

Council of the District of Columbia

Report

1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004

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To: ** Includes description of testimony at*
From: *hearing of Rep Cannon on Ed etc*
Date: Members, Council of the District of Columbia
Subject: Hilda Howland M. Mason, Chairperson
Committee on Education and Libraries

October 23, 1995

Bill 11-318, the "Public Charter Schools Act of 1995"

The Committee on Education and Libraries, to which Bill 11-318 was referred, reports favorably on the "Public Charter Schools Act of 1995", and recommends its approval by the Council of the District of Columbia.

not final bill

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PURPOSE AND EFFECT

The purpose of Bill 11-318, the "Public Charter Schools Act of 1995", is to authorize the establishment of public charter schools in the District of Columbia.

As described in detail in the "Background and Issues" section of this report, 19 states have now enacted legislation authorizing charter schools. Charter schools are considered to be crucial to facilitating public education reform efforts throughout the country and in the District of Columbia.

The effect of establishing public charter schools in the District of Columbia will be to improve and expand educational opportunities for students. By design, charter schools provide greater flexibility for innovation in school management and pedagogy. Charter schools, because they reflect a market-based approach to the delivery of education, are far more responsive to the demands of parents, students, and teachers than traditional public schools. They also embody strong and specific accountability mechanisms.

The creation of public charter schools in the District of Columbia will offer students and parents new and expanded choices of public education. They will also expand, perhaps tremendously, professional opportunities for teachers and local school administrators. From the overall standpoint of the community, public charter schools, once they begin operating, will epitomize one of the key goals of the Superintendent's BESST reform plan: the realization of local school autonomy and site-based management largely free from the bureaucratic control and mandates--i.e., the rules and regulations--that often inhibit the operations and educational effectiveness of traditional public schools. Public charter schools will also provide competition for traditional public schools, and may well serve as an impetus to improve and expand educational programs available at traditional D.C. Public Schools.

Bill 11-318 also requires the Mayor and the Council, in consultation with the Board of Education, to develop a student-driven, funding formula for the public schools under the control of the Board of Education and for public charter schools, beginning in FY 1997. Before a reasonable per-pupil allocation, which takes into consideration students who are at-risk or have special needs, can be developed and agreed upon, it is essential that the school system's current budget realistically reflect planned spending in all categories, especially for personnel. For this reason, the legislation also requires the school system to build its FY 1997 budget request from a zero base, with this budget request to include school-by-school budgets.

LEGISLATIVE HISTORY

June 6, 1995

Bill 11-318, the "Charters Schools Act of 1995", is introduced by Councilmembers Lightfoot and Patterson, and co-sponsored by Councilmember Ray.

June 8, 1995 Bill 11-318 is referred to the Committee on Education and Libraries.

July 10, 1995 A Public Hearing is held on the "Proposed Plan for 'Accelerating Education Reform in the District of Columbia: Building on BESST,' as Developed by the President of the Board of Education, the Superintendent of Schools, and Community Groups", and on related education reform proposed legislation, including Bill 11-318.

July 20, 1995 The Committee on Education and Libraries unanimously approves a "Summary (Report) of Committee on Education and Libraries Recommendations on Public Education Reform and on the Proposal, "Accelerating Education Reform in the District of Columbia--Building on BESST", in which the Committee endorsed a revised version of Bill 11-318.

October 23, 1995 The Committee on Education and Libraries marks up and votes on the revised Bill 11-318.

BACKGROUND AND ISSUES

Background

Since 1991, when the Minnesota legislature enacted the nation's first charter school law, 19 states have enacted legislation authorizing charter schools.

On September 22, 1995, a new report, Charter Schools Laws Across the United States, was published by the Institute for Public Policy and Social Research, Michigan State University. This report summarizes:

- * the history of charter schools;
- * the fundamental and basic concepts of charter schools;
- * "model" charter school legislation;
- * charter school laws that have been enacted across the country--those that are considered to be "permissive" and those that are considered to be "restrictive"; and
- * the specific types of unique charter schools that are emerging in various states.

In addition, this report describes on a state-by-state basis the characteristics of each charter school law that has been enacted. This report and its "References" follows in relevant part.

In addition to the "references" cited on the preceding page, the following sources and resources were consulted by the Committee in refining and finalizing Bill 11-318:

- Mary Amsler and Lori Mulholland. "Charter Schools". Far West Laboratory, Policy Briefs. 1992.
- Michelle Fine. "Democratizing Choice: Reinventing Public Education". Paper prepared for a symposium of the Economic Policy Institute. 1992.
- General Accounting Office. "CHARTER SCHOOLS. New Model for Public Schools Provides Opportunities and Challenges". Washington, D.C. January 1995.
- Goldwater Institute. "Charter Schools: Questions and Answers". Arizona. 1994.
- Ted Kolderie. "Charter Schools: The States Begin to Withdraw the 'Exclusive' ". Center for Policy Studies, Public Services Redesign Project. 1993.
- Marc Dean Millot. "Autonomy, Accountability, and the Values of Public Education: A Comprehensive Assessment of Charter School Statutes Leading to Model Legislation". RAND Corporation. December 1994.
- Marc Dean Millot. "What Are Charter Schools? An Introduction to the Concept and the Statutes". University of Washington Institute for Public Policy and Management. 1995.
- United States Department of Education, Office of Intergovernmental and Interagency Affairs. Center for Choice in Education. "Comparative Charter Schools: Minnesota, California, and Kolderie." 1992
- Scott Williams and Mark Buechler. "Charter Schools". Indiana Education Policy Center, Policy Bulletin. January 1993.

The Committee also examined and often was guided by the statutes authorizing the creation of charter schools in Arizona, California, Colorado, Georgia, Kansas, Massachusetts, Michigan, Minnesota, Missouri, New Mexico, and Wisconsin. Experts on charter schools with whom the Committee directly consulted in the drafting of Bill 11-318 include: Ted Kolderie, Senior Associate, Center for Policy Studies, St. Paul, Minnesota, Marc Dean Millot, Social Scientist, RAND Corporation, Washington, D.C., and Richard J. Wenning, Evaluator-in-Charge of the General Accounting Office report, "CHARTER SCHOOLS, New Model for Public Schools Provides Opportunities and Challenges".

July 10, 1995, Public Hearing

On July 10, 1995, the Committee on Education and Libraries held a Public Hearing on the June 13, 1995, "Proposed Plan for 'Accelerating Education Reform in the District of Columbia: Building on BESST', as Developed by the President of the Board of Education, the Superintendent of Schools, and Community Groups" (hereinafter "Education Reform Plan"). Testimony was invited and received on related education reform proposed legislation, specifically Bill 11-318, the then-titled "Charter Schools Act of 1995".

The "Education Reform Plan" was submitted to U.S. Congressman Steve Gunderson on June 13, 1995, and to the Committee on Education and Libraries on June 14, 1995, by its authors: the President of the Board of Education; the Superintendent of Schools; the President of

the Washington Research Center's Committee on Strategies to Prevent Chronic Poverty; a Co-Chairman of Parents United; and a Co-Chairman of the Committee on Public Education (COPE). Under the section title, "Local School Governance--Decentralization, Autonomy and Choice", the "Education Reform Plan" embraced the creation of public charter schools as follows:

"Public School Charters: (A)utonomous new public schools sponsored by outside institutions (widely ranging from universities to community-based organizations to parent groups) under criteria developed by the Superintendent and approved by the Board (incorporating features of proposed legislation pending before the D.C. Council). Charter appeals would be heard by an independent body."

Board of Education Testimony

Wilma R. Harvey, President of the Board of Education, discussed the process that led to the development of the "Education Reform Plan" and "essential elements of (an education reform) vision" that "more and more people are beginning" to share. She noted that "more groups (are) more intensely engaged in how best to improve education in the District of Columbia than at any time," adding that "(w)e must all come to the table to work out a reform plan that is comprehensive, that represents our best judgment, that provides room for all of us to perform at much higher standards, and that all of us are committed to making a reality... We are moving closer to a serious (reform) plan for making education in Washington, D.C. a model for cities everywhere,... (though) I will not pretend that everything is smooth."

Ms. Harvey emphasized that education "reform must be comprehensive..., reform must strengthen the public schools..., strengthening the local school team is the key to reform..., and performance must be approved across the board." She pointed to three priority areas warranting more discussion and new initiatives: "First, we must be attentive to the needs and concerns of our teachers and principals".... Second, we need to upgrade technology and improve our school facilities.... Third, we want to create a much more effective partnership with all of the groups seeking to help with education reform."

On the subject of charter schools specifically, Ms. Harvey observed: "There are serious plans for encouraging more choice within the public school system--building on BESST, developing more enterprise and charter schools, restructuring some of the larger schools with teacher-designed 'schools-within-a-school' charters... Any use of contractors or non-government organizations (for example, some of our local universities may want to be more directly involved) will be for support of public schools chartered by and overseen by the Board of Education... *We need to ensure that any initiatives for increased autonomy and for enterprise or charter school approaches involve the teachers fully. This is not just about labor rights; these models will not work if teachers are not committed to them* (emphasis in original)."

Franklin L. Smith, Superintendent of Schools, described the components of his reform initiative, "Bringing Educational Services to Students" (BESST). He noted that the school system has "laid the groundwork for...school-based management by establishing local school

restructuring teams to participate in collaborative decision-making in all schools and by naming 57 enterprise and 9 school-within-school charters operating with limited autonomy." He added that ultimately it was the school system's "goal...to offer...(a) menu of management options for local schools," including: "School-Within-a-School (Teacher-Designed) Charters, which have autonomy similar to that of enterprise schools...(and) Public School Charters, which will be autonomous new public schools sponsored by outside institutions (ranging from universities to community-based organizations to parent groups) in accordance with criteria developed by the Superintendent and approved by the Board, and with appeals heard by an independent body."

Board of Education member, Bernard A. Gray, Sr., testified on his own behalf. He did not address charter schools specifically, though he did strongly endorse developing school-by-school budgets on a zero basis, as Bill 11-318 requires.

