



Elementary and Secondary Education Act Reauthorization: Comparison of Proposed Charter School Legislation (H.R. 2218) and Current Law

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Summary

The primary source of federal aid to K-12 education is the Elementary and Secondary Education Act (ESEA). The ESEA was initially enacted in 1965 (P.L. 89-10), and was most recently amended and reauthorized by the No Child Left Behind Act of 2001 (NCLB, P.L. 107-110), which authorized virtually all ESEA programs through FY2008. The 112th Congress is actively engaged in work to amend the ESEA. On June 16, 2011, Representative Duncan Hunter, Chairman of the Early Childhood, Elementary, and Secondary Education Subcommittee of the House Education and the Workforce Committee, introduced the Empowering Parents through Quality Charter Schools Act (H.R. 2218). The bill was subsequently ordered reported by the House Education and Workforce Committee on July 22, 2011 (H.Rept. 112-178). This bill would modify the existing Charter Schools Program, Per-Pupil Facilities Aid program, and Credit Enhancement Initiatives to Assist Charter School Facility Acquisition, Construction, and Renovation program (hereinafter referred to as the Credit Enhancement program) currently authorized under ESEA Title V-B-1 and 2.

H.R. 2218 would make substantial changes to Title V-B-1 and 2, while preserving many of the provisions of current law, albeit in a different structure. Some of the most substantial changes that would be made by H.R. 2218 include the following:

- Expand the scope of the Charter School Program to include funding for new charter schools; replicable, high-quality charter school models; and the expansion of high-quality charter schools.
- Change applicant eligibility for the Charter School Program.
- Extend the grant period under the Charter School Program from up to three years to up to five years for both state entities receiving grants from the Secretary of Education and eligible applicants receiving grants from state entities.
- Emphasize the need for charter schools to serve all students, including children with disabilities and English language learners, and increase the focus placed on having a quality chartering process at the state and local levels.
- Retain both the Per-Pupil Facilities Aid program and the Credit Enhancement program with provisions similar to those contained in current law, but restructure current law provisions to authorize both programs under a new section entitled Facilities Financing Assistance. Priority would be given to using funds for the Credit Enhancement program over the use of funds for the Per-Pupil Facilities Aid program.
- Change the use of funds for national activities to focus on providing charter school startup grants to eligible applicants and disseminating technical assistance to state entities in awarding subgrants, disseminating best practices, and evaluating the impact of the charter school program.
- Alter the authorization of funds for all three charter school programs, as well as for national activities, authorizing 15% of the total appropriation for Facilities Financing Assistance, up to 5% for national activities, and the remaining funds for the Charter School Program.

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The primary source of federal aid to K-12 education is the Elementary and Secondary Education Act (ESEA). The ESEA was initially enacted in 1965 (P.L. 89-10), and was most recently amended and reauthorized by the No Child Left Behind Act of 2001 (NCLB, P.L. 107-110), which authorized virtually all ESEA programs through FY2008.

The 112th Congress is actively engaged in work to amend the ESEA. On June 16, 2011, Representative Duncan Hunter, Chairman of the Early Childhood, Elementary, and Secondary Education Subcommittee of the House Education and the Workforce Committee, introduced the Empowering Parents through Quality Charter Schools Act (H.R. 2218). The bill was subsequently ordered reported by the House Education and Workforce Committee on July 22, 2011 (H.Rept. 112-178). This bill would modify the existing Charter Schools Program, Per-Pupil Facilities Aid programs, and Credit Enhancement Initiatives to Assist Charter School Facility Acquisition, Construction, and Renovation program (hereinafter referred to as the Credit Enhancement program) currently authorized under ESEA Title V-B-1 and 2.

More specifically, ESEA Title V-B-1 authorizes the Charter School Program, which provides grants to state educational agencies (SEAs) or, if a state's SEA chooses not to apply for a grant, charter school developers, to support the development and initial implementation of public charter schools. Priority in awarding grants is to be given to states with charter school policies meeting such criteria as holding charter schools accountable for meeting clear and measurable objectives, or establishing one or more public chartering agencies that are not LEAs. Up to 5% of program funds may be reserved by ED for technical assistance to, as well as studies of, charter schools. ESEA Title V-B-1 also authorizes the Per-Pupil Facilities Aid program. Under this program, the Secretary provides competitive grants to states to pay the federal share of establishing or enhancing, and administering, Per-Pupil Facilities Aid program for charter schools. ESEA Title V-B-2 authorizes the Credit Enhancement program. Under this program, ED awards competitive grants to three or more entities to demonstrate innovative ways to help charter schools acquire appropriate facilities.

The first section of this report provides an overview of major differences between current law and the House reported version of H.R. 2218, including an examination of changes to program authorizations and set-asides for administration. This is followed by an analysis of the proposed statutory language in H.R. 2218 compared with current law. The analysis focuses on major differences between the proposed language and current law. It does not attempt to identify every difference between the two.

Overview of Major Differences Between Current Law and H.R. 2218

H.R. 2218 would make substantial changes to ESEA Title V-B-1 and 2 while preserving many of the provisions of current law, albeit in a different structure. Some of the most substantial differences between H.R. 2218 and current law include the following:

- Under current law, grants may be awarded to SEAs to make subgrants to eligible applicants for planning and program design, initial implementation of a charter school, and dissemination activities, such as assisting other individuals with the start-up of another charter school or partnering with other schools to improve

student achievement. H.R. 2218 eliminates dissemination activities as a use of funds and specifies that grants may be used for new charter schools; replicable, high-quality charter school models; and the expansion of high-quality charter schools. While the expansion and replication of charter schools is not included in current law, funds under the Charter School Program may be used for these purposes currently based on changes made by appropriations acts.¹

- Under current law, only SEAs are generally eligible to apply for grants under the Charter School Program. H.R. 2218 would extend eligibility to include state charter school boards and governors.
- Under current law, an eligible applicant (i.e., charter school developer meeting specific criteria) is able to apply directly to the Secretary of Education (hereinafter referred to as the Secretary) for a grant under the Charter School Program if the SEA does not apply. H.R. 2218 would not permit an eligible applicant to apply directly for a grant under this program. However, under national activities (Section 5205), H.R. 2218 would permit the Secretary to award grants directly to eligible applicants located in states that did not apply for a grant, were not awarded a grant, or are in the fourth or fifth year of their grant period.
- Under current law, grants to SEAs and eligible applicants are made for a period of not more than three years. Under H.R. 2218, grants would be made to state entities and eligible entities for a period of not more than five years.
- H.R. 2218 would specifically address the need for charter schools to be inclusive, including with respect to children with disabilities and English language learners. Current law does not address this issue specifically.
- Under H.R. 2218, eligible entities would be required to reserve 10% of their funds to provide technical assistance to eligible applicants and chartering agencies in opening, expanding, and replicating charter schools, as well as working with chartering agencies to improve the authorizing process. Under current law, the authorizing process is not addressed in this manner. However, requirements included in appropriations acts have increased the emphasis placed on the support and monitoring of chartering agencies.²
- H.R. 2218 would continue to authorize both the Per-Pupil Facilities Aid program and the Credit Enhancement program with provisions similar to those contained in current law,³ but it restructures current law provisions to authorize both

¹ See, for example, P.L. 111-117.

² See, for example, P.L. 111-117.

³ Under the Per-Pupil Facilities Aid program, the Secretary provides competitive grants to states to pay the federal share of establishing or enhancing, and administering, Per-Pupil Facilities Aid program for charter schools. Under the Credit Enhancement program, ED awards competitive grants to three or more entities to demonstrate innovative ways to help charter schools acquire appropriate facilities.

programs under a new section entitled Facilities Financing Assistance.⁴ Priority would be given to using funds for the Credit Enhancement program over the use of funds for the Per-Pupil Facilities Aid program.

- Under current law, the Secretary is authorized to reserve funds to carry out several types of national activities, including providing information to charter schools about their eligibility to receive federal funds, evaluating the impact of charter schools on student academic achievement, providing technical assistance, disseminating information on promising charter school practices, providing for the collection of information on the financial resources available to charter schools, and carrying out evaluations and technical assistance related to the Per-Pupil Facilities Aid program. The Per-Pupil Facilities Aid program is also authorized under national activities in current law. Under H.R. 2218, at least half of the funds reserved for national activities would be used to provide start-up grants directly to eligible applicants. The remainder of the funds would be used to disseminate technical assistance to state entities in awarding subgrants, disseminate best practices, and evaluate the impact of the charter school program. The Per-Pupil Facilities Aid program would be authorized under a new section (Section 5204) focused on facilities financing.

