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2d Session } SENATE { REPORT  
105-301

CHARTER SCHOOL EXPANSION ACT OF 1997

SEPTEMBER 8 (legislative day, AUGUST 31), 1998.—Ordered to be printed

Mr. JEFFORDS, from the Committee on Labor and Human Resources, submitted the following

REPORT

[To accompany S. 1380]

The Committee on Labor and Human Resources, to which was referred the bill (S. 1380) to amend the Elementary and Secondary Education Act of 1965 regarding charter schools, having considered the same, reports favorably thereon with an amendment and recommends that the bill (as amended) do pass.

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I. PURPOSE AND SUMMARY

The purpose of the Charter School Expansion Act of 1998 is to provide financial assistance for the planning and initial implementation of new charter schools. This legislation also provides for the dissemination of information regarding the eligibility of charter schools for Federal funds and participation in Federal programs.

II. BACKGROUND AND NEED FOR THE LEGISLATION

Federal involvement in the charter schools movement began in 1994 when Congress approved legislation creating the Charter

School Grant Program, which was cosponsored by Senators Durenberger and Lieberman. This program was included as Title X, Part C of the Improving America's Schools Act of 1994 which reauthorized programs under the Elementary and Secondary Education Act of 1965. This program is applicable to those States that have charter school laws. The Charter School Grant Program provides funds to State educational agencies for planning and other start-up costs associated with new charter schools. If a State educational agency chooses not to participate in the programs, the Secretary of Education may award a grant to an eligible applicant within the State.

Over the last 3 years, the Charter School Grant Program has provided charter school operators with \$65 million in grants for some of the start-up costs such as hiring staff, designing curriculum, and purchasing books. This initiative has played a modest, but important role in tripling the number of charter schools in operation since 1994—there are now 787 charter schools in 23 States and the District of Columbia serving more than 150,000 students.

The charter schools movement is one of the most promising engines of education reform in the country. Charter schools give educators autonomy from most rules and regulations in exchange for a commitment to meet specific academic goals. Public charter schools also expand the educational choices available to parents.

The charter school approach, with its emphasis on higher standards and greater accountability, is an education reform effort that has generated broad bipartisan support at the State and national level. In his 1997 State of the Union address, President Clinton expressed his strong support for the charter school movement and challenged Congress to increase funding to help meet the goal of developing 3,000 charters by the year 2000. Congress responded by approving \$80 million for the 1998 fiscal year.

Although the charter school movement has seen significant growth over the last 3 years, more than three quarters of the Nation's charters are concentrated in 7 States—Arizona, California, Colorado, Massachusetts, Michigan, Minnesota, and North Carolina. In addition to changes in various State laws, it also appears that the Federal Charter School Grant Program needs to be restructured so that other States would be able to participate in the program.

To reach the President's goal of creating more than 3,000 schools over the next 2 years, the Charter School Grant Program must be revised. The Charter School Expansion Act, S. 1380, which was introduced by Senators Coats, Lieberman, D'Amato, Kerrey, and Landrieu, includes the necessary revisions that will allow for charter school growth.

The Charter School Expansion Act would increase funding for charter school development. The current law originally authorized funding for the Federal grant program at \$15 million. The Charter School Expansion Act increases the authorization to \$100 million.

To give States incentives to expand their charter efforts, the Charter School Expansion Act sets clear priorities for awarding grants. Preference will be given to those States that are able to demonstrate real progress in creating high-quality, high flexibility charter schools combined with the demand for strong accountability measures which must be met by charter school operators. Also, the

size of the grant will be required to be proportional to the number of schools being created. These changes will not punish States who do not meet the priority criteria, but instead will reward those States that are embracing the charter movement and will encourage others to do so.

The Charter School Expansion Act requires States to pass a specific charter school law in order to participate in the program. Requiring States to pass a specific charter law ensures that information regarding the establishment and operation of charter schools is available to all interested individuals.

