

CHARTER SCHOOLS AMENDMENTS ACT OF 1997

OCTOBER 14, 1997.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GOODLING, from the Committee on Education and the Workforce, submitted the following

REPORT

Together with

ADDITIONAL, MINORITY, AND DISSENTING VIEWS

[To accompany H.R. 2616]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and the Workforce, to whom was referred the bill (H.R. 2616) to amend titles VI and X of the Elementary and Secondary Education Act of 1965 to improve and expand charter schools, having considered the same, reports favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Charter Schools Amendments Act of 1997”.

SEC 2. INNOVATIVE CHARTER SCHOOLS.

Title VI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7301 et seq.) is amended—

(1) in section 6201(a)—

(A) in paragraph (1)(C), by striking “and” after the semicolon;

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following:

“(2) support for planning, designing, and initial implementation of charter schools as described in part C of title X; and”;

(2) in section 6301(b)—

(A) in paragraph (7), by striking “and” after the semicolon;

(B) by redesignating paragraph (8) as paragraph (9); and

(C) by inserting after paragraph (7) the following:

“(8) planning, designing, and initial implementation of charter schools as described in part C of title X; and”.

SEC. 3. CHARTER SCHOOLS.

Part C of title X of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

“PART C—PUBLIC CHARTER SCHOOLS

“SEC. 10301. FINDINGS AND PURPOSE.

“(a) FINDINGS.—The Congress finds that—

“(1) enhancement of parent and student choices among public schools can assist in promoting comprehensive educational reform and give more students the opportunity to learn to challenging State content standards and challenging State student performance standards, if sufficiently diverse and high-quality choices, and genuine opportunities to take advantage of such choices, are available to all students;

“(2) useful examples of such choices can come from States and communities that experiment with methods of offering teachers and other educators, parents, and other members of the public the opportunity to design and implement new public schools and to transform existing public schools;

“(3) charter schools are a mechanism for testing a variety of educational approaches and should, therefore, be exempted from restrictive rules and regulations if the leadership of such schools commits to attaining specific and ambitious educational results for educationally disadvantaged students consistent with challenging State content standards and challenging State student performance standards for all students;

“(4) charter schools, as such schools have been implemented in a few States, can embody the necessary mixture of enhanced choice, exemption from restrictive regulations, and a focus on learning gains;

“(5) charter schools, including charter schools that are schools-within-schools, can help reduce school size, which can have a significant effect on student achievement;

“(6) the Federal Government should test, evaluate, and disseminate information on a variety of charter school models in order to help demonstrate the benefits of this promising educational reform; and

“(7) there is a strong documented need for cash-flow assistance to charter schools that are starting up, because State and local operating revenue streams are not immediately available.

“(b) PURPOSES.—The purposes of this part are—

“(1) to provide financial assistance for the planning, design, initial implementation of charter schools;

“(2) to facilitate the ability of States and localities to increase the number of charter schools in the Nation to not less than 3,000 by the year 2000; and

“(3) to evaluate the effects of charter schools, including the effects on students, student achievement, staff, and parents.

“SEC. 10302. PROGRAM AUTHORIZED.

“(a) IN GENERAL.—The Secretary may award grants to State educational agencies having applications approved pursuant to section 10303 to enable such agencies to conduct a charter school grant program in accordance with this part.

“(b) SPECIAL RULE.—If a State educational agency elects not to participate in the program authorized by this part or does not have an application approved under section 10303, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 10303.

“(c) PROGRAM PERIODS.—

“(1) GRANTS TO STATES.—

“(A) BASIC GRANTS.—Grants awarded to State educational agencies under this part for planning, design, or initial implementation of charter schools, shall be awarded for a period of not more than 5 years.

“(B) EXTENSION.—Any eligible applicant that has received a grant or subgrant under this part prior to October 1, 1997, shall be eligible to receive an additional grant for a period not to exceed 2 years in accordance with this section.

“(2) GRANTS TO ELIGIBLE APPLICANTS.—

“(A) BASIC GRANTS.—Grants awarded by the Secretary to eligible applicants or subgrants awarded by State educational agencies to eligible applicants under this part shall be awarded for planning, design, or initial im-

plementation of charter schools, for a period not to exceed more than 5 years, of which the eligible applicant may use—

- “(i) not more than 30 months for planning and program design; and
- “(ii) not more than 4 years for the initial implementation of a charter school.

“(B) EXTENSION.—Any eligible applicant that has received a grant or subgrant under this part prior to October 1, 1997, shall be eligible to receive an additional grant for a period not to exceed 2 years in accordance with this section.

“(d) LIMITATION.—Except as otherwise provided under subsection (c), the Secretary shall not award more than one grant and State educational agencies shall not award more than one subgrant under this part to support a particular charter school.

“(e) PRIORITY AND REQUIREMENTS.—

“(1) PRIORITY.—

“(A) FISCAL YEARS 1998, 1999, AND 2000.—In awarding grants under this part for any of the fiscal years 1998, 1999, and 2000 from funds appropriated under section 10310 that are in excess of \$51,000,000 for the fiscal year, the Secretary shall give priority to State educational agencies in accordance with subparagraph (C).

“(B) SUCCEEDING FISCAL YEARS.—In awarding grants under this part for fiscal year 2001 or any succeeding fiscal year from any funds appropriated under section 10310, the Secretary shall consider the number of charter schools in each State and shall give priority to State educational agencies in accordance with subparagraph (C).

“(C) PRIORITY ORDER.—In awarding grants under subparagraphs (A) and (B), the Secretary shall, in the order listed, give priority to a State that—

- “(i) meets all requirements of paragraph (2);
- “(ii) meets 2 requirements of paragraph (2); and
- “(iii) meets 1 requirement of paragraph (2).

“(2) REQUIREMENTS.—The requirements referred to in paragraph (1)(C) are as follows:

“(A) The State law regarding charter schools ensures that each charter school has a high degree of autonomy over its budgets and expenditures.

“(B) The State law regarding charter schools provides that not less than 1 chartering authority in the State allows for an increase in the number of charter schools from 1 year to the next year; and

“(C) The State law regarding charter schools provides for periodic review and evaluation by the authorized public chartering agency of each charter school to determine whether the school is meeting or exceeding the academic performance requirements and goals for charter schools as set forth under State law or the school’s charter.

“SEC. 10303. APPLICATIONS.

“(a) APPLICATIONS FROM STATE AGENCIES.—Each State educational agency desiring a grant from the Secretary under this part 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.

“(b) CONTENTS OF A STATE EDUCATIONAL AGENCY APPLICATION.—Each application submitted pursuant to subsection (a) shall—

“(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;

“(2) describe how the State educational agency will inform each charter school of available Federal programs and funds that each such school is eligible to receive and ensure that each such school receives its appropriate share of Federal education funds allocated by formula; and

“(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—

“(A) a description of the educational program to be implemented by the proposed charter school, including—

- “(i) how the program will enable all students to meet challenging State student performance standards;
- “(ii) the grade levels or ages of children to be served; and
- “(iii) the curriculum and instructional practices to be used;

- “(B) a description of how the charter school will be managed;
 - “(C) a description of—
 - “(i) the objectives of the charter school; and
 - “(ii) the methods by which the charter school will determine its progress toward achieving those objectives;
 - “(D) a description of the administrative relationship between the charter school and the authorized public chartering agency;
 - “(E) a description of how parents and other members of the community will be involved in the design and implementation of the charter school;
 - “(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);
 - “(G) a request and justification for waivers of any Federal statutory or regulatory provisions that the 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;
 - “(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;
 - “(I) a description of how students in the community will be—
 - “(i) informed about the charter school; and
 - “(ii) given an equal opportunity to attend the charter school;
 - “(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);
 - “(K) an assurance that the applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this part;
 - “(L) such other information and assurances as the Secretary and the State educational agency may require; and
- “(4) describe how the State educational agency will disseminate best or promising practices of charter schools in such State to each local educational agency in the State.
- “(c) CONTENTS OF ELIGIBLE APPLICANT APPLICATION.—Each eligible applicant desiring a grant pursuant to section 10302 shall submit an application to the State educational agency or Secretary, respectively, at such time, in such manner, and accompanied by such information as the State educational agency or Secretary, respectively, may reasonably require.
- “(d) CONTENTS OF APPLICATION.—Each application submitted pursuant to subsection (c) shall contain—
- “(1) the information and assurances described in subparagraphs (A) through (L) of subsection (b)(3), except that for purposes of this subsection subparagraphs (J), (K), and (L) of such subsection shall be applied by striking ‘and the State educational agency’ each place such term appears; and
 - “(2) assurances that the State educational agency—
 - “(A) will grant, or will obtain, waivers of State statutory or regulatory requirements; and
 - “(B) will assist each subgrantee in the State in receiving a waiver under section 10304(e).
- “SEC. 10304. ADMINISTRATION.
- “(a) SELECTION CRITERIA FOR STATE EDUCATIONAL AGENCIES.—The Secretary shall award grants to State educational agencies under this part on the basis of the quality of the applications submitted under section 10303(b), after taking into consideration such factors as—
- “(1) the contribution that the charter schools grant program will make to assisting educationally disadvantaged and other students to achieving State content standards and State student performance standards and, in general, a State’s education improvement plan;
 - “(2) the degree of flexibility afforded by the State educational agency to charter schools under the State’s charter schools law;
 - “(3) the ambitiousness of the objectives for the State charter school grant program;
 - “(4) the quality of the strategy for assessing achievement of those objectives;

- “(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students; and
- “(6) the number of charter schools created under this part in the State.
- “(b) SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.—The Secretary shall award grants to eligible applicants under this part on the basis of the quality of the applications submitted under section 10303(c), after taking into consideration such factors as—
- “(1) the quality of the proposed curriculum and instructional practices;
- “(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;
- “(3) the extent of community support for the application;
- “(4) the ambitiousness of the objectives for the charter school;
- “(5) the quality of the strategy for assessing achievement of those objectives; and
- “(6) the likelihood that the charter school will meet those objectives and improve educational results for students.
- “(c) PEER REVIEW.—The Secretary, and each State educational agency receiving a grant under this part, shall use a peer review process to review applications for assistance under this part.
- “(d) DIVERSITY OF PROJECTS.—The Secretary and each State educational agency receiving a grant under this part, shall award subgrants under this part in a manner that, to the extent possible, ensures that such grants and subgrants—
- “(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and
- “(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.
- “(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 10309(1), if—
- “(1) the waiver is requested in an approved application under this part; and
- “(2) the Secretary determines that granting such a waiver will promote the purpose of this part.
- “(f) USE OF FUNDS.—
- “(1) STATE EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this part 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 part.
- “(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 in accordance with this part.
- “(3) ALLOWABLE ACTIVITIES FOR BASIC GRANTS.—An eligible applicant receiving a basic grant or subgrant under section 10302(c)(2) may use the grant or subgrant funds only for—
- “(A) post-award planning and design of the educational program, which may include—
- “(i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and
- “(ii) professional development of teachers and other staff who will work in the charter school; and
- “(B) initial implementation of the charter school, which may include—
- “(i) informing the community about the school;
- “(ii) acquiring necessary equipment and educational materials and supplies;
- “(iii) acquiring or developing curriculum materials; and
- “(iv) other initial operational costs that cannot be met from State or local sources.
- “(4) ADMINISTRATIVE EXPENSES.—Each State educational agency receiving a grant pursuant to this part may reserve not more than 5 percent of such grant funds for administrative expenses associated with the charter school grant program assisted under this part.
- “SEC. 10305. NATIONAL ACTIVITIES.
- “The Secretary shall reserve for each fiscal year the lesser of 5 percent of the amount appropriated to carry out this part for the fiscal year or \$5,000,000, to carry out, giving highest priority to carrying paragraph (2), the following:
- “(1) To provide charter schools, either directly or through the State educational agency, with information regarding available education funds that such

school is eligible to receive, and assistance in applying for Federal education funds which are allocated by formula, including filing deadlines and submission of applications; and

“(2) To provide, through 1 or more contracts using a competitive bidding process—

“(A) charter schools with assistance in accessing private capital;

“(B) pilot projects in a variety of States to better understand and improve access to private capital by charter schools; and

“(C) collection on a nationwide basis, of information regarding successful programs that access private capital for charter schools and disseminate any such relevant information and model descriptions to all charter schools.