H.R. 2218 would also alter the authorization of appropriations for all three programs, as well as for national activities. Under H.R. 2218, 15% of the total appropriation for Title V-B-1 would be used for Facilities Financing Assistance (Section 5204), up to 5% for national activities (Section 5205), and the remaining funds for the Charter School Program (Section 5203). Under current law, \$200 million of the total appropriation is reserved for Title V-B-1 activities other than the Per-Pupil Facilities Assistance program (i.e., for the Charter School Program and national activities). Any funds in excess of \$200 million but not greater than \$300 million are used for the Per-Pupil Facilities Assistance program. Any appropriations in excess of \$300 million are divided evenly between Title V-B-1 activities other than the Per-Pupil Facilities Assistance program and the Per-Pupil Facilities Assistance program. Funding for national activities is the greater of 5% or \$5 million of the amount appropriated for Title V-B-1, but funding may not exceed \$8 million. The Credit Enhancement program (Title V-B-2) has a separate authorization. In recent years, Congress has appropriated funds for the Charter School Program and specified an amount that the Secretary may use for both the Per-Pupil Facilities Assistance program and the Credit Enhancement program, as well as for national activities, through appropriations acts.⁵ Differences between authorizations of funds under current law and H.R. 2218 are summarized in **Table 1**.

⁴ Both programs would be authorized under Section 5204. Title V-B-2 of current law would be repealed.

⁵ For example, in FY2010 the Charter School Program (Title V-B-1) received an appropriation of \$256 million in the Consolidated Appropriations Act, 2010 (P.L. 111-117). The Secretary was permitted to use up to \$23 million of these funds for the Per-Pupil Facilities Assistance program and the Credit Enhancement program. Statutory language also specified that \$10 million be reserved from the amount appropriated for the Charter School Program for national activities.

Table 1. Program Appropriations for Charter School Program Activities Authorized Under Title V-B-1 and 2 of the ESEA and Under H.R. 2218, as Reported

Program/Activity	Current Law	H.R. 2218, as Reported
Charter School Program	Initially, \$200 million is provided for these activities. Half of any funds in excess of \$300 million is also provided for these activities. National activities may receive the greater of 5% of the amount appropriated for Title V-B-1 or \$5 million but is capped at \$8 million.	All funds not otherwise reserved are provided for this program.
National activities		Up to 5% of total appropriation reserved for these activities.
Per-Pupil Facilities Assistance program	Initially, any funding in excess of \$200 million but not greater than \$300 million is provided for this program. Half of any funds in excess of \$300 million is also provided for this program.	15% of total appropriation reserved for these activities. Funds must be used to support the Credit Enhancement program prior to being used for the Per-Pupil Facilities Assistance program.
Credit Enhancement program	Separate authorization providing funds for this program (Title V-B-2).	

Source: Table prepared by CRS, September 2, 2011, based on CRS analysis of ESEA current law and H.R. 2218 as reported.

In addition to altering authorizations of appropriations, H.R. 2218 would also change the percentage of funds that could be used for administration under the Charter School Program and the Credit Enhancement program. These differences are depicted on **Table 2**.

Table 2. Set-Asides for Administrative Expenses for Charter School Program Activities Authorized Under Title V-B-1 and 2 of the ESEA and Under H.R. 2218, as Reported

Program/Activity	Current Law	H.R. 2218, as Reported
Charter School Program	Each SEA may reserve not more than 5% of grant funds for administrative expenses.	Each state entity may use up to 3% of grant funds for administrative costs.
Per-Pupil Facilities Assistance program	Not included. ^a	Not included. ^a
Credit Enhancement program	0.25% for administrative costs.	2.5% for administrative costs.

Source: Table prepared by CRS, September 2, 2011, based on CRS analysis of ESEA current law and H.R. 2218 as reported.

a. Funds received by a state under this program may be used to establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the state.

H.R. 2218 also changes the structure of Title V-B-1 and 2. **Table 3** summarizes these structural changes.

Table 3. Overview of the Current Structure of ESEA Title V-B-1 and 2 and Proposed Changes to This Structure Made by H.R. 2218

Current Law	H.R. 2218, as Reported	Comments
Subpart 1: Charter School Programs		
Section 5201: Purpose	Section 5201: Purpose	H.R. 2218 maintains many of the current program purposes and expands on the purpose of the program.
Section 5202: Program Authorized	Section 5202: Program Authorized	H.R. 2218 changes the purposes for which grants can be made.
Section 5203: Applications	Section 5203: Grants to Support High-Quality Charter Schools	H.R. 2218 makes substantial changes to the grant program.
Section 5204: Administration	Section 5204: Facilities Financing Assistance	H.R. 2218 moves the Credit Enhancement program authorized under Title V-B-2 and the majority of its provisions to Section 5204. The bill also moves the Per-Pupil Facilities Aid program from Section 5205(b) to Section 5204.
Section 5205: National Activities	Section 5205: National Activities	H.R. 2218 makes substantial changes to the national activities to be conducted.
Section 5206: Federal Formula Allocation During First Year and for Successive Enrollment Expansions	Section 5206: Federal Formula Allocation During First Year and for Successive Enrollment Expansions	No amendments.
Section 5207: Solicitation of Input from Charter School Operators	Section 5207: Solicitation of Input from Charter School Operators	No amendments.
Section 5208: Records Transfer	Section 5208: Records Transfer	H.R. 2218 makes minor amendments to this section.
Section 5209: Paperwork Reduction	Section 5209: Paperwork Reduction	No amendments.
Section 5210: Definitions	Section 5210: Definitions	H.R. 2218 alters two existing definitions and adds three new definitions.
Section 5211: Authorization of Appropriations	Section 5211: Authorization of Appropriations	H.R. 2218 has a different authorization of appropriations than current law.
Subpart 2: Credit Enhancement Initiatives to Assist Charter School Facility Acquisition, Construction, and Renovation	Repealed	H.R. 2218 repeals all of Title V-B-2. However, the bill moves the Credit Enhancement program and the majority of its provisions to Section 5204.
Section 5221: Purpose	Repealed	H.R. 2218 does not retain a purpose section for this program.
Section 5222: Grants to Eligible Entities	Repealed	H.R. 2218 retains the majority of these provisions in Section 5204.
Section 5223: Applications	Repealed	H.R. 2218 retains the majority of these provisions in Section 5204.

Current Law	H.R. 2218, as Reported	Comments
Section 5224: Charter School Objectives	Repealed	H.R. 2218 retains the majority of these provisions in Section 5204.
Section 5225: Reserve Account	Repealed	H.R. 2218 retains the majority of these provisions in Section 5204.
Section 5226: Limitation on Administrative Costs	Repealed	H.R. 2218 retains the majority of these provisions in Section 5204.
Section 5227: Audits and Reports	Repealed	H.R. 2218 retains the majority of these provisions in Section 5204.
Section 5228: No Full Faith and Credit for Grantee Obligation	Repealed	H.R. 2218 retains the majority of these provisions in Section 5204.
Section 5229: Recovery of Funds	Repealed	H.R. 2218 retains the majority of these provisions in Section 5204.
Section 5230: Definitions	Repealed	Due to the new structure of H.R. 2218, this section may no longer be needed.
Section 5231: Authorization of Appropriations	Repealed	Due to the new structure of H.R. 2218, this section may no longer be needed.

Source: Table prepared by CRS, September 2, 2011, based on CRS analysis of ESEA current law and H.R. 2218 as reported.

Comparison of Provisions

This section examines the proposed statutory language included in H.R. 2218 compared with current law (**Table 4**). Comments on differences between the two are provided; however, this analysis is not intended to be comprehensive. Rather, it focuses on major provisions included in H.R. 2218 and current law. Please note that the designation of “similar” in the table generally indicates that there are some non-substantive differences between the proposed provisions and current law, such as structural differences with respect to where the provisions appear in current law versus H.R. 2218. Provisions are generally presented in the order in which they appear in current law and are organized under the law’s current section headers.

Table 4. Comparison of Major Provisions in the Elementary and Secondary Education Act (ESEA) Title V-B-1 and 2, and H.R. 2218

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
Not included.	This act may be cited as the “Empowering Parents through Quality Charter Schools Act”.	Short title of H.R. 2218.

