

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
**TO H.R. 7082**  
**OFFERED BY MR. MACKENZIE OF PENNSYLVANIA**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Fostering Learning  
3 and Excellence in Charter Schools Act” or the “FLEX  
4 Act”.

**5 SEC. 2. FUNDING ALLOTMENT.**

6       Section 4302 of the Elementary and Secondary Edu-  
7 cation Act of 1965 (20 U.S.C. 7221a) is amended—

8           (1) in subsection (a)(1)—

9                   (A) by striking “and” after “the replica-  
10 tion of high-quality charter schools,”; and

11                  (B) by inserting “, and the addition or ex-  
12 pansion of programs at high-quality charter  
13 schools” after “the expansion of high-quality  
14 charter schools”;

15           (2) in subsection (b)—

16                   (A) in paragraph (1), by striking “12.5  
17 percent” and inserting “at least 15 percent”;

1 (B) in paragraph (2), by striking “22.5  
2 percent” and inserting “at least 25 percent”;  
3 and

4 (C) in paragraph (3), by striking “use the  
5 remaining” and all that follows through “para-  
6 graphs (1) and (2)” and inserting “reserve at  
7 least 30 percent”; and

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

9 “(d) REMAINING AMOUNTS.—In the case of a re-  
10 maining amount after the Secretary makes reservations  
11 of the amount made available under section 4311 for a  
12 fiscal year in accordance with paragraphs (1), (2), and (3)  
13 of subsection (b), the Secretary—

14 “(1) shall use all of such remaining amount to  
15 support charter school facilities assistance under sec-  
16 tion 4304, carry out national activities under section  
17 4305, and carry out section 4303, as described in  
18 such paragraphs; and

19 “(2) may determine how to allocate such re-  
20 maining amount to support or carry out, as applica-  
21 ble, the programs and activities described in each  
22 such section.”.

1 **SEC. 3. GRANTS TO SUPPORT HIGH-QUALITY CHARTER**  
2 **SCHOOLS.**

3 Section 4303 of the Elementary and Secondary Edu-  
4 cation Act of 1965 (20 U.S.C. 7221b) is amended—

5 (1) in subsection (b)—

6 (A) in paragraph (1)—

7 (i) in subparagraph (B), by striking  
8 “or” at the end;

9 (ii) in subparagraph (C), by striking  
10 “and” at the end and inserting “or”; and

11 (iii) by inserting after subparagraph  
12 (C) the following:

13 “(D) support the addition or expansion of  
14 curricular or other offerings at a high-quality  
15 charter school (provided that such addition or  
16 expansion is designed and implemented in a  
17 manner that will enable additional students to  
18 enroll in and benefit from the school), such as  
19 through the adoption of—

20 “(i) new academic programs or deliv-  
21 ery models;

22 “(ii) personalized learning; or

23 “(iii) a new curricular approach;  
24 and”; and

1 (B) in paragraph (2), by inserting “, in-  
2 cluding costs to provide such assistance,” after  
3 “provide technical assistance”;  
4 (2) in subsection (c)—

5 (A) in paragraph (1), in the matter pre-  
6 ceding subparagraph (A), by inserting “, over  
7 the course of the grant period described in sub-  
8 section (d)(1)(A)” after “shall”; and

9 (B) in paragraph (3), by adding at the end  
10 the following:

11 “(C) SINGLE-SEX SCHOOLS AND SERV-  
12 ICES.—Nothing in this part shall be construed  
13 to prohibit schools from providing educational  
14 services to students of a single sex.”;  
15 (3) in subsection (d)—

16 (A) in the heading of such subsection, by  
17 inserting “ADVANCE PAYMENTS; ” after “PEER  
18 REVIEW; ”;

19 (B) in paragraph (1)(B), by striking “of  
20 which” and all that follows through “program  
21 design” and inserting “of which an eligible ap-  
22 plicant may use not more than a period of time  
23 determined by the State entity (which may not  
24 exceed 2 years) for planning and program de-  
25 sign”;