The Charter School Expansion Act expands the accountability provisions in the charter school program by rewarding States for developing high quality charter schools which are held accountable in their charter for meeting clear and measurable objectives for educational progress. This legislation also requires charter schools to have a written, performance-based contract with clear academic objectives and holds the charters to the same statewide assessments and reporting provisions required of other public schools.

According to many charter school advocates, one of the biggest impediments new charter schools encounter in getting off the ground is obtaining funding from major Federal education programs for which they are eligible, such as Title I and IDEA. The Charter School Expansion Act begins to address this problem by directing the Secretary of Education and participating States to make the necessary policy changes to ensure that charter schools receive their fair share of funding for Title I, IDEA, and other formula-based Federal education programs.

The Federal charter program cannot reach every new school. Therefore, the Charter School Expansion Act attempts to expand the financing options to charter schools still struggling to achieve stability. First, it allows States to use funding from the broad-based Title VI block grant program, contained in the Improving America's Schools Act, to aid new charter schools in opening their doors. Second, it directs the Department of Education and the States to work with charter operators to improve access to private capital.

Part of the appeal of charter schools is their ability to serve as laboratories for testing reform initiatives that potentially could be used throughout our public education system. The Charter School Expansion Act directs the Secretary of Education and each State to disseminate information on the successful reform efforts with every local school in the country. It is hoped that this innovative pipeline will lead every school system to adopt the best aspects of the charter school model and bring higher standards, greater flexibility and greater accountability to all of our public schools.

A survey conducted last fall by the National School Boards Association (NSBA) found that the charter movement is already having a positive ripple effect that is being felt in many local public school districts. The NSBA report cites evidence that traditional public schools are working harder to please local families. The report states that central administrators often see charters as "a powerful tool" to develop new ideas and programs without fearing regulatory roadblocks.

Parents and educators have, in turn, given these programs overwhelmingly high marks. Broad-based studies conducted by the Hudson Institute and the Department of Education show that charters are effectively serving diverse populations, particularly disadvantaged and at-risk children that traditional public schools have struggled to educate. Earlier this year, Lisa Graham Keegan, the Superintendent of Public Instruction for the State of Arizona, testified before this committee. Ms. Keegan reported that in Arizona, charter schools are not only serving higher numbers of certain minority groups than traditional public schools, but they are also serving higher numbers of students with disabilities.

The Charter School Expansion Act builds on, and contributes to, the success of the Federal Charter School Grant Program.

### III. HISTORY OF THE LEGISLATION AND VOTES IN COMMITTEE

#### FULL COMMITTEE HEARING

On March 31, 1998, the Labor and Human Resources Committee held a hearing entitled "Overview of Charter Schools." The hearing examined how the federal charter school program is working, how the federal law could be reformed, how federal funds are being distributed to charter schools, and how charter schools are handling the issue of special education services. The hearing also focused on H.R. 2616, The Charter School Amendments Act of 1997, and S. 1380, The Charter Schools Expansion Act.

The first panel of witnesses focused on legislation before the committee to reform and expand charter schools. This panel included the Honorable Joseph I. Lieberman, U.S. Senator from Connecticut, and the Honorable Tim Roemer, U.S. Representative from Indiana. Senator Lieberman is an original cosponsor of S. 1380, the Charter Schools Expansion Act and was a sponsor of the first charter schools authorization grant program. Senator Lieberman briefly discussed the legislative history of the Federal charter schools grant program and summarized the provisions of the Charter Schools Expansion Act. Senator Lieberman noted the positive ripple effect that the charter school movement has had on public schools.

Congressman Roemer is a cosponsor of H.R. 2616, the Charter Schools Amendments Act of 1997, which passed in the House on November 7, 1997. Congressman Roemer highlighted several successful charter school programs and stressed that charter schools are not private schools. They do not "cream" only the best and brightest students, and are very inclusive, serving minority and special needs students.