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
Not included.	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.).	All changes made by H.R. 2218 are to the ESEA.
Subpart I: Charter School Programs	Section 5201: Purpose	
Section 5201: Purpose	Section 5201: Purpose	
<p>It is the purpose of this subpart to increase national understanding of the charter schools model by—</p> <p>(1) providing financial assistance for the planning, program design, and initial implementation of charter schools;</p> <p>(2) evaluating the effects of such schools, including the effects on students, student academic achievement, staff, and parents;</p> <p>(3) expanding the number of high-quality charter schools available to students across the Nation; and</p> <p>(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.</p>	<p>“It is the purpose of this subpart to—</p> <p>“(1) provide financial assistance for the planning, program design, and initial implementation of charter schools;</p> <p>“(2) expand the number of high-quality charter schools available to students across the Nation;</p> <p>“(3) evaluate the impact of such schools on student achievement, families, and communities, and share best practices between charter schools and other public schools;</p> <p>“(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;</p> <p>“(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</p> <p>“(6) support efforts to strengthen the charter school authorizing process to improve performance management, including transparency, monitoring, and evaluation of such schools.”.</p>	<p>H.R. 2218 retains several of the program purposes from current law and adds two new purposes. First, H.R. 2218 drops the general references to the program increasing national understanding of the charter schools model. The bill retains the focus on providing financial assistance for charter schools, expanding the number of charter schools, and encouraging states to provide facilities financing to charter schools.</p> <p>Under current law, one purpose of the program is to evaluate the effects of charter schools on students, academic achievement, and parents. H.R. 2218 modifies this purpose to evaluate the impact of charter schools on student achievement, families, and communities. It expands the program’s purpose to include the sharing of best practices with other public schools.</p> <p>H.R. 2218 adds two new program purposes. The first focuses on improving student services to increase opportunities for traditionally underserved students to attend charter schools and meet state academic standards. The second focuses on strengthening the charter school authorizing process.</p>

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
<p>Section 5202: Program Authorized</p>		
<p>Not included. (Current law does not include a general statement regarding all of the activities that are authorized under Title V-B-1 and 2.)</p>	<p>“(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—</p> <p>“(1) supporting the startup, replication, and expansion of charter schools;</p> <p>“(2) assisting charter schools in accessing credit to acquire and renovate facilities for school use; and</p> <p>“(3) carrying out national activities to support—</p> <p>“(A) charter school development;</p> <p>“(B) the dissemination of best practices of charter schools for all schools; and</p> <p>“(C) the evaluation of the impact of the program on schools participating in the program.</p>	<p>H.R. 2218 adds additional language regarding the types of activities that can be supported through the charter school program overall. Most notably, the Secretary could award funds to support the replication and expansion of charter schools. (Note: Statutory language permitting the use of Charter School Program funds for replication and expansion has been included in FY2010 and FY2011 appropriations language, but the ESEA has not been amended to include these new uses of funds.)^a</p>
<p>Not included.</p>	<p>“(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.”.</p>	<p>H.R. 2218 includes a provision that would provide for the continuation of grants made prior to the enactment of H.R. 2218.</p>

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
<p>(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.</p>	<p>“(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 (e) to enable such entities to—</p> <p>“(1) award subgrants to eligible applicants for—</p> <p>“(A) opening new charter schools;</p> <p>“(B) opening replicable, high-quality charter school models; or</p> <p>“(C) expanding high-quality charter schools; and</p> <p>“(2) provide technical assistance (which may be provided by awarding subgrants to other entities) 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 the authorizing quality.</p>	<p>H.R. 2218 specifies that grants can be made to state entities (which include more entities than just SEAs) to award subgrants for new charter schools, as well as for the replication and expansion of high-quality charter schools. The bill also permits state agencies to use funds to assist eligible applicants and chartering agencies with the new charter schools, replication, or expansion. It should be noted that while replication and expansion are not included in current law, funds have been provided for these purposes through appropriations acts (see, for example, P.L. 111-117). H.R. 2218 also permits the state entity to use funds to work with charter authorizers to improve the quality of charter authoring.</p>
<p>(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).</p>	<p>Not included.</p>	<p>H.R. 2218 does not include a provision that would permit eligible applicants to apply directly to the Secretary for grants if the SEA chose not to apply for a grant. However, under the national activities provisions included in H.R. 2218 (Section 5205), eligible applicants could apply for grants for start up, expansion, or replication.</p>
<p>(c) PROGRAM PERIODS.—</p> <p>(1) GRANTS TO STATES.—Grants awarded to State educational agencies under this subpart shall be for a period of not more than 3 years.</p>	<p>“(1) PROGRAM PERIODS.—</p> <p>“(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.</p>	<p>H.R. 2218 extends the period of grant availability from not more than three years to not more than five years for state entities.</p>

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
<p>(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—</p> <p>(A) not more than 18 months for planning and program design;</p> <p>(B) not more than 2 years for the initial implementation of a charter school; and</p> <p>(C) not more than 2 years to carry out dissemination activities described in section 5204(f)(6)(B).</p>	<p>“(B) SUBGRANTS.—A subgrant awarded by a State entity to an eligible applicant under this section shall be for a period of not more than 5 years, of which the eligible applicant may use not more than 18 months for planning and program design.</p>	<p>H.R. 2218 extends the period of grant availability from not more than three years to not more than five years for eligible applicants. In addition, H.R. 2218 only specifies the amount of time funds may be used for a particular activity for planning and program design.</p>
<p>(d) LIMITATION.—A charter school may not receive—</p> <p>(1) more than one grant for activities described in subparagraphs (A) and (B) of subsection (c)(2); or</p> <p>(2) more than one grant for activities under subparagraph (C) of subsection (c)(2).</p>	<p>“(d) LIMITATIONS.—</p> <p>“(1) GRANTS.—A State entity may not receive more than 1 grant under this section for a 5-year period.</p> <p>“(2) SUBGRANTS.—An eligible applicant may not receive more than 1 subgrant under this section per charter school for a 5-year period.</p>	<p>Rather than placing limitations on the number of grants a charter school may receive, H.R. 2218 places limitations on the number of grants that a state entity and eligible entity may receive. Under H.R. 2218, state entities are limited to one grant per five-year period. Eligible applicants are limited to no more than one subgrant per charter school per five-year period. Thus, an eligible applicant could potentially receive multiple awards during a five-year period, provided that the awards were made for different charter schools. A single charter school that initially received a grant to open, however, could not receive a grant to expand within the same five-year period.</p>
<p>(e) PRIORITY TREATMENT.—</p> <p>(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).</p>	<p>Not included.</p>	<p>This general statement is not included in H.R. 2218. H.R. 2218 does, however, include priority criteria for awarding grants to state entities (see below).</p>

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
<p>(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.</p>	<p>Not included.</p>	<p>H.R. 2218 does not include priority criteria based on the frequency with which chartering agencies are required to review charter schools or on the specifics of that review.</p>
<p>(3) PRIORITY CRITERIA.—The criteria referred to in paragraph (1) are the following:</p>	<p>“(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:</p>	<p>Both current law and H.R. 2218 include priority criteria to be used by the Secretary in selecting state entities for awards.</p>
<p>(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.</p>	<p>Not included.</p>	<p>H.R. 2218 does not include this as a specific priority.</p>

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
<p>(B) The State—</p> <p>(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</p> <p>(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.</p>	<p>“(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.</p>	<p>Under current law, priority is given to states that have at least one chartering agency that is not an LEA or, if LEAs are the only authorized chartering agency, priority is given the states with an appeals process for denial of a charter school application. Under H.R. 2218, if a state allows more than an SEA or LEA to be an authorized chartering agency, priority is given to a state that has a quality authorized chartering agency other than the SEA. The term “quality authorized chartering agency”, however, is not defined. This is a change in emphasis from current law, which focuses on having charter authorizers other than LEAs. H.R. 2218 also gives priority to states that have developed an appeal process for charter schools who have had their applications denied.</p>
<p>(C) The State ensures that each charter school has a high degree of autonomy over the charter school’s budgets and expenditures.</p>	<p>Not included.</p>	<p>H.R. 2218 does not include this as a specific priority. The issue of autonomy is addressed elsewhere in H.R. 2218.</p>
<p>Not included.</p>	<p>“(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.</p>	<p>H.R. 2218 includes a priority related to limits on the number of charter schools that can exist in a state or the percentage of students that may attend charter schools.</p>
<p>Not included.</p>	<p>“(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.</p>	<p>H.R. 2218 includes a priority related to the equitable financing of charter schools.</p>
<p>Not included.</p>	<p>“(D) The State entity supports full-, blended-, or hybrid-online charter school models.</p>	<p>H.R. 2218 includes a priority related to online charter schools.</p>
<p>Not included.</p>	<p>“(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.</p>	<p>H.R. 2218 includes a priority related to using charter schools to help improve struggling schools and LEAs.</p>
<p>Not included.</p>	<p>“(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.</p>	<p>H.R. 2218 includes a priority related to partnering with an organization with demonstrated success in developing management organizations to support the development of charter schools.</p>