Board of Education member Valencia Mohammed also testified on her own behalf. She said she supported the "school-within-school charter" concept but was adamantly opposed to privatization, vouchers, and public school charters.

On July 14, 1995, the President of the Board of Education and the Superintendent of Schools submitted to Congressman Gunderson "the first year of our action plan for improving education in our city, titled 'Accelerating Education Reform in the District of Columbia: Building on BESST.'" This plan, like its July 13, 1995, predecessor, strongly endorsed "school autonomy and parent choice, based on effective school teams, the diversification of school models and funding formulas which facilitate enrollment in public schools of choice."

"Major Initiatives for Year One" contained in the July 14, 1995, plan called for "Establish(ing) public school charters" by "enact(ing) enabling legislation and policy specifying procedures, powers, restrictions, and other aspects of establishment, governance, operations, and oversight of public school charters..., (and) carry(ing) out procedures for inviting and processing charter applications." The types of "autonomous new public schools sponsored by outside institutions" could include: "bilingual, non-graded, African-centered, math/science, arts-focused, Montessori, or other models such as all-male or residential."

The "Major Initiatives For Year One" also called for developing: "zero-based" budgets for the school system that reflected "review and justification of the 'base' budget, school-by-school and office-by-office, rather than incremental additions of new funds"; and formula-based funding for public schools by the D.C. Government.

On October 23, 1995, the President of the Board of Education and the Superintendent of Schools wrote the Committee Chairperson to state the Board of Education's and the D.C. Public Schools' "position" on Bill 11-318. The correspondence from the Board President and the Superintendent stated in relevant part:

"As you know, the Board and the DCPS Administration support the creation of public charter schools operated under the auspices of the Board in its role as State Education Agency

for the District of Columbia. However, we oppose the passage of the "Public Charter Schools Act of 1995", which would:

- * permit entities other than the Board to charter schools, thus authorizing the creation of charter schools without the involvement of the Board;
- * permit these charter schools to operate, for the most part, under the direction of a Board of Trustees, with no oversight by the Board; and
- * allow existing private schools to become charter schools, contrary to the Bill's stated intent of creating public school charters."

The letter from the Board President and the Superintendent of Schools added: "We also believe that more work must be done in determining an equitable funding formula for both D.C. public schools and public charter schools before legislation on this subject is enacted."

At the Committee's October 23, 1995, mark-up of Bill 11-318, the Committee Chairperson asked the Board President about recent statements made by Board members that the Board was moving forward to establish public charter schools. The Board President stated that the creation of public charter schools had been contained in the education reform plan she and the Superintendent had submitted to Congressman Gunderson, the school system had already moved forward to establish school-within-school charters, and the Board did support the expansion of this concept, though the Board was firm in its position that chartering authority and control over public charter schools must remain solely with the Board. It was also noted that the education reform plan developed by the Board President and the Superintendent of Schools had not yet been approved in totality by the Board; and the component addressing public charter schools was still being deliberated in committee.

The Board President also indicated that additional flexibility had been given to local schools when the Board approved a policy allowing for the contracting out of certain services. In response to Committee members queries, the Board President indicated that the new contracting out authority did not include the overall management of a school; thus, under the policy, it would not be possible to contract out for the management and administration of school-within-school charters or of charter schools approved by the Board. The Board President indicated that the Board, in its role as the District's state education agency, was in the process of developing rules, procedures, and guidelines for charter schools which, once adopted by the Board, would lead to real education change.

Executive Branch

Ms. Enid Simmons, Director, Office of Planning, testified on behalf of the Executive Branch at the public hearing. She emphasized that the "ultimate objective" of education reform "is to allow for creative ideas to be realized and for successful models to be replicated. The simple fact is that the current system, with the exception of a few individual schools, does not work. Principals at the successful schools have overcome obstacles within the (school) system and the central bureaucracy. The system and the bureaucracy should nurture and support local

school initiatives. Such local school initiatives include: schools-within-schools; enterprise schools; privately managed schools; *charter schools*; and other unique and creative models (emphasis added)."

Elaborating on charter schools, Ms. Simmons stated: "The idea of schools chartered by communities and organizations outside of the public schools certainly warrants more study. As envisioned, it would increase choice for parents and students, and promote school improvement through competition among schools to recruit students. There are concerns, however, that in neighborhoods where most parents are not versed in education lingo, (not) informed about innovative education programs, or do not feel empowered to act, the children attending schools in those neighborhoods will be left in poor quality schools and a two-tier system of public education will emerge--one for the 'haves' and the other for the 'have nots'." (Bill 11-318 seeks to allay this concern, as described on page 42 of this Report under the section title, "Committee Action".)

Ms. Simmons added: "The charter schools concept recently endorsed by Superintendent Franklin Smith, the President of the School Board, Wilma Harvey, Parents United and the Committee on Public Education envisions the successful recruitment of universities, think tank professional associations, and businesses to sponsor charter schools in the more disenfranchised communities. To the extent that these innovations respond to the call to arms for educational reform, this concept has some merit."

Public Testimony

Public Testimony at the July 10, 1995, Public Hearing focused on many diverse aspects and issues associated with education reform in the District of Columbia. This summary is restricted to public testimony on Bill 11-318 or on charter schools in general.

Glenda Partee, a parent who has been active in developing a Pre-K through 5th grade elementary charter school with a thematic focus on international and multi-lingual studies, stated that she saw "the advent of charters in the District as a way of addressing a number of needs in the school system in ways that will only enrich the range of our offerings and support the development of our students." She pointed out that: "Unlike what some may think, the advent of charters does not take funds away from existing education funds. At most, it uses those funds in different ways for the very same children they were initially designed... Another element of charters that I endorse is the accountability built into their creation and implementation." While she applauded the Board of Education and the Superintendent for their efforts to create more autonomy at the local school site, she observed that the "current charter school effort...as structured...is heavily tied to the central bureaucracy and the charters are not accorded the freedom to design, staff, and site the programs in keeping with the goals of specific charters. There are a number of models of charter legislation in other states which are more supportive of the development and expansion of charters;... the legislation proposed by Council persons Lightfoot and Patterson on May 25, 1995, to establish charter schools provide a more favorable environment for the development of charters than currently exists."

Judith Jones, a former PTA President, Co-Chair of the Six School Council, and former employee of the school system, recommended the adoption of "two new policies that will provide the financial and organizational support for classroom teachers to undertake the improvements needed at the classroom level. First, parents should be able to choose their children's schools, and second, the public funds committed for education should follow each child to his or her school, through a system of 'education allotments.' " She suggested several revisions to Bill 11-318, as originally introduced, many of which have been incorporated into the committee print, before concluding: "The introduction of public charter schools in (the District of Columbia) has the potential to quickly and dramatically expand the range of education options available to our families and teachers. Teachers, parents and community members would be able to realize their dreams and to start new schools, choosing special themes or approaches that they preferred to expand the required core curriculum... The remarkable thing about public charter schools is that they introduce creative competition among public schools which are free and available to all students."

Barbara Bullock, President of the Washington Teachers' Union, emphasized that "services should be 'contracted in' by making every school a 'charter school' in which the stakeholders make meaningful decisions about educational and budgetary priorities." She added that "the union is willing to negotiate over this issue to assure the rights of teachers are considered." She noted, however, that "charter school legislation (like the {Bill 11-318, as originally introduced}) that excludes teachers from collective bargaining, tenure laws, and due process procedures, and that fails to provide established and organized orderly procedures for the determination of salaries and working conditions, cannot be the basis for a successful transformation of our schools." She also stated: "Surely, charter schools should not simply do their own thing because overall student achievement will suffer; rather, they should be created in the framework of state or nationally established standards, curriculum, and assessments. Moreover,... any view that blames our educational problems on simply bureaucracy and unions, and pins its hopes on independent charter schools, ignores the fact that school systems in other industrialized countries that have been more successful than ours in terms of student achievement are all part of national or state governments that establish standards, curricula and assessments applicable to all schools and all are unionized. Simply put, (Bill 11-318) is a travesty. This bill would establish a permanent underclass of students in D.C.--resulting from the ultimate establishment of quasi-private schools, autocratically managed--based on arbitrary and capricious dictates of City Council, Mayor, and Superintendent, and funded primarily by D.C. Public School funds, along with other federal funds available to ordinary public schools."

Linda McMillan indicated that she had been asked to present the position of nineteen local organizations that had been participating in an education summit at First Rising Mount Zion Baptist Church. Although these "organizations represent a diverse membership of over 260,000 individuals; nevertheless, they were able to reach a consensus on a number of critical issues..." Summarizing the "collective thoughts of the (educational summit) participants," Ms. McMillan emphasized: " 'Privatization, independent charter schools, tuition vouchers, and unproven literacy approaches must be rejected by the citizenry of the District of Columbia. These proposed programs would: (1) reimpose a segregated school system; (2) utilize public

taxdollars to fund private and parochial schools; and (3) ignore the educational needs of the majority of our students who are low-income and minority." Ms. McMillan also presented a "position statement on behalf of Citizens United to Save Public Education in the District of Columbia," which strongly opposed "the privatization of our public schools, the establishment of independent charter schools, and the issuance of tuition vouchers." These proposals, she stated, "would result in the reimposition of a segregated (separate and unequal) school system and the utilization of public tax dollars for private and parochial schools. Moreover, the proponents of these alternative actions have failed to produce any research, experimental studies, or statistical results to document the significant impact of these types of programs on student learning."

The Reverend Robert G. Childs, Pastor, Berean Baptist Church, submitted a list of 18 voting organizations that had participated in the education summit at First Rising Mount Zion Baptist Church. He stated that he hoped a final report approved by all voting organizations would be available within days--public charter schools being one of the topics discussed at the education summit. As of this writing, the Committee is not aware of the status of the final report.