The hearing's second panel consisted of Cornelia Blanchette, the Associate Director for Education and Employment Issues at the U.S. General Accounting Office (GAO). The GAO recently completed a report entitled "Charter Schools: Federal Funding Available But Barriers Exist" which assessed the challenges faced by charter schools in getting their public school funding. The GAO report concluded that there does not seem to be anything that is systematically denying charter schools access to Title I and IDEA funds. Barriers that affected charter schools' ability to access Federal funds were related more to information and assistance. These

barriers included State systems that based funding allocations on the prior year's enrollment and student eligibility data, the costs of accessing funds compared with the amounts that the schools would receive, and the time constraints that prevent charter school operators from pursuing funds.

Lisa Graham Keegan, State Superintendent of Public Instruction for the State of Arizona, provided the committee with a State perspective on charter schools. Ms. Keegan is an advocate of charter schools and has worked to make Arizona one of the Nation's leaders in the number and quality of charter schools. Ms. Keegan outlined the Arizona charter school model, which includes a State Board for Charter Schools and no caps on the number of charter schools within the State. Ms. Keegan highlighted three critical achievements of charter schools within Arizona. First, students in charter schools display consistently higher academic achievement than in their previous school performance. Secondly, interest in charter schools has grown every year. Finally, traditional public schools have had to respond to the presence of charter schools. Ms. Keegan also noted that children with disabilities comprise 25–30 percent of the current student body in charter schools compared with 11–12 percent in the traditional public school system.

The final panel reviewed the charter school movement from a local level perspective. Joan Heffernan serves as director of the Integrated Day Charter School in Norwich, Connecticut and also as a teacher at the school. Ms. Heffernan emphasized the unique facets of the Integrated Day Charter School, particularly teacher input in staffing and budget matters and parental involvement. Ms. Heffernan noted that the task of establishing a new school is not easy and that funds provided for the start-up of charter schools are not sufficient.

Raymond Jackson, President and Chief Executive Officer of the ATOP Academy in Phoenix, Arizona also testified. ATOP Academy is a charter school in south Phoenix which serves primarily low-income children, many of whom were in special education in public schools and are excelling in this charter school. Mr. Jackson pointed out how the ATOP Academy differed from traditional public schools, particularly stressing the structured manner in which children are taught and the constant interaction between teachers and parents. Mr. Jackson noted that charter schools are not receiving adequate funding from the Federal level, particularly with regard to special education funds. Tim Sindelar, a senior attorney at the Disability Law Center in Boston, expressed concern that children with disabilities are underrepresented in charter schools and that when children with disabilities are enrolled in charter schools, they frequently withdraw. Mr. Sindelar stressed that during the initial stages of opening a charter school the provision of an appropriate education to children with disabilities must be considered.

Finally, Eric Rofes, a researcher from the University of California at Berkeley, testified. Mr. Rofes has studied the charter school movement for the past 4 years. Mr. Rofes provided information on his report entitled, "How are School Districts Responding to Charter Laws and Charter Schools?" Mr. Rofes' report found that 24 percent of school districts are making substantial changes as a result of charter schools. The report also revealed five principal im-

pacts of charter schools—first, the loss of students and often an accompanying loss of financing; second, the loss of particular kinds of students to niche-focused charter schools; third, the departure of significant numbers of disgruntled parents from the traditional public schools; fourth, shifts in staff morale; and fifth, the redistribution of some central administrative time as they worked on charter schools.

#### EXECUTIVE SESSION

On July 22, 1998, the Committee on Labor and Human Resources met in executive session to consider S. 1380, the Charter School Expansion Act of 1998. Following opening statements, two amendments were offered.

Senator Collins expressed her concern that Maine's only charter school, the Maine School of Science and Mathematics, was ineligible for funding as a charter school because it used selection criteria related to its academic program in conjunction with a lottery to select applicants. Senator Collins introduced an amendment that would have corrected this problem, but withdrew the amendment because she recognized the importance of a lottery-based admissions policy to the charter school movement. In discussing the problem faced by the Maine School of Science and Mathematics and other innovative public schools, the committee expressed a commitment to assure that these schools were eligible for funding under the various programs of the Elementary and Secondary Education Act other than the Charter School Program. Following the executive session, the committee received an assurance from the Department of Education that the Maine School of Science and Mathematics was eligible for any program authorized by the Elementary and Secondary Education Act for which a local educational agency is eligible.

