging State student academic achievement standards;

¿(ii) the grade levels or ages of children to be served; and

¿(iii) the curriculum and instructional practices to be used;

¿(B) a description of how the charter school will be managed;

¿(C) a description of—

¿(i) the objectives of the charter school; and

¿(ii) the methods by which the charter school will determine its progress toward achieving those objectives;

¿(D) a description of the administrative relationship between the charter school and the authorized public chartering agency;

¿(E) a description of how parents and other members of the community will be involved in the planning, program design, and implementation of the charter school;

¿(F) a description of how the authorized public chartering agency will provide for continued operation of the school once the Federal grant has expired, if such agency determines that the school has met the objectives described in subparagraph (C)(i);

¿(G) a request and justification for waivers of any Federal statutory or regulatory provisions that the eligible applicant believes are necessary for the successful operation of the charter school, and a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school;

¿(H) a description of how the subgrant funds or grant funds, as appropriate, will be used, including a description of how such funds will be used in conjunction with other Federal programs administered by the Secretary;

¿(I) a description of how students in the community will be—

¿(i) informed about the charter school; and

¿(ii) given an equal opportunity to attend the charter school;

¿(J) an assurance that the eligible applicant will annually provide the Secretary and the State educational agency such information as may be required to determine if the charter school is making satisfactory progress toward achieving the objectives described in subparagraph (C)(i);

¿(K) an assurance that the eligible applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this subpart;

¿(L) a description of how a charter school that is considered a local educational agency under State law, or a local educational agency in which a charter school is located,

will comply with sections 613(a)(5) and 613(e)(1)(B) of the Individuals with Disabilities Education Act;

¿(M) if the eligible applicant desires to use subgrant funds for dissemination activities under section 5202(c)(2)(C), a description of those activities and how those activities will involve charter schools and other public schools, local educational agencies, developers, and potential developers; and

¿(N) such other information and assurances as the Secretary and the State educational agency may require.

¿(c) ELIGIBLE APPLICANT APPLICATION.—Each eligible applicant desiring a grant pursuant to section 5202(b) shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

¿(d) CONTENTS OF ELIGIBLE APPLICANT APPLICATION.—Each application submitted pursuant to subsection (c) shall contain—

¿(1) the information and assurances described in subparagraphs (A) through (N) of subsection (b)(3), except that for purposes of this subsection subparagraphs (J), (K), and (N) of such subsection shall be applied by striking "and the State educational agency" each place such term appears;

¿(2) assurances that the State educational agency—

¿(A) will grant, or will obtain, waivers of State statutory or regulatory requirements; and

¿(B) will assist each subgrantee in the State in receiving a waiver under section 5204(e); and

¿(3) assurances that the eligible applicant has provided its authorized public chartering authority timely notice, and a copy, of the application, except that the State educational agency (or the Secretary, in the case of an application submitted to the Secretary) may waive the requirement of this paragraph in the case of an application for a precharter planning grant or subgrant if the authorized public chartering authority to which a charter school proposal will be submitted has not been determined at the time the grant or subgrant application is submitted.

¿**SEC. 5204. ADMINISTRATION.**

¿(a) SELECTION CRITERIA FOR STATE EDUCATIONAL AGENCIES.—The Secretary shall award grants to State educational agencies under this subpart on the basis of the quality of the applications submitted under section 5203(b), after taking into consideration such factors as—

¿(1) the contribution that the charter schools grant program will make to assisting educationally disadvantaged and other students in meeting State academic content standards and State student academic achievement standards;

¿(2) the degree of flexibility afforded by the State educational agency to charter schools under the State's charter schools law;

¿(3) the ambitiousness of the objectives for the State charter school grant program;

¿(4) the quality of the strategy for assessing achievement of those objectives;

¿(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students;

¿(6) the number of high-quality charter schools created under this subpart in the State; and

¿(7) in the case of State educational agencies that propose to use grant funds to support dissemination activities under subsection (f)(6)(B), the quality of those activities and the likelihood that those activities will improve student academic achievement.

¿(b) SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.—The Secretary shall award grants to eligible applicants under this subpart on the basis of the quality of the applications submitted under section 5203(c), after taking into consideration such factors as—

¿(1) the quality of the proposed curriculum and instructional practices;

¿(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;

¿(3) the extent of community support for the application;

¿(4) the ambitiousness of the objectives for the charter school;

¿(5) the quality of the strategy for assessing achievement of those objectives;

¿(6) the likelihood that the charter school will meet those objectives and improve educational results for students; and

¿(7) in the case of an eligible applicant that proposes to use grant funds to support dissemination activities under subsection (f)(6)(B), the quality of those activities and the likelihood that those activities will improve student achievement.

¿(c) PEER REVIEW.—The Secretary, and each State educational agency receiving a grant under this subpart, shall use a peer review process to review applications for assistance under this subpart.

¿(d) DIVERSITY OF PROJECTS.—The Secretary and each State educational agency receiving a grant under this subpart, shall award grants and subgrants under this subpart in a manner that, to the extent possible, ensures that such grants and subgrants—

¿(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

¿(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.

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

¿(1) the waiver is requested in an approved application under this subpart; and

¿(2) the Secretary determines that granting such a waiver will promote the purpose of this subpart.

¿(f) USE OF FUNDS.—

¿(1) STATE EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this subpart shall use such grant funds to award subgrants to one or more eligible appli-

cants in the State to enable such applicant to plan and implement a charter school in accordance with this subpart, except that the State educational agency may reserve not more than 10 percent of the grant funds to support dissemination activities described in paragraph (6).

¿(2) ELIGIBLE APPLICANTS.—Each eligible applicant receiving funds from the Secretary or a State educational agency shall use such funds to plan and implement a charter school, or to disseminate information about the charter school and successful practices in the charter school, in accordance with this subpart.

¿(3) ALLOWABLE ACTIVITIES.—An eligible applicant receiving a grant or subgrant under this subpart may use the grant or subgrant funds only for—

¿(A) post-award planning and design of the educational program, which may include—

¿(i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and

¿(ii) professional development of teachers and other staff who will work in the charter school; and

¿(B) initial implementation of the charter school, which may include—

¿(i) informing the community about the school;

¿(ii) acquiring necessary equipment and educational materials and supplies;

¿(iii) acquiring or developing curriculum materials; and

¿(iv) other initial operational costs that cannot be met from State or local sources.

