

## Union Calendar No. 117

112TH CONGRESS  
1ST SESSION

# H. R. 2218

[Report No. 112-178]

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

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### IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 2011

Mr. HUNTER (for himself and Mr. KLINE) introduced the following bill; which was referred to the Committee on Education and the Workforce

JULY 22, 2011

Additional sponsors: Mr. GEORGE MILLER of California, Mr. PETRI, Mr. McKEON, Mr. BUCSHON, Mr. ROE of Tennessee, Mr. KELLY, Mr. POLIS, Mr. DESJARLAIS, Mr. WALBERG, Mr. GOWDY, Mr. ROKITA, and Mr. CRENSHAW

JULY 22, 2011

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on June 16, 2011]

# **A BILL**

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

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

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Empowering Parents*  
5 *through Quality Charter Schools Act”.*

6 **SEC. 2. REFERENCES.**

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8 *this Act a section or other provision is amended or repealed,*  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

12 **SEC. 3. PURPOSE.**

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

15 **“SEC. 5201. PURPOSE.**

16 *“It is the purpose of this subpart to—*

17 *“(1) provide financial assistance for the plan-*  
18 *ning, program design, and initial implementation of*  
19 *charter schools;*

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

22 *“(3) evaluate the impact of such schools on stu-*  
23 *dent achievement, families, and communities, and*  
24 *share best practices between charter schools and other*  
25 *public schools;*

1           “(4) encourage States to provide support to char-  
2           ter schools for facilities financing in an amount more  
3           nearly commensurate to the amount the States have  
4           typically provided for traditional public schools;

5           “(5) improve student services to increase oppor-  
6           tunities for students with disabilities, English lan-  
7           guage learners, and other traditionally underserved  
8           students to attend charter schools and meet chal-  
9           lenging State academic achievement standards; and

10           “(6) support efforts to strengthen the charter  
11           school authorizing process to improve performance  
12           management, including transparency, monitoring,  
13           and evaluation of such schools.”.

14 **SEC. 4. PROGRAM AUTHORIZED.**

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

17 **“SEC. 5202. PROGRAM AUTHORIZED.**

18           “(a) *IN GENERAL.*—This subpart authorizes the Sec-  
19           retary to carry out a charter school program that supports  
20           charter schools that serve elementary school and secondary  
21           school students by—

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

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

1           “(3) carrying out national activities to sup-  
2 port—

3                   “(A) charter school development;

4                   “(B) the dissemination of best practices of  
5 charter schools for all schools; and

6                   “(C) the evaluation of the impact of the pro-  
7 gram on schools participating in the program.

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

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

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

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

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

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

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

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

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

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

12 *“(A) opening new charter schools;*

13 *“(B) opening replicable, high-quality char-*  
 14 *ter school models; or*

15 *“(C) expanding high-quality charter schools;*

16 *and*

17 *“(2) provide technical assistance to eligible ap-*  
 18 *plicants and authorized public chartering agencies in*  
 19 *carrying out the activities described in paragraph (1)*  
 20 *and work with authorized public chartering agencies*  
 21 *in the State to improve authorizing quality.*

22 *“(b) STATE USES OF FUNDS.—*

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

25 *“(A) use 90 percent of the grant funds to*  
 26 *award subgrants to eligible applicants, in ac-*

1           *cordance with the quality charter school program*  
2           *described in the entity's application approved*  
3           *pursuant to subsection (f), for the purposes de-*  
4           *scribed in subparagraphs (A) through (C) of sub-*  
5           *section (a)(1); and*

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

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

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

18                             *“(1) PROGRAM PERIODS.—*

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

22                             *“(B) SUBGRANTS.—A subgrant awarded by*  
23                             *a State entity under this section shall be for a*  
24                             *period of not more than 5 years, of which an eli-*

1            *gible applicant may use not more than 18*  
2            *months for planning and program design.*

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

7            *“(3) DIVERSITY OF PROJECTS.—Each State enti-*  
8            *ty receiving a grant under this section shall award*  
9            *subgrants under this section in a manner that, to the*  
10           *extent possible, ensures that such subgrants—*

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

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

16            *“(d) LIMITATIONS.—*

17                    *“(1) GRANTS.—A State entity may not receive*  
18                    *more than 1 grant under this section for a 5-year pe-*  
19                    *riod.*

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

23            *“(e) APPLICATIONS.—A State entity desiring to receive*  
24            *a grant under this section shall submit an application to*  
25            *the Secretary at such time and in such manner as the Sec-*