Following discussion of Senator Collins' amendment, Senator Reed offered an amendment to provide for the study of the existence and roles of school libraries in charter schools. Senator Jeffords underscored the importance of libraries in all public schools and then requested that language be included in this Committee report requesting the Department of Education to conduct this study in a timely fashion. Following this discussion, Senator Reed withdrew his amendment.

The executive session continued on July 29, 1998. Following opening statements, S. 1380, the Charter School Expansion Act, was unanimously agreed to by a voice vote.

#### IV. EXPLANATION OF THE BILL AND COMMITTEE VIEWS

On November 5, 1997, a bill to amend the Elementary and Secondary Education Act of 1965 regarding charter schools was introduced by Senators Coats, Lieberman, D'Amato, Kerrey, and Landrieu. The bill, S. 1380, was referred to the Committee on Labor and Human Resources.

The Charter School Expansion Act increases funding for charter school development. To give States incentives to expand their charter efforts, this legislation sets clear priorities for awarding grants. Preference will be given to those States that can show real progress

in creating high-quality, high-flexibility charter schools and show that they have strong safeguards in place to demand accountability from charter school operators. In addition, the size of the grant will be required to be proportional to the number of schools being created. These changes will not punish States that do not meet the priority criteria, but instead will reward those States that are embracing the charter school movement and encourage others to do so.

The Charter School Expansion Act also directs the Secretary of Education and each State to do what they can to share the success stories of charter schools with every local school district in the country. Through this effort, the best aspects of the charter school model will bring higher standards, greater flexibility and greater accountability to all public schools.

#### *Section 2—Innovative Charter Schools*

Under the Charter School Expansion Act, States would be given the flexibility to use a portion of their Title VI (Innovative Education Program Strategies under the Improving America's Schools Act of 1994) funding to spur the development of charter schools, but would not require States to do so.

#### *Section 3—Charter School Grants*

These grants would create incentives for States to expand the number of charter schools over the next 5 years. This would be accomplished by giving preference to States that: (1) demonstrate progress in increasing the number of high quality charter schools that are held accountable for meeting clear and measurable objectives for the educational progress of students; (2) provide a public chartering agency, such as a State chartering board, other than the local educational agency, for the purpose of an appeals process for charter applicants who have been rejected by a local educational agency to provide for an appeals process for charter applicants who have been rejected by a local school district; (3) provide for periodic review and evaluation of each charter school; or (4) require the charter schools within their State to participate in State assessments, and make the results available to the public.

The Secretary of Education and the States would also be required to describe how they will ensure that charter schools are informed about their eligibility to receive Federal education funding for such programs as Title 1 and IDEA. In addition, each State would also be required to disseminate information about "best practices" in charter schools to each local school district in the State to help expand the application of successful innovations produced by charter schools. This would also be carried out at the national level by the Secretary of Education.

## V. COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, September 4, 1998.

Hon. JAMES M. JEFFORDS,  
Chairman, Committee on Labor and Human Resources,  
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1380, the Charter School Expansion Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Josh O'Harra.

Sincerely,

JUNE E. O'NEILL, *Director*.

Enclosure.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*S. 1380—Charter School Expansion Act of 1998*

Summary: S. 1380 would amend title X of the Elementary and Secondary Education Act (ESEA) by increasing funding for charter schools. CBO estimates this bill would authorize appropriations of \$100 million in 1999, \$102 million in 2000, \$105 million in 2001, \$107 million in 2002, and \$110 million in 2003, with adjustments for inflation. Because S. 1380 would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

S. 1380 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Any costs to state and local education agencies resulting from enactment of this bill would be incurred voluntarily.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1380 is shown in the following tables.