“(3) To provide for the completion of the 4-year national study (which began in 1995) of charter schools and any related evaluations or studies.

“(4)(A) To provide information to applicants for assistance under this part;

“(B) assistance to applicants for assistance under this part with the preparation of applications under section 10303;

“(C) assistance in the planning and startup of charter schools;

“(D) ongoing training and technical assistance to existing charter schools; and

“(E) for the dissemination of best practices in charter schools to other public schools.

“SEC. 10306. PART A, TITLE I ALLOCATION DURING FIRST YEAR AND FOR SUCCESSIVE ENROLLMENT EXPANSIONS.

“For purposes of the allocation to schools by the States or their agencies of funds under part A of title I, or of any other Federal educational assistance funds, the Secretary and each State educational agency shall take such measures not later than 6 months after the date of the enactment of this part as are necessary to ensure that every charter school receives the Federal funding for which it is eligible in the calendar year in which it first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that school are not fully and completely determined until that school actually opens. These measures shall similarly ensure that every charter school expanding its enrollment in any subsequent year of operation receives the Federal funding for which it is eligible during the calendar year of such expansion.

“SEC. 10307. RECORDS TRANSFER.

“State and local educational agencies, to the extent practicable, shall ensure that a student’s records and if applicable a student’s individualized education program as defined in section 602(11) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(11)), are transferred to the charter school upon transfer of a student to a charter school in accordance with applicable State law.

“SEC. 10308. PAPERWORK REDUCTION.

“To the extent practicable, the Secretary and each authorized public chartering agency, shall ensure that implementation of this part results in a minimum of paperwork for any eligible applicant or charter school.

“SEC. 10309. DEFINITIONS.

“As used in this part:

“(1) The term ‘charter school’ means a public school that—

“(A) in accordance with a specific State charter school statute, is exempted 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;

“(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;

“(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;

“(D) provides a program of elementary or secondary education, or both;

“(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;

“(F) does not charge tuition;

“(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;

“(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;

“(I) agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

“(J) meets all applicable Federal, State, and local health and safety requirements;

“(K) operates in accordance with State law; and

“(L) has a written performance contract with the authorized public chartering agency in the State.

“(2) 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.

“(3) The term ‘eligible applicant’ means an authorized public chartering agency participating in a partnership with a developer to establish a charter school in accordance with this part.

“(4) 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.

“SEC. 10310. AUTHORIZATION OF APPROPRIATIONS.

“For the purpose of carrying out this part, there are authorized to be appropriated \$100,000,000 for fiscal year 1998 and such sums as may be necessary for each of the four succeeding fiscal years.”.

PURPOSE

The purpose of the Charter Schools Amendments Act of 1997, which strengthens the existing statute, Title X, Part C, of the Elementary and Secondary Education Act of 1965, is threefold: first, to provide financial assistance for the planning, design, and initial implementation of new charter schools, in essence to provide critical start-up funds to charters; second, to augment the efforts of States and localities to increase the number of charter schools to 3000 by the year 2000; and third, to evaluate the effects of charter schools on students, parents and teachers.

BACKGROUND AND NEED FOR LEGISLATION

Charter schools are public schools, established under State law, which are granted varying degrees of autonomy from State and local rules and regulations. They are public schools that are free from the red-tape that governs traditional public schools. However, like traditional schools, charter schools are non-sectarian schools that do not charge tuition and must adhere to Federal education and civil rights statutes. And, since charter schools are public schools, they are completely under the authority of the public domain.

In exchange for their autonomy, charter schools are held accountable for meeting the terms of their charters, including achievement of academic outcomes of the students they serve, as stipulated in the charters. There is wide variation among the States in the terms and conditions under which charter schools can be established and operated, but in virtually every State, the students’ academic performance is a universal condition for measuring each charter school’s success and determining whether to extend the charter.

Typically, charter schools are granted a charter by authorized chartering entities such as a State charter board, a State board of

education, a public university in some States, or a local board of education. Additionally, in some States, there may be multiple entities that grant charters.

Depending upon the particular State law, these schools may be newly-created or established from existing public or private schools and may be established by non-profit or for-profit private or public organizations, teachers, parents or other private citizens. Unlike traditional public schools, students are not mandatorily assigned to these schools, rather they choose to attend these schools. If a charter school receives money under the Federal statute, it must admit the students by lottery in situations where there are more students who apply to attend, than are positions available.

Since 1991, when Minnesota adopted the Nation's first charter school bill, support for charter schools has flourished. Over half of the States in the Union, and the District of Columbia and Puerto Rico have passed charter school legislation. According to Bruno Manno, a senior fellow at the Hudson Institute who co-authored two national studies of the charter school movement in the United States, "* * * about 700 charter schools will be operating in at least 20 States for this fall {the 1997-1998 school year} serving over 170,000 children—more than the entire student population of Rhode Island." Clearly, in 1997, charter schools are no longer a mere experiment in education reform, but represent a popular and reliable alternative for parents and teachers to the traditional public school system.

In 1994, Congress passed legislation establishing charter schools as Part C of Title X of the Elementary and Secondary Education Act, Public Law 103-382, and established a Federal funding stream to assist charter schools with start-up costs. Start-up costs are defined as the costs of the planning, design and initial implementation of the charter school. Allowable uses of funds under this definition include professional development, informing the community about the school, acquiring necessary equipment and educational materials and supplies, and developing curriculum and other costs incurred in the first few years of a charter school's existence not otherwise covered by State and local dollars. The Act authorized \$15 million for fiscal year 1995 and such sums in the out years.

As a result of the increased popularity of the charter schools' movement, the President in his budget request for the fiscal year 1998 called for \$100 million for charter schools. This figure marks a 96% increase in Federal funding for the Federal charter schools program over 1997 and a 1,533% increase over the initial appropriation of \$6 million in fiscal year 1995. The Committee supports the President's request.

Given the rapid increase in funding, changes are needed to the National Charter Schools Act to build upon what we have learned over the past three years about how the Federal government can best support the charter school movement.

COMMITTEE ACTION

The Committee on Education and the Workforce held five hearings during the first session of the 105th Congress regarding charter schools. The Subcommittee on Oversight and Investigations

conducted field hearings in California and Arizona, while the Subcommittee on Early Childhood, Youth and Families held three hearings in Washington, DC to continue the discussion on charter schools.

On January 30, 1997, the Subcommittee on Oversight and Investigations held a hearing "Education at a Crossroads" at the Vaughn Learning Center in San Fernando, California. The second panel focused on charter schools. Witnesses included: Dr. Yvonne Chan, Executive Director of the Vaughn Learning Center; Mr. Joe Lucente, Principal of Fenton Elementary School; Mr. Jonathan Williams, Co-Director of The Accelerated School; Mrs. Jeannine English, Executive Director of the Little Hoover Commission; and Mr. Eric Premack, Director of the Charter Schools Project, Institute for Education Reform.

On January 31, 1997, the Subcommittee on Oversight and Investigations held a "Crossroads" field hearing at the Phoenix City Council Chambers in Phoenix, Arizona. The first panel consisted of Lisa Graham Keegan, State Superintendent of Public Instruction, Arizona Department of Education; Dr. Raymond Jackson, President and Chief Executive Officer of the ATOP Academy; Dr. Karen Butterfield, Executive Director of Flagstaff Arts and Leadership Academy; Dr. Patrick Grippe, Assistant Superintendent of Douglas County, Colorado; Jeffrey Flake, Executive Director of the Goldwater Institute; and B. Kay Lybeck, President of the Arizona Teachers Association. The second panel consisted of C. Diane Bishop, Education Policy Advisor to Governor Fife Symington of Arizona; Candie Tapia, a student at Arizona Call-A-Teen Center of Excellence; Mary Ballard, parent of Candie Tapia; Marianne Jennings, parent and Professor of Legal and Ethical Studies of the College of Business, Arizona State University; and Dr. Lois Gerber, Chairperson of the National Independent Private Schools Association.

On April 9, 1997, the Subcommittee on Early Childhood, Youth and Families held its first hearing in Washington, DC on charter schools. This hearing focused on a broad overview of the charter school movement as well as State law perspectives and issues. This hearing continued the Committee's review of charter schools that began with the field hearings in California and Arizona. The witness for the first panel was the Honorable Gerald Tirozzi, Assistant Secretary of Elementary and Secondary Education at the Department of Education. The second panel consisted of Dr. Louann Bierlein, Education Policy Advisor for Governor Mike Foster Baton Rouge, Louisiana; Dr. Joe Nathan, Director of the Center for School Change, Humphrey Institute at the University of Minnesota, Minneapolis, Minnesota; and Dr. Amy Stuart Wells, Associate Professor for Educational Policy at the UCLA Graduate School of Education, Los Angeles, California. The third panel consisted of the Honorable Phillip Hamilton, State Delegate in the Virginia House of Delegates, Newport News, Virginia; Mr. Scott Hamilton, Associate Commissioner for Charter Schools at the Massachusetts Department of Education, Boston, Massachusetts; Mr. Bill Windler, Senior Consultant for School Improvement Accountability and Accreditation at the Colorado Department of Education, Denver, Colo-

rado; and Mr. Tim Sindelar, Attorney for the Disability Law Center, Incorporated, Boston, Massachusetts.

On June 26, 1997, the Subcommittee on Early Childhood, Youth and Families held its second hearing in Washington, D.C. on charter schools. The purpose of this hearing was to focus on a "micro-view" of charter schools. The Honorable Gerald Tirozzi, Assistant Secretary of Elementary and Secondary Education at the Department of Education testified on the first panel. The second panel included Ms. T. Beller, parent and cofounder of the River School in Napa, California and Ms. Linda Horan, a parent from Charlestown, Massachusetts. The third panel received testimony from Mr. Bob DeBoer, Director of New Visions School in Minneapolis, Minnesota; Mr. John Pellitier, Member of the Board of Directors at the Lawrence Family Development Charter School in Lawrence, Massachusetts; Ms. Mamie Thorns, Interim Director of the Charter School Office at Central Michigan University, Mount Pleasant, Michigan; and Dr. Raymond Jackson, President of the ATOP Academy in Phoenix, Arizona.

On September 16, 1997, the Subcommittee on Early Childhood, Youth and Families held its third and final hearing on charter schools in Washington, DC. Ms. Cornelia Blanchette, Associate Director for Education and Employment Issues at the General Accounting Office testified on the first panel. The second panel consisted of Mr. Robert Chase, President of the National Education Association; Mr. Richard Thompson, President of the Charter Schools Development Corporation; Ms. Jeanne Allen, President of the Center for Education Reform; Dr. Yvonne Chan, Principal of the Vaughn Next Century Learning Center in San Fernando, California; and Ms. Sharon Johnson-Lewis, Director of Research for Great City Schools.

LEGISLATIVE ACTION

On October 6, 1997, Mr. Riggs, Chairman of the Subcommittee on Early Childhood, Youth and Families, introduced H.R. 2616, the Charter Schools Amendments Act of 1997. During Full Committee markup on October 9, 1997, an amendment in the nature of a substitute was offered by Mr. Riggs and adopted by a voice vote. Amendments offered by Mr. Roemer to reinstate a purpose from current law and an amendment by Mr. Scott to require the SEA to disseminate best practices of charter schools to LEAs were also adopted and H.R. 2616, as amended, was ordered reported out of Full Committee by a vote of 24 to 8.

BILL SUMMARY

In reporting H.R. 2616, the Charter Schools Amendments Act of 1997, the Committee improves existing statute through the following provisions:

Increasing the authorization level from \$15 million to \$100 million.