1 *retary may require. The application shall include the fol-*  
2 *lowing:*

3           “(1) *DESCRIPTION OF PROGRAM.—A description*  
4 *of the entity’s objectives in running a quality charter*  
5 *school program under this section and how the objec-*  
6 *tives of the program will be carried out, including a*  
7 *description—*

8                   “(A) *of how the entity—*

9                           “(i) *will support both new charter*  
10 *school startup and the expansion and rep-*  
11 *lication of high-quality charter school mod-*  
12 *els;*

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

17                           “(iii) *will work with eligible appli-*  
18 *cants to ensure that the applicants access*  
19 *all Federal funds that they are eligible to*  
20 *receive, and help the charter schools sup-*  
21 *ported by the applicants and the students*  
22 *attending the charter schools—*

23                                   “(I) *participate in the Federal*  
24 *programs in which the schools and stu-*  
25 *dents are eligible to participate; and*

1           “(II) receive the commensurate  
2           share of Federal funds the schools and  
3           students are eligible to receive under  
4           such programs;

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

7           “(I) will work with the State edu-  
8           cational agency and the charter schools  
9           in the State to maximize charter school  
10          participation in Federal and State  
11          programs for charter schools; and

12          “(II) will work with the State  
13          educational agency to adequately oper-  
14          ate the entity’s program under this sec-  
15          tion, where applicable;

16          “(v) will ensure eligible applicants that  
17          receive a subgrant under the entity’s pro-  
18          gram are prepared to continue to operate  
19          the charter schools receiving the subgrant  
20          funds once the funds have expired;

21          “(vi) will support charter schools in  
22          local educational agencies with large num-  
23          bers of schools that must comply with the  
24          requirements of section 1116(b);

1           “(vii) will work with charter schools to  
2           promote inclusion of all students and sup-  
3           port all students once they are enrolled to  
4           promote retention;

5           “(viii) will work with charter schools  
6           on recruitment practices, including efforts  
7           to engage groups that may otherwise have  
8           limited opportunities to participate in  
9           charter schools;

10          “(ix) will share best and promising  
11          practices between charter schools and other  
12          public schools;

13          “(x) will ensure the charter schools  
14          they support can meet the educational needs  
15          of their students, including students with  
16          disabilities and English language learners;  
17          and

18          “(xi) will support efforts to increase  
19          quality initiatives, including meeting the  
20          quality authorizing elements described in  
21          paragraph (2)(E);

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

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

1           “(ii) is working to develop or strength-  
2           en a cohesive statewide system to support  
3           the opening of new charter schools and  
4           replicable, high-quality charter school mod-  
5           els, and expanding high-quality charter  
6           schools;

7           “(C) how the entity will carry out the  
8           subgrant competition, including—

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

12                           “(I) a description of the roles and  
13                           responsibilities of eligible applicants,  
14                           partner organizations, and manage-  
15                           ment organizations, including the ad-  
16                           ministrative and contractual roles and  
17                           responsibilities; and

18                           “(II) a description of the quality  
19                           controls agreed to between the eligible  
20                           applicant and the authorized public  
21                           chartering agency involved, such as a  
22                           contract or performance agreement,  
23                           and how a school’s performance on the  
24                           State’s academic accountability system

1 *will be a primary factor for renewal;*

2 *and*

3 *“(ii) a description of how the entity*

4 *will review applications; and*

5 *“(D) in the case of an entity that partners*

6 *with an outside organization to carry out the en-*

7 *tity’s quality charter school program, in whole or*

8 *in part, of the roles and responsibilities of this*

9 *partner.*

10 *“(2) ASSURANCES.—Assurances, including a de-*

11 *scription of how the assurances will be met, that—*

12 *“(A) each charter school receiving funds*

13 *under the entity’s program will have a high de-*

14 *gree of autonomy over budget and operations;*

15 *“(B) the entity will support charter schools*

16 *in meeting the educational needs of their stu-*

17 *dents as described in paragraph (1)(A)(x);*

18 *“(C) the entity will ensure that the author-*

19 *ized public chartering agency of any charter*

20 *school that receives funds under the entity’s pro-*

21 *gram—*

22 *“(i) ensures that the charter school is*

23 *meeting the obligations under this Act, part*

24 *B of the Individuals with Disabilities Edu-*

25 *cation Act, title VI of the Civil Rights Act*

1                   of 1964, and section 504 of the Rehabilita-  
2                   tion Act of 1973; and