TABLE 1.—ESTIMATED BUDGETARY IMPACT OF S. 1380

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
WITHOUT ADJUSTMENTS FOR INFLATION						
Spending Under Current Law:						
Estimated Authorization Level <sup>1</sup> .....	80	0	0	0	0	0
Estimated Outlays .....	42	66	23	4	0	0
Proposed Changes:						
Estimated Authorization Levels .....	0	100	100	100	100	100
Estimated Outlays .....	0	5	70	95	100	100
Total Spending Under S. 1380:						
Estimated Authorization Levels <sup>1</sup> .....	80	100	100	100	100	100
Estimated Outlays .....	42	71	93	99	100	100
WITH ADJUSTMENTS FOR INFLATION						
Spending Under Current Law:						
Estimated Authorization Level <sup>1</sup> .....	80	0	0	0	0	0
Estimated Outlays .....	42	66	23	4	0	0
Proposed Changes:						
Estimated Authorization Levels .....	0	100	102	105	107	110
Estimated Outlays .....	0	5	70	97	104	106
Total Spending Under S. 1380:						
Estimated Authorization Levels <sup>1</sup> .....	80	100	102	105	107	110
Estimated Outlays .....	42	71	93	101	104	106

<sup>1</sup> The 1998 level is the amount appropriated for that year.

Note.—Components may not sum to totals due to rounding.



The costs of this legislation fall within budget function 500 (education, training, employment, and social services).

Basis of estimate: S. 1380 would extend the authorizations for charter schools under title X of the ESEA for the 1999–2003 period. The bill authorizes \$100 million for this activity in 1999 and such sums as may be necessary for fiscal years 2000 through 2003. Assuming that historical spending patterns prevail, outlays for the five-year period would increase by \$370 million without adjustment for inflation. Authorizations would total \$524 million over the 1999–2003 period and estimated outlays would increase by \$382 million, assuming adjustments for inflation.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: S. 1380 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would impose some new administrative requirements on state and local education agencies that participate in the charter school grant program. Any costs to state and local education agencies from these requirements would be the result of their voluntary participation in this program. CBO estimates that the costs of these new requirements would not be significant. The bill would also reduce the maximum amount of funds available for national activities from not more than 10 percent to the lesser of \$5 million or 5 percent of the amount appropriated. As a result, the bill would increase the percentage of funds available for grants to state and local education agencies, given the Department of Education's current practice of spending 10 percent on national activities.

Estimate prepared by: Federal Cost: Josh O'Harra. 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.

## VI. REGULATORY IMPACT STATEMENT

The Committee has determined that S. 1380 may result in some additional paperwork, time, and costs to the Department of Education which would be entrusted with implementation and enforcement of the act. It is difficult to estimate the volume of additional paperwork necessary by the act, but the committee does not believe it will be significant.

## VII. APPLICATION OF THE LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1, the Congressional Accountability Act (CAA), requires a description of the application of this bill to the legislative branch. S. 1380 amends title X, Part C of the Improving America's Schools Act of 1994. Therefore, S. 1380 does not amend any act that applies to the legislative branch.

## VIII. SECTION-BY-SECTION ANALYSIS

### *Section 2. Innovative Charter Schools*

The Title VI block grant program provides funding to the States to support a wide variety of efforts to stimulate innovations in public education. This section would give states the flexibility to use

a portion of their Title VI funding to spur the development of charter schools, but would not require states to do so.

### *Section 3. Charter School Grants*

3(a): amends the “purposes” section of the existing statute to make clear that one of the primary goals of this program is to expand the number of high quality charter schools nationally.

3(b): creates incentives for States to expand the number of charter schools over the next 5 years. It would do so by changing the way the Federal charter grants are distributed to give preference to states to the extent with which they: (1) demonstrate progress in increasing the number of high quality charter schools that are held accountable in the terms of the schools’ charters for meeting clear and measurable objectives for the educational progress of the students attending the schools from year to year; (2) provide a public chartering agency, such as a State chartering board, other than the local educational agency to provide for an appeals process for charter applicants who have been rejected by a local school district; (3) provide for periodic review and evaluation of each charter school to ensure that they are being held accountable in meeting the terms of their charters and the academic performance requirements spelled out in their contracts; or (4) require the charter schools within their State to participate in State assessments, and make the results available to the public.