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Not included.	<p>“(G) The State entity demonstrates quality policies and practices to support and monitor charter schools through factors, including--</p> <p>“(i) the proportion of high-quality charter schools in the State; and</p> <p>“(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.</p>	<p>H.R. 2218 includes a priority for state entities that have include the monitoring of the proportion of high-quality charter schools in the state and the rate of enrollment of traditionally underserved populations in charter schools compared with traditional public schools.</p>
<p>(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.</p>	Not included.	<p>H.R. 2218 does not require the Secretary to take into consideration the number of charter schools operating or the number of charter schools approved to open when awarding grants to state entities.</p>
Section 5203: Applications		
<p>(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.</p>	<p>“(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:</p>	<p>Similar, except that H.R. 2218 extends the eligibility of which state entities may apply for a grant to include an SEA, state charter school board, or the governor.</p>
<p>(b) CONTENTS OF A STATE EDUCATIONAL AGENCY APPLICATION.—</p>		
<p>Each application submitted pursuant to subsection (a) shall—</p>		
<p>(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</p>	<p>“(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 such program will be carried out, including a description—</p> <p>“(A) of how the entity—</p>	

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<p>(2) describe how the State educational agency—</p> <p>(A) will inform each charter school in the State regarding—</p> <p>(i) Federal funds that the charter school is eligible to receive; and</p> <p>(ii) Federal programs in which the charter school may participate;</p> <p>(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</p> <p>(C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and</p>	<p>“(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--</p> <p>“(I) participate in the Federal programs in which the schools and students are eligible to participate; and</p> <p>“(II) receive the commensurate share of Federal funds the schools and students are eligible to receive under such programs;</p> <p>“(ix) will share best and promising practices between charter schools and other public schools;</p>	<p>H.R. 2218 requires state entities to describe how they will work with eligible applicants to ensure that the applicants access all Federal funds that they are eligible to receive, rather than informing charter schools about federal fund and program eligibility.</p> <p>Current law requires SEAs to ensure that each charter school in the state will receive its commensurate share of federal education funding allocated by formula, including during a school’s first year of operation. H.R. 2218 also requires state entities to address the issue of commensurate funding in their applications but focuses on commensurate funding for both charter schools and charter school students and does not limit this to formula grant funding only. H.R. 2218 does not include the current law language about providing funds during a charter school’s first year of operation, but this is addressed in Section 5206.</p> <p>H.R. 2218 also requires the sharing of information about best and promising practices, but focuses on the sharing of information between charter schools and other public schools rather than between charter schools and LEAs in the state.</p>

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Not included.	<p>“(i) will support both new charter school startup and the expansion and replication of high-quality charter school models;</p> <p>“(ii) will inform eligible charter schools, developers, and authorized public chartering agencies of the availability of funds under this program;</p> <p>“(iv) in the case in which the entity is not a State educational agency--</p> <p>“(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</p> <p>“(II) will work with the State educational agency to adequately operate the entity's program under this section, where applicable;</p> <p>“(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;</p> <p>“(vi) will support charter schools in local educational agencies with large numbers of schools that must comply with the requirements of section 1116(b);</p> <p>“(vii) will work with charter schools to promote inclusion of all students and support all students once they are enrolled to promote retention;</p> <p>“(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;</p> <p>“(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</p> <p>“(xi) will support efforts to increase quality initiatives, including meeting the quality authorizing elements described in paragraph (2)(E);</p>	<p>H.R. 2218 also requires state entities to address numerous other issues during the application process, such as how the entity will work with start up, expansion, and replication charter school models; how it will support efforts to increase quality initiatives for charter schools; how a non-SEA applicant will work with the SEA on charter school issues; and how the applicant will promote the inclusion of all students. It is unclear whether supporting charter schools in LEAs with large numbers of schools that have been identified for school improvement, corrective action, or restructuring would mean that the entity would encourage schools required to implement restructuring to choose to become charter schools.</p>

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Not included.	“(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 high-quality replicable charter school models, and expanding high-quality charter schools;	H.R. 2218 requires state entities to discuss the extent to which they can meet priority selection criteria and the extent to which the entity is working to develop a statewide system to support charter school development, expansion, and replication.
Not included.	“(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.	For state entities that are partnering with an outside organization, the state entity must specify the responsibilities of this organization in the application.

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<p>Not included.</p>	<p>“ (2) ASSURANCES- Assurances, including a description of how the assurances will be met, that--</p> <p>“ (A) each charter school receiving funds under the entity's program will have a high degree of autonomy over budget and operations;</p> <p>“ (B) the entity will support charter schools in meeting the educational needs of their students as described in paragraph (1)(A)(x);</p> <p>“(C) the entity will ensure that the authorized public chartering agency of any charter school that receives funds under the entity's program--</p> <p>“ (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</p> <p>“ (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;</p> <p>“ (D) the entity will provide adequate technical assistance to eligible applicants to--</p> <p>“ (i) meet the objectives described in clauses (vii) and (viii) of paragraph (1)(A) and paragraph (2)(B); and</p> <p>“ (ii) enroll traditionally underserved students, including students with disabilities and English language learners, to promote an inclusive education environment;</p> <p>“ (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--</p> <p>“ (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</p>	<p>Current law does not require states to provide the assurances included in H.R. 2218 in the application process. However, some of these assurances may be addressed elsewhere in current law. For example, charter school autonomy is addressed in the priority criteria for selecting SEAs.</p> <p>One of the assurances requires that each charter school that receives funds from the entity have a high degree of autonomy over budget and operations. Under current law, this is addressed in the definition of a charter school, which requires a charter school to be exempted from state and local rules that “inhibit the flexible operation and management” of the school. H.R. 2218 is more specific about the type of autonomy that would have to be afforded to charter schools. However, the bill does not define “operations.” In addition, H.R. 2218 does not amend the current definition of a charter school to include the specific requirement for charter schools to receive a high degree of autonomy over budget and operations.</p>

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Not included.	<p>“ (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</p> <p>“(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.</p> <p>“(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.</p>	<p>H.R. 2218 requires a state entity to request and justify its request for waivers of any federal statutory or regulatory provisions. The application must also include a description of state and local rules that generally apply to public schools that will be waived for charter schools. While current law does not address waivers in the state application process, it does address this issue in requirements for eligible applicant applications.</p>

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<p>(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—</p> <p>(A) a description of the educational program to be implemented by the proposed charter school, including—</p> <p>(i) how the program will enable all students to meet challenging State student academic achievement standards;</p> <p>(ii) the grade levels or ages of children to be served; and</p> <p>(iii) the curriculum and instructional practices to be used;</p> <p>(B) a description of how the charter school will be managed;</p> <p>(C) a description of—</p> <p>(i) the objectives of the charter school; and</p> <p>(ii) the methods by which the charter school will determine its progress toward achieving those objectives;</p> <p>(D) a description of the administrative relationship between the charter school and the authorized public chartering agency;</p> <p>(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;</p>	<p>“(C) how the entity will carry out the subgrant competition, including--</p> <p>“(i) a description of the application each eligible applicant desiring to receive a subgrant will submit, including--</p> <p>“(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</p> <p>“(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</p> <p>“(ii) a description of how the entity will review applications; and</p>	<p>Both current law and H.R. 2218 require the eligible entity to provide information about the subgrant process. Current law requires eligible entities to provide assurances that the subgrant application will address numerous topics such as the educational program of the school, the management of the charter school, parent and community involvement, and waiver requests. H.R. 2218 is not as specific regarding the information that must be collected through the application. It does require a description of the roles and responsibilities of the eligible applicant and its partners, quality controls that will exist between the eligible applicant and the chartering agency, how performance on the state's accountability system will be a primary charter renewal factor, and how applications will be reviewed.</p> <p>With respect to the requirement that a school's performance on the state's accountability system be used as a primary factor in renewal decisions, while this is not a requirement in current law, a similar requirement has been added through appropriations acts (see, for example, P.L. 111-117).</p>

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<p>(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);</p>		
<p>(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;</p>		
<p>(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;</p>		
<p>(I) a description of how students in the community will be—</p>		
<p>(i) informed about the charter school; and</p>		
<p>(ii) given an equal opportunity to attend the charter school;</p>		
<p>(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);</p>		

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<p>(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;</p> <p>(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;</p> <p>(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</p> <p>(N) such other information and assurances as the Secretary and the State educational agency may require.</p>		
<p>(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.</p>	<p>Not included.</p>	<p>H.R. 2218 does not permit an eligible applicant to apply directly for a grant under this section. Eligible applicants, however, may apply directly to the Secretary for a grant under provisions included under National Activities (Section 5205).</p>