3                   “(ii) adequately monitors and helps the  
4                   schools in recruiting, enrolling, and meeting  
5                   the needs of all students, including students  
6                   with disabilities and English language  
7                   learners;

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

10                   “(i) meet the objectives described in  
11                   clauses (vii) and (viii) of paragraph (1)(A)  
12                   and paragraph (2)(B); and

13                   “(ii) enroll traditionally underserved  
14                   students, including students with disabili-  
15                   ties and English language learners, to pro-  
16                   mote an inclusive education environment;

17                   “(E) the entity will promote quality author-  
18                   izing, such as through providing technical assist-  
19                   ance, to support all authorized public chartering  
20                   agencies in the State to improve the monitoring  
21                   of their charter schools, including by—

22                   “(i) using annual performance data,  
23                   which may include graduation rates and  
24                   student growth data, as appropriate, to

1           *measure the progress of their schools toward*  
2           *becoming high-quality charter schools; and*

3                   “(ii) *reviewing the schools’ inde-*  
4           *pendent, annual audits of financial state-*  
5           *ments conducted in accordance with gen-*  
6           *erally accepted accounting principles, and*  
7           *ensuring any such audits are publically re-*  
8           *ported; and*

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

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

22               “(f) *SELECTION CRITERIA; PRIORITY.—*

23                   “(1) *SELECTION CRITERIA.—The Secretary shall*  
24          *award grants to State entities under this section on*  
25          *the basis of the quality of the applications submitted*

1       *under subsection (e), after taking into consider-*  
2       *ation—*

3               “(A) *the degree of flexibility afforded by the*  
4       *State’s public charter school law and how the en-*  
5       *tity will work to maximize the flexibility pro-*  
6       *vided to charter schools under the law;*

7               “(B) *the ambitiousness of the entity’s objec-*  
8       *tives for the quality charter school program car-*  
9       *ried out under this section;*

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

12              “(D) *the likelihood that the eligible appli-*  
13       *cants receiving subgrants under the program will*  
14       *meet those objectives and improve educational re-*  
15       *sults for students;*

16              “(E) *the proposed number of new charter*  
17       *schools to be opened, and the number of high-*  
18       *quality charter schools to be replicated or ex-*  
19       *panded under the program;*

20              “(F) *the entity’s plan to—*

21                      “(i) *adequately monitor the eligible ap-*  
22       *plicants receiving subgrants under the enti-*  
23       *ty’s program; and*

24                      “(ii) *work with the authorized public*  
25       *chartering agencies involved to avoid dupli-*

1            *cation of work for the charter schools and*  
2            *authorized public chartering agencies;*

3            *“(G) the entity’s plan to provide adequate*  
4            *technical assistance, as described in the entity’s*  
5            *application under subsection (e), for the eligible*  
6            *applicants receiving subgrants under the entity’s*  
7            *program under this section; and*

8            *“(H) the entity’s plan to support quality*  
9            *authorizing efforts in the State, consistent with*  
10           *the objectives described in subparagraph (B).*

11           *“(2) PRIORITY.—In awarding grants under this*  
12           *section, the Secretary shall give priority to State enti-*  
13           *ties to the extent that they meet the following criteria:*

14           *“(A) In the case in which a State entity is*  
15           *located in a State that allows an entity other*  
16           *than the State educational agency to be an au-*  
17           *thorized public chartering agency or a State in*  
18           *which only a local educational agency may be an*  
19           *authorized public chartering agency, the State*  
20           *has an appeals process for the denial of an ap-*  
21           *plication for a charter school.*

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

1           *exist or the number or percentage of students*  
2           *that may attend charter schools in the State.*

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

7           “(D) *The State entity supports full-, blend-*  
8           *ed-, or hybrid-online charter school models.*

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

13          “(F) *The State entity partners with an or-*  
14          *ganization that has a demonstrated record of*  
15          *success in developing management organizations*  
16          *to support the development of charter schools in*  
17          *the State.*

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

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

23                  “(ii) *the proportion of charter schools*  
24                  *enrolling, at a rate similar to traditional*  
25                  *public schools, traditionally underserved*

1                   *students, including students with disabili-*  
2                   *ties and English language learners.*

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

8           “(h) *REPORTING REQUIREMENTS.*—*Each State entity*  
9 *receiving a grant under this section shall submit to the Sec-*  
10 *retary, at the end of the third year of the 5-year grant pe-*  
11 *riod and at the end of such grant period, a report on—*

