

112TH CONGRESS
1ST SESSION

H. R. 2218

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

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

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 re-
9 pealed, such amendment or repeal shall be considered to
10 be made to that section or other provision of the Elemen-

1 tary and Secondary Education Act of 1965 (20 U.S.C.
2 6301 et seq.).

3 **SEC. 3. PURPOSE.**

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

6 **“SEC. 5201. PURPOSE.**

7 “It is the purpose of this subpart to—

8 “(1) provide financial assistance for the plan-
9 ning, program design, and initial implementation of
10 charter schools;

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

13 “(3) evaluate the impact of such schools on stu-
14 dent achievement, families, and communities, and
15 share best practices with other public schools;

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

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

1 “(6) support efforts to strengthen the charter
2 school authorizing process to improve performance
3 management, including transparency, monitoring,
4 and evaluation of such schools.”.

5 **SEC. 4. PROGRAM AUTHORIZED.**

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

8 **“SEC. 5202. PROGRAM AUTHORIZED.**

9 “(a) IN GENERAL.—This subpart authorizes the Sec-
10 retary to carry out a charter school program that supports
11 charter schools that serve elementary school and sec-
12 ondary school students by—

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

15 “(2) assisting charter schools in accessing cred-
16 it to acquire and renovate facilities for school use;
17 and

18 “(3) carrying out national activities to support
19 charter school development, the dissemination of
20 best practices of charter schools for all schools, and
21 the evaluation of the impact of the program on
22 schools participating in the program.

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

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

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

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

8 “(c) PRIOR GRANTS AND SUBGRANTS.—The recipi-
9 ent of a grant or subgrant under this subpart, as such
10 subpart was in effect on the day before the date of enact-
11 ment of the Empowering Parents through Quality Charter
12 Schools Act, shall continue to receive funds in accordance
13 with the terms and conditions of such grant or subgrant.”.

14 **SEC. 5. GRANTS TO SUPPORT QUALITY CHARTER SCHOOLS.**

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

17 **“SEC. 5203. GRANTS TO SUPPORT QUALITY CHARTER**
18 **SCHOOLS.**

19 “(a) IN GENERAL.—From the amount reserved
20 under section 5202(b)(3), the Secretary shall award
21 grants to State entities having applications approved pur-
22 suant to subsection (e) to enable such entities to—

23 “(1) award subgrants to eligible applicants
24 for—

25 “(A) new charter schools;

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

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

5 “(2) provide technical assistance (which may be
6 provided by awarding subgrants to other entities) to
7 eligible applicants and authorized public chartering
8 agencies in carrying out the activities described in
9 paragraph (1) and work with authorized public char-
10 tering agencies in the State to improve the author-
11 izing quality.

12 “(b) STATE USES OF FUNDS.—

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

15 “(A) use 90 percent of the grant funds for
16 activities to support quality charter schools de-
17 scribed in the entity’s application approved pur-
18 suant to subsection (e) by carrying out a qual-
19 ity charter school program to award subgrants
20 to eligible applicants for the purposes described
21 in subparagraphs (A) through (C) of subsection
22 (a)(1); and

23 “(B) reserve 10 percent of such funds to
24 carry out the activities described in subsection
25 (a)(2), of which not more than 30 percent may

1 be used for administrative costs (including the
2 costs for providing the technical assistance de-
3 scribed in subsection (a)(2)).

4 “(2) ADMINISTRATIVE COSTS.—A State entity
5 receiving a grant under this section may not use
6 more than 30 percent of the funds reserved under
7 paragraph (1)(B) for administrative costs, which
8 may include providing the technical assistance de-
9 scribed in subsection (a)(2).

10 “(c) PROGRAM PERIODS; PEER REVIEW; DIVERSITY
11 OF PROJECTS.—

12 “(1) PROGRAM PERIODS.—

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

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

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

1 “(3) DIVERSITY OF PROJECTS.—Each State en-
2 tity receiving a grant under this section, shall award
3 subgrants under this section in a manner that, to
4 the extent possible, ensures that such subgrants—

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

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

10 “(d) LIMITATIONS.—

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

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

17 “(e) APPLICATIONS.—A State entity desiring to re-
18 ceive a grant under this section shall submit an application
19 to the Secretary at such time and in such manner as the
20 Secretary may require. The application shall include the
21 following:

22 “(1) DESCRIPTION OF PROGRAM.—A descrip-
23 tion of the entity’s objectives in running a quality
24 charter school program under this section and how

1 the objectives of such program will be carried out,
2 including a description—

3 “(A) of how the entity—

4 “(i) will support both new charter
5 school start up and the expansion and rep-
6 lication of high-quality charter school mod-
7 els;

8 “(ii) will inform eligible charter
9 schools, developers, and authorized public
10 chartering agencies of the availability of
11 funds under this program;

12 “(iii) will work with eligible applicants
13 to ensure that the applicants access all
14 Federal funds that they are eligible to re-
15 ceive, and ensure charter schools and stu-
16 dents attending charter schools will receive
17 the commensurate share of Federal funds
18 the schools and students are eligible to re-
19 ceive and participate;

20 “(iv) will support efforts to increase
21 quality initiatives for charter schools;

22 “(v) in the case in which the entity is
23 not a State educational agency—

24 “(I) will work with the State edu-
25 cational agency and the charter

1 schools in the State to maximize char-
2 ter school participation in Federal and
3 State programs for charter schools;
4 and

5 “(II) will work with the State
6 educational agency, where applicable,
7 to adequately operate the subgrant
8 program under this section;

9 “(vi) will ensure eligible applicants
10 that receive a subgrant under this section
11 are prepared to continue to operate once
12 the subgrant funds have expired;

13 “(vii) will support charter schools in
14 local educational agencies with large num-
15 bers of schools that must comply with the
16 requirements of section 1116(b);

17 “(viii) will work with charter schools
18 to promote inclusion of all students, en-
19 gage in additional recruitment efforts with
20 respect to groups that might otherwise
21 have limited opportunities to participate in
22 the charter school’s program, and support
23 students once they are admitted to the
24 school to help avoid drop outs and trans-
25 fers;

1 “(ix) will ensure the charter schools
2 they support can meet the educational
3 needs of their students, including students
4 with disabilities and English language
5 learners; and

6 “(x) will meet the quality authorizing
7 elements described in paragraph (2)(F);

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

9 “(i) is able to meet and implement the
10 priorities listed in subsection (f)(2); and

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

17 “(C) in the case of an entity that partners
18 with an outside organization, of what respon-
19 sibilities the organization will have in carrying
20 out the quality charter school program under
21 this section.

22 “(2) ASSURANCES.—An assurance, including a
23 description of how the assurance will be met, that—

1 “(A) each charter school receiving funds
2 under the entity’s program will have a high de-
3 gree of autonomy;

4 “(B) the entity will support charter schools
5 so they will meet the educational needs of their
6 students as described in paragraph (1)(A)(ix);

7 “(C) the entity will ensure that the author-
8 ized public chartering agency of any charter
9 school that receives funds under the entity’s
10 program—

11 “(i) ensures that the charter school
12 can meet the obligations under this Act,
13 the Individuals with Disabilities Education
14 Act, the Civil Rights Act of 1964, and the
15 Rehabilitation Act of 1974; and

16 “(ii) adequately monitors and helps
17 the schools meet the needs of students with
18 disabilities and English language learners;

19 “(D) the entity will award subgrants to eli-
20 gible applicants that provide such funds to
21 charter schools that offer an evidence-based,
22 quality academic experience;

23 “(E) the entity will provide adequate tech-
24 nical assistance to eligible applicants to—

1 “(i) meet the recruiting practices de-
2 scribed in paragraph (1)(A)(viii);

3 “(ii) meet the educational needs of
4 their students, including through activities
5 described in paragraph (1)(A)(ix); and

6 “(iii) enroll students with disabilities,
7 English language learners, and other tradi-
8 tionally underserved populations at a rate
9 similar to traditional public schools in the
10 area; and

11 “(F) the entity will award support quality
12 authorizing that will help all authorized public
13 chartering agencies in the State to adequately
14 monitor their charter schools, including by—

15 “(i) using annual performance data to
16 ensure their charter schools are successful;

17 “(ii) assisting their charter schools to
18 conduct annual financial audits, as re-
19 quired under State and Federal law; and

20 “(iii) utilizing quality control meas-
21 ures.