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<p>(d) CONTENTS OF ELIGIBLE APPLICANT APPLICATION.— Each application submitted pursuant to subsection (c) shall contain—</p> <p>(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;</p> <p>(2) assurances that the State educational agency—</p> <p>(A) will grant, or will obtain, waivers of State statutory or regulatory requirements; and</p> <p>(B) will assist each subgrantee in the State in receiving a waiver under section 5204(e); and</p> <p>(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.</p>	<p>Not included.</p>	<p>H.R. 2218 does not permit an eligible applicant to apply directly for a grant under this section. Eligible applicants, however, may apply directly to the Secretary for a grant under provisions included under National Activities (Section 5205).</p>
<p>Section 5204: Administration</p> <p>(a) SELECTION CRITERIA FOR STATE EDUCATIONAL AGENCIES.—</p> <p>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—</p>	<p>“(f) SELECTION CRITERIA; PRIORITY.—</p> <p>“(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—</p>	<p>Similar.</p>

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(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;	Not included.	H.R. 2218 does not include this as a factor that must be taken into consideration when awarding grants to state entities.
(2) the degree of flexibility afforded by the State educational agency to charter schools under the State's charter schools law;	“(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;	Similar, except that H.R. 2218 requires evaluation of the state entity’s plan for maximizing charter school flexibility, in addition to considering the degree of flexibility provided to charter schools.
(3) the ambitiousness of the objectives for the State charter school grant program;	“(B) the ambitiousness of the State entity’s objectives for the quality charter school program carried out under this section;	Similar, except that H.R. 2218 references “quality charter school program.” This term is not defined.
(4) the quality of the strategy for assessing achievement of those objectives;	“(C) the quality of the strategy for assessing achievement of those objectives;	Similar.
(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students;	“(D) the likelihood that the eligible applicants receiving subgrants under the program will meet those objectives and improve educational results for students;	H.R. 2218 focuses on the likelihood of the eligible applicant achieving objectives and improving educational results for students, rather than whether the overall charter school program does this.
(6) the number of high-quality charter schools created under this subpart in the State; and	“(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;	H.R. 2218 expands the categories of schools to reflect the new uses of funds with respect to expansion and replication of charter schools.
(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.	Not included.	This provision is Not included as H.R. 2218 does not support dissemination activities at the local level.
Not included.	“(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;	H.R. 2218 adds this factor for consideration in awarding grants to state entities. It requires evaluation of the state entity’s plan for monitoring eligible applicants and for working with chartering agencies to avoid duplication of work for the charter schools and chartering agencies.

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Not included.	“(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.R. 2218 adds this factor for consideration in awarding grants to state entities. It requires evaluation of the state entity’s plan for providing technical assistance to eligible applicants that received subgrants.
Not included.	“(H) the entity’s plan to support quality authorizing efforts in the State, consistent with the objectives described in subparagraph (B).	H.R. 2218 adds this factor for consideration in awarding grants to state entities. It requires evaluation of the state entity’s plan to support quality authorizing efforts. The term “quality authoring efforts” is not defined.
<p>(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—</p> <p>(1) the quality of the proposed curriculum and instructional practices;</p> <p>(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;</p> <p>(3) the extent of community support for the application;</p> <p>(4) the ambitiousness of the objectives for the charter school;</p> <p>(5) the quality of the strategy for assessing achievement of those objectives;</p> <p>(6) the likelihood that the charter school will meet those objectives and improve educational results for students; and</p> <p>(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.</p>	Not included.	H.R. 2218 does not permit an eligible applicant to apply directly for a grant under this section. Eligible applicants, however, may apply directly to the Secretary for a grant under provisions included under National Activities (Section 5205).

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(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.	“(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.	Similar.
(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—	“(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—	Similar, except that H.R. 2218 does not include the Secretary, as the Secretary does not make grants directly to eligible applicants under this section.
(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and	“(A) are distributed throughout different areas, including urban, suburban, and rural areas; and	Similar, except that H.R. 2218 drops the reference to the nation and each state.
(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.	“(B) will assist charter schools representing a variety of educational approaches.	Similar, except that H.R. 2218 does not specify class size reduction as an educational approach.
(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—	Not included.	Current law allows the Secretary to waive various statutory and regulatory requirements over which the Secretary has authority if the waiver is requested on the application, and the Secretary determines the waiver promotes the purpose of the program. H.R. 2218 does not include a similar provision.
(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.		

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<p>(f) USE OF FUNDS.—</p> <p>(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 applicants 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).</p>	<p>“(b) STATE USES OF FUNDS.—</p> <p>“(1) IN GENERAL.—A State entity receiving a grant under this section shall—</p> <p>“(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</p> <p>“(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.</p>	<p>H.R. 2218 differs from current law with respect to the required state uses of funds. Under current law, funds must be used to award subgrants to eligible applicants to enable them to implement a charter school, and SEAs may reserve up to 10% of their grant funds for dissemination activities.</p> <p>Under H.R. 2218, each state entity is required to use 90% of the funds received to make subgrants to eligible applicants for new charter schools; replicable, high-quality charter schools; and the expansion of high-quality charter schools. The remaining 10% of funds must be used to provide technical assistance and to work with chartering agencies to improve the authorizing quality.</p>
<p>Not included.</p>	<p>“(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.</p>	<p>H.R. 2218 adds a provision that permits the Secretary to carry out national activities directly or through grants, contracts, or cooperative agreements.</p>
<p>(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.</p>	<p>“(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.</p>	<p>H.R. 2218 modifies and expands the required uses of funds by eligible applicants. Under current law, eligible applicants are required to use funds to plan and implement a charter school or disseminate information about a successful charter school. Under H.R. 2218, an eligible applicant must use the funds to open new charter schools and high-quality charter school models that are replicable, or expand existing high-quality charter schools. Funds cannot be used by the eligible applicant for dissemination activities.</p>

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<p>(3) ALLOWABLE ACTIVITIES.— An eligible applicant receiving a grant or subgrant under this subpart may use the grant or subgrant funds only for—</p> <p>(A) post-award planning and design of the educational program, which may include—</p> <p>(i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and</p> <p>(ii) professional development of teachers and other staff who will work in the charter school; and</p> <p>(B) initial implementation of the charter school, which may include—</p> <p>(i) informing the community about the school;</p> <p>(ii) acquiring necessary equipment and educational materials and supplies;</p> <p>(iii) acquiring or developing curriculum materials; and</p> <p>(iv) other initial operational costs that cannot be met from State or local sources.</p>	<p>Not included.</p>	<p>H.R. 2218 does not specify allowable activities for eligible applicants. Only required activities are specified (see above).</p>
<p>(4) ADMINISTRATIVE EXPENSES.—</p> <p>(A) STATE EDUCATIONAL AGENCY ADMINISTRATIVE EXPENSES.—</p> <p>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.</p>	<p>“(2) ADMINISTRATIVE COSTS.—A State entity receiving a grant under this section may not use more than 30 percent of the funds reserved under paragraph (1)(B) for administrative costs, which may include providing the technical assistance described in subsection (a)(2).</p>	<p>H.R. 2218 limits the amount of funding a state entity may use for administrative costs to 3% of the grant funds awarded to the state. Under current law, the SEA may use up to 5% of the grant amount for administrative costs.</p>

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
(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.	Not included.	H.R. 2218 does not include provisions regarding the use of funds for LEA administrative fees or expenses.
(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.	Not included.	H.R. 2218 does not authorize SEAs to use funds to support a revolving loan fund.

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
<p>(6) DISSEMINATION.—</p> <p>(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—</p> <p>(i) substantial progress in improving student academic achievement;</p> <p>(ii) high levels of parent satisfaction; and</p> <p>(iii) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.</p>	Not included.	H.R. 2218 does not authorize grants to charter schools specifically for dissemination purposes.

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
<p>(B) ACTIVITIES.—A charter school described in subparagraph (A) may use funds reserved under paragraph (I) 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—</p> <p>(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;</p> <p>(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;</p> <p>(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</p> <p>(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.</p>	<p>Not included.</p>	<p>H.R. 2218 does not authorize grants to charter schools specifically for dissemination purposes.</p>

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
<p>(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—</p> <p>(1) the eligibility of the school to receive any other Federal, State, or local aid; or</p> <p>(2) the amount of such aid.</p>	Not included.	H.R. 2218 does not include this provision.