Directing new money to those States that have charter schools laws that provide for a high degree of fiscal autonomy, that allow for increases in the number of charter schools, and that provide for strong academic accountability.

Reducing the amount reserved for National Activities from 10% to 5% in order to drive 95% of the Federal charter schools' money to the State and local level.

Extending the life of Federal start-up grants from three to five years in an effort to give charter schools more time to become financially stable.

Ensuring that charter schools can compete on an equal footing for Federal categorical aid by directing both the SEA and the Secretary to provide information and technical assistance to charter schools on applying for and receiving federal categorical education grants.

Addressing the lack of adequate financial resources available to charter schools, by directing the Secretary to assist charter schools in accessing private capital.

Spreading the news of effective education practices by directing both the Secretary and the SEAs to disseminate the best practices of charters schools to other public schools.

COMMITTEE VIEWS

The amount of flexibility in organizational, personnel, governance and curriculum matters granted to charter schools differs from State to State. However, most charter schools afford parents and teachers the opportunity and flexibility to try innovative approaches in providing a high quality, stimulating primary and/or secondary education in exchange for being held accountable for academic results and the proper management of funds. These are the two key characteristics that set charter schools apart from traditional public schools.

Although charter schools differ greatly from State to State, and from community to community, the First Year Report by the Department of Education four year's study on charter schools published in 1997, shows that "most charter schools are relatively small, but they serve the great racial and economic diversity of students that make up public education."

Specifically, the First Year Report found that the 60% of charter schools served fewer than 200 students, compared to only about 16% of traditional schools that serve a similarly sized study body. With regard to a charter school's student body, the Report found that most charter schools have a racial composition similar to Statewide averages or in some cases served a higher proportion of minority students. Furthermore, the Report found that nationwide charter schools enroll roughly the same proportion of low-income students as other public schools.

The findings of the First Year report dispel the myth that charter schools serve only the highest performing students. The testimony provided at the five hearings reflected the findings of the First Year Report and other studies—that many charter schools are dedicated to providing a quality education for at-risk students. The Committee heard from several charter school operators who founded their school based on a specific pedagogical vision on how to best educate at-risk youth or other students whose particular needs aren't being addressed by their school system. Charter schools successes are based on the fact that they afford teachers and administrators the necessary flexibility to meet the needs of at-risk youth

or other disenfranchised students who require the special attention and dedication that charter schools provide.

Finally, in addition to charter schools' contribution to serving hard to reach youth, the Committee believes that the strengths of charter schools lie in increased student performance, parental satisfaction and involvement, and teacher satisfaction. The Committee is encouraged by the repeated stories of charter schools' successes in these areas. Consequently, it is the opinion of the Committee that charter schools now represent an integral component of education reform.

After careful consideration of this issue, including a comprehensive set of hearings, the Committee developed H.R. 2616, the Charter Schools Act of 1997, to improve upon the existing statute.

PRIORITY OF NEW MONEY

The intent of H.R. 2616 is to drive new money, any amount appropriated over fiscal year 1997 funding (\$51 million), to the States with the strongest charter school laws. H.R. 2616 establishes a three tiered priority system on which the Secretary is to base the allocation of any new money. Priority in funding is given to those States that have a State charter school law that meets the following criteria:

Requires that each charter school within the State has a high degree of autonomy over their budget and expenditures.

Provides for an increase in the number of charter schools from one year to the next. Only one of the chartering authorities in the State has to allow for the increase in the number of schools they charter from year to year in order to comply with this particular requirement.

Requires periodic review to determine whether each charter school is meeting or exceeding academic performance requirements and goals stipulated in the school's charter.

Under H.R. 2616, priority for the new money would be given first to those States with laws that meet all three criteria; second to those that meet at least two of the criteria; and third to States that meet at least one of the criteria. The Committee intends that the bulk of the new money would be allocated to those States that meet at least two of the requirements, with the highest consideration given to those States that meet all three.

With regard to the first criteria, the Committee expects the Secretary to measure the high degree of autonomy based on whether a State permits charter schools to have complete control over the school's funds, including salaries and procurement of services and supplies, generated by the school student count. The Committee originally intended for the money to be prioritized to those States that treat their charter schools as a separate LEA, anticipating that those charter schools which are treated as separate LEAs have greater autonomy and are more likely to receive their fair share of Title I and IDEA funds. The Committee encourages States to treat charter schools as separate LEAs for the purposes of the allocation of Federal education grants, provided that such an action does not unduly cause additional regulations and requirements to be placed on charter schools. The Committee intends to continue to review whether those charter schools that are treated as separate LEAs

receive a more favorable allocation of State and Federal dollars than those charter schools that are considered part of an LEA.

The second criteria is designed to reward those States that allow for an increase in the number of charter schools and is consistent with the purpose of the Act to have 3000 charter schools in operation by the year 2000. The intent of this criteria is to encourage States not to stifle the growth of charter schools by placing a low cap on the number of charter schools that can operate in a particular State.

With regard to the third criteria, the Committee recognizes that all States that have an enabling charter school statute have a system of review and evaluation in place. By their very nature charter schools' continued existence is rooted in the idea of accountability for student performance and fiscal management. However, current law does not include any accountability or performance language, two factors that must be the cornerstone of any successful charter school program. Prioritizing money based on States that have a strong accountability component in their State charter school statute, reflects the Committee's strong emphasis on evaluation and tying student performance to accountability.

EXTENDING GRANT FROM THREE TO FIVE YEARS

The Committee believes that the greatest barrier facing charter schools is a lack of start-up funds. In fact, in the Department's First Year Report, insufficient start-up funds was the most commonly cited barrier facing charter schools. Nearly 60 percent of all charter schools, both those newly created and those in operation for a year or two, cited a lack of start-up and operational funds as a problem. Given the vast array of obstacles in founding a charter school coupled with the fact that many charter schools receive less money than traditional public schools for a host of technical and political reasons, the Committee believes that it often takes at least three, if not five years, for charter schools to establish themselves financially. Consequently, the Committee is compelled to extend the maximum cycle of the Federal grant from three to five years in an effort to allow a more reasonable period for charter schools to become financially stable.

Furthermore, the Committee heard from several charter school operators whose schools were flourishing in the areas of student achievement and parental and teacher satisfaction, but were still struggling financially. The Committee believes that extending the grant period from three to five years will permit meritorious schools (schools that exceed their academic performance requirements) to serve more children in their initial years of operation.

FAIR SHARE OF FEDERAL CATEGORICAL AID FOR CHARTER SCHOOLS

The Committee has included bill language which ensures that charter schools are treated fairly and equitably with respect to the distribution of Federal education program assistance (i.e., Title I of the Elementary and Secondary Education Act, the Individuals With Disabilities Education Act, and other programs). Section 10303(b)(2) requires each State Educational Agency applicant to describe, in its application to the Secretary, how it will inform each charter school of available Federal education programs and funds

that each school is eligible to receive and ensure that each school receives its appropriate share of Federal education funds allocated by formula. In addition, the Secretary is required, pursuant to section 10305(1), to provide charter schools with information about Federal education programs for which charter schools might be eligible, and to assist them with filing deadlines and the submission of applications.

During the course of the year, several witnesses testified that charter schools are not receiving, in some cases, their fair share of Federal, formula-based education aid. In testimony before the Subcommittee on Oversight and Investigations' field hearing in San Fernando, California on January 30, 1997, Dr. Yvonne Chan, Director of the Vaughn Next Century Learning Center charter school, stated "Though our District receives various Federal grants, e.g., Eisenhower, Safe and Drug-[f]ree Schools, [and] Migrant Education, we [Vaughn Next Century Learning Center charter school] are not eligible for any of these funds as the District determines which schools can participate."

Similarly, with respect to special education, Dr. Chan is required to negotiate with her local school district for her charter school's allocations. Yet, despite these barriers, Dr. Chan and the Vaughn Next Century Learning Center have made great progress in providing for students with disabilities. For example, each year, the school redirects \$180,000 from its general fund to help support students with disabilities. In addition, upon becoming a charter school in 1993, the Vaughn Next Century Learning Center purchased two bungalows and brought many severely disabled students back to the school who had previously left. Beginning in 1994, the school dedicated two rooms in its new building as a "Special Education Support Center," staffed with three bilingual resource specialists, two special education assistants, and a one-to-one special education aide. All students with exceptional needs are included in the regular classroom as much as possible and participate in all activities and learning events. Finally, as Dr. Chan recommended at the January 30, 1997 hearing, "The role of the Federal government is to encourage all the States to adopt strong [C]harter [S]chool laws, make sure that [C]harter [S]chools receive all Federal funds that their students are eligible for, eliminate burdensome paperwork requirements, provide incentives or start up funds, allow [C]harter [S]chools to compete for Federal grants without piggybacking on their [D]istricts, clearly define accountability measures, provide technical support and disseminate lesson[s] learned."

At the same hearing Mr. Joe Lucente, the Executive Director of the Fenton Avenue Charter School in Lake View Terrace, California, testified that Federal education programs account for about 12% of his school's total revenue with most of the funding generated from Title I and the National School Lunch and Breakfast programs. In describing some of the inequities charter schools face in receiving Federal education aid, Lucente testified,

These Federal funds greatly facilitate the attainment of our charter goals. Currently, these funds flow to the State, to the county, to the district and, finally, to the charter school. This system needs to be streamlined so Federal funds can flow directly to charter schools. This would put

the funding in the hands of educators more expeditiously and insure that all Federal funding generated by our students and programs reach the school site.

Also, Ms. Cornelia Blanchette of the General Accounting Office (GAO) testified on September 16, 1997 that the GAO's survey of charter schools has identified a variety of barriers that have made it difficult for charter school operators to apply for and receive Title I and Individuals With Disabilities Education Act (IDEA) funds. Ms. Blanchette stated,

* * * [o]ur survey has revealed a variety of barriers that have made it difficult for charter schools to access Title I and IDEA funds. These factors include, for example, a lack of enrollment and student eligibility data to submit to States before funding allocation decisions are made and the time required and the costs involved in applying for such funds, given the amount of funds available. In addition, some charter schools have failed to meet statutory eligibility requirements for receiving Federal funds. Charter school operators most often cited training and technical assistance as factors that facilitated their accessing Title I and IDEA funds.

In other cases, charter school officials must take additional steps to establish their eligibility for Title I funds over and above those faced by their traditional public school counterparts. For example, in one State, charter school officials must manually match their student enrollment records against State and local Aid to Families With Dependent Children records to verify student eligibility. The business administrator for a charter school with an enrollment of about 1,000 students told us that it takes him and another staff person approximately 2 full days to complete this process. He said that while this procedure is accomplished electronically for traditional public schools, city officials told him that he had no such option.

Finally, Dr. Raymond Jackson, the President and Chief Executive Officer of the ATOP Academy, a charter school in Phoenix, Arizona, has experienced similar problems. Dr. Jackson testified on this matter at a Subcommittee on Oversight and Investigations hearing on January 31, 1997. He said, "I do not think ATOP is getting its fair share of the [Federal] special education funds. Although the Title I funds are much more adequate, I think that Federal funding for charter schools should be increased because they don't get all of the tax dollars that should follow a student who leaves the traditional public schools."

Based upon the hearing record, there is strong evidence that more should be done by the Secretary and the State Educational Agencies to ensure that charter schools receive their fair or commensurate share of Federal, formula based categorical grant aid. Accordingly, the Committee has included language requiring the Secretary and State Educational Agencies to ensure that charter schools know about their eligibility for Federal categorical aid, and that such aid is promptly distributed to charter schools, in a fair, equitable, and appropriate manner in accordance with Federal law.

NATIONAL ACTIVITIES

The Committee reduced the Secretary's set-aside for national activities from 10 percent to 5 percent in an effort to send more money directly to charter schools. In the original statute, the Secretary was permitted to reserve up to 10 percent of the appropriation for National Activities. However, the Committee notes that the 10 percent set-aside was linked to a \$15 million authorization. In light of the fact that H.R. 2616 includes a \$100 million authorization, the Committee believes it is prudent to reduce the percent the Secretary could reserve from the top of the Federal allocation and drive 95 percent of the funds down to charter schools.