22 “(3) REQUESTS FOR WAIVERS.—A request and
23 justification for waivers of any Federal statutory or
24 regulatory provisions that the entity believes are nec-
25 essary for the successful operation of the charter

1 schools that will receive funds under the entity’s pro-
2 gram under this section, and a description of any
3 State or local rules, generally applicable to public
4 schools, that will be waived, or otherwise not apply
5 to such schools.

6 “(f) SELECTION CRITERIA; PRIORITY.—

7 “(1) SELECTION CRITERIA.—The Secretary
8 shall award grants to State entities under this sec-
9 tion on the basis of the quality of the applications
10 submitted under subsection (e), after taking into
11 consideration—

12 “(A) the degree of flexibility afforded by
13 the State’s public charter school law and how
14 the entity will work to maximize the flexibility
15 provided to charter schools under the law;

16 “(B) the ambitiousness of the State enti-
17 ty’s objectives for the quality charter school
18 program carried out under this section;

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

21 “(D) the likelihood that the eligible appli-
22 cants receiving subgrants under the program
23 will meet those objectives and improve edu-
24 cational results for students;

1 “(E) the number of new, expanded, or rep-
2 licated charter schools proposed to be opened,
3 and the number of high quality charter schools
4 to be replicated or expanded under the pro-
5 gram, by such eligible applicants;

6 “(F) the entity’s plan to adequately mon-
7 itor its subgrantees and work with the author-
8 ized public chartering agencies to avoid duplica-
9 tion of work for the schools and authorized pub-
10 lic chartering agencies;

11 “(G) the entity’s plan to provide adequate
12 technical assistance, as described in the entity’s
13 application under subsection (e), for the eligible
14 applicants receiving subgrants under this sec-
15 tion; and

16 “(H) the entity’s plan to support quality
17 authorizing efforts in the State.

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

22 “(A) In the case of a State that allows
23 more than the State educational agency or a
24 local educational agency to be an authorized
25 public chartering agency, has a quality author-

1 ized public chartering agency other than the
2 State educational agency.

3 “(B) The State entity does not impose any
4 limitation on the number or percentage of char-
5 ter schools that may exist or the number or
6 percentage of students that may attend charter
7 schools in the State.

8 “(C) The State entity ensures equitable fi-
9 nancing, as compared to traditional public
10 schools, for charter schools and students in a
11 prompt manner.

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

14 “(E) The State entity will work with the
15 traditional public school system to include char-
16 ter school operators in decisions about the pub-
17 lic school system in the State.

18 “(F) The State entity uses charter schools
19 to help turn around struggling schools and local
20 educational agencies.

21 “(G) The State entity provides for or
22 works with the State educational agency to pro-
23 vide an appeals process for charter schools who
24 have been denied an application for a charter
25 school.

1 “(H) The State entity partners with an or-
2 ganization that has a demonstrated record of
3 success in developing management organiza-
4 tions to support the development of charter
5 schools in the State.

6 “(g) LOCAL USES OF FUNDS.—An eligible applicant
7 receiving a subgrant under this section shall use such
8 funds to—

9 “(1) open new charter schools and high-quality
10 charter school models that are replicable, or expand
11 existing high-quality charter schools; and

12 “(2) support quality authorizing.

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

18 “(1) the number of students served and, if ap-
19 plicable how many new students were served during
20 each year of the grant period;

21 “(2) the number of subgrants awarded under
22 this section for—

23 “(A) new charter schools;

24 “(B) replicable charter schools; and

25 “(C) the expansion of charter schools;

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

4 “(4) how the entity met the objectives described
5 in the entity’s application under subsection (e);

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

9 “(6) how the entity worked with authorized
10 public chartering agencies, including how the agen-
11 cies worked with the management company or lead-
12 ership of the schools in which the subgrants were
13 awarded.

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

16 “(1) a State educational agency;

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

18 “(3) a Governor of a State.”.

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

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

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

23 “(a) GRANTS TO ELIGIBLE ENTITIES.—

24 “(1) IN GENERAL.—From the amount reserved
25 under section 5202(b)(1), the Secretary shall award

1 not less than 3 grants to eligible entities that have
2 applications approved under subsection (d) to dem-
3 onstrate innovative methods of assisting charter
4 schools to address the cost of acquiring, con-
5 structing, and renovating facilities by enhancing the
6 availability of loans or bond financing.

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

10 “(A) a public entity, such as a State or
11 local governmental entity;

12 “(B) a private nonprofit entity; or

13 “(C) a consortium of entities described in
14 subparagraphs (A) and (B).