John R. Pfeiffer, a co-chairperson of Parents United for the Public Schools and a signatory on the July 13, 1995, "Education Reform Plan" submitted to Congressman Gunderson, described the collective process that led to the development of the "Education Reform Plan", which included the establishment of public charter schools. He emphasized: "Too many thousands of our children's lives are being damaged by our government's unwillingness to make the tough policy and management decisions necessary to give them a decent education... (I)f educational reform efforts were ever going to move beyond glossy publications and rhetoric--and really produce meaningful results in terms of improved student outcomes, there must be a radical departure from the established ways of doing business in our city, which are now producing dismal educational results for the majority of our children."

Carrie Thornhill, a former Co-Chair of COPE, a present members of COPE's Executive Committee, and a signatory to the July 13, 1995, "Education Reform Plan", said that she was cautiously optimistic about the consensus building process that had begun, but a lot of work lay ahead to collaboratively develop and agree on a widely embraced plan to reform public education in the District of Columbia. She indicated strong support for alternatives that would respond to community needs, as well as facilitate local school autonomy and site-based management, among these being vesting authority at local schools to hire and fire personnel, the creation of public charter schools, and contracting out some school functions.

Joan Davis Ratteray, President, Institute for Independent Education, spoke strongly in support of independent, community-based schools that empowered parents to make choices between public, private, and independent schools. She pointed to three guiding principles that should undergird the framework for choice in the District of Columbia:

- Any proposal for school choice must be developed in the early policy and planning stages to incorporate parental choice;
- Parental choice proposals should give greater benefits to families with students with the

most needs and that promote equity and freedom of choice among public and private sectors; and

- The design of any systemic change must be flexible enough to respond to the diversity of existing schools, whether public or private.

Hugo Blasdel, a parent and member of the Ross Elementary School Restructuring Team, noted that the Ross LSRT and PTA intended to explore "an agreement with Educational Alternatives, Inc. and any alternative vendors (profit or non-profit, local or national, perhaps even a union), to assist in the management of our school." He emphasized, however, that his preferred approach to reforming the public schools was through digital integrative reorganization and empowerment.

The "Thursday Group", consisting of named signatories Emmanuel Carr, retired DCPS administrator, Rev. Robert G. Childs, Pastor, Berean Baptist Church, Nancy Opalack, Education Support Systems, Barbara Bullock, President, Washington Teachers' Union, Frank Bolden, President of the Council of School Officers, Tony Kroll, PLAN: Push Action Literacy Now, Judith Jones, urban sociologist, Dorothy Brazill, D.C. Watch, Brenda Strong Nixon, Executive Director, Associates for Renewal in Education, Dorothy C. Stephens, retired DCPS Director of Curriculum, Vincent Reed, former D.C. Superintendent of Schools, Thriftone V. Jones, President of the D.C. Congress of PTAs, Otis S. Troupe, former D.C. Auditor, and Mary L. Sherburne, former DCPS educator, recommended that a state of emergency in public education be declared for one year, the authority of the Board of Education and the Superintendent be suspended during the emergency, and that a "Turnaround Education Commission" be appointed to operate the public schools. The "Thursday Group" also called for the establishment of a "Working Group" to develop a new organizational framework for public education in the District. Among the issues to be studied by the "Working Group" would be "choice among public schools for parents, students and teachers" and "public charter schools".

Issues

The revised committee print of Bill 11-318, upon its enactment, will result in "permissive" legislation authorizing the establishment of public charter schools in the District of Columbia. A comparison of Bill 11-318 to the charter schools model reveals that:

Organization: As the charter school model proposes, Bill 11-318 allows a variety of public or private actors to establish and operate public charter schools in the District of Columbia. In fact, Bill 11-318 does not restrict who may establish or operate a charter school--and implicitly encourages principals and teachers who are now part of the school system to develop charter schools--though the bill does stipulate that a public charter school must be non-sectarian in all of its operations, policies, and procedures.

Sponsorship: Bill 11-318 establishes three different types of eligible chartering authorities: the Board of Education; a Commission for Public Charter Schools appointed by the Mayor and confirmed by the Council; and the University of the District of Columbia. The charter schools model calls for more than one type of entity being authorized to approve public

charter schools. A number of states, in enacting legislation authorizing charter schools, have designated state boards of education as one eligible chartering authority, and have simultaneously created or deemed an entity similar to the Commission as a second, or alternative, eligible chartering authority. At present, two states permit public institutions of higher education to charter schools.

The Committee is cognizant that the July 14, 1995, "Education Reform Plan" advanced by the President of the Board of Education and the Superintendent of Schools would establish the Board as the sole chartering entity in the District of Columbia, and would subject public charter schools to many of the rules and regulations established by the Board. The Committee, however, has concluded that for public charter schools to accomplish their stated purpose--to be innovative, better performing schools responding to the wants and needs of students, parents, and teachers, and for public charter schools to become recognized as competition that might spark real reform and improvements in public schools under the control of the Board of Education, the authority to charter schools should be vested in a number of entities including, but not limited to, the Board.

Legal Status: As suggested by the charter schools model, public charter schools established in accordance with Bill 11-318 must be non-sectarian in every respect, and will exist independent of the public schools under the control of the Board of Education. Public charter schools created as a result of the enactment of Bill 11-318 will be legally and fiscally autonomous entities, free to hire and fire staff and, for the most part, to make all of their own decisions regarding the operations of the school.

Regulations: The charter school model recommends that public charter schools receive waivers from most state and local school regulations. Bill 11-318, in many instances, exempts public charter schools from statutes, rules, regulations, and guidelines applicable to public schools under the control of the Board of Education. The model, however, also emphasizes that regulations (and laws) regarding health and safety, civil rights, fiscal accountability, performance requirements, and other restrictions specified in a school's charter remain applicable to public charter schools. Bill 11-318 is consistent with the model, insofar as it requires that public charter schools will be subject to all statutes, policies, rules, and regulations applicable to non-profit corporations in the District of Columbia, such as: tax and reporting requirements, land use and zoning requirements, building and fire code requirements; and other health and safety requirements.

Accountability: Bill 11-318 places responsibility for decision making and ensures accountability at the site of the public charter school itself. In addition to prescribed accountability measures and mechanisms contained in Bill 11-318, including the issuance of an annual report, each charter school will be overseen, monitored, and evaluated on an annual basis by its chartering authority, and parents especially will hold the school accountable for meeting student achievement goals set forth in the school's charter.

Bill 11-318 also contains provisions allowing for or requiring the revocation of a charter,

reasons and processes by which a charter renewal can be disapproved, and procedures by which a school's charter can be made conditional based on corrective action required by the eligible chartering authority. Specifically, charters may be revoked by the school's chartering authority at any time if the school has committed a material violation of its charter or any applicable law. Charters must be revoked if a public charter schools is found to have engaged in fiscal mismanagement or malfeasance, or if it is no longer economically viable.

To ensure due process, Bill 11-318 provides that if a charter renewal is denied or a charter is revoked, the board of trustees of the public charter school may appeal the decision and are entitled to a hearing before the school's eligible chartering authority. Judicial review is also provided for by Bill 11-318, in the event a school's board of trustees believes the final decision of a chartering authority to deny a charter renewal or revoke a charter is arbitrary, capricious, or clearly erroneous.

Admissions: Bill 11-318, as the model recommends, prohibits public charter schools from charging admission, except for non-residents. The bill also requires that admissions policies be nondiscriminatory. As the model also suggests, where demand exceeds space at a public charter school, students will be chosen by lottery, except that during the first five years of the existence of a charter school that converted from a public school, enrollment preference will be given to students (and their siblings who enroll later) who reside in the school's enrollment boundaries. No student may be required to attend a public charter school, nor shall any current employee of the school system be mandated to work in a public charter school.

Funding: Public charter schools established under Bill 11-318 will be funded on a per pupil basis, the amount to be determined via a funding formula for all public schools in the District of Columbia that will be established by the Mayor and Council, in consultation with the Board of Education and the Superintendent of Schools. Henceforth, as many have recommended and as does the model, funds will follow the student in the District of Columbia, as long as the student is enrolled in a public school under the control of the Board of Education or a public charter school. Bill 11-318 also deems each public charter school a local educational agency, thus making these schools eligible for all federal grants--especially those that address at-risk and disabled students, as the model recommends.

Teachers: Bill 11-318, consistent with the model, seeks to allow teachers who are now assigned to public schools under the control of the Board of Education to work at public charter schools for up to four years in a leave of absence status. Hopefully, this will encourage teachers to develop and start public charter schools. While on a leave of absence to work in a charter school, a teacher's seniority rights in the school system and government retirement benefits will be protected. The bill, in fact, allows teachers who choose to sever employment altogether with the school system to accept a job at a public charter school to remain in their previous government retirement system, or transfer into a retirement system established by the charter schools, with the entirety of employer and employee contributions into the retirement system following the teacher. As the model and the Washington Teachers' Union recommended, employees of public charter schools are authorized under Bill 11-318 to engage in collective

bargaining. The bill, in addition, allows employees who organize at a public charter school to choose their own bargaining representative.

Number: The charter schools model recommends that the establishment of a "substantial" number of public charter schools be permitted. Bill 11-318, subsequent to the Committee's mark-up, limits to ten (10) the total number of schools that can be chartered in any calendar year. Specifically, the Board of Education and the Commission may each grant no more than four charters to schools during any one year, and UDC will be restricted to granting no more than two charters annually. In addition, each of the three chartering authorities is limited during the first year this legislation is in effect to chartering only one existing private or independent school. Eligible chartering authorities must also during the first year after this legislation becomes law give "strong preference" to proposed charter schools that focus on students with special needs.

Bill 11-318 has also been constructed in such a way as to ensure that an existing school--public or private--cannot be chartered unless this is the consensus of a majority of parents of students at the school and a majority of the school's teaching faculty. The bill also requires that a petition for a charter undergo a public hearing process before a charter can be granted. In other words, Bill 11-318 protects a community from having a charter school imposed arbitrarily on it, or without ample public notice and strong parental consent. At the same time, the bill responds to growing demands from the community that parent choice be expanded, that new or better public education opportunities come to exist in the District of Columbia.