It should be noted the Administration did not oppose reducing the amount reserved for National Activities and that testimony provided at the hearings supports reducing their percentage. Jeanne Allen, President of the Center for Education Reform, an organization which provides information and assistance to citizens and educators across the country interested in establishing and running charters schools, testified at the September 16, 1997 hearing that:

* * * the Department of Education or any other entity does not need 10 percent of the money allocated for research and activities * * * in fact much of the money could have been used on text books and teacher training and things this year, had it not been allocated to the Department and while they are doing some good things in terms of the national study and various events, they are having a hard time trying to figure out how to spend all the charter school money allotted to them.

In addition to reducing the set-aside, H.R. 2616 refocuses the purpose and intent of the National Activities. While evaluation remains an important component to the National Activity section, the Committee redirects the Department to focus on activities and projects that would directly benefit schools. In 1994, the charter schools movement was new, therefore the primary focus for the National Activities centered on evaluation and the collection and dissemination of information on successful charter schools, rather than on providing direct assistance to charter schools. Over the last few years, the number of charter schools has blossomed as have studies and evaluations of the charter school movement. As a result, we are now aware of the specific barriers that face charter schools.

The National Activities section in H.R. 2616 is in response to the enormous body of evidence that points to a lack of start-up funds and private capital as well as the difficulty in accessing Title I and IDEA funds as the biggest obstacles facing charter schools operators. The Committee believes that in some cases these obstacles are so prohibitive that well-intentioned parents and teachers wishing to start a charter school cannot due to a lack of adequate financial and technical resources. The new National Activities section addresses these concerns by requiring the Secretary to provide charter schools, either directly or through the SEA, with information on available education funds and assistance in applying for those funds. Furthermore, the Secretary is directed to issue a contract

with an organization(s) to assist charter schools in obtaining private capital and to improve access to private capital by charter schools. Further, the Secretary is required to disseminate the best practices of charter schools to other public schools. The Committee expects that dissemination of best practices will lead to increased successes for all schools and will bring the best components of educational reform to the classrooms of traditional public schools. The Committee believes redirecting the purposes of the National Activities contributes to the goal of having 3000 charter schools in operation by the year 2000.

PRIVATE CAPITALIZATION

The Committee has included language in the bill requiring the Department of Education to give priority, under National Activities, to help charter schools with what most charter school operators consider to be their number one problem—the lack of funding for capitalization.

Why is this a problem? There are two primary reasons. First, of the 29 States with charter school laws, only one—Minnesota—provides a per pupil allocation for both capital expenses and operating expenses. The remaining States provide charter schools with per pupil allocations only for operating expenses, and in many cases, the per pupil operating allocation may only be 70, 80, or 90 percent of the allocation for traditional public schools. Traditional public schools, on the other hand, typically receive a per pupil allocation for both capital and operating expenses. Second, the board of trustees of charter schools have no legal authority to approve school construction bonds. On the other hand, the local school board of traditional public schools has authority to approve the issuance of school construction bonds, which are in turn used to finance the building of new schools.

Despite these difficult circumstances, charter school operators, through sheer fortitude and creativity, have been able to obtain property to house their schools. In some cases, philanthropists and foundations have donated vacant commercial buildings for use by charter schools. In other cases, school districts have made available surplus school properties. And in yet other cases, charter school operators have been able to negotiate very favorable lease agreements. Nevertheless, many have faced great difficulties. This bill attempts to make the process easier.

Two recent studies have noted in great detail the extent of the problem. In the Hudson Institute's "Charter Schools In Action: What Have We Learned," its authors, Chester Finn Jr., Bruno Manno, and Louanne Bierlein, wrote:

The lack of capital funds—both at the start and ongoing—magnifies this problem [problem of charter schools not opening because of lack of adequate initial funding]. It is one thing to secure money for smaller items such as books and furniture; it is another to obtain adequate funds to buy or rent a usable facility and complete the upgrading that is so often necessary to meet health, safety and disabled-access codes. Most charter schools do not have any use of district funds levied for capital construction, pur-

chase, and renovation, nor do they have the ability to issue their own bonds * * * Most charter schools, therefore, must use a portion of their operating funds (which in most cases is already less) to secure, furnish, and maintain facilities * * *

Because of the dearth of capital funding, only fourteen (40 percent) of the schools in our sample were in facilities that we considered generally good, twelve (34 percent) were in "adequate" ones, and nine (26 percent) were housed in facilities that seemed inadequate to us. Consider, for example the West Michigan Academy of Environment Science in Grand Rapids. During 1995-96, this school of 350 students was housed in an old coliseum. Part of its lease requirement was that twice during the year the school had to pack up everything (including books, furniture, and even temporary walls) and move it out of the building—to allow a dog show and a circus to move in! Parents assisted with this burdensome task, which turned out to have one upside: the school could completely reconfigure itself when it set back up in a few days. (Even with these facility-related constraints, the waiting list for West Michigan Academy exceeds 150). The school plans to acquire its own facility, including garden and farm areas, once adequate financing can be obtained.

A second study, the Department of Education's "A Study of Charter Schools: First-Year Report 1997," is in accord with the Hudson findings. The study found that a large percentage of newly created charter schools have been troubled by insufficient start-up funds and inadequate facilities. The report notes:

* * * although some newly created schools are located in district-owned space, many are located in non-traditional spaces. A few schools have taken innovative or creative steps to resolve their facilities problems. For example, one school leases space in multiple sites in shopping malls scattered throughout the district, at a steep discount relative to prevailing rents. Others are located in leased commercial space or previously-closed private or parochial schools. Some are housed in temporary structures.

The Committee also recognizes that school construction, whether for public charter schools, or traditional public schools, is primarily a State and local responsibility. The Committee has accordingly required the Department of Education to assist States and counties in this matter by directing the Secretary to award contracts to qualified entities to assist charter schools in obtaining private capital; to conduct pilot projects in a variety of States to better understand and improve access to private capital; to collect information, on a nationwide basis, regarding successful programs that access private capital for charter schools; and to disseminate any such information to all charter schools.

THE DEFINITION OF CHARTER SCHOOLS

One of the most unique and defining qualities of a charter school is that parents choose to send their children to a charter school,

unlike most traditional schools where attendance is usually predicated on the address of the student. Another key aspect of the charter school concept is that these schools will be held accountable for academic results. As a means to measure a charter school's success, the charter school has a written performance agreement with the chartering authority that outlines a school's particular goals. The Committee feels that both the element of choice and the existence of the performance contract are defining characteristics of a charter school and as a result should be incorporated in the definition of a charter school.

In tightening the definition of charter schools, the Committee also reviewed the current interpretation of what qualifies as a charter school. It should be noted that although the statute is silent on private schools that convert to public charter schools, it is the current policy of the Department of Education as well as the express intent of the Committee that public charter schools that have been converted from private schools are, for the purposes of the Federal statute, considered charter schools and are not prohibited from receiving Federal education dollars. Private schools that convert to public charter schools may no longer charge tuition, are required to select their students by a lottery and must comply with all Federal education and civil rights laws. They are in every manner a public charter school.

Private school conversion is permitted in five States and the District of Columbia and according to the Department of Education's First Year Report, about one-tenth of all charter schools were previously private schools.

Furthermore, the Committee notes that there is nothing in the statute that prohibits charter schools from contracting with for-profit companies to manage the operations of a charter school. The Department currently does not prohibit charter schools who contract out specific services with for-profit organizations from receiving Federal dollars. The Committee believes that Federal assistance should continue to be made available to a charter school regardless of whether the chartered entity provides educational services by means of a contract with another person, entity, or organization, including a corporation.

PRIOR YEAR ENROLLMENT—TITLE I ELIGIBILITY FOR NEW CHARTER SCHOOLS

During the course of hearings in 1997 and through the Department of Education's First Year Report and other private studies, the Committee has become aware that some new charter schools are not receiving funding from Title I of the Elementary and Secondary Education Act.

In traditional public schools, during the spring preceding the start of the school year, schools provide to their school districts a count of their number of Title I eligible students. This number is then used by the school district and the Department of Education for purposes of determining the Title I allocations for the school year which starts in September. An announcement of the allocations for the coming school year is usually made in the late spring or early summer and school districts and schools are able to plan for the coming year based on those allocations.

However, charter schools that are opening for the first time in the fall of a given year have no such Title I count during the preceding spring or summer because their potential student enrollment is often still being determined. As a result, they have no basis on which to obtain a Title I allocation by the time the school opens.

As earlier mentioned, testimony at hearings has confirmed this problem. As recently as September 16, 1997, in written testimony before the Subcommittee on Early Childhood, Youth and Families, Ms. Cornelia Blanchette of the General Accounting Office said “* * * our survey has identified a variety of barriers that made it difficult for charter school operators to apply for and receive title I and IDEA [Individuals With Disabilities Education Act] funds. For example, three officials told us that because they had no prior year’s enrollment or student eligibility data, they were not eligible under State guidelines for Federal funds.” Blanchette further noted that two of three respondents for whom lack of prior year’s enrollment data was a problem were newly created schools while the third was converted from a formerly private institution.

Mr. John Fiegel, the charter schools program director for the Department of Education testified at an April 9, 1997 hearing that the Department is conducting a study on whether charter schools are receiving their fair share of Federal education funds. He stated:

We are also conducting a short four to five month study on Federal funds and charter schools, whether charter schools are getting their fair share, what are the issues revolving around Federal funds. We will be completing a report on that within four to five months, and we will send a letter and guidance, or the report, to every charter school, and possibly to local districts and States as well.

To date, the Committee has not received the Department’s findings and would urge the Department to promptly complete the study and disseminate the results. In addition, Assistant Secretary Tirozzi noted his concern about the emerging issue of charter schools accessing Federal education aid such as Title I, Safe and Drug Free Schools, and Eisenhower Professional Development funds.

The Committee is also aware that the Hudson Institute’s July 1997 report found that Title I funds were typically allotted on the basis of the previous year’s population of Title I eligible children, “leaving start-up charters completely stranded for their first year.”

For all of these reasons, the Committee has included language requiring the Secretary of Education to take such measures as necessary to ensure that every charter school receives its full share of funding in the calendar year in which it first opens. The Secretary shall also ensure that every charter school expanding its enrollment in any subsequent year of operation receives its full share of funding during the calendar year of such expansion.

SPECIAL EDUCATION

H.R. 2616 complements the new IDEA legislation by requiring SEAs and the Secretary of Education to provide technical assistance to charter schools who frequently struggle with the complex paperwork requirements associated with IDEA. In addition, the bill

directs SEAs and LEAs to ensure that a student's Individual Education Plan (IEP) is transferred to the charter school, in accordance with State law. The Committee believes these two provisions will assist charter schools in drawing down more funds to serve special education students as well as providing charter schools with the necessary "know-how" on how to best serve special education students.

Furthermore, it is the consistent opinion of the Committee as reflected in both the IDEA legislation passed in June of 1997 and in this bill, that charter schools must fully comply with the requirements and provisions of IDEA. The Committee recognizes that charter schools like all public schools in States that accept funding under Part B of the Individuals with Disabilities Education Act (IDEA), must provide a free appropriate public education (FAPE) to children with disabilities enrolled in their programs. It should also be noted that both Title X, Part C of the Elementary and Education Act which established federal funding for charter schools and this bill stipulate that charter schools must comply with Part of IDEA.

The IDEA Amendments of 1997 signed into law, by the President on June 4, 1997, noted the rise of charter schools as an education alternative and included provisions to facilitate the delivery of FAPE to children with disabilities in charter schools. In the case of charter schools that are part of a LEA, IDEA now provides that LEAs must serve the education of children with disabilities in charter schools as it serves children with disabilities in other schools. IDEA also now ensures that LEAs must provide Federal funds to charter schools in the same manner that they provide them to other schools. In essence, LEAs must continue to serve children with disabilities enrolled in charter schools, as they would with traditional public schools.