12                   “(1) *the number of students served and, if appli-*  
13 *cable, how many new students were served during*  
14 *each year of the grant period;*

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

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

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

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

22                   “(3) *the progress the entity made toward meeting*  
23 *the priorities described in subsection (f)(2), as appli-*  
24 *cable;*

1           “(4) how the entity met the objectives of the qual-  
2           ity charter school program described in the entity’s  
3           application under subsection (e);

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

7           “(6) how the entity worked with authorized pub-  
8           lic chartering agencies, including how the agencies  
9           worked with the management company or leadership  
10          of the schools in which the subgrants were awarded.

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

13                  “(1) a State educational agency;

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

15                  “(3) a Governor of a State.”.

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

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

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

20                  “(a) *GRANTS TO ELIGIBLE ENTITIES.*—

21                          “(1) *IN GENERAL.*—From the amount reserved  
22                          under section 5202(b)(1), the Secretary shall award  
23                          not less than 3 grants to eligible entities that have ap-  
24                          plications approved under subsection (d) to dem-  
25                          onstrate innovative methods of assisting charter

1        *schools to address the cost of acquiring, constructing,*  
2        *and renovating facilities by enhancing the avail-*  
3        *ability of loans or bond financing.*

4                *“(2) ELIGIBLE ENTITY DEFINED.—For purposes*  
5        *of this section, the term ‘eligible entity’ means—*

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

8                        *“(B) a private nonprofit entity; or*

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

11        *“(b) GRANTEE SELECTION.—*

12                        *“(1) EVALUATION OF APPLICATION.—The Sec-*  
13        *retary shall evaluate each application submitted*  
14        *under subsection (d), and shall determine whether the*  
15        *application is sufficient to merit approval.*

16                        *“(2) DISTRIBUTION OF GRANTS.—The Secretary*  
17        *shall award at least one grant to an eligible entity de-*  
18        *scribed in subsection (a)(2)(A), at least one grant to*  
19        *an eligible entity described in subsection (a)(2)(B),*  
20        *and at least one grant to an eligible entity described*  
21        *in subsection (a)(2)(C), if applications are submitted*  
22        *that permit the Secretary to do so without approving*  
23        *an application that is not of sufficient quality to*  
24        *merit approval.*

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

6       “(d) *APPLICATIONS.*—

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

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

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

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

22                       “(C) *a description of the eligible entity’s ex-*  
23 *pertise in capital market financing;*

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

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

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

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

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

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

7           “(2) *The construction of new facilities, including*  
8           *predevelopment costs, or the renovation, repair, or al-*  
9           *teration of existing facilities, necessary to commence*  
10           *or continue the operation of a charter school.*

11           “(f) *RESERVE ACCOUNT.—*

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

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

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

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

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

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

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

24          “(3) *REINVESTMENT OF EARNINGS.—Any earn-*  
25          *ings on funds received under subsection (a) shall be*

1       *deposited in the reserve account established under*  
2       *paragraph (1) and used in accordance with such sub-*  
3       *section.*

4       “(g) *LIMITATION ON ADMINISTRATIVE COSTS.—An eli-*  
5       *gible entity may use not more than 2.5 percent of the funds*  
6       *received under subsection (a) for the administrative costs*  
7       *of carrying out its responsibilities under this section (ex-*  
8       *cluding subsection (k)).*

9       “(h) *AUDITS AND REPORTS.—*

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

16           “(2) *REPORTS.—*

17                   “(A) *GRANTEE ANNUAL REPORTS.—Each el-*  
18        *igible entity receiving a grant under subsection*  
19        *(a) annually shall submit to the Secretary a re-*  
20        *port of its operations and activities under this*  
21        *section.*

22                   “(B) *CONTENTS.—Each annual report sub-*  
23        *mitted under subparagraph (A) shall include—*

24                           “(i) *a copy of the most recent financial*  
25        *statements, and any accompanying opinion*

1           on such statements, prepared by the inde-  
2           pendent public accountant reviewing the fi-  
3           nancial records of the eligible entity;

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

8           “(iii) an evaluation by the eligible en-  
9           tity of the effectiveness of its use of the Fed-  
10          eral funds provided under subsection (a) in  
11          leveraging private funds;

12          “(iv) a listing and description of the  
13          charter schools served during the reporting  
14          period, including the amount of funds used  
15          by each school, the type of project facilitated  
16          by the grant, and the type of assistance pro-  
17          vided to the charter schools;

18          “(v) a description of the activities car-  
19          ried out by the eligible entity to assist char-  
20          ter schools in meeting the objectives set forth  
21          in subsection (e); and

22          “(vi) a description of the characteris-  
23          tics of lenders and other financial institu-  
24          tions participating in the activities under-  
25          taken by the eligible entity under this sec-

1                   tion (excluding subsection (k)) during the  
2                   reporting period.