¿(4) ADMINISTRATIVE EXPENSES.—

¿(A) STATE EDUCATIONAL AGENCY ADMINISTRATIVE EXPENSES.—Each State educational agency receiving a grant pursuant to this subpart may reserve not more than 5 percent of such grant funds for administrative expenses associated with the charter school grant program assisted under this subpart.

¿(B) LOCAL ADMINISTRATIVE EXPENSES.—A local educational agency may not deduct funds for administrative fees or expenses from a subgrant awarded to an eligible applicant, unless the eligible applicant enters voluntarily into a mutually agreed upon arrangement for administrative services with the relevant local educational agency. Absent such approval, the local educational agency shall distribute all such subgrant funds to the eligible applicant without delay.

¿(5) REVOLVING LOAN FUNDS.—Each State educational agency receiving a grant pursuant to this subpart may reserve not more than 10 percent of the grant funds for the establishment of a revolving loan fund. Such fund may be used to make loans to eligible applicants that have received a subgrant under this subpart, under such terms as may be determined by the State educational agency, for the initial operation of the charter school grant program of the eligible applicant until such time

as the recipient begins receiving ongoing operational support from State or local financing sources.

¿(6) DISSEMINATION.—

¿(A) IN GENERAL.—A charter school may apply for funds under this subpart, whether or not the charter school has applied for or received funds under this subpart for planning, program design, or implementation, to carry out the activities described in subparagraph (B) if the charter school has been in operation for at least 3 consecutive years and has demonstrated overall success, including—

¿(i) substantial progress in improving student academic achievement;

¿(ii) high levels of parent satisfaction; and

¿(iii) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

¿(B) ACTIVITIES.—A charter school described in subparagraph (A) may use funds reserved under paragraph (1) to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school, through such activities as—

¿(i) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

¿(ii) developing partnerships with other public schools, including charter schools, designed to improve student academic achievement in each of the schools participating in the partnership;

¿(iii) developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and

¿(iv) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools.

¿(g) TRIBALLY CONTROLLED SCHOOLS.—Each State that receives a grant under this subpart and designates a tribally controlled school as a charter school shall not consider payments to a school under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507) in determining—

¿(1) the eligibility of the school to receive any other Federal, State, or local aid; or

¿(2) the amount of such aid.

**¿SEC. 5205. NATIONAL ACTIVITIES.**

¿(a) IN GENERAL.—The Secretary shall reserve for each fiscal year the greater of 5 percent or $5,000,000 of the amount appropriated to carry out this subpart, except that in no fiscal year shall the total amount so reserved exceed $8,000,000, to carry out the following activities:

¿(1) To provide charter schools, either directly or through State educational agencies, with—

¿(A) information regarding—

¿(i) Federal funds that charter schools are eligible to receive; and

¿(ii) other Federal programs in which charter schools may participate; and

¿(B) assistance in applying for Federal education funds that are allocated by formula, including assistance with filing deadlines and submission of applications.

¿(2) To provide for other evaluations or studies that include the evaluation of the impact of charter schools on student academic achievement, including information regarding—

¿(A) students attending charter schools reported on the basis of race, age, disability, gender, limited English proficiency, and previous enrollment in public school; and

¿(B) the professional qualifications of teachers within a charter school and the turnover of the teaching force.

¿(3) To provide—

¿(A) information to applicants for assistance under this subpart;

¿(B) assistance to applicants for assistance under this subpart with the preparation of applications under section 5203;

¿(C) assistance in the planning and startup of charter schools;

¿(D) training and technical assistance to existing charter schools; and

¿(E) for the dissemination to other public schools of best or promising practices in charter schools.

¿(4) To provide (including through the use of one or more contracts that use a competitive bidding process) for the collection of information regarding the financial resources available to charter schools, including access to private capital, and to widely disseminate to charter schools any such relevant information and model descriptions of successful programs.

¿(5) To carry out evaluations of, technical assistance for, and information dissemination regarding, the per-pupil facilities aid programs. In carrying out the evaluations, the Secretary may carry out one or more evaluations of State programs assisted under this subsection, which shall, at a minimum, address—

¿(A) how, and the extent to which, the programs promote educational equity and excellence; and

¿(B) the extent to which charter schools supported through the programs are—

¿(i) held accountable to the public;

¿(ii) effective in improving public education; and

¿(iii) open and accessible to all students.

¿(b) PER-PUPIL FACILITIES AID PROGRAMS.—

¿(1) DEFINITION OF PER-PUPIL FACILITIES AID PROGRAM.—In this subsection, the term "per-pupil facilities aid program" means a program in which a State makes payments, on a per-pupil basis, to charter schools to provide the schools with financing—

¿(A) that is dedicated solely for funding charter school facilities; or

¿(B) a portion of which is dedicated for funding charter school facilities.

¿(2) GRANTS.—

¿(A) IN GENERAL.—From the amount made available to carry out this subsection under paragraphs (2) and (3)(B) of section 5211(b) for any fiscal year, the Secretary shall make grants, on a competitive basis, to States to pay for the Federal share of the cost of establishing or enhancing, and administering per-pupil facilities aid programs.

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

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

¿(i) 90 percent of the cost, for the first fiscal year for which the program receives assistance under this subsection;

¿(ii) 80 percent in the second such year;

¿(iii) 60 percent in the third such year;

¿(iv) 40 percent in the fourth such year; and

¿(v) 20 percent in the fifth such year.

¿(3) USE OF FUNDS.—

¿(A) IN GENERAL.—A State that receives a grant under this subsection shall use the funds made available through the grant to establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the State.

¿(B) EVALUATIONS; TECHNICAL ASSISTANCE; DISSEMINATION.—From the amount made available to a State through a grant under this subsection for a fiscal year, the State may reserve not more than 5 percent to carry out evaluations, to provide technical assistance, and to disseminate information.

¿(C) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this subsection shall be used to supplement, and not supplant, State and local public funds expended to provide per pupil facilities aid programs, operations financing programs, or other programs, for charter schools.