CONCLUSION

Charter schools have made great strides in just a few years. In 1991, Minnesota became the first State to authorize charter schools. We now have 29 States with charter laws, along with the District of Columbia and Puerto Rico, and more than 500 charter schools currently in operation.

The increase in the authorization level to \$100 million is consistent with the Administration's budget request, and goes a long way toward meeting the needs of these fast-growing, innovative public schools. The increase will also help meet the Administration's goal of having 3,000 charter schools by the end of this century.

Finally, the bill drives 95% of Federal charter funding to the State and local levels, ensures that charter schools compete on equal footing for Federal categorical grant aid, and grants priority in the distribution of new money to those States that have laws which provide for fiscal autonomy, increases in the number of charter schools, and periodic review and evaluation of academic accountability.

SECTION BY SECTION ANALYSIS

SECTION 1. SHORT TITLE

This Act may be cited as the “Charter Schools Amendments Act of 1997.”

SECTION 2. INNOVATIVE CHARTER SCHOOLS

Amends Title VI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7301 et seq.) to allow State and Local educational agencies to use their Title VI money both at the State level and local levels for charter schools. This would be an additional use of funds for Title VI.

SECTION 3. CHARTER SCHOOLS

Amends part C of title X of the Elementary and Secondary Education Act of 1965 to read as follows:

“PART C—CHARTER SCHOOLS

“*Section 10301. Findings and Purpose.*—Contains the findings and purposes of the Act.

“*Section 10302. Program Authorized.*—Contains the terms made by the Secretary to conduct charter school programs including program periods, limitation, priority and requirements.

“*Section 10303. Applications.*— Contains application requirements for State educational agencies desiring Federal money for State charter school programs.

“*Section 10304. Administration.*—Defines selection criteria for the purpose of awarding grants to State educational agencies and eligible applicants; establishes a peer review requirement that each State educational agency shall use a peer review process to review applications and defines the uses of funds.

“*Section 10305. National Activities.*—Directs the Secretary to reserve up to 5% of the appropriation to be reserved for National Activities, specifically for: evaluation, technical assistance, and dissemination of best practices. This section also directs the Secretary to contract, through a competitive bidding process, to an organization to assist charter schools in accessing private capital.

“*Section 10306 Part A, Title I. Allocation During First Year and for Successive Enrollment Expansions.*—Directs the Secretary and each State educational agency to ensure that each charter school receives its full share of federal funding, in particular Title I funding, in the calendar year in which it first opens and that each charter school expanding its enrollment in any subsequent year of operation receives its full share of funding during the calendar year of such expansion.

“*Section 10307. Records Transfer.*— Directs State and local educational agencies to ensure that student records are transferred to the charter school.

“*Section 10308. Paperwork Reduction.*—Stipulates that the implementation of the Act shall result in a minimum of paperwork for eligible applicants and charter schools.

*“Section 10309. Definitions.—*Defines key terms in the Act including, Charter School, Developer, Eligible Applicant, and Authorized Public Chartering Agency.

*“Section 10310. Authorization of Appropriations.—*Authorizes \$100,000,000 to be appropriated for fiscal year 1998 and such sums as may be necessary for each of the 4 succeeding fiscal years.”

EXPLANATION OF AMENDMENT

The Amendment in the Nature of a Substitute is explained in this report.

OVERSIGHT FINDINGS OF THE COMMITTEE

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in the body of this report.

GOVERNMENT REFORM AND OVERSIGHT

With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 2616.

COMMITTEE ESTIMATE

Clause 7 of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 2616. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

CONSTITUTIONAL AUTHORITY

Title X, Part C of the Elementary and Secondary Schools Act of 1965 and the amendments made by H.R. 2616, are Constitutional under the spending clause of the constitution, Article I section 8, clause 1.

APPLICATION OF LAW TO LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch. This bill provides funds to States for programs and services to eligible recipients; the bill does not prohibit legislative branch employees from otherwise being eligible for such services.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget & Impoundment Control Act requires a statement of whether the provisions of the reported bill include unfunded mandates. The Committee received a letter

regarding unfunded mandates from the Director of the Congressional Budget Office and as such the Committee agrees that the bill does not contain any unfunded mandates. See *infra*.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST
ESTIMATE

With respect to the requirement of clause 2(1)(3)(B) of rule XI of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 2(1)(3)(C) of rule XI of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 2616 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 10, 1997.

Hon. WILLIAM F. GOODLING,
Chairman, Committee on Education and the Workforce, House of Representatives, Washington, DC

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2616, the Charter Schools Amendments Act of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Justin Latus.

Sincerely,

James L. Blum
For June E. O'Neill, *Director.*

Enclosure.

H.R. 2616—Charter Schools Amendments Act of 1997

Summary: H.R. 2616 would reauthorize the charter school program through 2002. It would authorize \$100 million for charter schools in fiscal year 1998 and such sums as may be necessary for fiscal years 1999–2002. The charter schools program received an appropriation of \$51 million in 1997.

H.R. 2616 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: H.R. 2616 would amend the charter schools program in Title VI of the Elementary and Secondary Education Act of 1965. Under current law, the charter schools program is authorized at such sums as necessary through 1999. The General Education Provisions Act provides an automatic one-year extension of authorizations for all programs in the Department of Education, extending current authorizations through 2000.

Under H.R. 2616, both states and other applicants would be allowed to receive grants for a longer period of time than under current law, and those that received grants before October 1, 1997, would be eligible to receive another grant for two more years. The bill would also establish priorities for allocating a portion of the federal charter school money based on factors such as whether

states require charter schools to be treated as autonomous schools for the purposes of distributing other federal education funding and whether states monitor the performance of charter schools in meeting education standards.

The estimated budgetary impact of H.R. 2616 is shown in the following table. CBO used historical spending patterns of the charter school program in estimating outlays. The costs of this legislation fall within budget function 500 (education, training, employment, and social services). This estimate assumes a November 15, 1997, enactment date.

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002
WITH ADJUSTMENTS FOR INFLATION					
Current law authorizations of appropriations:					
Estimated authorization	52	54	55	0	0
Estimated outlays	44	52	54	48	11
Proposed changes:					
Estimated authorization	48	49	50	108	111
Estimated outlays	6	38	48	57	97
Total spending under H.R. 2616:					
Estimated authorization	100	103	105	108	111
Estimated outlays	50	90	102	105	108
WITHOUT ADJUSTMENTS FOR INFLATION					
Current law authorizations of appropriations:					
Estimated authorizations	51	51	51	0	0
Estimated outlays	44	50	51	45	10
Proposed changes:					
Estimated authorization	49	49	49	100	100
Estimated outlays	6	39	48	55	90
Total spending under H.R. 2616:					
Estimated authorization	100	100	100	100	100
Estimated outlays	50	90	99	100	100

Pay-as-you-go considerations: None.

Estimated impact on State, local, and tribal governments: H.R. 2616 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Participation in the grant program authorized by this bill would be voluntary on the part of state educational agencies and schools.

Estimated prepared by: Federal Cost: Sheila Dacey and Justine Latus; Impact on State, Local, and Tribal Governments: Marc Nicole, Impact on the Private Sector: Nabeel Alsalam.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 1 BILL H.R. 2616 DATE October 9, 1997
 AMENDMENT NUMBER 2 DEFEATED 16-19
 SPONSOR/AMENDMENT Mr. Martinez / to require the local education agency to describe in their application to the State for charter school funds how they are complying with IDEA

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. GOODLING, Chairman		X		
Mr. PETRI, Vice Chairman		X		
Mrs. ROUKEMA		X		
Mr. FAWELL		X		
Mr. BALLENGER		X		
Mr. BARRETT		X		
Mr. HOEKSTRA		X		
Mr. McKEON				X
Mr. CASTLE		X		
Mr. JOHNSON		X		
Mr. TALENT				X
Mr. GREENWOOD		X		
Mr. KNOLLENBERG				X
Mr. RIGGS		X		
Mr. GRAHAM		X		
Mr. SOUDER		X		
Mr. McINTOSH		X		
Mr. NORWOOD				X
Mr. PAUL				X
Mr. SCHAFFER		X		
Mr. PETERSON				X
Mr. UPTON		X		
Mr. DEAL		X		
Mr. HILLEARY		X		
Mr. SCARBOROUGH				X
Mr. CLAY	X			
Mr. MILLER				X
Mr. KILDEE	X			
Mr. MARTINEZ	X			
Mr. OWENS	X			
Mr. PAYNE	X			
Mrs. MINK	X			
Mr. ANDREWS	X			
Mr. ROEMER		X		
Mr. SCOTT	X			
Ms. WOOLSEY	X			
Mr. ROMERO-BARCELO	X			
Mr. FATTAH				X
Mr. HINOJOSA				X
Mrs. McCARTHY	X			
Mr. TIERNEY	X			
Mr. KIND	X			
Ms. SANCHEZ	X			
Mr. FORD	X			
Mr. KUCINICH	X			
TOTALS	16	19		10

COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 2

BILL H.R. 2616
PASSED 24-8

DATE October 9, 1997

SPONSOR/AMENDMENT Mr. Petri / motion to report the bill to the House with an amendment and with the recommendation that the amendment be agreed to and that the bill as amended do pass

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. GOODLING, Chairman	X			
Mr. PETRI, Vice Chairman	X			
Mrs. ROUKEMA	X			
Mr. FAWELL	X			
Mr. BALENGER	X			
Mr. BARRETT	X			
Mr. HOEKSTRA	X			
Mr. McKEON				X
Mr. CASTLE				X
Mr. JOHNSON				X
Mr. TALENT	X			
Mr. GREENWOOD	X			
Mr. KNOLLENBERG				X
Mr. RIGGS	X			
Mr. GRAHAM				X
Mr. SOUDER				X
Mr. McINTOSH				X
Mr. NORWOOD				X
Mr. PAUL		X		
Mr. SCHAFFER				X
Mr. PETERSON	X			
Mr. UPTON	X			
Mr. DEAL	X			
Mr. HILLEARY	X			
Mr. SCARBOROUGH				X
Mr. CLAY		X		
Mr. MILLER				X
Mr. KILDEE		X		
Mr. MARTINEZ		X		
Mr. OWENS	X			
Mr. PAYNE		X		
Mrs. MINK		X		
Mr. ANDREWS	X			
Mr. ROEMER	X			
Mr. SCOTT				X
Ms. WOOLSEY	X			
Mr. ROMERO-BARCELO	X			
Mr. FATTAH	X			
Mr. HINOJOSA		X		
Mrs. McCARTHY	X			
Mr. TIERNEY				X
Mr. KIND	X			
Ms. SANCHEZ	X			
Mr. FORD	X			
Mr. KUCINICH		X		
TOTALS	24	8		13

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

* * * * *

TITLE VI—INNOVATIVE EDUCATION PROGRAM STRATEGIES

* * * * *

PART B—STATE PROGRAMS

SEC. 6201. STATE USES OF FUNDS.

(a) AUTHORIZED ACTIVITIES.—A State educational agency may use funds made available for State use under this title only for—

(1) State administration of programs under this title including—

(A) supervision of the allocation of funds to local educational agencies;

(B) planning, supervision, and processing of State funds; and

(C) monitoring and evaluation of programs and activities under this title; **[and]**

(2) *support for planning, designing, and initial implementation of charter schools as described in part C of title X; and*

[(2)] (3) technical assistance and direct grants to local educational agencies and statewide education reform activities including effective schools programs which assist local educational agencies to provide targeted assistance.

* * * * *

PART C—LOCAL INNOVATIVE EDUCATION PROGRAMS

SEC. 6301. TARGETED USE OF FUNDS.