The extent to which parents and faculty of an existing school, especially private or independent schools, must sign off on a charter school application, will undoubtedly preclude any major movement of private or independent schools into the public domain, notwithstanding fears that established schools will rush to be granted charters and thus raid public coffers intended to support public education, especially at-risk, low-income students in the District of Columbia. The bill has been carefully crafted to avoid major increases in spending for public education unless many new students come into the public education system via the conversion of existing schools into public charter schools or the creation of new charter schools. The Committee has concluded that if public charter schools can be a vehicle by which to slow middle class flight to the suburbs, or attract back to the District middle-class families, this would aid efforts to revitalize the nation's capital and, in all likelihood, a middle class returning to the District because of improved public schools will generate more tax revenues for the District's General Fund.

Bill 11-318 could be of financial benefit to the school system, especially if public charter schools choose to contract with the school system for the provision of any services. In this regard, public charter schools would be similar to enterprise schools, school-within-school charters, and other schools now part of the school system that have been given the authority to contract out for certain services. This legislation could, in fact, be the impetus for the school system to improve its support service delivery capabilities.

A formula funding approach for public education in the District of Columbia becomes almost a necessity with the establishment of public charter schools. A funding formula has long been desired by public school advocates, members of the Board of Education, and the Superintendent of Schools, all of whom have contended that some predictability in forthcoming appropriations would allow the school system (and public charter schools) to engage in substantive long-range planning and develop multi-year budgets, both of which are essential to achieving over a specified period of time education reform goals, particularly widespread improvements in student achievement. Bill 11-318 provides for a funding formula, but only after the school system's budget is revised to more accurately reflect anticipated expenditures for FY 1996 than did original FY 1996 budget documents. The bill also requires, as many parents and school advocates have demanded for years, the building of the Board of Education's FY 1997 budget request from a zero base, and the development of school-by-school budgets. Because of recent controversies over student enrollment, and because enrollment data is critical to developing a funding formula and to determining annual appropriations for public education, Bill 11-318 also ensures that student enrollment reported by the school system for the current school year is externally audited and the results, or procedures used to count students by the school system, corrected if need be.

Bill 11-318 is cognizant of the important role of the Financial Responsibility and Assistance Authority ("the Authority"), and thus requires that virtually all data and reports that must be submitted to the Mayor, Council, or eligible chartering authorities must also be provided routinely to the Authority during control years. The Authority, by virtue of its enabling legislation, will have to embrace, if not officially approve, the funding formula for public schools in the District of Columbia, the development of which is required by Bill 11-318. Because the Authority has review and approval authority over contracts entered into by all entities of the District Government during control years, Bill 11-318 mandates that the Authority review, approve, or disapprove all contracts of \$10,000 or more that a public charter school elects to award during control years, after these contracts have been competitively bid.

Upon its enactment, the Committee believes that Bill 11-318 will become regarded as one of the best charter school laws in the United States.

SECTION-BY-SECTION ANALYSIS

Section 1 sets forth the short title of Bill 11-318 as the "Public Charter Schools Act of 1995."

Section 101 defines the following terms:

(1) "Adult Student" means an individual who is 18 years or older and who is enrolled in adult, community, continuing, and vocational education programs, including Adult Basic Education, Adult Secondary Education Diploma Programs or General Educational Development Programs, and English as a Second Language Programs, Levels I through IV.

(2) "Authority" means the District of Columbia Financial Responsibility and Management Assistance Authority established under section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code §47-392.3(c)).

(3) "Average Daily Attendance" means the aggregate student attendance of a public school for a school year divided by the number of days school was in session and students were under the guidance and direction of teachers.

(4) "Average Daily Membership" means the aggregate student membership of a public school for a school year divided by the number of days school was in session and students were under the guidance and direction of teachers.

(5) "Board of Education" means the District of Columbia Board of Education.

(6) "Board of Trustees" means the governing board of a public charter school, the members of which have been elected or selected pursuant to the school's charter.

(7) "Commission" means the Commission for Charter Public Schools established by the Mayor, with the advice and consent of the Council of the District of Columbia, pursuant to section 211 of this Act.

(8) "Control year" means any fiscal year for which a financial plan and budget approved by the Authority is in effect and includes fiscal year 1996.

(9) "Eligible Applicant" means a person, group, or organization, including a private, public, or quasi-public entity or institution of higher learning that seeks to establish a public charter school.

(10) "Eligible Chartering Authority" means the Board of Education, the Commission for Public Charter Schools established pursuant to Section 211 of this Act, and the University of the District of Columbia.

(11) "Local Education Agency or "LEA" means the Board of Education and the Board of Trustees of a public charter school.

(12) "Mayor" means the Mayor of the District of Columbia.

(13) "Non-resident student" means:

(A) A minor student who attends a D.C. Public School and does not have a parent residing in the District of Columbia; or

(B) A person who is 18 years of age or older, attends a D.C. Public School, and does not reside in the District of Columbia.

(14) "Parent" means a person who has custody of a child attending a public school, to include a public charter school, and who:

(A) is a natural parent of the child;

(B) is a stepparent of the child;

(C) has adopted the child; or

(D) is appointed as a guardian for the child by a court of competent jurisdiction.

(15) "Petition" means a proposed written application submitted by an eligible applicant to an eligible chartering authority to establish a public charter school.

(16) "Public Charter School" means a publicly funded school in the District of Columbia that is established in accordance with this Act.

(17) "Public School" means either a public school under the authority and control of the Board of Education or a public charter school.

(18) "Superintendent of Schools" means the Superintendent of the District of Columbia Public Schools.

(19) "Teacher" means any person employed as a teacher by the Board of Education or by a public charter school.

Section 102 states the findings of the Council as follows:

(1) Encouraging educational excellence is in the best interest of the people of the District of Columbia.

(2) Educational excellence is fostered when schools compete for students, when teachers can choose where to teach, and when each school entity has control over its administration, operations, and expenditures.

(3) The District of Columbia has educators, members of the community, parents, and teachers who can offer innovative educational techniques and programs but who lack a channel through which they can direct their innovative efforts in existing public schools in the District of Columbia.

(4) Parents and teachers associated with individual public schools must be involved in developing strategies to improve student performance.

(5) Simultaneous top-down and bottom-up education reform is necessary to spur creative and innovative approaches by individual public schools to help all students achieve nationally and internationally competitive standards.

(6) Strategies must be developed for revitalization of public schools in the District of Columbia by fundamentally changing the system of public education through comprehensive, coherent, and coordinated improvement towards the objective of increasing student learning and providing all students with effective mechanisms and appropriate paths to the work force and to higher education.

(7) Local public schools must be provided with more authority over their administration, operations, and expenditures but must be held accountable for the manner in which they exercise that authority.

(8) The appropriate and innovative use of technology can be very effective in helping to provide all students with the opportunity to meet high standards of learning that are nationally and internationally competitive.

(9) The enactment of legislation authorizing public charter schools in the District of Columbia promotes new public education options and provides students, educators, teachers, community members, and parents the incentive to strive for educational excellence.

Section 103 states the statutory purposes of this Act as follows:

(1) To improve the quality of learning by creating schools that are nationally and internationally competitive in terms of student performance and curriculum standards;

(2) To increase learning opportunities for all students;

(3) To encourage diverse approaches in learning and education, including appropriate and innovative use of technology;

(4) To stimulate the use and development of different and innovative teaching methods

designed to achieve student performance and curriculum standards specified in a school's charter and measured by standardized tests or assessments administered by the Board of Education or the Superintendent of Schools.

(5) To create new professional opportunities for teachers, including the opportunity to be responsible for the learning program used by a public charter school;

(6) To provide parents and students with expanded choices in the types of public educational opportunities available in the District of Columbia;

(7) To hold public charter schools and their teachers accountable for achieving student performance levels specified in their school charter;

(8) To provide public schools with a method to change from the traditional rule-based to performance-based accountability systems; and

(9) To offer the community the option of independent public schools that are free of most statutes, rules, and regulations governing public education, as long as these schools meet the requirements of this Act .

Section 201 sets forth the process for filing charter petitions, as follows:

(a) In the case of an existing public school, an eligible applicant seeking to convert an existing District of Columbia public school into a public charter school shall:

- prepare a petition to establish a public charter school that meets the requirements of the contents of a petition, which are prescribed in section 202;

- provide a copy of the petition to the parents of minor students attending the existing school, adult students attending the existing school; and employees of the existing school;

- file the petition with an eligible chartering authority for approval after the petition has been signed by a majority of the total number of parents of minor students and adult students attending the school, where applicable, and after the petition has been endorsed by at least a majority of full-time teachers at the school; and

- explain in the petition the relationship that shall exist between the public charter school and its employees.

(b) In the case of an existing independent or private school, an eligible applicant seeking to convert an existing independent or private school in the District of Columbia into a public charter school shall:

- prepare a petition to establish a public charter school that meets the requirements of the contents of a petition, which are prescribed in section 202;

- provide a copy of the petition to the parents of minor students attending the existing school, adult students attending the existing school; and employees of the existing school;

- file the petition with an eligible chartering authority for approval after the petition has been signed by a majority of the total number of parents of minor students and adult students attending the school, where applicable, and after the petition has been endorsed by at least a majority of full-time teachers at the school; and

- explain in the petition the relationship that shall exist between the public charter school and its employees.

(c) In the case of a new school, an eligible applicant seeking to establish in the District of Columbia a public charter school, but not seeking to convert an existing public, private, or independent school into a public charter school, shall file with an eligible chartering authority for approval a petition to establish a public charter school that meets the requirements of the petition's contents, as prescribed by section 202.