3                   “(C) *SECRETARIAL REPORT.*—The Sec-  
4                   retary shall review the reports submitted under  
5                   subparagraph (A) and shall provide a com-  
6                   prehensive annual report to Congress on the ac-  
7                   tivities conducted under this section (excluding  
8                   subsection (k)).

9                   “(i) *NO FULL FAITH AND CREDIT FOR GRANTEE OB-*  
10                  *LIGATION.*—No financial obligation of an eligible entity en-  
11                  tered into pursuant to this section (such as an obligation  
12                  under a guarantee, bond, note, evidence of debt, or loan)  
13                  shall be an obligation of, or guaranteed in any respect by,  
14                  the United States. The full faith and credit of the United  
15                  States is not pledged to the payment of funds which may  
16                  be required to be paid under any obligation made by an  
17                  eligible entity pursuant to any provision of this section.

18                  “(j) *RECOVERY OF FUNDS.*—

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

22                                 “(A) all of the funds in a reserve account es-  
23                                 tablished by an eligible entity under subsection  
24                                 (f)(1) if the Secretary determines, not earlier  
25                                 than 2 years after the date on which the eligible

1           entity first received funds under this section (ex-  
2           cluding subsection (k)), that the eligible entity  
3           has failed to make substantial progress in car-  
4           rying out the purposes described in subsection  
5           (f)(1); or

6           “(B) all or a portion of the funds in a re-  
7           serve account established by an eligible entity  
8           under subsection (f)(1) if the Secretary deter-  
9           mines that the eligible entity has permanently  
10          ceased to use all or a portion of the funds in  
11          such account to accomplish any purpose de-  
12          scribed in subsection (f)(1).

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

18          “(3) *PROCEDURES.*—The provisions of sections  
19          451, 452, and 458 of the General Education Provi-  
20          sions Act shall apply to the recovery of funds under  
21          paragraph (1).

22          “(4) *CONSTRUCTION.*—This subsection shall not  
23          be construed to impair or affect the authority of the  
24          Secretary to recover funds under part D of the Gen-  
25          eral Education Provisions Act.

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

2               “(1) *DEFINITION OF PER-PUPIL FACILITIES AID*  
3 *PROGRAM.*—*In this subsection, the term ‘per-pupil fa-*  
4 *cilities aid program’ means a program in which a*  
5 *State makes payments, on a per-pupil basis, to char-*  
6 *ter schools to provide the schools with financing—*

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

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

11       “(2) *GRANTS.*—

12                       “(A) *IN GENERAL.*—*From the amount re-*  
13 *served under section 5202(b)(1) remaining after*  
14 *the Secretary makes grants under subsection (a),*  
15 *the Secretary shall make grants, on a competi-*  
16 *tive basis, to States to pay for the Federal share*  
17 *of the cost of establishing or enhancing, and ad-*  
18 *ministering per-pupil facilities aid programs.*

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

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

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

4           “(ii) 80 percent in the second such  
5           year;

6           “(iii) 60 percent in the third such  
7           year;

8           “(iv) 40 percent in the fourth such  
9           year; and

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

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

17           “(E) *MULTIPLE GRANTS*.—A State may re-  
18           ceive more than 1 grant under this subsection, so  
19           long as the amount of such funds provided to  
20           charter schools increases with each successive  
21           grant.