¿(4) REQUIREMENTS.—

¿(A) VOLUNTARY PARTICIPATION.—No State may be required to participate in a program carried out under this subsection.

¿(B) STATE LAW.—To be eligible to receive a grant under this subsection, a State shall establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the State, that—

¿(i) is specified in State law; and

¿(ii) provides annual financing, on a per-pupil basis, for charter school facilities.

¿(5) APPLICATIONS.—To be eligible to receive a grant under this subsection, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

¿(6) PRIORITIES.—In making grants under this subsection, the Secretary shall give priority to States that meet the criteria described in paragraph (2), and subparagraphs (A), (B), and (C) of paragraph (3), of section 5202(e).

¿(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require charter schools to collect any data described in subsection (a).

***SEC. 5201. PURPOSE.***

*It is the purpose of this subpart to—*

*(1) provide financial assistance for the planning, program design, and initial implementation of charter schools;*

*(2) expand the number of high-quality charter schools available to students across the Nation;*

*(3) evaluate the impact of such schools on student achievement, families, and communities, and share best practices between charter schools and other public schools;*

*(4) encourage States to provide support to charter schools for facilities financing in an amount more nearly commensurate to the amount the States have typically provided for traditional public schools;*

*(5) improve student services to increase opportunities for students with disabilities, English language learners, and other traditionally underserved students to attend charter schools and meet challenging State academic achievement standards; and*

*(6) support efforts to strengthen the charter school authorizing process to improve performance management, including transparency, monitoring, and evaluation of such schools.*

***SEC. 5202. PROGRAM AUTHORIZED.***

*(a) IN GENERAL.—This subpart authorizes the Secretary to carry out a charter school program that supports charter schools that serve elementary school and secondary school students by—*

*(1) supporting the startup, replication, and expansion of charter schools;*

*(2) assisting charter schools in accessing credit to acquire and renovate facilities for school use; and*

*(3) carrying out national activities to support—*

*(A) charter school development;*

*(B) the dissemination of best practices of charter schools for all schools; and*

*(C) the evaluation of the impact of the program on schools participating in the program.*

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

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

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

*(3) use the remaining amount after the Secretary reserves funds under paragraphs (1) and (2) to carry out section 5203.*

*(c) PRIOR GRANTS AND SUBGRANTS.—The recipient of a grant or subgrant under this subpart, as such subpart was in effect on the day before the date of enactment of the Empowering Parents through Quality Charter Schools Act, shall continue to receive funds*

*in accordance with the terms and conditions of such grant or subgrant.*

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

*(a) IN GENERAL.—From the amount reserved under section 5202(b)(3), the Secretary shall award grants to State entities having applications approved pursuant to subsection (f) to enable such entities to—*

*(1) award subgrants to eligible applicants for—*

*(A) opening new charter schools;*

*(B) opening replicable, high-quality charter school models; or*

*(C) expanding high-quality charter schools; and*

*(2) provide technical assistance to eligible applicants and authorized public chartering agencies in carrying out the activities described in paragraph (1) and work with authorized public chartering agencies in the State to improve authorizing quality.*

*(b) STATE USES OF FUNDS.—*

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

*(A) use 90 percent of the grant funds to award subgrants to eligible applicants, in accordance with the quality charter school program described in the entity's application approved pursuant to subsection (f), for the purposes described in subparagraphs (A) through (C) of subsection (a)(1); and*

*(B) reserve 10 percent of such funds to carry out the activities described in subsection (a)(2), of which not more than 30 percent may be used for administrative costs which may include technical assistance.*

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

*(c) PROGRAM PERIODS; PEER REVIEW; DIVERSITY OF PROJECTS.—*

*(1) PROGRAM PERIODS.—*

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

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

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

*(3) DIVERSITY OF PROJECTS.—Each State entity receiving a grant under this section shall award subgrants under this section in a manner that, to the extent possible, ensures that such subgrants—*

*(A) are distributed throughout different areas, including urban, suburban, and rural areas; and*

*(B) will assist charter schools representing a variety of educational approaches.*

*(d) LIMITATIONS.—*

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

*(2) SUBGRANTS.—An eligible applicant may not receive more than 1 subgrant under this section per charter school for a 5-year period.*

*(e) APPLICATIONS.—A State entity desiring to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require. The application shall include the following:*

*(1) DESCRIPTION OF PROGRAM.—A description of the entity's objectives in running a quality charter school program under this section and how the objectives of the program will be carried out, including a description—*

*(A) of how the entity—*

*(i) will support both new charter school startup and the expansion and replication of high-quality charter school models;*

*(ii) will inform eligible charter schools, developers, and authorized public chartering agencies of the availability of funds under the program;*

*(iii) will work with eligible applicants to ensure that the applicants access all Federal funds that they are eligible to receive, and help the charter schools supported by the applicants and the students attending the charter schools—*

*(I) participate in the Federal programs in which the schools and students are eligible to participate; and*

*(II) receive the commensurate share of Federal funds the schools and students are eligible to receive under such programs;*

*(iv) in the case in which the entity is not a State educational agency—*

*(I) will work with the State educational agency and the charter schools in the State to maximize charter school participation in Federal and State programs for charter schools; and*

*(II) will work with the State educational agency to adequately operate the entity's program under this section, where applicable;*

*(v) will ensure eligible applicants that receive a subgrant under the entity's program are prepared to continue to operate the charter schools receiving the subgrant funds once the funds have expired;*

*(vi) will support charter schools in local educational agencies with large numbers of schools that must comply with the requirements of section 1116(b);*

*(vii) will work with charter schools to promote inclusion of all students and support all students once they are enrolled to promote retention;*

*(viii) will work with charter schools on recruitment practices, including efforts to engage groups that may otherwise have limited opportunities to participate in charter schools;*

*(ix) will share best and promising practices between charter schools and other public schools;*

*(x) will ensure the charter schools they support can meet the educational needs of their students, including students with disabilities and English language learners; and*

*(xi) will support efforts to increase quality initiatives, including meeting the quality authorizing elements described in paragraph (2)(E);*