15 “(b) GRANTEE SELECTION.—

16 “(1) EVALUATION OF APPLICATION.—The Sec-
17 retary shall evaluate each application submitted
18 under subsection (d), and shall determine whether
19 the application is sufficient to merit approval.

20 “(2) DISTRIBUTION OF GRANTS.—The Sec-
21 retary shall award at least one grant to an eligible
22 entity described in subsection (a)(2)(A), at least one
23 grant to an eligible entity described in subsection
24 (a)(2)(B), and at least one grant to an eligible entity
25 described in subsection (a)(2)(C), if applications are

1 submitted that permit the Secretary to do so without
2 approving an application that is not of sufficient
3 quality to merit approval.

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

9 “(d) APPLICATIONS.—

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

14 “(2) CONTENTS.—An application submitted
15 under paragraph (1) shall contain—

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

22 “(B) a description of the involvement of
23 charter schools in the application’s development
24 and the design of the proposed activities;

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

3 “(D) a description of how the proposed ac-
4 tivities will leverage the maximum amount of
5 private-sector financing capital relative to the
6 amount of government funding used and other-
7 wise enhance credit available to charter schools,
8 including how the entity will offer a combina-
9 tion of rates and terms more favorable than the
10 rates and terms that a charter school could re-
11 ceive without assistance from the entity under
12 this section;

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

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

24 “(e) CHARTER SCHOOL OBJECTIVES.—An eligible
25 entity receiving a grant under this section shall use the

1 funds deposited in the reserve account established under
2 subsection (f) to assist one or more charter schools to ac-
3 cess private sector capital to accomplish one or both of
4 the following objectives:

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

11 “(2) The construction of new facilities, includ-
12 ing predevelopment costs, or the renovation, repair,
13 or alteration of existing facilities, necessary to com-
14 mence or continue the operation of a charter school.

15 “(f) RESERVE ACCOUNT.—

16 “(1) USE OF FUNDS.—To assist charter schools
17 to accomplish the objectives described in subsection
18 (e), an eligible entity receiving a grant under this
19 subsection (a) shall, in accordance with State and
20 local law, directly or indirectly, alone or in collabora-
21 tion with others, deposit the funds received under
22 subsection (a) (other than funds used for adminis-
23 trative costs in accordance with subsection (g)) in a
24 reserve account established and maintained by the
25 eligible entity for this purpose. Amounts deposited in

1 such account shall be used by the eligible entity for
2 one or more of the following purposes:

3 “(A) Guaranteeing, insuring, and rein-
4 suring bonds, notes, evidences of debt, loans,
5 and interests therein, the proceeds of which are
6 used for an objective described in subsection
7 (e).

8 “(B) Guaranteeing and insuring leases of
9 personal and real property for an objective de-
10 scribed in subsection (e).

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

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

24 “(2) INVESTMENT.—Funds received under this
25 section and deposited in the reserve account estab-

1 lished under paragraph (1) shall be invested in obli-
2 gations issued or guaranteed by the United States or
3 a State, or in other similarly low-risk securities.

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

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

14 “(h) AUDITS AND REPORTS.—

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

21 “(2) REPORTS.—

22 “(A) GRANTEE ANNUAL REPORTS.—Each
23 eligible entity receiving a grant under sub-
24 section (a) annually shall submit to the Sec-

1 retary a report of its operations and activities
2 under this section.

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

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

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

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

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

1 “(v) a description of the activities car-
2 ried out by the eligible entity to assist
3 charter schools in meeting the objectives
4 set forth in subsection (e); and

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

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

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

1 made by an eligible entity pursuant to any provision of
2 this section.

3 “(j) RECOVERY OF FUNDS.—

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

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

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

23 “(2) EXERCISE OF AUTHORITY.—The Secretary
24 shall not exercise the authority provided in para-
25 graph (1) to collect from any eligible entity any

1 funds that are being properly used to achieve one or
2 more of the purposes described in subsection (f)(1).

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

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

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

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

17 “(A) that is dedicated solely for funding
18 charter school facilities; or

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

21 “(2) GRANTS.—

22 “(A) IN GENERAL.—From the amount re-
23 served under section 5202(b)(1) remaining
24 after the Secretary makes grants under sub-
25 section (a), the Secretary shall make grants, on

1 a competitive basis, to States to pay for the
2 Federal share of the cost of establishing or en-
3 hancing, and administering per-pupil facilities
4 aid programs.