(a) * * *

(b) INNOVATIVE ASSISTANCE.—The innovative assistance programs referred to in subsection (a) include—

(1) * * *

* * * * *

(7) school reform activities that are consistent with the Goals 2000: Educate America Act; **[and]**

(8) planning, designing, and initial implementation of charter schools as described in part C of title X; and

~~[(8)]~~ *(9) school improvement programs or activities under sections 1116 and 1117.*

* * * * *

TITLE X—PROGRAMS OF NATIONAL SIGNIFICANCE

* * * * *

[PART C—PUBLIC CHARTER SCHOOLS

[SEC. 10301. FINDINGS AND PURPOSE.

[(a) FINDINGS.—The Congress finds that—

[(1) enhancement of parent and student choices among public schools can assist in promoting comprehensive educational reform and give more students the opportunity to learn to challenging State content standards and challenging State student performance standards, if sufficiently diverse and high-quality choices, and genuine opportunities to take advantage of such choices, are available to all students;

[(2) useful examples of such choices can come from States and communities that experiment with methods of offering teachers and other educators, parents, and other members of the public the opportunity to design and implement new public schools and to transform existing public schools;

[(3) charter schools are a mechanism for testing a variety of educational approaches and should, therefore, be exempted from restrictive rules and regulations if the leadership of such schools commits to attaining specific and ambitious educational results for educationally disadvantaged students consistent with challenging State content standards and challenging State student performance standards for all students;

[(4) charter schools, as such schools have been implemented in a few States, can embody the necessary mixture of enhanced choice, exemption from restrictive regulations, and a focus on learning gains;

[(5) charter schools, including charter schools that are schools-within-schools, can help reduce school size, which reduction can have a significant effect on student achievement;

[(6) the Federal Government should test, evaluate, and disseminate information on a variety of charter school models in order to help demonstrate the benefits of this promising educational reform; and

[(7) there is a strong documented need for cash-flow assistance to charter schools that are starting up, because State and local operating revenue streams are not immediately available.

[(b) PURPOSE.—It is the purpose of this part to increase national understanding of the charter schools model by—

[(1) providing financial assistance for the design and initial implementation of charter schools; and

[(2) evaluating the effects of such schools, including the effects on students, student achievement, staff, and parents.

[SEC. 10302. PROGRAM AUTHORIZED.

[(a) IN GENERAL.—The Secretary may award grants to State educational agencies having applications approved pursuant to section 10303 to enable such agencies to conduct a charter school grant program in accordance with this part.

[(b) SPECIAL RULE.—If a State educational agency elects not to participate in the program authorized by this part or does not have an application approved under section 10303, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 10303(c).

[(c) PROGRAM PERIODS.—

[(1) GRANTS TO STATES.—Grants awarded to State educational agencies under this part shall be awarded for a period of not more than 3 years.

[(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 part shall be awarded for a period of not more than 3 years, of which the eligible applicant may use—

[(A) not more than 18 months for planning and program design; and

[(B) not more than 2 years for the initial implementation of a charter school.

[(d) LIMITATION.—The Secretary shall not award more than one grant and State educational agencies shall not award more than one subgrant under this part to support a particular charter school.

[SEC. 10303. APPLICATIONS.

[(a) APPLICATIONS FROM STATE AGENCIES.—Each State educational agency desiring a grant from the Secretary under this part 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.

[(b) CONTENTS OF A STATE EDUCATIONAL AGENCY APPLICATION.—Each application submitted pursuant to subsection (a) shall—

[(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;

[(2) 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—

[(A) a description of the educational program to be implemented by the proposed charter school, including—

[(i) how the program will enable all students to meet challenging State student performance standards;

[(ii) the grade levels or ages of children to be served; and

[(iii) the curriculum and instructional practices to be used;

[(B) a description of how the charter school will be managed;

[(C) a description of—

[(i) the objectives of the charter school; and

[(ii) the methods by which the charter school will determine its progress toward achieving those objectives;

[(D) a description of the administrative relationship between the charter school and the authorized public chartering agency;

[(E) a description of how parents and other members of the community will be involved in the design and implementation of the charter school;

[(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);

[(G) a request and justification for waivers of any Federal statutory or regulatory provisions that the 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;

[(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;

[(I) a description of how students in the community will be—

[(i) informed about the charter school; and

[(ii) given an equal opportunity to attend the charter school;

[(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);

[(K) an assurance that the applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this part; and

[(L) such other information and assurances as the Secretary and the State educational agency may require.

[(c) CONTENTS OF ELIGIBLE APPLICANT APPLICATION.—Each eligible applicant desiring a grant pursuant to section 10302(e)(1) or 10302(b) shall submit an application to the State educational agency or Secretary, respectively, at such time, in such manner, and accompanied by such information as the State educational agency or Secretary, respectively, may reasonably require.

[(d) CONTENTS OF APPLICATION.—Each application submitted pursuant to subsection (c) shall contain—

[(1) the information and assurances described in subparagraphs (A) through (L) of subsection (b)(3), except that for purposes of this subsection subparagraphs (I), (J), and (K) of such subsection shall be applied by striking “and the State educational agency” each place such term appears; and

[(2) assurances that the State educational agency—

[(A) will grant, or will obtain, waivers of State statutory or regulatory requirements; and

[(B) will assist each subgrantee in the State in receiving a waiver under section 10304(e).

[SEC. 10304. ADMINISTRATION.

[(a) **SELECTION CRITERIA FOR STATE EDUCATIONAL AGENCIES.**—The Secretary shall award grants to State educational agencies under this part on the basis of the quality of the applications submitted under section 10303(b), after taking into consideration such factors as—

[(1) the contribution that the charter schools grant program will make to assisting educationally disadvantaged and other students to achieving State content standards and State student performance standards and, in general, a State’s education improvement plan;

[(2) the degree of flexibility afforded by the State educational agency to charter schools under the State’s charter schools law;

[(3) the ambitiousness of the objectives for the State charter school grant program;

[(4) the quality of the strategy for assessing achievement of those objectives; and

[(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students.

[(b) **SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.**—The Secretary shall award grants to eligible applicants under this part on the basis of the quality of the applications submitted under section 10303(c), after taking into consideration such factors as—

[(1) the quality of the proposed curriculum and instructional practices;

[(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;

[(3) the extent of community support for the application;

[(4) the ambitiousness of the objectives for the charter school;

[(5) the quality of the strategy for assessing achievement of those objectives; and

[(6) the likelihood that the charter school will meet those objectives and improve educational results for students.

[(c) **PEER REVIEW.**—The Secretary, and each State educational agency receiving a grant under this part, shall use a peer review process to review applications for assistance under this part.

[(d) **DIVERSITY OF PROJECTS.**—The Secretary and each State educational agency receiving a grant under this part, shall award subgrants under this part in a manner that, to the extent possible, ensures that such grants and subgrants—

[(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

[(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.

[(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 10306(1), if—

[(1) the waiver is requested in an approved application under this part; and

[(2) the Secretary determines that granting such a waiver will promote the purpose of this part.

[(f) USE OF FUNDS.—

[(1) STATE EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this part 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 part.

[(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 in accordance with this part.

[(3) ALLOWABLE ACTIVITIES.—An eligible applicant receiving a grant or subgrant under this part may use the grant or subgrant funds only for—

[(A) post-award planning and design of the educational program, which may include—

[(i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and

[(ii) professional development of teachers and other staff who will work in the charter school; and

[(B) initial implementation of the charter school, which may include—

[(i) informing the community about the school;

[(ii) acquiring necessary equipment and educational materials and supplies;

[(iii) acquiring or developing curriculum materials; and

[(iv) other initial operational costs that cannot be met from State or local sources.

[(4) ADMINISTRATIVE EXPENSES.—Each State educational agency receiving a grant pursuant to this part may reserve not more than 5 percent of such grant funds for administrative expenses associated with the charter school grant program assisted under this part.

[(5) REVOLVING LOAN FUNDS.—Each State educational agency receiving a grant pursuant to this part may reserve not more than 20 percent of the grant amount 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 part, under such terms as may be determined by the State educational agency, for the initial operation of the

charter school grant program of such recipient until such time as the recipient begins receiving ongoing operational support from State or local financing sources.

[SEC. 10305. NATIONAL ACTIVITIES.

[The Secretary may reserve not more than ten percent of the funds available to carry out this part for any fiscal year for—

- [(1) peer review of applications under section 10304(c);
- [(2) an evaluation of the impact of charter schools on student achievement, including those assisted under this part; and
- [(3) other activities designed to enhance the success of the activities assisted under this part, such as—
 - [(A) development and dissemination of model State charter school laws and model contracts or other means of authorizing and monitoring the performance of charter schools; and
 - [(B) collection and dissemination of information on successful charter schools.

[SEC. 10306. DEFINITIONS.

[As used in this part:

- [(1) The term “charter school” means a public school that—
 - [(A) in accordance with an enabling State statute, is exempted 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;
 - [(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;
 - [(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;
 - [(D) provides a program of elementary or secondary education, or both;
 - [(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;
 - [(F) does not charge tuition;
 - [(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;
 - [(H) admits students on the basis of a lottery, if more students apply for admission than can be accommodated;
 - [(I) agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;
 - [(J) meets all applicable Federal, State, and local health and safety requirements; and
 - [(K) operates in accordance with State law.
- [(2) The term “developer” means an individual or group of individuals (including a public or private nonprofit organiza-

tion), 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.

【(3) The term “eligible applicant” means an authorized public chartering agency participating in a partnership with a developer to establish a charter school in accordance with this part.

【(4) 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.

【SEC. 10307. AUTHORIZATION OF APPROPRIATIONS.

【For the purpose of carrying out this part, there are authorized to be appropriated \$15,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.】

PART C—PUBLIC CHARTER SCHOOLS

SEC. 10301. FINDINGS AND PURPOSE.

(a) *FINDINGS.—The Congress finds that—*

(1) *enhancement of parent and student choices among public schools can assist in promoting comprehensive educational reform and give more students the opportunity to learn to challenging State content standards and challenging State student performance standards, if sufficiently diverse and high-quality choices, and genuine opportunities to take advantage of such choices, are available to all students;*

(2) *useful examples of such choices can come from States and communities that experiment with methods of offering teachers and other educators, parents, and other members of the public the opportunity to design and implement new public schools and to transform existing public schools;*

(3) *charter schools are a mechanism for testing a variety of educational approaches and should, therefore, be exempted from restrictive rules and regulations if the leadership of such schools commits to attaining specific and ambitious educational results for educationally disadvantaged students consistent with challenging State content standards and challenging State student performance standards for all students;*

(4) *charter schools, as such schools have been implemented in a few States, can embody the necessary mixture of enhanced choice, exemption from restrictive regulations, and a focus on learning gains;*

(5) *charter schools, including charter schools that are schools-within-schools, can help reduce school size, which can have a significant effect on student achievement;*

(6) *the Federal Government should test, evaluate, and disseminate information on a variety of charter school models in order to help demonstrate the benefits of this promising educational reform; and*

(7) there is a strong documented need for cash-flow assistance to charter schools that are starting up, because State and local operating revenue streams are not immediately available.

(b) **PURPOSES.**—The purposes of this part are—

(1) to provide financial assistance for the planning, design, initial implementation of charter schools;

(2) to facilitate the ability of States and localities to increase the number of charter schools in the Nation to not less than 3,000 by the year 2000; and

(3) to evaluate the effects of charter schools, including the effects on students, student achievement, staff, and parents.

SEC. 10302. PROGRAM AUTHORIZED.

(a) **IN GENERAL.**—The Secretary may award grants to State educational agencies having applications approved pursuant to section 10303 to enable such agencies to conduct a charter school grant program in accordance with this part.

(b) **SPECIAL RULE.**—If a State educational agency elects not to participate in the program authorized by this part or does not have an application approved under section 10303, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 10303.