*(B) of the extent to which the entity—*

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

*(ii) is working to develop or strengthen a cohesive statewide system to support the opening of new charter schools and replicable, high-quality charter school models, and expanding high-quality charter schools;*

*(C) how the entity will carry out the subgrant competition, including—*

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

*(I) a description of the roles and responsibilities of eligible applicants, partner organizations, and management organizations, including the administrative and contractual roles and responsibilities; and*

*(II) a description of the quality controls agreed to between the eligible applicant and the authorized public chartering agency involved, such as a contract or performance agreement, and how a school's performance on the State's academic accountability system will be a primary factor for renewal; and*

*(ii) a description of how the entity will review applications; and*

*(D) in the case of an entity that partners with an outside organization to carry out the entity's quality charter school program, in whole or in part, of the roles and responsibilities of this partner.*

*(2) ASSURANCES.—Assurances, including a description of how the assurances will be met, that—*

*(A) each charter school receiving funds under the entity's program will have a high degree of autonomy over budget and operations;*

*(B) the entity will support charter schools in meeting the educational needs of their students as described in paragraph (1)(A)(x);*

*(C) the entity will ensure that the authorized public chartering agency of any charter school that receives funds under the entity's program—*

*(i) ensures that the charter school is meeting the obligations under this Act, part B of the Individuals with Disabilities Education Act, title VI of the Civil Rights Act of 1964, and section 504 of the Rehabilitation Act of 1973; and*

*(ii) adequately monitors and helps the schools in recruiting, enrolling, and meeting the needs of all students, including students with disabilities and English language learners;*

*(D) the entity will provide adequate technical assistance to eligible applicants to—*

*(i) meet the objectives described in clauses (vii) and (viii) of paragraph (1)(A) and paragraph (2)(B); and*

*(ii) enroll traditionally underserved students, including students with disabilities and English language learners, to promote an inclusive education environment;*

*(E) the entity will promote quality authorizing, such as through providing technical assistance, to support all authorized public chartering agencies in the State to improve the monitoring of their charter schools, including by—*

*(i) using annual performance data, which may include graduation rates and student growth data, as appropriate, to measure the progress of their schools toward becoming high-quality charter schools; and*

*(ii) reviewing the schools' independent, annual audits of financial statements conducted in accordance with generally accepted accounting principles, and ensuring any such audits are publically reported; and*

*(F) the entity will work to ensure that charter schools are included with the traditional public school system in decision-making about the public school system in the State.*

*(3) REQUESTS FOR WAIVERS.—A request and justification for waivers of any Federal statutory or regulatory provisions that the entity believes are necessary for the successful operation of the charter schools that will receive funds under the entity's program under this section, and a description of any State or local rules, generally applicable to public schools, that will be waived, or otherwise not apply to such schools.*

*(f) SELECTION CRITERIA; PRIORITY.—*

*(1) SELECTION CRITERIA.—The Secretary shall award grants to State entities under this section on the basis of the quality of the applications submitted under subsection (e), after taking into consideration—*

*(A) the degree of flexibility afforded by the State's public charter school law and how the entity will work to maximize the flexibility provided to charter schools under the law;*

*(B) the ambitiousness of the entity's objectives for the quality charter school program carried out under this section;*

*(C) the quality of the strategy for assessing achievement of those objectives;*

*(D) the likelihood that the eligible applicants receiving subgrants under the program will meet those objectives and improve educational results for students;*

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

*(F) the entity's plan to—*

*(i) adequately monitor the eligible applicants receiving subgrants under the entity's program; and*

*(ii) work with the authorized public chartering agencies involved to avoid duplication of work for the charter schools and authorized public chartering agencies;*

*(G) the entity's plan to provide adequate technical assistance, as described in the entity's application under subsection (e), for the eligible applicants receiving subgrants under the entity's program under this section; and*

*(H) the entity's plan to support quality authorizing efforts in the State, consistent with the objectives described in subparagraph (B).*

*(2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to State entities to the extent that they meet the following criteria:*

*(A) In the case in which a State entity is located in a State that allows an entity other than the State educational agency to be an authorized public chartering agency or a State in which only a local educational agency may be an authorized public chartering agency, the State has an appeals process for the denial of an application for a charter school.*

*(B) The State entity is located in a State that does not impose any limitation on the number or percentage of charter schools that may exist or the number or percentage of students that may attend charter schools in the State.*

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

*(D) The State entity supports full-, blended-, or hybrid-online charter school models.*

*(E) The State entity is located in a State that uses charter schools and best practices from charter schools to help improve struggling schools and local educational agencies.*

*(F) The State entity partners with an organization that has a demonstrated record of success in developing management organizations to support the development of charter schools in the State.*

*(G) The State entity demonstrates quality policies and practices to support and monitor charter schools through factors, including—*

*(i) the proportion of high-quality charter schools in the State; and*

*(ii) the proportion of charter schools enrolling, at a rate similar to traditional public schools, traditionally underserved students, including students with disabilities and English language learners.*

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

*(h) REPORTING REQUIREMENTS.—Each State entity receiving a grant under this section shall submit to the Secretary, at the end*

*of the third year of the 5-year grant period and at the end of such grant period, a report on—*

*(1) the number of students served and, if applicable, how many new students were served during each year of the grant period;*

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

*(A) the opening of new charter schools;*

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

*(C) the expansion of high-quality charter schools;*

*(3) the progress the entity made toward meeting the priorities described in subsection (f)(2), as applicable;*

*(4) how the entity met the objectives of the quality charter school program described in the entity's application under subsection (e);*

*(5) how the entity complied with, and ensured that eligible applicants complied with, the assurances described in the entity's application; and*

*(6) how the entity worked with authorized public chartering agencies, including how the agencies worked with the management company or leadership of the schools in which the subgrants were awarded.*

*(i) STATE ENTITY DEFINED.—For purposes of this section, the term "State entity" means—*

*(1) a State educational agency;*

*(2) a State charter school board; or*

*(3) a Governor of a State.*

***SEC. 5204. FACILITIES FINANCING ASSISTANCE.***

*(a) GRANTS TO ELIGIBLE ENTITIES.—*

*(1) IN GENERAL.—From the amount reserved under section 5202(b)(1), the Secretary shall award not less than 3 grants to eligible entities that have applications approved under subsection (d) to demonstrate innovative methods of assisting charter schools to address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans or bond financing.*