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

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

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

15 “(ii) 80 percent in the second such
16 year;

17 “(iii) 60 percent in the third such
18 year;

19 “(iv) 40 percent in the fourth such
20 year; and

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

22 “(D) STATE SHARE.—A State receiving a
23 grant under this subsection may partner with 1
24 or more organizations to provide up to 50 per-
25 cent of the State share of the cost of estab-

1 lishing or enhancing, and administering per-
2 pupil facilities aid program.

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

8 “(3) USE OF FUNDS.—

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

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

22 “(C) SUPPLEMENT, NOT SUPPLANT.—
23 Funds made available under this subsection
24 shall be used to supplement, and not supplant,
25 State, and local public funds expended to pro-

1 vide per pupil facilities aid programs, oper-
2 ations financing programs, or other programs,
3 for charter schools.

4 “(4) REQUIREMENTS.—

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

8 “(B) STATE LAW.—

9 “(i) IN GENERAL.—To be eligible to
10 receive a grant under this subsection, a
11 State shall establish or enhance, and ad-
12 minister, a per-pupil facilities aid program
13 for charter schools in the State, that—

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

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

18 “(ii) SPECIAL RULE.—A State that is
19 required under State law to provide its
20 charter schools with access to adequate fa-
21 cility space may be eligible to receive a
22 grant under this subsection if the State
23 agrees to use the funds to develop a per-
24 pupil facilities aid program consistent with
25 the requirements of this subsection.

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

6 **SEC. 7. NATIONAL ACTIVITIES.**

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

9 **“SEC. 5205. NATIONAL ACTIVITIES.**

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

12 “(1) use not less than 50 percent of such funds
13 to award startup grants in accordance with sub-
14 section (b); and

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

16 “(A) disseminate technical assistance to
17 State entities in awarding subgrants under sec-
18 tion 5203;

19 “(B) disseminate best practices; and

20 “(C) evaluate the impact of the charter
21 school program carried out under this subpart.

22 “(b) STARTUP GRANTS.—

23 “(1) IN GENERAL.—The Secretary shall make
24 grants, on a competitive basis, to eligible applicants

1 for the purpose of carrying out the activities de-
2 scribed in section 5202(a)(1).

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

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

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

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

14 “(c) CONTRACTS AND GRANTS.—The Secretary may
15 carry out any of the activities described in this section di-
16 rectly or through grants to, or contracts or cooperative
17 agreements with, State educational agencies, local edu-
18 cational agencies, and other public and private agencies.”.

19 **SEC. 8. RECORDS TRANSFER.**

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

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

23 (2) by striking “section 602” and inserting
24 “section 602(14)”.

1 **SEC. 9. DEFINITIONS.**

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

3 (1) in paragraph (1)—

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

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

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

9 “(M) may serve prekindergarten or post
10 secondary students.”;

11 (2) in paragraph (3), by striking “under section
12 5203(d)(3)”;

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

14 “(5) **REPLICABLE CHARTER SCHOOL MODEL.**—
15 The term ‘replicable charter school model’ means a
16 high-quality charter school that will open a new
17 campus under an existing charter.

18 “(6) **EXPANSION OF A HIGH-QUALITY CHARTER**
19 **SCHOOL.**—The term ‘expansion of a high-quality
20 charter school’ means a high-quality charter school
21 that either significantly increases its enrollment or
22 adds one or more grades to its school.

23 “(7) **HIGH-QUALITY CHARTER SCHOOL.**—The
24 term ‘high-quality charter school’ is a charter school
25 that—

1 “(A) shows evidence of strong academic re-
2 sults;

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

6 “(C) has demonstrated success in signifi-
7 cantly increasing student academic achievement
8 and attainment for all students, including edu-
9 cationally disadvantaged students described in
10 section 1111(b)(2)(C)(v)(II)(aa), served by
11 charter schools; and

12 “(D) has demonstrated success in closing
13 historic achievement gaps for the subgroups of
14 students described in section
15 1111(b)(2)(C)(v)(II).”.

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

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

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

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

23 **SEC. 11. CONFORMING AMENDMENTS.**

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

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

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

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

5 and

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

“Sec. 5204. Facilities Financing Assistance.”.