These new “priority” criteria would be phased in to give states time to adjust and make changes in their charter programs as they see fit. For FY 1998, 1999, and 2000, the “priority” criteria would be used only for distributing any funding above the FY 1997 level (\$51 million), thereby creating, in essence a “bonus” fund to reward States that are moving immediately toward expanding or improving their charter programs. All funding up to the FY 1997 level would continue to be awarded as under current law. Starting in FY 2001, the “priority” criteria would be used in the awarding of all grants. This would not preclude States with charter laws that do not meet these criteria from receiving Federal funding; the Secretary will retain some discretion in awarding grants. But it would make clear that the Department will give priority to those States that are committed to developing new charter schools, which is the purpose of this program.

This subsection also establishes an “amount criteria” which is intended to ensure that the size of each State grant is proportional to the number of new charters to be opened. It directs the Secretary to take into consideration the number of subgrants to be awarded in determining the amount of grant funding the State is to receive.

3(c): amends the State application provisions to require States to describe how they will A) ensure that States inform charter schools of their eligibility to receive Federal education funding; B) ensure that each charter school gets its commensurate share of Federal funds from formula grant programs such as Title I and IDEA each year, including the first year of operation of the charter school; C) disseminate information about “best practices” in charter schools to each local school district in the state to help broaden the application of successful innovations produced by charters.

3(d): amends the “*National Activities*” section of the existing statute, which is Section 10305 of the Elementary and Secondary Education Act of 1965.

Section 10305, “*National Activities*,” as amended, makes more funding available for grants to new charter schools. It does so by lowering the cap on national activities spending from 10 percent of the total appropriated down to the lesser of 5 percent or \$5 million. The amendment directs the Secretary to provide new charter schools with assistance in obtaining funding from other Federal education programs. The funding provided in this section is also to be used to complete the 4-year national study of charter schools and other related studies. It also directs the Secretary to disseminate information about “best practices” in charter schools to traditional public schools throughout the country, again to help broaden the application of successful innovations produced by charters. And lastly, it calls on the Department to work with States to help local charter operators increase access to financial resources, including access to private capital to meet start-up costs and facility expenses.

3(e): directs the Secretary, in section 10306, “*Federal Formula Allocation During First Year and For Successive Enrollment Expansions*,” to take such measures as necessary within 6 months of the bill’s enactment to ensure that charter schools receive the commensurate share of funding from Federal formula grant programs for which they are eligible. In the case of schools in their first year of operation, it calls on the Secretary to take the necessary steps to ensure those new schools receive their requisite Federal funding not later than 5 months after they open. Appropriate adjustments shall be made, through the recovery of funds or reduction of payments for the succeeding year, in cases where payments made to a charter school on the basis of estimated enrollment exceed the amounts which the school is eligible to receive on the basis of actual or final enrollment data.

In addition, section 10307, “*Solicitation of Input from Charter Schools Operators*,” directs the Secretary to solicit input from charter operators throughout the country in developing regulations to implement the amendments in this bill.

Section 10308, “*Records Transfers*,” requires States to take steps to ensure that student records are transferred appropriately under State law.

Section 10309, “*Paperwork Reduction*,” directs the Secretary and the State chartering authorities to take reasonable steps to ensure that implementation of the grant program results in a minimum of paperwork for schools receiving subgrants.

3(f): amends the “*Definitions*” section of the existing statute to make clear that a charter school must have a performance-based contract that includes performance objectives for student achievement and how those objectives will be measured by State and local assessments in order to be eligible to receive a subgrant under this program. It also requires that states pass a specific charter school authorizing law to qualify for the program.

3(g): increases the authorization for the grant program from the original level of \$15 million up to \$100 million for FY 1998 and such sums as may be necessary through FY 2002.

## X. CHANGES IN EXISTING LAW

In compliance with rule XXVI paragraph 12 of the Standing Rules of the Senate, the following provides a print of the statute or the part or section thereof to be amended or replaced (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

## SEC. 6001. [20 U.S.C. 7301] FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—\* \* \*

\* \* \* \* \*

## PART B—STATE PROGRAMS

## SEC. 6201. [20 U.S.C. 7331] STATE USES OF FUNDS.

(a) AUTHORIZED ACTIVITIES.—\* \* \*

\* \* \* \* \*

(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. [20 U.S.C. 7351] TARGETED USE OF FUNDS.