*(2) ELIGIBLE ENTITY DEFINED.—For purposes of this section, the term "eligible entity" means—*

*(A) a public entity, such as a State or local governmental entity;*

*(B) a private nonprofit entity; or*

*(C) a consortium of entities described in subparagraphs (A) and (B).*

*(b) GRANTEE SELECTION.—*

*(1) EVALUATION OF APPLICATION.—The Secretary shall evaluate each application submitted under subsection (d), and shall determine whether the application is sufficient to merit approval.*

*(2) DISTRIBUTION OF GRANTS.—The Secretary shall award at least one grant to an eligible entity described in subsection (a)(2)(A), at least one grant to an eligible entity described in subsection (a)(2)(B), and at least one grant to an eligible entity described in subsection (a)(2)(C), if applications are submitted*

*that permit the Secretary to do so without approving an application that is not of sufficient quality to merit approval.*

*(c) GRANT CHARACTERISTICS.—Grants under subsection (a) shall be of a sufficient size, scope, and quality so as to ensure an effective demonstration of an innovative means of enhancing credit for the financing of charter school acquisition, construction, or renovation.*

*(d) APPLICATIONS.—*

*(1) IN GENERAL.—To receive a grant under subsection (a), an eligible entity shall submit to the Secretary an application in such form as the Secretary may reasonably require.*

*(2) CONTENTS.—An application submitted under paragraph (1) shall contain—*

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

*(B) a description of the involvement of charter schools in the application's development and the design of the proposed activities;*

*(C) a description of the eligible entity's expertise in capital market financing;*

*(D) a description of how the proposed activities will leverage the maximum amount of private-sector financing capital relative to the amount of government funding used and otherwise enhance credit available to charter schools, including how the entity will offer a combination of rates and terms more favorable than the rates and terms that a charter school could receive without assistance from the entity under this section;*

*(E) a description of how the eligible entity possesses sufficient expertise in education to evaluate the likelihood of success of a charter school program for which facilities financing is sought; and*

*(F) in the case of an application submitted by a State governmental entity, a description of the actions that the entity has taken, or will take, to ensure that charter schools within the State receive the funding the charter schools need to have adequate facilities.*

*(e) CHARTER SCHOOL OBJECTIVES.—An eligible entity receiving a grant under this section shall use the funds deposited in the reserve account established under subsection (f) to assist one or more charter schools to access private sector capital to accomplish one or both of the following objectives:*

*(1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a charter school.*

*(2) The construction of new facilities, including predevelopment costs, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a charter school.*

*(f) RESERVE ACCOUNT.—*

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

*(A) Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein, the proceeds of which are used for an objective described in subsection (e).*

*(B) Guaranteeing and insuring leases of personal and real property for an objective described in subsection (e).*

*(C) Facilitating financing by identifying potential lending sources, encouraging private lending, and other similar activities that directly promote lending to, or for the benefit of, charter schools.*

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

*(2) INVESTMENT.—Funds received under this section and deposited in the reserve account established under paragraph (1) shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities.*

*(3) REINVESTMENT OF EARNINGS.—Any earnings on funds received under subsection (a) shall be deposited in the reserve account established under paragraph (1) and used in accordance with such subsection.*

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

*(h) AUDITS AND REPORTS.—*

*(1) FINANCIAL RECORD MAINTENANCE AND AUDIT.—The financial records of each eligible entity receiving a grant under subsection (a) shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.*

*(2) REPORTS.—*

*(A) GRANTEE ANNUAL REPORTS.—Each eligible entity receiving a grant under subsection (a) annually shall submit to the Secretary a report of its operations and activities under this section.*

*(B) CONTENTS.—Each annual report submitted under subparagraph (A) shall include—*

*(i) a copy of the most recent financial statements, and any accompanying opinion on such statements,*

*prepared by the independent public accountant reviewing the financial records of the eligible entity;*

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

*(iii) an evaluation by the eligible entity of the effectiveness of its use of the Federal funds provided under subsection (a) in leveraging private funds;*

*(iv) a listing and description of the charter schools served during the reporting period, including the amount of funds used by each school, the type of project facilitated by the grant, and the type of assistance provided to the charter schools;*

*(v) a description of the activities carried out by the eligible entity to assist charter schools in meeting the objectives set forth in subsection (e); and*

*(vi) a description of the characteristics of lenders and other financial institutions participating in the activities undertaken by the eligible entity under this section (excluding subsection (k)) during the reporting period.*

*(C) SECRETARIAL REPORT.—The Secretary shall review the reports submitted under subparagraph (A) and shall provide a comprehensive annual report to Congress on the activities conducted under this section (excluding subsection (k)).*

*(i) NO FULL FAITH AND CREDIT FOR GRANTEE OBLIGATION.—No financial obligation of an eligible entity entered into pursuant to this section (such as an obligation under a guarantee, bond, note, evidence of debt, or loan) shall be an obligation of, or guaranteed in any respect by, the United States. The full faith and credit of the United States is not pledged to the payment of funds which may be required to be paid under any obligation made by an eligible entity pursuant to any provision of this section.*

*(j) RECOVERY OF FUNDS.—*

*(1) IN GENERAL.—The Secretary, in accordance with chapter 37 of title 31, United States Code, shall collect—*

*(A) all of the funds in a reserve account established by an eligible entity under subsection (f)(1) if the Secretary determines, not earlier than 2 years after the date on which the eligible entity first received funds under this section (excluding subsection (k)), that the eligible entity has failed to make substantial progress in carrying out the purposes described in subsection (f)(1); or*

*(B) all or a portion of the funds in a reserve account established by an eligible entity under subsection (f)(1) if the Secretary determines that the eligible entity has permanently ceased to use all or a portion of the funds in such account to accomplish any purpose described in subsection (f)(1).*

*(2) EXERCISE OF AUTHORITY.—The Secretary shall not exercise the authority provided in paragraph (1) to collect from any eligible entity any funds that are being properly used to achieve one or more of the purposes described in subsection (f)(1).*