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
Not included.	<p>“(h) REPORTING REQUIREMENTS.—Each State entity receiving a grant under this section shall submit at the end of the third year of the 5-year grant period and at the end of such grant period a report to the Secretary on—</p> <p>“(1) the number of students served and, if applicable how many new students were served during each year of the grant period;</p> <p>”(2) the number of subgrants awarded under this section to carry out each of the following--</p> <p>“(A) the opening of new charter schools;</p> <p>“(B) the opening of replicable, high-quality charter school models; and</p> <p>“(C) the expansion of high-quality charter schools;</p> <p>“(3) the progress the entity made toward meeting the priorities described in subsection (f)(2), as applicable;</p> <p>“(4) how the entity met the objectives of the quality charter school program described in the entity's application under subsection (e);</p> <p>“(5) how the entity complied with, and ensured that eligible applicants complied with, the assurances described in the entity's application; and</p> <p>“(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.</p>	<p>H.R. 2218 adds new reporting requirements. Each state entity that receives a grant is required to submit a report to the Secretary at the end of the third year of a five-year grant and at the end of the five-year grant period. The report must address issues such as the number of students served, progress the entity met its objectives, and how the state entity worked with authorized chartering agencies.</p>
Not included.	<p>“(i) STATE ENTITY DEFINED.—For purposes of this section, the term ‘State entity’ means—</p> <p>“(1) a State educational agency;</p> <p>“(2) a State charter school board; or</p> <p>“(3) a Governor of a State.”.</p>	<p>H.R. 2218 adds a new definition for the purposes of Section 5203. The bill defines a state entity as an SEA, state charter school board, or a governor.</p>
Section 5205: National Activities		

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
<p>(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:</p> <p>(1) To provide charter schools, either directly or through State educational agencies, with—</p> <p>(A) information regarding—</p> <p>(i) Federal funds that charter schools are eligible to receive; and</p> <p>(ii) other Federal programs in which charter schools may participate; and</p> <p>(B) assistance in applying for Federal education funds that are allocated by formula, including assistance with filing deadlines and submission of applications.</p>	<p>“(b) Funding Allotment.—From the amount made available under section 5211 for a fiscal year, the Secretary shall—</p> <p>“(2) reserve not more than 5 percent to carry out national activities under section 5205;</p> <p>“(a) IN GENERAL.—From the amount reserved under section 5202(b)(2), the Secretary shall—</p> <p>“(1) use not less than 50 percent of such funds to award startup grants in accordance with subsection (b); and</p> <p>“(2) use the remainder of such funds to—</p> <p>“(A) disseminate technical assistance to State entities in awarding subgrants under section 5203;</p> <p>“(C) evaluate the impact of the charter school program carried out under this subpart.</p>	<p>Under current law, the Secretary is permitted to reserve the greater of 5% or \$5 million for national activities, provided the amount reserved does not exceed \$8 million. H.R. 2218 removes the minimum dollar amount for national activities and eliminates the cap on the amount that can be used for this purpose.</p> <p>H.R. 2218 requires the Secretary to use at least 50% of the funds reserved for national activities to award startup grants to eligible applicants. This is not a required use of funds under current law. Under current law, eligible applicants are able to apply directly for grants to implement a charter school under Section 5203.</p> <p>Under H.R. 2218, any remaining funds after the provision of startup grants must be used to disseminate technical assistance to state entities in awarding subgrants under Section 5203, disseminate best practices, and evaluate the impact of the charter school program overall (including the Per-Pupil Facilities Aid program and the Credit Enhancement program). Current law requires funds to be used for similar purposes, but also specifies additional uses of funds such as providing information to charter schools about federal funds for which they are eligible, the collection of information regarding the financial resources available to charter schools, and specific data that must be collected through evaluations.</p>
<p>(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—</p> <p>(A) students attending charter schools reported on the basis of race, age, disability, gender, limited English proficiency, and previous enrollment in public school; and</p> <p>(B) the professional qualifications of teachers within a charter school and the turnover of the teaching force.</p>	<p>Not included.</p>	<p>H.R. 2218 requires the Secretary to evaluate the impact of the charter school program (see above). It does not require a general evaluation of the effects of charter schools generally on academic achievement nor does it specify what must be examined in the evaluation.</p>

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
<p>(3) To provide—</p> <p>(A) information to applicants for assistance under this subpart;</p> <p>(B) assistance to applicants for assistance under this subpart with the preparation of applications under section 5203;</p> <p>(C) assistance in the planning and startup of charter schools;</p> <p>(D) training and technical assistance to existing charter schools; and</p> <p>(E) for the dissemination to other public schools of best or promising practices in charter schools.</p>	<p>“(B) disseminate best practices; and</p>	<p>H.R. 2218 requires the dissemination of best practices under national activities as does current law. The bill does not specify to which entities information should be disseminated. H.R. 2218 requires the Secretary to provide technical assistance to state entities in awarding subgrants (see above) but does not address the types of assistance included in this provision of current law.</p>
<p>(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.</p>	<p>Not included.</p>	<p>H.R. 2218 does not include this provision.</p>

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
<p>(5) To carry out evaluations of, technical assistance for, and information dissemination regarding, the Per-Pupil Facilities Aid program. 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—</p> <p>(A) how, and the extent to which, the programs promote educational equity and excellence; and</p> <p>(B) the extent to which charter schools supported through the programs are—</p> <p>(i) held accountable to the public;</p> <p>(ii) effective in improving public education; and</p> <p>(iii) open and accessible to all students.</p>	<p>Not included.</p>	<p>H.R. 2218 does not include the evaluation of or the provision of technical assistance for the Per-Pupil Facilities Aid program under national activities. This is possibly due, in part, to structural changes that H.R. 2218 makes to Title V-B-1. Under current law, the Per-Pupil Facilities Aid program is authorized under national activities (Section 5205(b)). Under H.R. 2218, it would be authorized under facilities financing assistance (Section 5204). H.R. 2218 would continue to allow states to reserve up to 5% of the funds they receive through the Per-Pupil Facilities Aid program for evaluation, technical assistance, and dissemination.</p>
<p>Current law provides for eligible applicants to apply directly for grants to open charter schools under Section 5203.</p>	<p>“(b) Startup grants.—</p> <p>“(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).</p> <p>“(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.</p>	<p>H.R. 2218 adds a new use of funds under national activities to provide startup grants directly to eligible applicants.</p>

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
	<p>“(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—</p> <p>“(A) a State that did not apply for a grant under section 5203;</p> <p>“(B) a State that did not receive a grant under section 5203; or</p> <p>“(C) a State that received a grant under section 5203 and is in the 4th or 5th year of a grant period for such grant.</p>	<p>H.R. 2218 adds a definition of an eligible applicant for the purposes of awarding startup grants. An eligible applicant has to be located in a state that did not apply for or did not receive a grant under Section 5203, or must be located in state that is in its fourth or fifth year of a grant period for a grant awarded under Section 5203. Presumably, this grant competition would need to be administered after grants are awarded under section 5203, so that eligible applicants would know whether they are able to meet the eligibility criteria.</p>
<p>Not included.</p>	<p>“(c) CONTRACTS AND GRANTS.— Contracts and Grants- The Secretary may carry out any of the activities described in this section directly or through grants, contracts, or cooperative agreements.”.</p>	<p>H.R. 2218 adds a provision that permits the Secretary to carry out national activities directly or through grants, contracts, or cooperative agreements.</p>
<p>(b) PER-PUPIL FACILITIES AID PROGRAM.—</p>	<p>H.R. 2218 retains this program but moves it to a new Section 5204, Facilities Financing Assistance.</p>	<p>Similar.</p>
<p>(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—</p> <p>(A) that is dedicated solely for funding charter school facilities; or</p> <p>(B) a portion of which is dedicated for funding charter school facilities.</p>	<p>“(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—</p> <p>“(A) that is dedicated solely for funding charter school facilities; or</p> <p>“(B) a portion of which is dedicated for funding charter school facilities.</p>	<p>Similar.</p>

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
<p>(2) GRANTS.—</p> <p>(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 program.</p>	<p>“(2) GRANTS.—</p> <p>“(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 the Per-Pupil Facilities Aid program.</p>	<p>Similar, except that funding for the Per-Pupil Facilities Aid program is provided through a reservation of funds under H.R. 2218 and through a set-aside under current law. In addition, in Section 5204, H.R. 2218 prioritizes funding for the Credit Enhancement program over funding for the Per-Pupil Facilities Aid program by requiring funds reserved for this section to be used first to make grants under the Credit Enhancement program. If funds remain after making these grants, remaining funds are to be used for the Per-Pupil Facilities Aid program. This prioritization does not occur under current law.</p>
<p>(B) PERIOD.—The Secretary shall award grants under this subsection for periods of not more than 5 years.</p>	<p>“(B) PERIOD.—The Secretary shall award grants under this subsection for periods of not more than 5 years.</p>	<p>Similar.</p>
<p>(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—</p>	<p>“(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—</p>	<p>Similar.</p>
<p>(i) 90 percent of the cost, for the first fiscal year for which the program receives assistance under this subsection;</p>	<p>“(i) 90 percent of the cost, for the first fiscal year for which the program receives assistance under this subsection;</p>	
<p>(ii) 80 percent in the second such year;</p>	<p>“(ii) 80 percent in the second such year;</p>	
<p>(iii) 60 percent in the third such year;</p>	<p>“(iii) 60 percent in the third such year;</p>	
<p>(iv) 40 percent in the fourth such year; and</p>	<p>“(iv) 40 percent in the fourth such year; and</p>	
<p>(v) 20 percent in the fifth such year.</p>	<p>“(v) 20 percent in the fifth such year.</p>	
<p>Not included.</p>	<p>“(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 per pupil facilities aid program.</p>	<p>H.R. 2218 adds a new provision to allow states to partner with one or more organizations to provide up to 50% of the state’s share of the program.</p>

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Not included.	“(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.	H.R. 2218 adds a new provision that permits states to receive more than one grant under this program as long as amount of funding provided to charter schools increases with each successive grant.
(3) USE OF FUNDS.—	“(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.	“(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.	Similar.
(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.	“(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.	Similar.
(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.	“(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.	Similar.
(4) REQUIREMENTS.—	“(4) REQUIREMENTS.—	
(A) VOLUNTARY PARTICIPATION.—No State may be required to participate in a program carried out under this subsection.	“(A) VOLUNTARY PARTICIPATION.—No State may be required to participate in a program carried out under this subsection.	Similar.