Section 202 prescribes that the contents of a charter petition shall include:

- (1) A statement defining the mission and goals of the proposed public charter school.
- (2) A statement of the need for the proposed public charter school in the geographic area of the school site.
- (3) A description of the proposed instructional goals and methods for the schools, which includes, at a minimum:
 - the methods that shall be used to provide the students with the knowledge, proficiency, and skills needed to become nationally and internationally competitive students and educated individuals in the 21st century; and to perform competitively on any reliable and unbiased assessments adopted by the Board of Education or developed and administered citywide by the Superintendent of Schools; and
 - the methods that shall be used to improve student self-motivation, classroom instruction, and learning for all students.
- (4) A description of the plan for evaluating student academic achievement at the proposed charter school and the procedures for remedial action that shall be used by the school when the academic achievement of a student falls below the expectations set forth in the petition.
- (5) An operating budget for the first 2 years of the proposed public charter school that is based on anticipated enrollment and:
 - contains a description of the method for conducting annual audits of the financial, administrative, and programmatic operations of the school;
 - identifies the site where the school shall be located, including a description of any buildings on the site and any buildings proposed to be constructed on the site, or sets forth a timetable by which the identification of a site and facilities to be used by the school shall be made;
 - describes any major contracts planned, with a value equal to or exceeding \$10,000, for equipment and services, leases, improvements, purchases of real property, or insurance; and
 - includes a timetable for commencing operations as a public charter school.
- (6) A description of the proposed rules and policies for governance and operation of the school.
- (7) Copies of the proposed articles of incorporation and bylaws of the school.
- (8) The names and addresses of the members of the proposed Board of Trustees.
- (9) A description of the anticipated student enrollment, and the admission, suspension, and expulsion policies and procedures of the proposed public charter school;
- (10) A description of the procedures the school plans to follow to ensure the health and safety of students, employees, and guests of the school and to comply with applicable health and safety laws and regulations of the Federal Government and the District of Columbia

Government.

(11) An explanation of the qualifications that shall be required of employees of the proposed public charter school.

(12) An identification, and a description, of the individuals and entities submitting the application, including their names and addresses, and the names of the organizations or corporations of which such individuals are directors or officers.

Section 203 sets forth the process for approving or denying charter petitions as follows:

(a) An eligible chartering authority may limit the number of petitions to establish a public charter school that it will accept, and it may establish a schedule for receiving petitions to establish a public charter school, or applications to renew charters previously granted, and shall publish any such schedule and limits on the number of petitions or applications that it will accept in the District of Columbia Register. An eligible chartering authority shall make a copy of any schedule and limits available to all interested persons upon request.

(b) Not later than 45 days after a petition to establish a public charter school is filed with an eligible chartering authority, the authority shall hold a public hearing on the petition to gather the information that is necessary for the authority to make the decision to approve or deny the petition.

(c) Not later than 10 calendar days prior to the scheduled date of a public hearing on a petition to establish a public charter school, an eligible chartering authority shall publish a notice of the hearing in the District of Columbia Register, and it shall send a written notification of the hearing date to the eligible applicant who filed the petition.

(d) Subject to special rules for the first year statutory authority exists to charter schools that are set forth in subsection (i) of section 203, an eligible chartering authority shall approve a petition to establish a public charter school, if the authority determines that the petition satisfies prescribed requirements, and if the eligible applicant who filed the petition agrees to satisfy any condition or requirement, consistent with this Act and any other applicable law, that is set forth in writing by the eligible chartering authority as an amendment to the petition. The eligible chartering authority, however, may not condition its granting a petition on an applicant's general compliance with statutes, policies, rules and regulations to which public schools under the authority of the Board of Education are subject.

(e) An eligible chartering authority shall approve or deny a petition to establish a public charter school not later than 45 days after the conclusion of a public hearing on the petition.

(f) An eligible chartering authority and an eligible applicant may agree to extend the 45-day time period for approval or denial of a petition by a period that does not exceed 30 days.

(g) If an eligible chartering authority denies a petition or finds it to be incomplete, the authority shall specify in writing the reasons for its decision and indicate, when appropriate, how the eligible applicant who filed the petition may revise the petition to satisfy the requirements for approval.

(h) Not later than 10 days after an eligible chartering authority approves a petition to establish a public charter school, the authority shall:

- provide a written notice of the approval, including a copy of the approved petition and any conditions or requirements agreed to between the chartering authority and

eligible applicant to the applicant, the Chief Financial Officer of the District of Columbia, the Board of Education if the Board was not the approving chartering authority, and, in a control year, the Authority; and

- publish notice of the approval of the petition in the District of Columbia Register.

* The provisions of a petition to establish a public charter school that has been approved by an eligible chartering authority, together with any amendments to the petition containing conditions or requirements agreed to by the eligible applicant, shall be considered a charter granted to the school by the authority.

(i) During the first year period that begins on the date of the enactment of this Act, each eligible chartering authority may approve not more than 1 petition filed by an eligible applicant seeking to convert an existing independent or private school into a public charter school; and, in considering a petition to establish a public charter school filed by an eligible applicant, each eligible chartering authority shall give strong preference to proposed public charter schools that will focus on students with special needs, such as students who have dropped out of school, or disruptive students.

(j) During each calendar year, each eligible chartering entity that is an institution of higher education may approve no more than 2 petitions to establish public charter schools, and each other eligible chartering entity may approve no more than 4 petitions to establish public charter schools. The effect of this provision would be to authorize the Board of Education and the Commission for Public Charter Schools to approve no more than four public charter schools in any calendar year, and the University of the District of Columbia would be limited to approving no more than two charters in a calendar year.

Section 204 prescribes the duties and powers of, prohibitions on, and other requirements on, public charter schools, as follows:

(a) A public charter school's duties include complying with the requirements of this Act, any other provisions of law applicable to the school, and all of the terms and provisions of its charter.

(b) A public charter school shall have all of the powers necessary for carrying out its charter, including the power to:

- To adopt a name and corporate seal, but only if the name selected includes the words "public charter school".

- To acquire real property for use as its school facility, from public or private sources.

- To receive and disburse funds for school purposes.

- To secure appropriate insurance and to make contracts and leases, including agreements to procure or purchase services, equipment, and supplies, subject to restrictions on contracting out contained in section (c) of section 204.

- To incur debt in reasonable anticipation of the receipt of funds from the District of Columbia General Fund or the receipt of other Federal or private funds.

- To solicit and accept any grants or gifts for school purposes, if the school does not accept any grants or gifts subject to any condition contrary to law or contrary to the terms of the petition to establish the school as a public charter school, and if the school maintains separate

accounts for grants or gifts for financial reporting purposes.

- To be responsible for its own operation, including preparation of a budget and personnel matters.

- To sue and be sued in its own name.

(c) A public charter school shall be subject to certain prohibitions and other requirements, as follows:

- Before a public charter school awards any contract that has value equal to or exceeding \$10,000, the school shall publish a notice of a request for proposals in the District of Columbia Register not less than 30 days prior to the award of the contract. Once a contract of \$10,000 or more is awarded, the public charter school, in a control year, shall submit to the Authority, not later than 3 days after the date on which the award is made, all bids for the contract received by the school, the name of the contractor who is awarded the contract, and the rationale for the award of the contract. A contract submitted to the Authority in a control year shall become effective 15 days after the date on which the school submits the contract to the Authority, or on the effective date specified in the contract, whichever is later, except that a contract of \$10,000 or more shall be considered null and void if the Authority determines, within 12 days of the date on which the school submits the contract to the Authority in accordance, that the contract endangers the economic viability of the school.

- A public charter school may not charge tuition, fees, or other mandatory payments, except to nonresident students.

- A public charter school shall exercise exclusive control over its expenditures, administration, personnel, and instructional methods, within the limitations imposed in this Act; and shall be exempt from statutes, policies, rules, and regulations established by the Superintendent, Board of Education, Mayor, or District of Columbia Council for public schools under the control and authority of the Board of Education, except as otherwise provided in this Act or in the school's charter.

- A public charter school shall be subject to the same financial audits, audit procedures, and fiduciary requirements as a District of Columbia public school.

- A public charter school shall be governed by a Board of Trustees in a manner consistent with the charter granted to the school, the provisions of this Act, and any other law applicable to the school.

- No employee of the District of Columbia public schools may be required to accept employment with, or be assigned to, a public charter school.

- No student enrolled in a District of Columbia public school may be required to attend a public charter school.

- A public charter school shall not levy taxes or issue bonds.

- A public charter school seeking to revise its charter shall prepare a petition for approval of the revision and file it with the eligible chartering authority that granted the charter. The same provisions prescribed for approving or denying an original petition to establish a public charter school shall apply to a revised petition.

- A public charter school shall, on or before September 15 of each year, submit an annual report to the eligible chartering authority that approved its charter and, in a control year, to the Authority. Any member of the public shall be provided access to, or a copy of, the annual report upon request. The annual report shall include:

* Student performance on any reliable and unbiased assessments adopted by the Board of Education or developed and administered citywide by the Superintendent of Schools;

* Grade advancement for students enrolled in the public charter school;

* Graduation rates, college admission test scores, and college admission rates, if applicable;

* Types and amounts of parental involvement;

* Student enrollment as of September 15th and March 1 of each year, average daily student membership, and average daily student attendance;

* A financial statement audited by an independent certified public accountant; and

* A list of all donors and grantors that have contributed monetary or in-kind donations having a value equal to or exceeding \$500 during the year that is the subject of the report.

+ to protect the confidentiality of individuals, especially minor students, any information included in an annual report shall not identify the individuals to whom the data pertain, with the exception of information contained in audited financial statements and the list of donors and grantors whose contributions exceeded \$500.

- A public charter school shall report to the Mayor and the Council of the District of Columbia annual student enrollment on a grade-by-grade basis, including students with special needs, in a manner and form that permits the Mayor and the District of Columbia Council to administer a per capita public school funding formula for all public schools, including charter schools, beginning in FY 1997.

- A public charter school shall provide to the Board of Education student enrollment data necessary for the Board to comply with its statutory responsibilities for the taking of a school census in the District of Columbia, and any other applicable laws relating to census of minors.