(a) GENERAL RULE.—\* \* \*

\* \* \* \* \*

(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.

\* \* \* \* \*

## PART C—PUBLIC CHARTER SCHOOLS

### SEC. 10301. [20 U.S.C. 8061] FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

\* \* \* \* \*

(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; and.

(3) *expanding the number of high-quality charter schools available to students across the Nation.*

### SEC. 10302. [20 U.S.C. 8062] PROGRAM AUTHORIZED.

(a) IN GENERAL.—\* \* \*

\* \* \* \* \*

(e) PRIORITY TREATMENT.—

(1) IN GENERAL.—

(A) *FISCAL YEARS 1999, 2000, AND 2001.*—In awarding grants under this part for any of the fiscal years 1999, 2000, and 2001 from funds appropriated under section 10311 that are in excess of \$51,000,000 for the fiscal year, the Secretary shall give priority to States to the extent that the States meet 1 or more of the criteria described in paragraph (2).

(B) *SUCCEEDING FISCAL YEARS.*—In awarding grants under this part for fiscal year 2002 or any succeeding fiscal year from any funds appropriated under section 10311, the Secretary shall give priority to States to the extent that the States meet 1 or more of the criteria described in paragraph (2).

(2) PRIORITY CRITERIA.—The criteria referred to in paragraph (12) are as follows:

(A) *The State has demonstrated progress, in increasing the number of high quality charter schools that are held accountable in the terms of the schools' charters for meeting clear and measurable objectives for the educational progress of the students attending the schools, in the period prior to the period for which a State educational agency or eligible applicant applies for a grant under this part.*

(B) *The State—*

(i) *provides for 1 authorized public chartering agency that is not a local educational agency, such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to such State law; or*

(ii) *in the case of a State in which local educational agencies are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school.*

(C) *The State provides for periodic review and evaluation by the authorized public chartering agency of each charter school, at least once every 5 years unless required more frequently by State law, to determine whether the charter school is meeting the terms of the school's charter, and is meeting or exceeding the academic performance requirements and goals for charter schools as set forth under State law or the school's charter.*

(D)(i) *In the case of a charter school for which the authorized public chartering agency is a State entity, the State requires the school to participate in State assessments, and makes the results available to the public as required by State law or regulation.*

(ii) *In the case of a charter school for which the authorized public chartering agency is a local educational agency, the State requires the school to participate in the local assessments required of other public schools in the school district served by the local educational agency, and makes the results available to the public as required by local law or regulation that is applicable to all public schools in the school district.*

(f) **AMOUNT CRITERIA.**—*In determining the amount of a grant to be awarded under this part to a State educational agency, the Secretary shall take into consideration the number of charter schools that will be created under this part in the State.*

\* \* \* \* \*

**SEC. 10303. [20 U.S.C. 8063] APPLICATIONS.**

(a) **APPLICATIONS FROM STATE AGENCIES.**—\* \* \*

\* \* \* \* \*

(2) *describe how the State educational agency—*

(A) *will inform each charter school in the State regarding—*

(i) *Federal funds that the charter school is eligible to receive; and*

(ii) *Federal programs in which the charter school may participate;*

(B) *will ensure that each charter school in the State receives the charter school's commensurate share of Federal education funds that are allocated by formula each year, including during the first year of operation of the charter school; and*

(C) *will disseminate best or promising practices of charter schools to each local educational agency in the State; and*

[(2)] (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—*

\* \* \* \* \*

**[SEC. 10305. [20 U.S.C. 8065] 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. 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 the following activities;*