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<p>(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—</p> <p>(i) is specified in State law; and</p> <p>(ii) provides annual financing, on a per-pupil basis, for charter school facilities.</p>	<p>“(B) STATE LAW.—</p> <p>“(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—</p> <p>“(I) is specified in State law; and</p> <p>“(II) provides annual financing, on a per-pupil basis, for charter school facilities.</p>	<p>Similar.</p>
<p>Not included.</p>	<p>“(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.</p>	<p>H.R. 2218 specifies that states that are required to provide their charter schools with adequate facility space may be eligible for funds, if the state agrees to use the funds to develop a program consistent with the requirements of the Per-Pupil Facilities Aid program.</p>
<p>(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.</p>	<p>“(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.”.</p>	<p>Similar.</p>
<p>(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).</p>	<p>Not included.</p>	<p>H.R. 2218 does not specify priority criteria for making grants under this program.</p>
<p>(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require charter schools to collect any data described in subsection (a).</p>	<p>Not included.</p>	<p>Due to the different construction of H.R. 2218, this provision may not be needed. (Under current law, this provision specifies that charter schools do not have to collect the data the Secretary is required to collect under national activities.)</p>
<p>Section 5206: Federal Formula Allocation During First Year and For Successive Enrollment Expansions</p>	<p>This section is not amended by H.R. 2218.</p>	

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
<p>(a) IN GENERAL.—For purposes of the allocation to schools by the States or their agencies of funds under part A of title I, and any other Federal funds which the Secretary allocates to States on a formula basis, the Secretary and each State educational agency shall take such measures as are necessary to ensure that every charter school receives the Federal funding for which the charter school is eligible not later than 5 months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that charter school are not fully and completely determined until that charter school actually opens. The measures similarly shall ensure that every charter school expanding its enrollment in any subsequent year of operation receives the Federal funding for which the charter school is eligible not later than 5 months after such expansion.</p>		

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
<p>(b) ADJUSTMENT AND LATE OPENINGS.—</p> <p>(1) IN GENERAL.—The measures described in subsection (a) shall include provision for appropriate adjustments, through recovery of funds or reduction of payments for the succeeding year, in cases where payments made to a charter school on the basis of estimated or projected enrollment data exceed the amounts that the school is eligible to receive on the basis of actual or final enrollment data.</p> <p>(2) RULE.—For charter schools that first open after November 1 of any academic year, the State, in accordance with guidance provided by the Secretary and applicable Federal statutes and regulations, shall ensure that such charter schools that are eligible for the funds described in subsection (a) for such academic year have a full and fair opportunity to receive those funds during the charter schools' first year of operation.</p>		
<p>Section 5207: Solicitation of Input from Charter School Operators</p> <p>To the extent practicable, the Secretary shall ensure that administrators, teachers, and other individuals directly involved in the operation of charter schools are consulted in the development of any rules or regulations required to implement this subpart, as well as in the development of any rules or regulations relevant to charter schools that are required to implement part A of title I, the Individuals with Disabilities Education Act, or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.</p>	<p>This section is not amended by H.R. 2218.</p>	

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
Section 5208: 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)”.	H.R. 2218 puts increased emphasis on the need to transfer student records between charter schools and other public schools as quickly as possible. H.R. 2218 also changes the specific reference to individualized education programs (IEPs) in the Individuals with Disabilities Education Act (IDEA).
Section 5209: Paperwork Reduction	This section is not amended by H.R. 2218.	
To the extent practicable, the Secretary and each authorized public chartering agency shall ensure that implementation of this subpart results in a minimum of paperwork for any eligible applicant or charter school.		

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
Section 5210: Definitions		
<p>(I) CHARTER SCHOOL.—The term “charter school” means a public school that—</p> <p>(A) in accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;</p> <p>(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;</p> <p>(C) operates in pursuit of a specific set of educational objectives determined by the school’s developer and agreed to by the authorized public chartering agency;</p> <p>(D) provides a program of elementary or secondary education, or both;</p> <p>(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;</p> <p>(F) does not charge tuition;</p> <p>(G) complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and part B of the Individuals with Disabilities Education Act;</p>	<p>(I) in paragraph (I)—</p> <p>(A) by striking “and” at the end of subparagraph (K);</p> <p>(B) by striking the period at the end of subparagraph (L) and inserting “; and”; and</p> <p>(C) by adding at the end, the following: “(M) may serve prekindergarten or postsecondary students.”;</p>	<p>H.R. 2218 adds an additional provision to the definition of a charter school stating that charter schools may serve students in prekindergarten or postsecondary education.</p>

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<p>(H) is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;</p> <p>(I) agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;</p> <p>(J) meets all applicable Federal, State, and local health and safety requirements;</p> <p>(K) operates in accordance with State law; and</p> <p>(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.</p>		
<p>(2) DEVELOPER.—The term “developer” means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out.</p>	<p>No amendments.</p>	
<p>(3) ELIGIBLE APPLICANT.—The term “eligible applicant” means a developer that has—</p> <p>(A) applied to an authorized public chartering authority to operate a charter school; and</p> <p>(B) provided adequate and timely notice to that authority under section 5203(d)(3).</p>	<p>(2) in paragraph (3), by striking “under section 5203(d)(3)”;</p>	<p>H.R. 2218 eliminates the reference to Section 5203(d)(3), as it refers to the contents of an eligible applicant application under the Charter School Program. H.R. 2218 does not permit an eligible applicant to apply directly for a grant under this section.</p>

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<p>(4) AUTHORIZED PUBLIC CHARTERING AGENCY.—The term “authorized public chartering agency” means a State educational agency, local educational agency, or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school.</p> <p>Not included.</p>	<p>No amendments.</p>	
<p>Not included.</p>	<p>“(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.</p>	<p>As H.R. 2218 expands the uses of funds under Section 5203 to include the expansion of high-quality charter schools, a new definition of “high-quality charter school” has been added.</p>
<p>Not included.</p>	<p>“(6) HIGH-QUALITY CHARTER SCHOOL.—The term ‘high-quality charter school’ means a charter school that—</p> <p>“(A) shows evidence of strong academic results, which may include strong academic growth as determined by a State;</p> <p>“(B) has no significant issues in the areas of student safety, financial management, or statutory or regulatory compliance;</p> <p>“(C) has demonstrated success in significantly increasing student academic achievement and attainment for all students served by charter schools; and</p> <p>“(D) has demonstrated success in increasing student academic achievement for the subgroups of students described in section 1111(b)(2)(C)(v)(II).”.</p>	<p>While this term is used in current law, it is not defined. H.R. 2218 adds a definition of a “high-quality charter school” that emphasizes student achievement.</p>