- A public charter school shall establish a complaint resolution process.

- A public charter school shall provide a program of education that includes: pre-school; pre-kindergarten; any grade or grades from kindergarten through 12th grade; adult community, continuing, and vocational education programs; or more than one of these programs.

- A public charter school shall not engage in any sectarian practices in its educational program, admissions policies, employment policies, or operations.

- A public charter school shall be organized under the District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (76 Stat. 265; D.C. Code, § 29-501 et. seq.) and shall not be deemed, considered, or construed to be an entity of the District of Columbia Government.

- The incorporators, individual Trustees, officers, employees, and volunteers of a public charter school shall be immune from civil liability, both personally and professionally, for any act or omission within the scope of their official duties unless the act or omission constitutes gross negligence, constitutes an intentional tort, or is criminal in nature; this does not abrogate any immunity of a person under common law.

Section 205 describes the composition of, eligibility for membership on, and fiduciary responsibilities of the Board of Trustees of a public charter school, as follows:

(a) The members of a Board of Trustees of a public charter school shall be elected or selected pursuant to the charter granted to the school. Each board shall have an odd number of members that does not exceed 7, of which a majority shall be residents of the District of Columbia, at least 2 shall be parents of students attending the school or, in the case of a new school granted a charter, at least 2 shall be parents of students or children who are eligible to attend, and plan to enroll at, the school.

(b) An individual shall be eligible for election or selection to the Board of Trustees of a public charter school if the person is a teacher or staff member who is employed at the school, a parent of a student attending the school, or the person meets the selection or election criteria set forth in the charter granted to the school.

(c) The Board of Trustees of a public charter school shall be fiduciaries of the school and shall set overall policy for the school. The Board of Trustees may make final decisions on matters related to the operation of the school, consistent with the charter granted to the school, this Act, and any other applicable law.

Section 206 sets forth policies and criteria for student admission, enrollment, and withdrawal, as follows:

(a) Enrollment in a public charter school shall be open to all students who are residents of the District of Columbia and, if space is available, to nonresident students on a tuition basis.

(b) A public charter school may not limit enrollment on the basis of a student's intellectual or athletic ability, measures of achievement or aptitude, financial status, or a student's disability. A public charter school may limit enrollment to specific grade levels or areas of focus of the school, such as mathematics, science, or the arts, where such a limitation is consistent with the charter granted to the school.

(c and d) If there are more applications to enroll in a public charter school from students who are residents of the District of Columbia than there are spaces available, students shall be admitted using a random selection process, except that during the 5-year period beginning on the date that a petition, filed by an eligible applicant seeking to convert an existing public, private, or independent school into a public charter school, is approved, the school granted the charter shall give priority in enrollment to students enrolled in the school at the time that the petition is granted, the siblings of students enrolled at the time the petition is granted, and in the case of the conversion of an existing public school, students who reside within the attendance boundaries, if any, of the school.

(e) A nonresident student enrolled in a public charter school where space is available shall pay tuition to a public charter school at the current non-resident tuition rate established by the Board of Education for the type of program in which the student has enrolled.

(f) A student may withdraw from a public charter school at any time and, if otherwise eligible, enroll in a public school administered by the Board of Education.

(g) The principal of a public charter school may expel or suspend a student from the school based on criteria set forth in the charter granted to the school.

Section 207 describes the employment status of employees of public charter schools and other employee rights and conditions, as follows:

(a) The Superintendent shall grant, upon request, an extended leave of absence, without pay, to an employee of the District of Columbia public schools for the purpose of permitting the employee to accept a position at a public charter school for a 2-year term. At the end of the first 2-year term, an employee granted an extended leave of absence, without pay, may submit a request to the Superintendent for an extension of the extended leave of absence, without pay, for an additional 2-year term. The Superintendent may not unreasonably withhold approval of the request. An employee of the District of Columbia public schools who is granted one or two 2-year terms of extended leave of absence, without pay, to accept a position at a public charter school, may return to active employment with the D.C. Public Schools under terms and conditions that are in accordance with Board of Education rules and regulations in effect on October 1, 1995, governing employee returns from extended leave of absence.

(b) An employee of a public charter school who has received a leave of absence from the D.C. Public Schools shall receive creditable service, as defined in section 2604 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code §1.627.4) and the rules established under that section, for the period of the employee's employment at the public charter school.

+ A public charter school may establish a retirement system for employees under its authority. A former employee of the District of Columbia public schools who becomes an employee of a public charter school may, on the official date of separation from employment with the District of Columbia public schools or within 60 days thereafter, elect at the time the employee commences employment with the public charter school to remain in a District of Columbia Government retirement system and continue to receive creditable service for the period of her or his employment at a public charter school, or transfer into a retirement system established by the public charter school.

+ No public charter school may require a former employee of the District of Columbia public schools to transfer to the public charter school's retirement system as a condition of employment.

+ In the case of a former employee of the District of Columbia public schools who elects to transfer into a retirement system of a public charter school, the applicable District of Columbia Government retirement system from which the former employee is transferring shall compute the employee's and employer's contribution to that system and transfer this amount to the retirement system established by the public charter school. In the case of a former employee of the District of Columbia public schools who elects to remain in a District of Columbia Government retirement system, the public charter school shall transfer on a quarterly basis the employee's and employer's contribution to such system as computed by the applicable District of Columbia Government retirement system.

(c) Employees of a public charter school may elect to organize for collective bargaining purposes in accordance with applicable Federal and local law. An employee organization established for collective bargaining purposes shall constitute a separate bargaining unit and shall elect its bargaining representatives.

(d) Employees of, and positions at, public charter schools shall not be counted as full-time

equivalent positions for purposes of determining compliance with authorized full-time equivalent position ceilings by either the District of Columbia Government or District of Columbia public schools. Each position in the District of Columbia public schools that is vacated by an employee who chooses to take a leave of absence without pay to accept a position at a public charter school may be filled with temporary, term, or time-limited employees, but the position shall count as only 1 full-time equivalent position for the purposes of determining compliance with authorized full-time equivalent position ceilings for either the District of Columbia Government or District of Columbia public schools.

(e) Notwithstanding any other provision of law, employees of public charter schools shall not be considered to be employees of the District of Columbia Public Schools or the District of Columbia Government.

Section 208 provides that students attending public charter schools shall be eligible for reduced fares on the District of Columbia public transit system on the same terms and conditions as are students attending District of Columbia public schools, as statutorily provided.

Section 209 allows the Superintendent to provide services, such as a health benefits plan, budgeting, accounting, transportation of disabled students, and facilities maintenance, to public charter schools. All compensation for the costs of such services shall be subject to negotiation and mutual agreement between a public charter school and the Superintendent.

Section 210 prescribes applicability of laws, as follows:

(a) For the purposes of this Act, each public charter school shall be considered a local educational agency and shall be eligible for the same federal financial assistance as public schools under the authority and control of the Board of Education.

(b) A public charter school shall be exempt from District of Columbia property and sales taxes.

(c) Except as otherwise provided in this Act, a public charter school shall be subject to all statutes, policies, rules and regulations established by the District of Columbia Government that are applicable to non-profit corporations.

Section 211 sets forth the appointment and removal process, qualifications, and non-compensation of members of a newly created eligible chartering authority, as follows:

(a) A 5-member Commission for Public Charter Schools is established.

(b) The Mayor, with the advice and consent of the Council of the District of Columbia, shall appoint the members of the Commission to serve.

(c) Three members of the Commission shall initially be appointed to serve 5-year terms. Two members of the Commission shall initially be appointed to serve 4-year terms. Each member of the Commission appointed thereafter shall serve a 4-year term, with the exception of a member appointed to fill an unexpired term resulting from a vacancy on the Commission. A member of the Commission may be reappointed to serve a second 4-year term, though no member of the Commission shall serve more than two consecutive full-terms.

(d) The members of the Commission shall be residents of the District of Columbia and shall be parents or experienced in such fields as science, business, law, accounting, the arts, or education.

(e) The Mayor, with the advice and the consent of the Council, may remove any member of the Commission for good cause.

(f) The Mayor, with the advice and consent of the Council, may appoint any qualified individual to fill a vacancy on the Commission, but only for the unexpired term of the member whose vacancy is being filled.

(g) The members of the Commission shall receive no compensation, stipends, or other financial remuneration.

(h) The Commission shall not take any official action to approve or deny charter petitions, approve or deny charter renewal applications, revoke charters, place a charter school on probation, grant a charter, or perform any other duty or responsibility prescribed for the Commission by this act unless a quorum is established consisting of a majority of Commission members present.

Section 212 prescribes the powers and duties of eligible chartering authorities, as follows:

(a) An eligible chartering authority shall monitor, assess, and evaluate the operations of each charter school whose charter the authority approved by determining the extent to which each school complies with its charter and applicable laws and is meeting, or making satisfactory progress toward meeting, student academic achievement expectations specified in the school's charter. An eligible chartering authority may require a public charter school to which the authority has granted a charter to produce any book, record, paper, or document, if the authority determines that such production is necessary for the authority to carry out its functions under this Act.

(b) An eligible chartering authority may charge an eligible applicant a fee, not to exceed \$150, for processing a petition to establish a public charter school. An eligible chartering authority may also charge each public school to which it has granted a charter an administrative fee, not to exceed ½ of 1% of the annual budget of the school, to cover the cost of undertaking its ongoing administrative, monitoring, assessment, and evaluation responsibilities as prescribed by this Act.

(c) If the eligible chartering authority that granted a charter to a public charter school ceases to exist, or otherwise is unable or unwilling to continue functioning as an eligible chartering authority, the Commission shall be deemed the eligible chartering authority for each public charter school for the duration of its charter granted by the no longer existing or functioning, former eligible chartering authority.

(d) An eligible chartering authority, a governing board of such an authority, and the directors, officers, and employees of such an authority, shall be immune from civil liability, both personally and professionally, for any act performed, or omission made, in approving a petition to establish a public charter school or carrying out its powers and duties, unless the act or omission constitutes gross negligence, constitutes an intentional tort, or is criminal in nature; this shall not be construed to abrogate any immunity of a person under common law.