22           “(3) *USE OF FUNDS*.—

23           “(A) *IN GENERAL*.—A State that receives a  
24           grant under this subsection shall use the funds  
25           made available through the grant to establish or

1           *enhance, and administer, a per-pupil facilities*  
2           *aid program for charter schools in the State of*  
3           *the applicant.*

4           “(B) *EVALUATIONS; TECHNICAL ASSIST-*  
5           *ANCE; DISSEMINATION.—From the amount made*  
6           *available to a State through a grant under this*  
7           *subsection for a fiscal year, the State may re-*  
8           *serve not more than 5 percent to carry out eval-*  
9           *uations, to provide technical assistance, and to*  
10          *disseminate information.*

11          “(C) *SUPPLEMENT, NOT SUPPLANT.—Funds*  
12          *made available under this subsection shall be*  
13          *used to supplement, and not supplant, State,*  
14          *and local public funds expended to provide per*  
15          *pupil facilities aid programs, operations financ-*  
16          *ing programs, or other programs, for charter*  
17          *schools.*

18          “(4) *REQUIREMENTS.—*

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

22                 “(B) *STATE LAW.—*

23                         “(i) *IN GENERAL.—To be eligible to re-*  
24                         *ceive a grant under this subsection, a State*  
25                         *shall establish or enhance, and administer,*

1           *a per-pupil facilities aid program for char-*  
2           *ter schools in the State, that—*

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

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

7                     *“(ii) SPECIAL RULE.—A State that is*  
8                     *required under State law to provide its*  
9                     *charter schools with access to adequate facil-*  
10                    *ity space may be eligible to receive a grant*  
11                    *under this subsection if the State agrees to*  
12                    *use the funds to develop a per-pupil facili-*  
13                    *ties aid program consistent with the re-*  
14                    *quirements of this subsection.*

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

20   **SEC. 7. NATIONAL ACTIVITIES.**

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

23   **“SEC. 5205. NATIONAL ACTIVITIES.**

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

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

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

5                   “(A) disseminate technical assistance to  
6                   State entities in awarding subgrants under sec-  
7                   tion 5203;

8                   “(B) disseminate best practices; and

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

12          “(b) GRANTS.—

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

18                  “(2) TERMS AND CONDITIONS.—Except as other-  
19                  wise provided in this subsection, grants awarded  
20                  under this subsection shall have the same terms and  
21                  conditions as grants awarded to State entities under  
22                  section 5203.

23                  “(3) ELIGIBLE APPLICANT DEFINED.—For pur-  
24                  poses of this subsection, the term ‘eligible applicant’

1 means an eligible applicant that desires to open a  
2 charter school in—

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

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

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

10 “(c) *CONTRACTS AND GRANTS.*—The Secretary may  
11 carry out any of the activities described in this section di-  
12 rectly or through grants, contracts, or cooperative agree-  
13 ments.”.

14 **SEC. 8. RECORDS TRANSFER.**

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

16 (1) by inserting “as quickly as possible and” be-  
17 fore “to the extent practicable”; and

18 (2) by striking “section 602” and inserting “sec-  
19 tion 602(14)”.

20 **SEC. 9. DEFINITIONS.**

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

22 (1) in paragraph (1)—

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

1           (B) by striking the period at the end of sub-  
2           paragraph (L) and inserting “; and”; and

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

4           “(M) may serve prekindergarten or post sec-  
5           ondary students.”;

6           (2) in paragraph (3)(B), by striking “under sec-  
7           tion 5203(d)(3)”; and

8           (3) by inserting at the end the following:

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

14          “(6) *HIGH-QUALITY CHARTER SCHOOL.—The*  
15          *term ‘high-quality charter school’ means a charter*  
16          *school that—*

17                 “(A) shows evidence of strong academic re-  
18                 sults, which may include strong academic growth  
19                 as determined by a State;

20                 “(B) has no significant issues in the areas  
21                 of student safety, financial management, or stat-  
22                 utory or regulatory compliance;

23                 “(C) has demonstrated success in signifi-  
24                 cantly increasing student academic achievement

1           *and attainment for all students served by charter*  
 2           *schools; and*

3                   “(D) *has demonstrated success in increasing*  
 4           *student academic achievement for the subgroups*  
 5           *of students described in section*  
 6           *1111(b)(2)(C)(v)(II).*

7           “(7) *REPLICABLE, HIGH-QUALITY CHARTER*  
 8           *SCHOOL MODEL.—The term ‘replicable, high-quality*  
 9           *charter school model’ means a high-quality charter*  
 10           *school that will open a new campus under an existing*  
 11           *charter.”.*

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

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

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

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

19 **SEC. 11. CONFORMING AMENDMENTS.**

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

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

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

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

1           (2) *by striking the item relating to section 5204*

2           *and inserting the following:*

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

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



Union Calendar No. 117

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

**H. R. 2218**

[Report No. 112-178]

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**A BILL**

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

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JULY 22, 2011

Reported with an amendment, committed to the Com-  
mittee of the Whole House on the State of the Union,  
and ordered to be printed