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Not included.	<p>“(7) REPLICABLE CHARTER SCHOOL MODEL.—</p> <p>The term ‘replicable charter school model’ means a high-quality charter school that will open a new campus under an existing charter.</p>	<p>As H.R. 2218 expands the uses of funds under Section 5203 to include the replication of charter school models, and adds a new definition of “replicable charter school model”. Depending on how a charter authorizer handles the chartering process, it may not be possible for a charter school to replicate under an existing charter. For example, if the school plans to open a new campus some distance from an existing campus, it is possible that the school may be required to seek a new charter. In addition, if the goal is to support the replication of successful charter models, such as KIPP, this provision may result only in local replication of these models.</p>
Section 5211: Authorization of Appropriations		
<p>(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.</p>	<p>“There are authorized to be appropriated to carry out this subpart \$300,000,000 for fiscal year 2012 and each of the succeeding 5 fiscal years.”.</p>	<p>H.R. 2218 authorizes appropriations for all three charter school programs. From FY2012 through FY2017, the authorization is \$300 million for each fiscal year.</p>
<p>(b) RESERVATION.—From the amount appropriated under subsection</p> <p>(a) for each fiscal year, the Secretary shall reserve—</p> <p>(1) \$200,000,000 to carry out this subpart, other than section 5205(b); and</p> <p>(2) any funds in excess of \$200,000,000, that do not exceed \$300,000,000, to carry out section 5205(b); and</p> <p>(3)(A) 50 percent of any funds in excess of \$300,000,000 to carry out this subpart, other than section 5205(b); and</p> <p>(B) 50 percent of any funds in excess of \$300,000,000 to carry out section 5205(b).</p>	<p>“(b) FUNDING ALLOTMENT.—From the amount made available under section 5211 for a fiscal year, the Secretary shall—</p> <p>“(1) reserve 15 percent to support charter school facilities assistance under section 5204;</p> <p>“(2) reserve not more than 5 percent to carry out national activities under section 5205; and</p> <p>“(3) use the remaining amount after the Secretary reserves funds under paragraphs (1) and (2) to carry out section 5203.</p>	<p>H.R. 2218 adds new reservations of funds for the charter school program. Under current law, funds for Per-Pupil Facilities Aid are provided under national activities. Grants for Credit Enhancement are provided for under Title V-B-2.</p> <p>Under current law, the Secretary is permitted to reserve the greater of 5% or \$5 million for national activities, provided the amount reserved does not exceed \$8 million. H.R. 2218 removes the minimum dollar amount for national activities and eliminates the cap on the amount that can be used for this purpose.</p> <p>H.R. 2218 states that all remaining funds after reservations shall be used to provide Grants to Support High-Quality Charter Schools.</p>

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
<p>Subpart 2: Credit Enhancement Program</p>	<p>H.R. 2218 repeals Subpart 2. However, it includes the Credit Enhancement Program as Section 5204. For the purposes of this report, the provisions included in H.R. 2218 continue to be aligned with how the Credit Enhancement program provisions appear in current law.</p>	
<p>Section 5221: Purpose</p> <p>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.</p>	<p>Not included,</p>	<p>H.R. 2218 does not include a “purposes” section for the Credit Enhancement program.</p>
<p>Section 5222: Grants to Eligible Entities</p>		
<p>(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.</p>	<p>“(a) GRANTS TO ELIGIBLE ENTITIES.—</p> <p>“(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.</p>	<p>Similar.</p>
<p>(b) GRANTEE SELECTION.—</p> <p>(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.</p>	<p>“(b) GRANTEE SELECTION.—</p> <p>“(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.</p>	<p>Similar.</p>

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
<p>(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.</p>	<p>“(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.</p>	<p>Similar.</p>
<p>(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.</p>	<p>“(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.</p>	<p>Similar.</p>
<p>(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).</p>	<p>Not included.</p>	<p>H.R. 2218 does not include a provision regarding the distribution of funds if funds are not sufficient to permit the Secretary to award at least three grants.</p>
<p>Section 5223: Applications</p>		
<p>(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.</p>	<p>“(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.</p>	<p>Similar.</p>
<p>(b) CONTENTS.—An application submitted under subsection (a) shall contain—</p>	<p>“(2) CONTENTS.—An application submitted under paragraph (1) shall contain—</p>	<p>Similar.</p>

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
(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;	“(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;	Similar.
(2) a description of the involvement of charter schools in the application’s development and the design of the proposed activities;	“(B) a description of the involvement of charter schools in the application’s development and the design of the proposed activities;	Similar.
(3) a description of the eligible entity’s expertise in capital market financing;	“(C) a description of the eligible entity’s expertise in capital market financing;	Similar.
(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;	“(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;	Similar, except that H.R. 2218 also requires the entity to address how it will offer a combination of rates and terms more favorable than the rates and terms that a charter school could receive without assistance. Current law requires an entity to discuss other means by which it will enhance available credit for charter schools. H.R. 2218 does not require this information. As the role of the entity is to help leverage private-sector financing to assist charter schools with their facility needs rather than to provide funds directly to meet charter school facility needs, it may be more appropriate to include language that addresses the entity’s role in helping to obtain a combination of more favorable rates and terms.
(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;	“(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	Similar.
(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	“(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.	Similar.

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
(7) such other information as the Secretary may reasonably require.	Not included.	H.R. 2218 does not include a provision allowing the Secretary to require additional information be included on the application.
Section 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:	“(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:	Similar.
(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.	“(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.	Similar.
(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.	“(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.	H.R. 2218 permits an eligible entity to assist charter schools in accessing private sector capital to pay for predevelopment costs. This is not specified under current law.
Section 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:	“(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 this 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:	Similar.

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
(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.	“(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).	Similar.
(2) Guaranteeing and insuring leases of personal and real property for an objective described in section 5224.	“(B) Guaranteeing and insuring leases of personal and real property for an objective described in subsection (e).	Similar.
(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.	“(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.	Similar.
(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).	“(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).	Similar.
(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.	“(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.	Similar.
(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.	“(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.	Similar.
Section 5226: Limitation on Administrative Costs		

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
<p>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.</p>	<p>“(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)).</p>	<p>H.R. 2218 increases the percentage of funds available for administrative costs from 0.25% to 2.5%.</p>
<p>Section 5227: Audits and Reports</p>		
<p>(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 accounting principles and shall be subject to an annual audit by an independent public accountant.</p>	<p>“(h) AUDITS AND REPORTS.—“(I) 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.</p>	<p>Similar.</p>
<p>(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.</p>	<p>“(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.</p>	<p>Similar.</p>
<p>(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;</p>	<p>“(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;</p>	<p>Similar.</p>
<p>(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;</p>	<p>“(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;</p>	<p>Similar.</p>
<p>(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;</p>	<p>“(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;</p>	<p>Similar.</p>

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
(D) a listing and description of the charter schools served during the reporting period;	“(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;	Similar, except that H.R. 2218 specifies information that must be included in the annual report.
(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	“(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	Similar.
(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.	“(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.	
(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.	“(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)).	Similar. (Note: The exclusion related to Subsection (k) under H.R. 2218 reflects the new structure of Title V-B-1. Subsection (k) is the Per-Pupil Facilities program, so reporting on that program is not included with the reporting on the Credit Enhancement program.)
Section 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.	“(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.	Similar.
Section 5229: Recovery of Funds		

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
<p>(a) IN GENERAL.—The Secretary, in accordance with chapter 37 of title 31, United States Code, shall collect—</p> <p>(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</p> <p>(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).</p>	<p>“(j) RECOVERY OF FUNDS.—</p> <p>“(I) IN GENERAL.—The Secretary, in accordance with chapter 37 of title 31, United States Code, shall collect—</p> <p>“(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</p> <p>“(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).</p>	<p>Similar.</p>
<p>(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).</p>	<p>“(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).</p>	<p>Similar.</p>
<p>(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).</p>	<p>“(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).</p>	<p>Similar.</p>
<p>(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.</p>	<p>“(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.</p>	<p>Similar.</p>
<p>Section 5230: Definitions</p> <p>(1) CHARTER SCHOOL.—The term “charter school” has the meaning given such term in section 5210.</p>	<p>Not included.</p>	<p>Not included in H.R. 2218, but may not be needed given the structural changes made by H.R. 2218.</p>

ESEA Title V-B-1 and 2	H.R. 2218, Reported	Comments
<p>(2) ELIGIBLE ENTITY.—The term “eligible entity” means—</p> <p>(A) a public entity, such as a State or local governmental entity;</p> <p>(B) a private nonprofit entity; or</p> <p>(C) a consortium of entities described in subparagraphs (A) and (B).</p> <p>Section 523 I: Authorization of Appropriations</p> <p>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.</p>	<p>“(2) ELIGIBLE ENTITY DEFINED.— For purposes of this section, the term ‘eligible entity’ means—</p> <p>“(A) a public entity, such as a State or local governmental entity;</p> <p>“(B) a private nonprofit entity; or</p> <p>“(C) a consortium of entities described in subparagraphs (A) and (B).</p> <p>Not included.</p>	<p>Similar.</p> <p>Not included in H.R. 2218, but may not be needed given the structural changes made by H.R. 2218.</p>

Source: Table prepared by CRS, September 2, 2011, based on CRS analysis of ESEA current law and H.R. 2218 as reported.

- a. For example, in FY2010 the Charter School Program received \$256 million in the Consolidated Appropriations Act, 2010 (P.L. 111-117). The Secretary was permitted to reserve up to \$50 million of the amount provided for the Charter Schools Program to make multiple awards to charter management organizations and other nonprofit entities for replication and expansion of successful charter school models.

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