*(3) PROCEDURES.—The provisions of sections 451, 452, and 458 of the General Education Provisions Act shall apply to the recovery of funds under paragraph (1).*

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

*(k) PER-PUPIL FACILITIES AID PROGRAM.—*

*(1) DEFINITION OF PER-PUPIL FACILITIES AID PROGRAM.—In this subsection, the term "per-pupil facilities aid program" means a program in which a State makes payments, on a per-pupil basis, to charter schools to provide the schools with financing—*

*(A) that is dedicated solely for funding charter school facilities; or*

*(B) a portion of which is dedicated for funding charter school facilities.*

*(2) GRANTS.—*

*(A) IN GENERAL.—From the amount reserved under section 5202(b)(1) remaining after the Secretary makes grants under subsection (a), the Secretary shall make grants, on a competitive basis, to States to pay for the Federal share of the cost of establishing or enhancing, and administering per-pupil facilities aid programs.*

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

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

*(i) 90 percent of the cost, for the first fiscal year for which the program receives assistance under this subsection;*

*(ii) 80 percent in the second such year;*

*(iii) 60 percent in the third such year;*

*(iv) 40 percent in the fourth such year; and*

*(v) 20 percent in the fifth such year.*

*(D) STATE SHARE.—A State receiving a grant under this subsection may partner with 1 or more organizations to provide up to 50 percent of the State share of the cost of establishing or enhancing, and administering the per-pupil facilities aid program.*

*(E) MULTIPLE GRANTS.—A State may receive more than 1 grant under this subsection, so long as the amount of such funds provided to charter schools increases with each successive grant.*

*(3) USE OF FUNDS.—*

*(A) IN GENERAL.—A State that receives a grant under this subsection shall use the funds made available through the grant to establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the State of the applicant.*

*(B) EVALUATIONS; TECHNICAL ASSISTANCE; DISSEMINATION.—From the amount made available to a State through a grant under this subsection for a fiscal year, the State may reserve not more than 5 percent to carry out evalua-*

*tions, to provide technical assistance, and to disseminate information.*

*(C) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this subsection shall be used to supplement, and not supplant, State, and local public funds expended to provide per pupil facilities aid programs, operations financing programs, or other programs, for charter schools.*

*(4) REQUIREMENTS.—*

*(A) VOLUNTARY PARTICIPATION.—No State may be required to participate in a program carried out under this subsection.*

*(B) STATE LAW.—*

*(i) IN GENERAL.—To be eligible to receive a grant under this subsection, a State shall establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the State, that—*

*(I) is specified in State law; and*

*(II) provides annual financing, on a per-pupil basis, for charter school facilities.*

*(ii) SPECIAL RULE.—A State that is required under State law to provide its charter schools with access to adequate facility space may be eligible to receive a grant under this subsection if the State agrees to use the funds to develop a per-pupil facilities aid program consistent with the requirements of this subsection.*

*(5) APPLICATIONS.—To be eligible to receive a grant under this subsection, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.*

***SEC. 5205. NATIONAL ACTIVITIES.***

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

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

*(2) use the remainder of such funds to—*

*(A) disseminate technical assistance to State entities in awarding subgrants under section 5203;*

*(B) disseminate best practices; and*

*(C) evaluate the impact of the charter school program, including the impact on student achievement, carried out under this subpart.*

*(b) GRANTS.—*

*(1) IN GENERAL.—The Secretary shall make grants, on a competitive basis, to eligible applicants for the purpose of carrying out the activities described in section 5202(a)(1), subparagraphs (A) through (C) of section 5203(a)(1), and section 5203(g).*

*(2) TERMS AND CONDITIONS.—Except as otherwise provided in this subsection, grants awarded under this subsection shall have the same terms and conditions as grants awarded to State entities under section 5203.*

*(3) ELIGIBLE APPLICANT DEFINED.—For purposes of this subsection, the term "eligible applicant" means an eligible applicant that desires to open a charter school in—*

*(A) a State that did not apply for a grant under section 5203;*

*(B) a State that did not receive a grant under section 5203; or*

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

*(c) CONTRACTS AND GRANTS.—The Secretary may carry out any of the activities described in this section directly or through grants, contracts, or cooperative agreements.*

* * * * * * *

**SEC. 5208. RECORDS TRANSFER.**

State educational agencies and local educational agencies, *as quickly as possible and* to the extent practicable, shall ensure that a student's records and, if applicable, a student's individualized education program as defined in ¿section 602 *section 602(14)* of the Individuals with Disabilities Education Act, are transferred to a charter school upon the transfer of the student to the charter school, and to another public school upon the transfer of the student from a charter school to another public school, in accordance with applicable State law.

* * * * * * *

**SEC. 5210. DEFINITIONS.**

In this subpart:

(1) CHARTER SCHOOL.—The term "charter school" means a public school that—

(A) * * *

* * * * * * *

(K) operates in accordance with State law; ¿and

(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school¿. *; and*

*(M) may serve prekindergarten or post secondary students.*

* * * * * * *

(3) ELIGIBLE APPLICANT.—The term "eligible applicant" means a developer that has—

(A) * * *

(B) provided adequate and timely notice to that authority ¿under section 5203(d)(3) .

* * * * * * *

*(5) EXPANSION OF A HIGH-QUALITY CHARTER SCHOOL.—The term "expansion of a high-quality charter school" means a high-quality charter school that either significantly increases its enrollment or adds one or more grades to its school.*

*(6) HIGH-QUALITY CHARTER SCHOOL.—The term "high-quality charter school" means a charter school that—*

*(A) shows evidence of strong academic results, which may include strong academic growth as determined by a State;*

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

*(C) has demonstrated success in significantly increasing student academic achievement and attainment for all students served by charter schools; and*

*(D) has demonstrated success in increasing student academic achievement for the subgroups of students described in section 1111(b)(2)(C)(v)(II).*

*(7) REPLICABLE, HIGH-QUALITY CHARTER SCHOOL MODEL.—The term "replicable, high-quality charter school model" means a high-quality charter school that will open a new campus under an existing charter.*

¿**SEC. 5211. AUTHORIZATION OF APPROPRIATIONS.**

¿(a) IN GENERAL.—There are authorized to be appropriated to carry out this subpart $300,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

¿(b) RESERVATION.—From the amount appropriated under subsection (a) for each fiscal year, the Secretary shall reserve—

¿(1) $200,000,000 to carry out this subpart, other than section 5205(b); and

¿(2) any funds in excess of $200,000,000, that do not exceed $300,000,000, to carry out section 5205(b); and

¿(3)(A) 50 percent of any funds in excess of $300,000,000 to carry out this subpart, other than section 5205(b); and

¿(B) 50 percent of any funds in excess of $300,000,000 to carry out section 5205(b).