1 (C) in paragraph (2), by striking “The  
2 Secretary, and each State entity awarding sub-  
3 grants under this section, shall” and inserting  
4 “The Secretary shall, and each State entity  
5 awarding subgrants under this section may,”;  
6 and

7 (D) by amending paragraph (3) to read as  
8 follows:

9 “(3) ADVANCE PAYMENTS.—Notwithstanding  
10 any other provision of law, the Secretary shall take  
11 such steps as are necessary to ensure that—

12 “(A) an eligible applicant awarded a  
13 subgrant by a State entity under this section  
14 may request advance payments of subgrant  
15 funds for the purposes described in subsection  
16 (b)(1), and upon such request, such State enti-  
17 ty shall provide advance payments of such  
18 funds awarded to the eligible applicant in ac-  
19 cordance with section 200.305(b)(1) of title 2,  
20 Code of Federal Regulations (or successor regu-  
21 lations);

22 “(B) a State entity shall be provided with  
23 advance payments of grant funds in accordance  
24 with section 200.305(b)(1) of title 2, Code of  
25 Federal Regulations (or successor regulations)

1 in an amount sufficient to provide advance pay-  
2 ments to an eligible applicant under subpara-  
3 graph (A); and

4 “(C) mutually agreed upon funding tech-  
5 niques, such as those described in part 205.12  
6 of title 31, Code of Federal Regulations (or suc-  
7 cessor regulations), are in place with States or  
8 State entities, as appropriate, to receive funds  
9 under this section in a manner that permits a  
10 State entity to receive advance payments of  
11 grant funds, and provide to eligible applicants  
12 advance payments of subgrant funds, in accord-  
13 ance with subparagraphs (A) and (B).”;

14 (4) in subsection (e)(1), by striking “is cur-  
15 rently using” and inserting “has not obligated all  
16 funds received pursuant to”;

17 (5) in subsection (f)—

18 (A) in paragraph (1)—

19 (i) in subparagraph (A)—

20 (I) by amending clause (i) to  
21 read as follows:

22 “(i) support the opening, expansion,  
23 and strengthening of charter schools  
24 through the startup of new charter schools,  
25 the replication of high-quality charter

1 schools, the expansion of high-quality char-  
2 ter schools, and the addition of programs  
3 in high-quality schools, which shall include  
4 an initial projection (which may not be  
5 used to determine a State entity's alloca-  
6 tion of subgrant funds if the State entity  
7 determines that an alternative allocation  
8 would better meet the purposes of this pro-  
9 gram) of—

10 “(I) the number of charter  
11 schools to be opened through the  
12 startup of new charter schools under  
13 the program;

14 “(II) the number of charter  
15 schools to be opened as a result of the  
16 replication of a high-quality charter  
17 school under the program; or

18 “(III) the number of high-quality  
19 charter schools to be expanded under  
20 the program;”;

21 (II) in subclause (II) of clause  
22 (vi), by striking “in a manner con-  
23 sistent with the eligible applicant’s ap-  
24 plication for such subgrant”;

1 (III) in clause (xi), by inserting  
2 “in the case of a State entity de-  
3 scribed in subsection (a)(1) or  
4 (a)(3),” before “support”; and

5 (IV) in clause (xii)—

6 (aa) in subclause (I)—

7 (AA) by striking “(I)”;

8 and

9 (BB) by striking “not  
10 described in subclause (II)”  
11 and inserting “described in  
12 paragraphs (1), (2), or (3)  
13 of subsection (a)”;

14 (bb) by striking subclause  
15 (II);

16 (ii) in subparagraph (B)(iii), by strik-  
17 ing “to develop or strengthen a cohesive  
18 strategy”;

19 (iii) in subparagraph (C)—

20 (I) in clause (i)(VI), by striking  
21 “and” at the end;

22 (II) in clause (ii), by inserting  
23 “and” at the end; and

24 (III) by adding at the end the  
25 following:



1                   “(iii) a description of whether and  
2                   how, in lieu of requiring an application in  
3                   accordance with clause (i), the State entity  
4                   will opt to use an eligible applicant’s ap-  
5                   proved charter authorization application,  
6                   provided that such charter authorization  
7                   application was approved in accordance  
8                   with relevant State law during the year  
9                   preceding the date on which the State enti-  
10                  ty first accepts applications for such sub-  
11                  grants;”; and

12                  (iv) by striking subparagraph (E);  
13                  and

14                  (v) by redesignating subparagraphs  
15                  (F) and (G) as subparagraphs (E) and  
16                  (F), respectively; and  
17                  (B) in paragraph (2)—

18                  (i) in subparagraph (F), by striking  
19                  “and” at the end;

20                  (ii) in subparagraph (G)(v), by strik-  
21                  ing the period at the end and inserting “;  
22                  and”; and

23                  (iii) by adding at the end the fol-  
24                  lowing:

1           “(H) the State entity will ensure that each  
2 charter school receiving funds under the State  
3 entity’s program will address the transportation  
4 needs of their students.”;

5           (6) in subsection (g)(1)—

6                 (A) by striking subparagraph (B); and

7                 (B) in subparagraph (C), by striking  
8 “meet those objectives and”;

9           (7) in subsection (h)—

10                 (A) by amending paragraph (1)(B) to read  
11 as follows:

12                 “(B) hiring and compensating teachers,  
13 school leaders, or specialized instructional sup-  
14 port personnel.”;

15                 (B) in paragraph (2)—

16                         (i) by inserting “academic subscrip-  
17 tions (including digital and online subscrip-  
18 tions),” after “training,”; and

19                         (ii) by inserting “curricular support,”  
20 after “(including technology),”;

21                 (C) by amending paragraph (3) to read as  
22 follows:

23                 “(3) In order to ensure that a school building  
24 complies with applicable statutes and regulations,

1 carrying out necessary renovations, upgrades, or fa-  
2 cilities repairs, or acquiring portable classrooms.”;

3 (D) in paragraph (4), by striking “one-  
4 time, startup”;

5 (E) in paragraph (6), by striking “appro-  
6 priate, non-sustained”; and

7 (F) by adding at the end the following:

8 “(7) Providing costs associated with operations  
9 and management of the charter school facility.”; and  
10 (8) in subsection (i)—

11 (A) by striking “of the third year”; and

12 (B) by striking “(or at the end of the sec-  
13 ond year of the grant period if the grant is less  
14 than 5 years), and at the end of such grant pe-  
15 riod”.

16 **SEC. 4. NATIONAL ACTIVITIES; GRANTS TO CHARTER MAN-**  
17 **AGEMENT ORGANIZATIONS.**

18 Section 4305 of the Elementary and Secondary Edu-  
19 cation Act of 1965 (20 U.S.C. 7221d) is amended—

20 (1) by amending subsection (a) to read as fol-  
21 lows:

22 “(a) IN GENERAL.—From the amount reserved  
23 under section 4302(b)(2), the Secretary shall—

24 “(1) use not more than 10 percent of such  
25 funds to—

1                   “(A) provide support and technical assist-  
2                   ance to—

3                   “(i) State entities in awarding sub-  
4                   grants under section 4303(b)(1); and

5                   “(ii) eligible entities and States receiv-  
6                   ing grants under section 4304;

7                   “(B) disseminate best practices regarding  
8                   charter schools;

9                   “(C) increase access to facilities (including  
10                  funding and financing for facilities) for charter  
11                  schools;

12                  “(D) increase the number of available  
13                  seats in charter schools through early-stage  
14                  charter school planning;

15                  “(E) increase the number of available seats  
16                  in charter schools that—

17                       “(i) are located in States that have  
18                       enacted legislation within a period of 5  
19                       years prior to the award of a grant under  
20                       this section for such purpose;

21                       “(ii) serve rural students; and

22                       “(iii) serve students with disabilities;