- (1) To provide charter schools, either directly or through State educational agencies, with—*
  - (A) information regarding—*
    - (i) Federal funds that charter schools are eligible to receive; and*
    - (ii) other Federal programs in which charter schools may participate; and*
  - (B) assistance in applying for Federal education funds that are allocated by formula, including assistance with filing deadlines and submission of applications.*
- (2) To provide for the completion of the 4-year national study (which began in 1996) of charter schools, and to provide for related studies with respect to enhancing parent and student educational choices, strengthening accountability and autonomy for schools, ensuring access to charter schools, and increasing student achievement.*
- (3) To provide—*
  - (A) 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) training and technical assistance to existing charter schools;*
  - (E) information to applicants and charter schools regarding financial resources available to charter schools, including access to private capital; and*
  - (F) for the dissemination of best or promising practices in charter schools to other public schools.*

**SEC. 10306. FEDERAL FORMULA 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, and any other Federal funds which the Secretary allocates to States on a formula basis, the Secretary and each State educational agency shall take such measures not later than 6 months after the date of enactment of the Charter School Expansion Act of 1998 as are necessary to ensure*

*that every charter school receives the Federal funding for which the charter school is eligible not later than 5 months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that charter school are not fully and completely determined until that charter school actually opens. The measures similarly shall ensure that every charter school expanding its enrollment in any subsequent year of operation receives the Federal funding for which the charter school is eligible not later than 5 months after such expansion. The measures shall include provision for appropriate adjustments, through recovery of funds or reduction of payments for the succeeding year, in cases where payments made to a charter school on the basis of estimated or projected enrollment data exceed the amounts which the school is eligible to receive on the basis of actual or final enrollment data.*

**SEC. 10307. SOLICITATION OF INPUT FROM CHARTER SCHOOL OPERATORS.**

*To the extent practicable, the Secretary shall ensure that administrators, teachers, and other individuals directly involved in the operation of charter schools are consulted in the development of any rules or regulations required to implement this part, as well as in the development of any rules or regulations relevant to charter schools that are required to implement part A of title I, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.*

**SEC. 10308. RECORDS TRANSFER.**

*State educational agencies 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 a charter school upon the transfer of the student to the charter school, and to a traditional public school upon the transfer of the student from a charter school to a traditional public school, in accordance with applicable State law.*

**SEC. 10309. 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 application or charter school.*

**SEC. [10306.] 10310. [20 U.S.C. 8066] DEFINITIONS.**

As used in this part:

- (1) The term "charter school" means a public school that—
  - (A) in accordance with [an enabling State statute] a specific State statute authorizing the granting of charters to schools, 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;

\* \* \* \* \*



(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;

\* \* \* \* \*

(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 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**[.]**; *and*

(L) *has a written performance contract with the authorized public chartering agency in the State that includes performance objectives for student achievement and how the objectives will be measured by State assessments, or in the case of a charter school for which the authorized public chartering agency is a local educational agency, by the local assessments required of other public schools in the school district served by the local educational agency.*

**SEC. [10307.] 10311. [20 U.S.C. 8067] AUTHORIZATION OF APPROPRIATIONS.**

For the purpose of carrying out this part, there are authorized to be appropriated **[\$15,000,000 for fiscal year 1995] \$100,000,000 for fiscal year 1999** and such sums as may be necessary for each of the four succeeding fiscal years.

**SEC. 10304. [20 U.S.C. 8064] ADMINISTRATION.**

(a) SELECTION CRITERIA FOR STATE EDUCATIONAL AGENCIES.—

\* \* \* \* \*

(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)] 10310(1)**, if—

\* \* \* \* \*

## TITLE XIV—GENERAL PROVISIONS

### PART A—DEFINITIONS

#### SEC. 14101. [20 U.S.C. 8801] DEFINITIONS.

Except as otherwise provided, for the purposes of this Act, the following terms have the following meanings:

(1) AVERAGE DAILY ATTENDANCE.—\* \* \*

\* \* \* \* \*

(14) ELEMENTARY SCHOOL.—The term “elementary school” means a nonprofit institutional day or residential school, *including a public elementary charter school*, that provides elementary education, as determined under State law.

\* \* \* \* \*

(25) SECONDARY SCHOOL.—The term “secondary school” means a nonprofit institutional day or residential school, *including a public secondary charter school*, that provides secondary education, as determined under State law, except that such term does not include any education beyond grade 12.

\* \* \* \* \*