Section 213 limits each charter granted to 5 years, though allows for a charter to be renewed for an unlimited number of additional 5-year periods.

Section 214 sets forth the requirements for renewing a charter, as follows:

(a) The Board of Trustees of a public charter school shall file an application to renew its charter with the eligible chartering authority that approved the charter not later than 120 days before the expiration of the petition. The application to renew a charter shall contain a report on the progress of the public charter school in achieving the goals, student academic achievement expectations, and other terms of the approved charter, and all audited financial statements for the public charter school for the preceding 4 years.

Section 215 prescribes the process for approval or denial of a charter renewal application, as follows:

(a) The eligible chartering authority that approved a charter shall approve an application to renew a properly filed charter unless the authority determines that the school committed a material violation of the conditions, terms, standards, or procedures set forth in its charter, the school failed to meet the goals and student academic achievement expectations set forth in the charter, or the renewal application fails to comply with the requirements for filing a charter renewal application that are set forth in section 214.

(b) An eligible chartering authority shall approve or deny an application to renew a charter not later than 45 days after receipt of the renewal application.

(c) Not later than 10 days after an eligible chartering authority approves an application to renew a charter, the authority shall provide a written notice of the renewal approval, including a copy of the approved renewal application, to the eligible applicant, the Chief Financial Officer of the District of Columbia, and, in a control year, the Authority, and publish notice of the approval of the renewal application in the District of Columbia Register.

(d) If an eligible chartering authority denies a charter renewal application for 1 or more of the reasons contained in subsection (a) of this section 215, the authority shall specify in writing, within 10 days of its decision, to the Board of Trustees of the school that submitted the renewal application, the reasons for its decision. The written notice of denial shall also provide notice to the Board of Trustees that submitted the renewal application of the right to a formal hearing to appeal the denial.

(e) Not later than 15 days after receipt of notice from the eligible chartering authority of its denial of a charter renewal application, the Board of Trustees of a public charter school may request, in writing, a formal hearing before the authority to appeal the denial of the charter renewal application.

(f) Upon receipt of a written request for a formal hearing that complies with the submission requirements of subsection (e) of this section 215, the eligible chartering authority shall set a date, time, and place for the hearing, and shall provide no less than 7 days prior notice to the Board of Trustees of a public charter school of the time, date, and place of the hearing, the procedures to be followed at the hearing, and data, information, and documents to be reviewed at, or provided by the Board of Trustees before, the formal hearing; provided that the formal

hearing shall take place not later than 20 days after receipt, by the eligible chartering authority, of the written request for the formal hearing.

(g) The eligible chartering authority shall render, in writing, a final decision on the appeal not later than 10 days after the date of the formal hearing. If the authority denies the appeal, it shall state in reasonable detail the basis for its decision.

(h) If the eligible chartering authority denies a charter renewal application, the eligible chartering authority that denies the renewal application may manage the public charter school directly until the end of the current school year or until alternative arrangements can be made to enroll students at other schools, or place the school in a probationary status that requires the school within a specified period of time to take remedial actions, to be determined by the authority, that directly address or resolve the basis for denial.

(i) A decision by an eligible chartering authority to deny a charter renewal application shall be subject to judicial review. Nevertheless, a decision by an eligible chartering authority to deny a charter renewal application shall be upheld unless the decision of the eligible chartering authority is determined to be arbitrary, capricious, or clearly erroneous.

(j) If the eligible chartering authority that originally granted a charter to a public charter school no longer exists, is unwilling or unable to consider a charter renewal application, or has ceased functioning as an eligible chartering authority, the Board of Trustees of the school may file the charter renewal application with the Commission or any other eligible chartering authority; provided that the Commission or other eligible chartering authority to which the renewal application is submitted shall be subject to the provisions of Sections 214 and 215 of this Act to the same extent as the eligible chartering authority that originally granted the charter.

Section 216 prescribes reasons for revoking a charter, as follows:

(a) An eligible chartering authority that has granted a charter to a public charter school may, at any time, revoke the charter if the authority determines that the school has committed a violation of applicable laws or a material violation of its charter.

(b) An eligible chartering authority that approved the charter of a public charter school shall revoke the charter if the authority determines that the school has engaged in a pattern of non-adherence to generally accepted accounting principles, has engaged in a pattern of fiscal mismanagement, or is no longer economically viable.

Section 217 sets forth procedures for revoking a charter, as follows:

(a) If an eligible chartering authority decides to revoke a charter it has previously approved, the authority shall provide written notice to the Board of Trustees of the school of the authority's proposed revocation of the charter. This notice shall state in reasonable detail the basis for the proposed revocation, and the notice shall inform the Board of Trustees of the school of the right to a formal hearing to appeal the proposed revocation. Not later than 15 days after receipt of notice from the eligible chartering authority of its proposed charter revocation, the Board of Trustees of a public charter school may request, in writing, a formal hearing before the authority to appeal the proposed charter revocation. Upon receipt of a written request for a formal hearing that complies with submission requirements, the eligible chartering authority

shall set a date, time and place for the hearing, and shall provide no less than 7 days prior notice to the Board of Trustees of a public charter school of the time, date, and place of the hearing, the procedures to be followed at the hearing, and data, information, and documents to be reviewed at, or provided by the Board of Trustees before, the formal hearing; provided that the formal hearing shall take place not later than 20 days after receipt, by the eligible chartering authority, of the written request for the formal hearing. The eligible chartering authority shall render, in writing, a final decision on the proposed revocation appeal not later than 10 days after the date of the formal hearing. If the authority denies the appeal, it shall state in reasonable detail the basis for its decision. If the eligible chartering authority determines that a charter should be revoked, the eligible chartering authority may manage the public charter school directly until the end of the current school year or until alternative arrangements can be made to enroll students at other schools. The decision to revoke a charter renewal application shall be subject to judicial review but shall be upheld unless the decision of the eligible chartering authority is determined to be arbitrary or capricious.

Section 218 indicates federal entities located in the District of Columbia that are to be asked by the Board of Education to establish public charter schools in the District of Columbia, as follows:

(a) The following Federal agencies and Federally-established institutions shall be asked by the Board of Education in writing to explore the feasibility of establishing public charter schools in the District of Columbia:

- (1) The Library of Congress.
- (2) The National Aeronautics and Space Administration.
- (3) The Drug Enforcement Agency.
- (4) The National Science Foundation.
- (5) The Department of Justice.
- (6) The Department of Defense.
- (7) The Smithsonian Institution, including the National Zoological Park, the

National Museum of American History, the Kennedy Center for the Performing Arts, and the National Gallery of Art.

(b) In its written request to each agency and institution listed in subsection (a), the Board of Education shall ask that, not later than 120 days after the date of the enactment of this Act, each agency and institution make a determination regarding the feasibility of establishing one or more public charter schools.

(c) The Board of Education shall further ask each agency listed in subsection (a) to notify the Board in writing, not later than 270 days after the enactment of this Act, if the agency or institution has not petitioned an eligible chartering authority to establish one or more public charter schools and the reasons for not doing so.

Section 219 prescribes a formula funding approach for funding public schools in the District of Columbia, as follows:

(a) For fiscal year 1997 and for each subsequent fiscal year, the Mayor shall recommend,

and the Council of the District of Columbia shall approve, annual appropriated funds budgets for the District of Columbia public schools and for public charter schools in accordance with the formula established by subsection (b) of this section 219.

(b) The Mayor and the Council, in consultation with the Board of Education and the Superintendent of Schools, shall establish a funding formula which determines the amount of the annual appropriation for the Board of Education and the public schools under its control, and for each public charter school. The funding formula shall be based on the number of students enrolled at each school, as calculated by Section 221 of this Act, and shall define and then take into consideration students with special needs, including students with disabilities, disruptive students, or students who have dropped out of school.

Section 220 sets forth requirements that the Board of Education develop an FY 1997 budget request from a zero base and school-by-school gross operating budgets, as follows:

(a) The Board of Education shall develop its FY 1997 gross operating budget and its FY 1997 appropriated funds budget request in accordance with requirements including:

- By no later than December 15, 1995, the Board of Education shall develop, approve, and submit to the Mayor, the Council of the District of Columbia, the Authority in a control year, and the Congress of the United States, a Revised FY 1996 gross operating budget that reflects the Congressionally approved FY 1996 appropriation, and which is broken out on the basis of appropriated funds and non-appropriated funds, control center, responsibility center, agency reporting code, object class, and object; and indicates by position title, grade, and agency reporting code all staff actually allocated to each school as of October 15, 1995 and on an object basis, all other-than-personnel-services financial resources allocated to each school.

- For FY 1997, the Board of Education shall build its gross operating budget and appropriated funds request from a zero-base, starting from the local school level up through central office. The Board of Education's initial FY 1997 gross operating budget and appropriated funds budget request submitted to the Mayor, the Council of the District of Columbia, and the Authority in a control year, shall: contain school-by-school budgets and shall also be broken out on the basis of appropriated funds and non-appropriated funds, control center, responsibility center, agency reporting code, object class, and object; indicate by position title, grade, and agency reporting code all staff budgeted for each school and on an object basis all other-than-personnel-services financial resources allocated to each school; and indicate the amount and reason for all changes made to the initial FY 1997 gross operating budget and appropriated funds request from the Revised FY 1996 gross operating budget this section requires the Board to develop.

