

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)—

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 subparagraph
3 (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 charter
2 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”;

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

(IV) in clause (xii)—

(aa) in subclause (I)—

(AA) by striking “(I);” and

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

(bb) by striking subclause (II);

(ii) in subparagraph (B)(iii), by striking “to develop or strengthen a cohesive strategy”;

(iii) in subparagraph (C)—

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

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

(III) by adding at the end the 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” at 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)—

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

19 Section 4307 of the Elementary and Secondary Edu-
20 cation Act of 1965 (20 U.S.C. 7221f) is amended—
21 (1) by striking “To the extent practicable, the
22 Secretary” and inserting “The Secretary”;
23 (2) by inserting “, prior to the issuance of a no-
24 tice of proposed rulemaking,” after “are consulted”;
25 and

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;

10 "(a) PAPERWORK REDUCTION.—The";

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

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.