(c) **PROGRAM PERIODS.**—

(1) **GRANTS TO STATES.**—

(A) **BASIC GRANTS.**—Grants awarded to State educational agencies under this part for planning, design, or initial implementation of charter schools, shall be awarded for a period of not more than 5 years.

(B) **EXTENSION.**—Any eligible applicant that has received a grant or subgrant under this part prior to October 1, 1997, shall be eligible to receive an additional grant for a period not to exceed 2 years in accordance with this section.

(2) **GRANTS TO ELIGIBLE APPLICANTS.**—

(A) **BASIC GRANTS.**—Grants awarded by the Secretary to eligible applicants or subgrants awarded by State educational agencies to eligible applicants under this part shall be awarded for planning, design, or initial implementation of charter schools, for a period not to exceed more than 5 years, of which the eligible applicant may use—

(i) not more than 30 months for planning and program design; and

(ii) not more than 4 years for the initial implementation of a charter school.

(B) **EXTENSION.**—Any eligible applicant that has received a grant or subgrant under this part prior to October 1, 1997, shall be eligible to receive an additional grant for a period not to exceed 2 years in accordance with this section.

(d) **LIMITATION.**—Except as otherwise provided under subsection (c), the Secretary shall not award more than one grant and State educational agencies shall not award more than one subgrant under this part to support a particular charter school.

(e) **PRIORITY AND REQUIREMENTS.**—

(1) **PRIORITY.**—

(A) **FISCAL YEARS 1998, 1999, AND 2000.**—In awarding grants under this part for any of the fiscal years 1998,

1999, and 2000 from funds appropriated under section 10310 that are in excess of \$51,000,000 for the fiscal year, the Secretary shall give priority to State educational agencies in accordance with subparagraph (C).

(B) *SUCCEEDING FISCAL YEARS.*—In awarding grants under this part for fiscal year 2001 or any succeeding fiscal year from any funds appropriated under section 10310, the Secretary shall consider the number of charter schools in each State and shall give priority to State educational agencies in accordance with subparagraph (C).

(C) *PRIORITY ORDER.*—In awarding grants under subparagraphs (A) and (B), the Secretary shall, in the order listed, give priority to a State that—

- (i) meets all requirements of paragraph (2);
- (ii) meets 2 requirements of paragraph (2); and
- (iii) meets 1 requirement of paragraph (2).

(2) *REQUIREMENTS.*—The requirements referred to in paragraph (1)(C) are as follows:

(A) The State law regarding charter schools ensures that each charter school has a high degree of autonomy over its budgets and expenditures.

(B) The State law regarding charter schools provides that not less than 1 chartering authority in the State allows for an increase in the number of charter schools from 1 year to the next year; and

(C) The State law regarding charter schools provides for periodic review and evaluation by the authorized public chartering agency of each charter school to determine whether the school is meeting or exceeding the academic performance requirements and goals for charter schools as set forth under State law or the school's charter.

SEC. 10303. APPLICATIONS.

(a) *APPLICATIONS FROM STATE AGENCIES.*—Each State educational agency desiring a grant from the Secretary under this part 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.

(b) *CONTENTS OF A STATE EDUCATIONAL AGENCY APPLICATION.*—Each application submitted pursuant to subsection (a) shall—

(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;

(2) describe how the State educational agency will inform each charter school of available Federal programs and funds that each such school is eligible to receive and ensure that each such school receives its appropriate share of Federal education funds allocated by formula; and

(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—

- (A) a description of the educational program to be implemented by the proposed charter school, including—
- (i) how the program will enable all students to meet challenging State student performance standards;
 - (ii) the grade levels or ages of children to be served; and
 - (iii) the curriculum and instructional practices to be used;
- (B) a description of how the charter school will be managed;
- (C) a description of—
- (i) the objectives of the charter school; and
 - (ii) the methods by which the charter school will determine its progress toward achieving those objectives;
- (D) a description of the administrative relationship between the charter school and the authorized public chartering agency;
- (E) a description of how parents and other members of the community will be involved in the design and implementation of the charter school;
- (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);
- (G) a request and justification for waivers of any Federal statutory or regulatory provisions that the 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;
- (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;
- (I) a description of how students in the community will be—
- (i) informed about the charter school; and
 - (ii) given an equal opportunity to attend the charter school;
- (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);
- (K) an assurance that the applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this part;
- (L) such other information and assurances as the Secretary and the State educational agency may require; and
- (4) describe how the State educational agency will disseminate best or promising practices of charter schools in such State to each local educational agency in the State.

(c) *CONTENTS OF ELIGIBLE APPLICANT APPLICATION.*—Each eligible applicant desiring a grant pursuant to section 10302 shall submit an application to the State educational agency or Secretary, respectively, at such time, in such manner, and accompanied by such information as the State educational agency or Secretary, respectively, may reasonably require.

(d) *CONTENTS OF APPLICATION.*—Each application submitted pursuant to subsection (c) shall contain—

(1) the information and assurances described in subparagraphs (A) through (L) of subsection (b)(3), except that for purposes of this subsection subparagraphs (J), (K), and (L) of such subsection shall be applied by striking “and the State educational agency” each place such term appears; and

(2) assurances that the State educational agency—

(A) will grant, or will obtain, waivers of State statutory or regulatory requirements; and

(B) will assist each subgrantee in the State in receiving a waiver under section 10304(e).

SEC. 10304. ADMINISTRATION.

(a) *SELECTION CRITERIA FOR STATE EDUCATIONAL AGENCIES.*—The Secretary shall award grants to State educational agencies under this part on the basis of the quality of the applications submitted under section 10303(b), after taking into consideration such factors as—

(1) the contribution that the charter schools grant program will make to assisting educationally disadvantaged and other students to achieving State content standards and State student performance standards and, in general, a State’s education improvement plan;

(2) the degree of flexibility afforded by the State educational agency to charter schools under the State’s charter schools law;

(3) the ambitiousness of the objectives for the State charter school grant program;

(4) the quality of the strategy for assessing achievement of those objectives;

(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students; and

(6) the number of charter schools created under this part in the State.

(b) *SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.*—The Secretary shall award grants to eligible applicants under this part on the basis of the quality of the applications submitted under section 10303(c), after taking into consideration such factors as—

(1) the quality of the proposed curriculum and instructional practices;

(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;

(3) the extent of community support for the application;

(4) the ambitiousness of the objectives for the charter school;

(5) the quality of the strategy for assessing achievement of those objectives; and

(6) *the likelihood that the charter school will meet those objectives and improve educational results for students.*

(c) *PEER REVIEW.—The Secretary, and each State educational agency receiving a grant under this part, shall use a peer review process to review applications for assistance under this part.*

(d) *DIVERSITY OF PROJECTS.—The Secretary and each State educational agency receiving a grant under this part, shall award subgrants under this part in a manner that, to the extent possible, ensures that such grants and subgrants—*

(1) *are distributed throughout different areas of the Nation and each State, including urban and rural areas; and*

(2) *will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.*

(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 10309(1), if—*

(1) *the waiver is requested in an approved application under this part; and*

(2) *the Secretary determines that granting such a waiver will promote the purpose of this part.*

(f) *USE OF FUNDS.—*

(1) *STATE EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this part 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 part.*

(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 in accordance with this part.*

(3) *ALLOWABLE ACTIVITIES FOR BASIC GRANTS.—An eligible applicant receiving a basic grant or subgrant under section 10302(c)(2) may use the grant or subgrant funds only for—*

(A) *post-award planning and design of the educational program, which may include—*

(i) *refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and*

(ii) *professional development of teachers and other staff who will work in the charter school; and*

(B) *initial implementation of the charter school, which may include—*

(i) *informing the community about the school;*

(ii) *acquiring necessary equipment and educational materials and supplies;*

(iii) *acquiring or developing curriculum materials; and*

(iv) *other initial operational costs that cannot be met from State or local sources.*

(4) *ADMINISTRATIVE EXPENSES.—Each State educational agency receiving a grant pursuant to this part may reserve not more than 5 percent of such grant funds for administrative ex-*

penses associated with the charter school grant program assisted under this part.

SEC. 10305. NATIONAL ACTIVITIES.

The Secretary shall reserve for each fiscal year the lesser of 5 percent of the amount appropriated to carry out this part for the fiscal year or \$5,000,000, to carry out, giving highest priority to carrying paragraph (2), the following:

(1) To provide charter schools, either directly or through the State educational agency, with information regarding available education funds that such school is eligible to receive, and assistance in applying for Federal education funds which are allocated by formula, including filing deadlines and submission of applications; and

(2) To provide, through 1 or more contracts using a competitive bidding process—

(A) charter schools with assistance in accessing private capital;

(B) pilot projects in a variety of States to better understand and improve access to private capital by charter schools; and

(C) collection on a nationwide basis, of information regarding successful programs that access private capital for charter schools and disseminate any such relevant information and model descriptions to all charter schools.

(3) To provide for the completion of the 4-year national study (which began in 1995) of charter schools and any related evaluations or studies.

(4)(A) To provide information to applicants for assistance under this part;

(B) assistance to applicants for assistance under this part with the preparation of applications under section 10303;

(C) assistance in the planning and startup of charter schools;

(D) ongoing training and technical assistance to existing charter schools; and

(E) for the dissemination of best practices in charter schools to other public schools.

SEC. 10306. PART A, TITLE I ALLOCATION DURING FIRST YEAR AND FOR SUCCESSIVE ENROLLMENT EXPANSIONS.

For purposes of the allocation to schools by the States or their agencies of funds under part A of title I, or of any other Federal educational assistance funds, the Secretary and each State educational agency shall take such measures not later than 6 months after the date of the enactment of this part as are necessary to ensure that every charter school receives the Federal funding for which it is eligible in the calendar year in which it first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that school are not fully and completely determined until that school actually opens. These measures shall similarly ensure that every charter school expanding its enrollment in any subsequent year of operation receives the Federal funding for which it is eligible during the calendar year of such expansion.

SEC. 10307. RECORDS TRANSFER.

State and local educational agencies, to the extent practicable, shall ensure that a student's records and if applicable a student's individualized education program as defined in section 602(11) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(11)), are transferred to the charter school upon transfer of a student to a charter school in accordance with applicable State law.

SEC. 10308. PAPERWORK REDUCTION.

To the extent practicable, the Secretary and each authorized public chartering agency, shall ensure that implementation of this part results in a minimum of paperwork for any eligible applicant or charter school.

SEC. 10309. DEFINITIONS.

As used in this part:

(1) *The term "charter school" means a public school that—*

(A) in accordance with a specific State charter school statute, is exempted 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;

(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;

(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;

(D) provides a program of elementary or secondary education, or both;

(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;

(F) does not charge tuition;

(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;

(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;

(I) agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

(J) meets all applicable Federal, State, and local health and safety requirements;

(K) operates in accordance with State law; and

(L) has a written performance contract with the authorized public chartering agency in the State.

(2) *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.

(3) The term "eligible applicant" means an authorized public chartering agency participating in a partnership with a developer to establish a charter school in accordance with this part.

(4) 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.

SEC. 10310. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this part, there are authorized to be appropriated \$100,000,000 for fiscal year 1998 and such sums as may be necessary for each of the four succeeding fiscal years.

* * * * *

ADDITIONAL VIEWS

Public charter schools are a bold and innovative public school choice mode. They provide an alternative to the traditional public school system, strengthen accountability for academic achievement, and inject innovation and reform into the public school system. In short, public charter schools expand choice for parents and students, and demand accountability for student achievement.

I support the objective of expanding the number of public charter schools, but this growth must be balanced with results, including academic achievement. Thus, this bill includes two provisions that stress accountability for student performance, which are outlined in the Majority views.

Evaluation plays a key role in measuring student performance, and for this reason, the committee has retained in the Purposes section of the bill the importance of evaluating the impact of charter schools on students, student achievement, staff, and parents. In addition, I believe that the US Department of Education should play a role in this evaluation. The National Activities section authorizes the continuation of the four-year study (which will be completed in 1999), and authorizes the Department to conduct other evaluation efforts, at this discretion.