23                       and

1 “(F) evaluate the impact of the charter  
2 school program carried out under this part, in-  
3 cluding with respect to student achievement;

4 “(2) use not more than 15 percent of such  
5 funds to award grants, on a competitive basis, to eli-  
6 gible applicants for the purpose of carrying out the  
7 activities described in section 4303(h) in a State  
8 that did not receive a grant under section 4303; and

9 “(3) after the uses described in paragraphs (1)  
10 and (2), use the remainder of such funds to award  
11 grants in accordance with subsection (b); and”;

12 (2) in subsection (b)—

13 (A) in paragraph (3)(B)—

14 (i) in clause (ii)—

15 (I) in subclause (I), by inserting  
16 “and” at the end;

17 (II) in subclause (II), by striking  
18 “and” and the end; and

19 (III) by striking subclause (III);

20 and

21 (ii) in clause (iii), by striking “, which  
22 shall include a multi-year financial and op-  
23 erating model for the eligible entity”; and

24 (B) in paragraph (5)—

1 (i) in subparagraph (C)(ii), by striking  
2 ing “or” at the end;

3 (ii) in subparagraph (D), by striking  
4 the period at the end and inserting “; or”;  
5 and

6 (iii) by adding at the end the following:  
7

8 “(E) plan to operate or manage high-quality charter schools in—  
9

10 “(i) States in which, as of the date on  
11 which the eligible entity submits an application under paragraph (3), the eligible entity does not operate or manage a charter school; or  
12  
13  
14

15 “(ii) States with limited charter school  
16 options.”.

17 **SEC. 5. SOLICITATION OF INPUT FROM CHARTER SCHOOL**  
18 **OPERATORS.**

19 Section 4307 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7221f) is amended—  
20

21 (1) by striking “To the extent practicable, the Secretary” and inserting “The Secretary”;

22 (2) by inserting “, prior to the issuance of a notice of proposed rulemaking,” after “are consulted”;  
23  
24  
25 and

1 (3) by striking “this subpart” and inserting  
2 “this part”.

3 **SEC. 6. PAPERWORK REDUCTION AND REGULATION.**

4 Section 4309 of the Elementary and Secondary Edu-  
5 cation Act of 1965 (20 U.S.C. 7221h) is amended—

6 (1) in the heading, by inserting “**AND REGU-**  
7 **LATION**” at the end;

8 (2) by striking “To the extent practicable, the”  
9 and inserting the following:

10 “(a) PAPERWORK REDUCTION.—The”;

11 (3) by striking “this subpart” and inserting  
12 “this part”;

13 (4) by striking “or charter school” and insert-  
14 ing “, charter school, or State entity (as defined in  
15 section 4303)”;

16 (5) by adding at the end the following:

17 “(b) REGULATION.—In meeting the requirement  
18 under subsection (a), the Secretary shall promulgate only  
19 such regulations as are necessary for the administration  
20 of this part and shall not impose additional nonstatutory  
21 requirements on those entities subject to the regulations.”.

22 **SEC. 7. DEFINITIONS.**

23 Section 4310(2)(D) of the Elementary and Secondary  
24 Education Act of 1965 (20 U.S.C. 7221i(2)(D)) is amend-

1 ed by inserting “(which may include other educational pro-  
2 grams, pursuant to State law)” after “education”.

3 **SEC. 8. APPLICABILITY.**

4 (a) IN GENERAL.—This Act and the amendments  
5 made by this Act shall apply with respect to grants award-  
6 ed under sections 4303 and 4305 of the Elementary and  
7 Secondary Education Act of 1965 (20 U.S.C. 7221b;  
8 7221d) on or after the date of the enactment of this Act.

9 (b) EXCEPTION.—An entity that received a grant  
10 under a section described in subsection (a) prior to the  
11 date of the enactment of this Act for which the applicable  
12 grant period has not expired may elect to, for the remain-  
13 der of such grant period, carry out such grant in accord-  
14 ance with this Act and the amendments made by this Act.