***SEC. 5211. AUTHORIZATION OF APPROPRIATIONS.***

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

## ¿Subpart 2—Credit Enhancement Initiatives To Assist Charter School Facility Acquisition, Construction, and Renovation

¿**SEC. 5221. PURPOSE.**

¿The purpose of this subpart is to provide grants to eligible entities to permit the eligible entities to demonstrate innovative credit enhancement initiatives that assist charter schools to address the cost of acquiring, constructing, and renovating facilities.

¿**SEC. 5222. GRANTS TO ELIGIBLE ENTITIES.**

¿(a) GRANTS.—The Secretary shall use 100 percent of the amount available to carry out this subpart to award not less than three grants to eligible entities that have applications approved under this subpart to demonstrate innovative methods of assisting charter schools to address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans or bond financing.

¿(b) GRANTEE SELECTION.—

¿(1) EVALUATION OF APPLICATION.—The Secretary shall evaluate each application submitted under section 5223, and

shall determine whether the application is sufficient to merit approval.

¿(2) DISTRIBUTION OF GRANTS.—The Secretary shall award at least one grant to an eligible entity described in section 5230(2)(A), at least one grant to an eligible entity described in section 5230(2)(B), and at least one grant to an eligible entity described in section 5230(2)(C), if applications are submitted that permit the Secretary to do so without approving an application that is not of sufficient quality to merit approval.

¿(c) GRANT CHARACTERISTICS.—Grants under this subpart shall be of a sufficient size, scope, and quality so as to ensure an effective demonstration of an innovative means of enhancing credit for the financing of charter school acquisition, construction, or renovation.

¿(d) SPECIAL RULE.—In the event the Secretary determines that the funds made available under this subpart are insufficient to permit the Secretary to award not less than three grants in accordance with subsections (a) through (c), such three-grant minimum and subsection (b)(2) shall not apply, and the Secretary may determine the appropriate number of grants to be awarded in accordance with subsection (c).

¿**SEC. 5223. APPLICATIONS.**

¿(a) IN GENERAL.—To receive a grant under this subpart, an eligible entity shall submit to the Secretary an application in such form as the Secretary may reasonably require.

¿(b) CONTENTS.—An application submitted under subsection (a) shall contain—

¿(1) a statement identifying the activities proposed to be undertaken with funds received under this subpart, including how the eligible entity will determine which charter schools will receive assistance, and how much and what types of assistance charter schools will receive;

¿(2) a description of the involvement of charter schools in the application's development and the design of the proposed activities;

¿(3) a description of the eligible entity's expertise in capital market financing;

¿(4) a description of how the proposed activities will leverage the maximum amount of private-sector financing capital relative to the amount of government funding used and otherwise enhance credit available to charter schools;

¿(5) a description of how the eligible entity possesses sufficient expertise in education to evaluate the likelihood of success of a charter school program for which facilities financing is sought;

¿(6) in the case of an application submitted by a State governmental entity, a description of the actions that the entity has taken, or will take, to ensure that charter schools within the State receive the funding the charter schools need to have adequate facilities; and

¿(7) such other information as the Secretary may reasonably require.

¿**SEC. 5224. CHARTER SCHOOL OBJECTIVES.**

¿An eligible entity receiving a grant under this subpart shall use the funds deposited in the reserve account established under section 5225(a) to assist one or more charter schools to access private sector capital to accomplish one or both of the following objectives:

¿(1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a charter school.

¿(2) The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a charter school.

¿**SEC. 5225. RESERVE ACCOUNT.**

¿(a) USE OF FUNDS.—To assist charter schools to accomplish the objectives described in section 5224, an eligible entity receiving a grant under this subpart shall, in accordance with State and local law, directly or indirectly, alone or in collaboration with others, deposit the funds received under this subpart (other than funds used for administrative costs in accordance with section 5226) in a reserve account established and maintained by the eligible entity for this purpose. Amounts deposited in such account shall be used by the eligible entity for one or more of the following purposes:

¿(1) Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein, the proceeds of which are used for an objective described in section 5224.

¿(2) Guaranteeing and insuring leases of personal and real property for an objective described in section 5224.

¿(3) Facilitating financing by identifying potential lending sources, 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 by other public entities for the benefit of charter schools, by providing technical, administrative, and other appropriate assistance (including the recruitment of bond counsel, underwriters, and potential investors and the consolidation of multiple charter school projects within a single bond issue).

¿(b) INVESTMENT.—Funds received under this subpart and deposited in the reserve account established under subsection (a) shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities.

¿(c) REINVESTMENT OF EARNINGS.—Any earnings on funds received under this subpart shall be deposited in the reserve account established under subsection (a) and used in accordance with such subsection.

¿**SEC. 5226. LIMITATION ON ADMINISTRATIVE COSTS.**

¿An eligible entity may use not more than 0.25 percent of the funds received under this subpart for the administrative costs of carrying out its responsibilities under this subpart.

¿**SEC. 5227. AUDITS AND REPORTS.**

¿(a) FINANCIAL RECORD MAINTENANCE AND AUDIT.—The financial records of each eligible entity receiving a grant under this subpart shall be maintained in accordance with generally accepted ac-

counting principles and shall be subject to an annual audit by an independent public accountant.

¿(b) REPORTS.—

¿(1) GRANTEE ANNUAL REPORTS.—Each eligible entity receiving a grant under this subpart annually shall submit to the Secretary a report of its operations and activities under this subpart.