With regard to the first funding criteria, I urge caution in encouraging states to treat public charter schools as separate LEAs. I disagree with the Majority's report language that encourages states to treat public charter schools as separate LEAs, and it is apparent that such language could prove troublesome to governors and state local governments (although I have strong reservations about this instance of report language. I am in general agreement and support of the remaining report language).

A preliminary GAO Report suggests that the barriers that public charter schools face in accessing federal funds appears to be unrelated to whether these schools are treated as independent LEAs or as members of schools districts. The GAO found that other factors may play a more significant role, including state systems that base funding allocations on the prior year's enrollment and student eligibility data, the costs of accessing funds relative to the amounts the school would receive, and the time restraints on charter school operators. I want to note that the final GAO report is due by April 30, 1998.

I would also note that the Department of Education is committed to addressing problems related to prior year enrollment, and HR 2616 directs the Secretary to ensure that charter schools receive the Federal funding for which it is eligible in the calendar year in which it first opens. HR 2616 also instructs the Secretary to provide technical assistance to public charter schools, either directly or through the State education agency, with information on and as-

sistance in receiving Federal education funds, specifically Title I and IDEA funds.

I must emphasize again that encouraging states to treat public charter schools as separate LEAs is an inappropriate Federal intrusion into a state and local governance issue, and premature as evident by the GAO report. In addition, treating public charter schools as separate LEAs may place significant, and unwanted, burdens on an individual charter school. Moreover, while the Committee may choose to further investigate the significance of a public charter school's relationship with the LEA, such issues may be more comprehensively and equitably addressed within the larger context of ESEA reauthorization.

Having noted this exception again, I want to iterate my support for this legislation and for responsible and intelligent support for charter schools. Charter schools are a needed and important tool for new ideas in education and important for innovative schooling.

Tim Roemer.

MINORITY VIEWS

DISCUSSION

Federal grant assistance to provide start-up resources for public charter schools was authorized only three years ago as part of the Improving America Schools' Act (IASA). At this point, the program is simply too new for us to make a fair evaluation of the Act's strengths and weaknesses. For example, we currently have no comprehensive information regarding student achievement, teacher performance, and equality of services provided in public charter schools. This information is critical in order to appropriately evaluate the program's success and shortcomings.

We also believe it is a mistake to consider changes to the charter school grant program in isolation. We believe the charter school legislation should be considered as part of a comprehensive review of all public school education programs during the reauthorization of the IASA.

H.R. 2616 proposes to expand charter school aid, reprioritize Federal funding, and redefine national charter school activities. We believe these changes do little to enhance the quality of charter schools, and could undermine the oversight and accountability of charter schools across the country.

Throughout the Subcommittee's hearings on charter schools, we heard of several serious problems regarding the admission and provision of services to children with disabilities. For example, Timothy Sindelar, an attorney with the Disability Law Center in Boston, Massachusetts, testified to the following on April 9, 1997:

Information being disseminated by charter schools also tended to discourage children with disabilities from applying or completing the admissions process. Statements by Boston Renaissance and Worcester Seven Hills Charters Schools concerning the nature of the programming offered to children with special needs have caused families to remove their children from these schools, as the schools made it clear their "one-size-fits-all/take it or leave it" philosophies * * * Parents are urged to remove their children if they believe that this model will not meet their children's needs. The aides and services necessary to meet the *individual* needs of students in the mainstream are not being provided. This "counseling-out" process resulted in more than 16 children with special needs withdrawing from Seven Hills within the first two weeks of operation and returning to the Worcester Public schools.

In addition, we also heard testimony of a charter school operator who allegedly fired teachers simply because they wished to enforce their collective bargaining rights. Further, it was recently reported by the Michigan Department of Education that charter schools in

its State posted substantially lower scores than other public schools on State assessment tests. This information and other concerns raised during the Committee's hearings about charter schools needs additional review and consideration.

We also have a number of significant policy concerns with the direction of this legislation. The bill requires the Secretary of Education to prioritize funding to States, for example, based on whether autonomy is afforded to charter schools regarding their budgets and expenditures of funds, and growth in the number of charter schools. States which have charter school statutes without these characteristics would be at a funding disadvantage. Congress should not be in the practice of establishing funding priorities on how a State administratively structures its oversight and support for charter schools. State experience with charter schools is too new to allow us to form conclusions on what attributes would ensure success. It is the prerogative of the Governor and State legislature, not this Committee, to dictate the state administrative structure for charter schools.

We are also concerned about the increased duration for charter schools startup grants from 3 years to 5 years, and the additional 2 year extension grants. Why should we extend the amount of time which charter schools would continue to receive startup funds? Do we have charter schools taking 5 years to complete their startup activities? We see little if any justification for this provision.

We also oppose the rewrite of the Act's national activities section, particularly its lack of focus on evaluation and accountability. The redraft of the national activities section emphasizes the Secretary of Education's role in ensuring private capital streams for charter schools without any effort to ensure the same for our traditional public schools. In fact, we find this strong effort towards the expansion of financing for charter schools ironic given the Majority's rejection of President Clinton's legislation to address crumbling and overcrowded schools. We believe that the emphasis of the Department's activities should be towards evaluation, technical assistance, outreach and ensuring accountability for educational results—not to act like a banker to secure financing for charter schools.

DEMOCRATIC AMENDMENTS

During the Committee's consideration of this legislation, the Majority rejected a number of Democratic amendments which would have improved this bill. Specifically, Republicans rejected amendments by Mr. Martinez to ensure compliance with the Individuals with Disabilities Education Act (IDEA), reduce the bill's provisions regarding 5 year grants to the current 3 year period, and to clarify language of the bill relating to Title I allocations for charter schools. An amendment by Mr. Scott to require financial and educational records of charter schools to be available for public viewing was also rejected.

The Committee heard testimony from several witnesses that charter schools in some areas of the country were not complying with the IDEA. The Martinez amendment would require the State Educational Agency, in its application for funding to the Secretary, to provide an assurance that charter schools which apply for start-

up dollars would have to provide an assurance of compliance with IDEA and describe how they would comply with IDEA. This was intended to raise the awareness of those who create and operate charter schools to the provisions of IDEA. Unfortunately, the Majority, through its defeat of this amendment, did not see the property enforcement of IDEA as an important priority.

The Scott amendment would have ensured that the educational and financial records of charter schools are available for public viewing. The public has a right to see what instructional and educational materials are being used at public schools, including charter schools. Charter schools, especially because of several instances in which finances at such schools were grossly misused, should also ensure that their financial records are open to the public. Unfortunately, the same shortsightedness which propelled the Majority to vote against the IDEA amendment prevailed here.

Changes to the charter school grant program should be supported by verifiable, objective data on charter school performance. The emphasis of such legislation should be on ensuring accountability for education results. Unfortunately, H.R. 2616 fails on both accounts.

BILL L. CLAY.
MATTHEW G. MARTINEZ.
PATSY T. MINK.
JOHN F. TIERNEY.
DALE E. KILDEE.
DONALD M. PAYNE.
BOBBY C. SCOTT.
DENNIS J. KUCINICH.

DISSENTING VIEW

Congress is preparing to consider HR 2616, a bill amending titles VI and X of the Elementary and Secondary Education Act of 1965 to expand the use of charter schools. Despite the understandable enthusiasm many members of Congress feel toward charter schools, Congress should reject this bill as it represents an unconstitutional federal infringement upon the authority of states, local communities, and individual citizens to control education. The tenth amendment reserves to the states and the people “all powers not delegated to the United States by the Constitution,” and thus forbids the federal government from any interference in education be it by mandating a national curriculum or providing incentives to states and localities to form charter schools. The drafters of the constitution made no exception for education in the tenth amendment.

HR 2616 encourages states to alter their education laws and policies for the purpose of increasing the number of charter schools to at least 3000 by the year 2000. In order to achieve this congressionally set goal, the Secretary of Education is instructed to give prioritized funding to states which allow charter schools a “high degree of autonomy” over their respective budgets and expenditures; have at least one chartering authority which allows for an increase in the number of charter schools each year; and provides for periodic review and evaluation by the authorized public chartering agency of each charter school. Thus, the federal government will use monies seized from the American people to “persuade” the states to create more charter schools with federal specifications. Of course, if the federal government reduced its oppressive level of taxation, the American people would have more resources to devote to education and states would feel less compelled to obey Congressional mandates in order to finance education.

A federal policy of encouraging charter schools represents an exercise in legislative hubris incompatible with ending “the era of big government.” The charter school model may not be appropriate for every state in the nation. Whether or not a charter school is appropriate for a local community is a decision best made by the people in that respective community. Yet, this bill makes it national policy to encourage the formation of charter schools throughout the nation because Congress has determined charter schools are desirable. However, a centralized body such as Congress is institutionally incapable of knowing what reforms work best for every school district in this large and diverse nation. Therefore, rather than expanding federal programs, Congress should defund the federal education bureaucracy and return control over education to those best suited to design effective education programs—local communities and individual citizens.

Proponents of this bill claim that it expands the educational options available to the nations' children. However, increasing federal involvement in education actually decreases the ability of parents to control their child's education. As a greater percentage of the nation's educational resources are devoted to fulfilling the wishes of Congress, fewer resources will be devoted to fulfilling the wishes of America's parents. This is because some people who would otherwise operate a religious-based school, for example, will instead open charter schools in order to receive federal funds. Since charter school cannot offer religious instruction, those parents who would send their children to that school if it provided a parochial education are denied the ability to educate their children in accordance with their preferences.

Further evidence of how this bill would actually limit educational options can be found in the language making "evaluations" of charter schools one of the state purposes of the federal charter school program. National evaluation is a process whereby federal bureaucrats determine which are the best education practices, leading to a federally-approved set of "best practices" for charter schools. Over time, charter schools will face pressure, perhaps applied by future Congresses, to adopt those practices favored by the federal government. Language in this bill giving the Secretary of Education the power to make grants based on how well charter schools meet the academic performance requirements guarantees an increasing level of uniformity among the nation's charter schools. This may extend as far as federal control, or at least "oversight," of the curriculum offered by charter schools!

Defenders of this bill may point out that the statute specifies the review and evaluation of charter schools to determine how well the charter school meets or exceeds state performance standards. However, it is unlikely that any state seeking federal funds would set standards different from those favored by the federal educates. Furthermore, states applying for federal funds for charter schools must describe to the Secretary the goals of charter schools and the means by which charter schools will be evaluated by the state, as well as the curriculum and instructional practices to be used by the states charter schools, thus giving the Secretary another means by which to impose a uniform federal model of charter schools.

This bill further centralizes education by ratifying the appropriations increase of federal expenditures for charter schools to one-hundred million dollars for this fiscal year and "such sums as necessary for each of the four succeeding fiscal years." An authorization of "such sums as necessary" gives appropriators carte blanche to increase appropriations every year. Since federal education programs are funded by taking money from hard-working American taxpayers, increasing federal expenditures on charter schools, or any other education program favored by Congress, leaves America's parents with fewer resources to educate their children in the way they deem fit.

If educational choice is to be the priority, Congress should support large educational tax credits for parents, such as those contained in the Family Education Freedom Act (HR 1816). Insofar as "he who pays the piper calls the tune," expanding federal education programs and federal education expenditures will inevitably lead to

increased federal control. Conversely, education tax credits will restore parental control over education. Moreover, the tax credit approach is much more consistent with this Congress' stated goal of decentralizing educational authority.

In conclusion, this bill, while dressed up in the rhetoric of "fostering educational innovation and increased parental empowerment," is really yet another unconstitutional infringement upon the rights of states, localities, and especially, parents to control education.

Charter schools may be a valuable educational reform. However, it is neither the constitutional nor partial role of Congress to encourage states to adopt a particular reform. Therefore, Congress should reject this proposal and instead, work to eliminate all federal educational programs which interfere with education and, instead, return authority over education to the rightful owner—the American people.

RON PAUL.