¿(2) CONTENTS.—Each annual report submitted under paragraph (1) shall include—

¿(A) a copy of the most recent financial statements, and any accompanying opinion on such statements, prepared by the independent public accountant reviewing the financial records of the eligible entity;

¿(B) a copy of any report made on an audit of the financial records of the eligible entity that was conducted under subsection (a) during the reporting period;

¿(C) an evaluation by the eligible entity of the effectiveness of its use of the Federal funds provided under this subpart in leveraging private funds;

¿(D) a listing and description of the charter schools served during the reporting period;

¿(E) a description of the activities carried out by the eligible entity to assist charter schools in meeting the objectives set forth in section 5224; and

¿(F) a description of the characteristics of lenders and other financial institutions participating in the activities undertaken by the eligible entity under this subpart during the reporting period.

¿(3) SECRETARIAL REPORT.—The Secretary shall review the reports submitted under paragraph (1) and shall provide a comprehensive annual report to Congress on the activities conducted under this subpart.

¿**SEC. 5228. NO FULL FAITH AND CREDIT FOR GRANTEE OBLIGATIONS.**

¿No financial obligation of an eligible entity entered into pursuant to this subpart (such as an obligation under a guarantee, bond, note, evidence of debt, or loan) shall be an obligation of, or guaranteed in any respect by, the United States. The full faith and credit of the United States is not pledged to the payment of funds which may be required to be paid under any obligation made by an eligible entity pursuant to any provision of this subpart.

¿**SEC. 5229. RECOVERY OF FUNDS.**

¿(a) IN GENERAL.—The Secretary, in accordance with chapter 37 of title 31, United States Code, shall collect—

¿(1) all of the funds in a reserve account established by an eligible entity under section 5225(a) if the Secretary determines, not earlier than 2 years after the date on which the eligible entity first received funds under this subpart, that the eligible entity has failed to make substantial progress in carrying out the purposes described in section 5225(a); or

¿(2) all or a portion of the funds in a reserve account established by an eligible entity under section 5225(a) if the Secretary determines that the eligible entity has permanently ceased to use all or a portion of the funds in such account to accomplish any purpose described in section 5225(a).

¿(b) EXERCISE OF AUTHORITY.—The Secretary shall not exercise the authority provided in subsection (a) to collect from any eligible entity any funds that are being properly used to achieve one or more of the purposes described in section 5225(a).

¿(c) PROCEDURES.—The provisions of sections 451, 452, and 458 of the General Education Provisions Act shall apply to the recovery of funds under subsection (a).

¿(d) CONSTRUCTION.—This section shall not be construed to impair or affect the authority of the Secretary to recover funds under part D of the General Education Provisions Act.

**¿SEC. 5230. DEFINITIONS.**

¿In this subpart:

¿(1) CHARTER SCHOOL.—The term "charter school" has the meaning given such term in section 5210.

¿(2) ELIGIBLE ENTITY.—The term "eligible entity" means—

¿(A) a public entity, such as a State or local governmental entity;

¿(B) a private nonprofit entity; or

¿(C) a consortium of entities described in subparagraphs (A) and (B).

**¿SEC. 5231. AUTHORIZATION OF APPROPRIATIONS.**

¿For the purpose of carrying out this subpart, there are authorized to be appropriated $150,000,000 for fiscal year 2002 and such sums as may be necessary for fiscal year 2003.

* * * * * * *

## ADDITIONAL VIEWS

I appreciate the bipartisan efforts of the Committee to work together on the Empowering Parents through Quality Charter School Act (H.R. 2118). However, I have strong concerns that H.R. 2218 does not do nearly enough to advance our goal of providing equal, high-quality education for all students.

For example, I believe this legislation failed to adequately address serving students with disabilities and language barriers, proper oversight and monitoring, increased transparency and disclosure, as well as understanding funding streams that function within the charter school program.

I am troubled by the research that shows only a very small proportion of charter schools have similar demographic compositions as the local districts they serve.[1] Additionally, I am concerned of increasing reports that charter schools are using tests as a condition of admissions, placement, or grade promotion tests, which have implications for the access and persistence of certain types of students, especially students with disabilities and English language learners.[2]

Further, as charter schools become a more prominent component of the public school system, and in the context of the accountability provisions under No Child Left Behind, the effectiveness of the public chartering agencies (authorizers) that license, monitor and evaluate charter schools has become increasingly important. Nevertheless, many authorizers lack oversight and resources. Charter contracts are often vague, incomplete and not based in measurable outcomes.[3]

Finally, charter schools have veered away from their original purpose and are primarily serving to divide limited public resources across parallel systems that perform at similar levels and suffer from similar breaches in accountability.[4] Many states allow private schools to convert to public charter schools, and the propor-

---

[1] Miron, G., Urschel, J. L., Mathis, W, J., & Tornquist, E. (2010). *Schools without Diversity: Education Management Organizations, Charter Schools and the Demographic Stratification of the American School System*. Boulder and Tempe: Education and the Public Interest Center & Education Policy Research Unit. Available from *http://epicpolicy.org/publication/schools-without-diversity*

[2] Miron, G., Urschel, J.L., & Saxton, N. (2011). *What makes KIPP work? A study of student characteristics, attrition, and school finance.* New York, NY: National Center for the Study of Privatization in Education, Teachers College, Columbia University: *http://ncspe.org/publications files/OP195 3.pdf;* O'Brien, T., Hupfeld, K., & Teske, P. (2008). *Challenges and Charter Schools: How Families with Special-Needs Students Perceive and Use Charter School Options.* Seattle, WA: National Charter Research Project at the Center on Reinventing Public Education, University of Washington

[3] U.S. Department of Education. (2010) Supporting Charter School Excellence Through Quality Authorizing: *http://www.charterschoolcenter.orgresource/supporting-charter-school-excellence-through-quality-authorizing0*

[4] Testimony of Gary Miron. (2011). *Education Reforms: Exploring the Vital Role of Charter Schools.* Washington, DC.

tion of charter schools operated by a private management organization is increasing.

I believe more must be done to ensure charter schools operate as part of the public school system and support district wide collaborative approaches that improve educational options for all students.

In conclusion, I believe that the role of the federal government is to ensure that all public school students have equal access to high-quality education and H.R. 2118 falls short of that goal.

JOHN F. TIERNEY.

fi