Section 221 sets forth annual requirements for calculating, and validating, current student enrollment, as follows:

(a) Not later than 30 days after the date of the enactment of this Act, and not later than October 15th of each year thereafter, the Board of Education shall prepare and submit to the Authority in a control year, the Mayor, and the Council a report containing by race/ethnic group and gender:

- the number of students, including non-resident students, enrolled in kindergarten through grade 12 of the District of Columbia public schools and in public charter schools established in accordance with this Act, and the number of students, regardless of age or grade, whose tuition for enrollment in other schools is paid for by funds available to the District of Columbia public schools; and the amount of fees and tuition assessed and collected from nonresident students;

- the number of students, including non-resident students, enrolled in pre-school and pre-kindergarten in the District of Columbia public schools and in public charter schools; and the amount of fees and tuition assessed and collected from nonresident students;

- the number of full-time equivalent adult students enrolled in adult, community, continuing, and vocational education programs in the District of Columbia public schools and in public charter schools; and the amount of tuition and fees assessed and collected from resident and nonresident adult students;

- the number of students, including nonresident students, enrolled in non-grade level programs in the District of Columbia public schools and in public charter schools; and the amount of fees and tuition assessed and collected from nonresident students.

(b) The Board of Education shall request that the Comptroller General of the United States conduct an audit of the initial annual report on student enrollment required by subsection (a) of this section 221. In its request for an audit of the initial annual report on student enrollment, the Board of Education shall ask that the Comptroller General:

- provide an opinion as to the accuracy of the information contained in the Board's initial annual report on student enrollment;

- identify any material weaknesses in the systems, procedures, or methodology used by the Board of Education: in determining the number of students, including nonresident students, enrolled in the District of Columbia public schools and in public charter schools; determining the number of students whose tuition for enrollment in other schools is paid for by funds available to the D.C. Public Schools; and assessing and collecting fees and tuition from nonresident students.

+ The Board of Education shall request of the Comptroller General that, not later than 45 days after the date on which the Comptroller General of the United States receives the initial annual report from the Board of Education, the Comptroller General shall submit to the Authority in a control year, the Mayor, and the Council a report of the audit that is conducted.

Section 222 provides that the Congress will be asked to assist public charter schools in beginning operations by the beginning of the 1996-97 school year, as follows:

(a) For the purpose of assisting public charter schools to begin operations in the Fall Semester of calendar year 1996, the Congress is asked to appropriate \$200,000 in federal funds in fiscal year 1996. This appropriation shall be placed into a restricted fund account within the D.C. General Fund, from which payments shall be made only to public charter schools that begin operations before October 1, 1996.

(b) If Congress appropriates the federal funds requested in subsection (a) to assist with the establishment and initial operations of a public charter school, a school shall receive an appropriation in FY 1996 in accordance with subsection (c) of this section 222.

(c) Payments to a public charter school in fiscal year 1996 shall be in an amount equivalent to one-twelfth of total anticipated enrollment as set forth in the petition to establish the public charter school multiplied by \$6,213 (\$503,270,000 \ 81,000 =). Payment shall be made not later than September 1, 1996, by electronic funds transfer from the restricted account within the D.C. General Fund to a bank account designated by each public charter school.

(d) Any funds that remain in the escrow account for public charter schools on September 30, 1996, shall revert to the General Fund of the District of Columbia.

Section 223 prescribes the process for determining and making payments in FY 1997 and thereafter to public charter schools, as follows:

(a) Not less than 10 calendar days after the date of the enactment of the annual D.C. Appropriations Act, beginning in fiscal year 1997, the total amount of funds appropriated for public charter schools, pursuant to section 219 of this Act, shall be transferred into a restricted account within the D.C. General Fund; provided that any funds transferred shall only be expended by charter schools.

(b) By September 15th of each year, beginning in fiscal year 1997, each public charter school shall report to the Mayor, D.C. Council, Board of Education, the Authority in a control year, and the eligible chartering authority that approved its charter, the total number of students enrolled at the school in a format that meets the requirements of section 221 of this Act.

(c) The annual amount that will be transferred to each public charter school from the D.C. General Fund, beginning in fiscal year 1997, shall be equivalent to the total number of enrolled students, as reported by the Board of Education pursuant to section 221 of this Act, multiplied by the average cost per student, as determined by the per capita school funding formula prescribed in section 219 of this Act.

(d) On October 15, 1996, and on October 15th of each year thereafter, or not later than 10 calendar days after the enactment of the annual D.C. Appropriations Act, whichever occurs last, payments from the D.C. General Fund shall be made to each public charter school by electronic funds transfer to a bank account designated by the school in an amount equivalent to 75% of the annual payment that each school is to receive, as determined by this section.

(e) By March 1, 1997, and by March 1st of each year thereafter, each public charter school shall report to the Mayor, D.C. Council, Board of Education, the Authority in a control year, and the eligible chartering authority that approved its charter, the total number of students who have withdrawn from, or dropped out of, the school since the beginning of the school year, and the total number of students who have enrolled after September 15th, in the same format as prescribed by section 221 of this Act.

(f) On May 1, 1997, and on May 1st of each year thereafter, each public charter school shall receive the balance of its annual payment. The payment to each school shall be reduced in an amount equivalent to 50% of the per student allocation for each student who has withdrawn from or dropped out of the school and has not been replaced by a newly enrolled student since the beginning of the school year.

(g) If the overall annual appropriation for public schools in the District of Columbia is reduced during a fiscal year, a pro rata reduction shall be deducted from the balance of the annual payment to each charter school and from the reserve account established within the D.C.

General Fund to fund public charter schools.

(h) Any funds that remain in the escrow account for public charter schools on September 30 of a fiscal year shall revert to the General Fund of the District of Columbia.

Section 224 provides that each public charter school may annually apply for and receive, on the same basis as public schools under the control and authority of the Board of Education, federal financial assistance for which the public charter school may be eligible, in accordance with section 210(a) of this Act.

Section 301 contains two conditional applicability provisions, as follows:

- Section 221(b), which provides for the Board of Education to request an audit of the initial annual report on student enrollment, and the Comptroller General of the United States to conduct the audit on the initial annual report on student enrollment, shall not apply until the effective date of Congressional legislation providing authority for the Comptroller General of the United States to conduct the audit, or until the effective date of this act, whichever is later.

- Section 222, which requests that the Congress of the United States appropriate \$200,000 in federal funds, to assist public charter schools to begin operations in the Fall of 1996, shall not apply until the effective date of Congressional legislation appropriating the requested federal funds, or until the effective date of this act, whichever is later.

Section 401 states the effective date of the Act.

FISCAL IMPACT STATEMENT

The enactment of Bill 11-318 is not expected to have any fiscal impact on the gross operating budget of the District of Columbia in FY 1996. Public charter schools, if any, that begin operations prior to the end of the fiscal year (i.e., at the start of the 1996-97 school year) will have to pay for start-up and initial operating costs from funds raised or generated from sources other than the District Government, by incurring short-term debt--as is provided in Bill 11-318, or more likely from one-month start-up funds to be appropriated in FY 1996 by the United States Congress.

Beginning in FY 1997 and in subsequent fiscal years, public charter schools, along with other public schools in the District of Columbia, will be funded via a student-driven per capita formula from the annual gross operating budget of the District of Columbia, except that Congress is likely to appropriate one-month start-up funds for public charter schools in FY 1997 through FY 2000 because, in the District, the school year begins before the fiscal year starts.

Bill 11-318 requires that the Mayor and the Council, in consultation with the Board of Education and Superintendent of Schools, establish a per capita funding formula to determine the "amount of the annual appropriation for the Board of Education and the public schools under its

control, and for each public charter school." The funding formula is to "be based on the number of students enrolled at each school" and the formula shall specifically "define and then take into consideration students with special needs, including students who are at-risk, have disabilities, are disruptive, or have dropped out of school."

Because of historical deficiencies in the annual budgets approved by the Board of Education, and the degree to which personnel spending has consistently exceeded the budget, it is essential that a budget be developed which reasonably projects expenditures--personnel and non-personnel, functional, programmatic, and school-by-school--as they are likely to actually occur during the current fiscal year. A funding formula providing for the real educational needs of students and local school operations cannot, in fairness to taxpayers, build in the sort of excessive or unnecessary spending, especially for central office, instructional support, and other non-school-based activities, that has characterized the school system in recent years.

For this reason, Bill 11-318 requires that the Board of Education develop, approve, and submit to the Mayor, Council, and Authority by mid-December 1995, a revised FY 1996 gross operating budget that reflects the Congressionally approved appropriation in specified budget categories and lists all staff positions and funds for non-personnel costs allocated to each local school. This step is necessary as a prelude to the Board of Education building, as Bill 11-318 requires, an FY 1997 budget request from a zero base "from the local school level up through central office" and on a school-by-school basis. Bill 11-318 also requires that the Board's budget indicate the amount and reason for changes made in the FY 1997 gross operating budget request from the Revised FY 1996 gross operating budget.

This prescribed process, though it places a large burden on the school system's budget and financial management offices, will allow the school system to determine FTE position (and employee) reductions and other cost savings measures that will be necessary for the Board to balance and implement its Revised FY 1996 gross operating budget and stay within its authorized FTE position ceiling, and to reflect these and any other necessary adjustments in its FY 1997 budget request. Specific and accurate school-by-school staffing allocations, externally validated student enrollment (which is required by Bill 11-318 for the current school year), and budgeted financial allocations to each local school are essential ingredients for developing a funding formula, especially a formula that takes into consideration the diversity of needs--educational and otherwise--of students throughout the District of Columbia.

The Committee cannot predict whether a formula funding approach to funding the school system at present, before public charter schools are added to the equation, would cause the overall appropriation for the Board of Education to increase or decrease. There are two competing schools of thought about the current budget for the school system: (1) The public schools are severely unfunded, no better example of this being the often horrendous condition of public school facilities, lack of textbooks and supplies in some, perhaps many, schools, and the low starting salaries for teachers; and (2) The public schools are adequately funded, in fact the cost per pupil is among the highest in the country, but insufficient resources are being expended at the local school level to directly educate students; this is because funds are not always

properly allocated. A funding formula approach that is student-driven and places a premium on costs for school-based educational programs should further efforts to reallocate more and more resources to local schools from central office and other non-instructional activities.

The Committee also notes that if the external audit of student enrollment, which is required by Bill 11-318 for the current school year, determines that the school system's enrollment is less than approximately 81,000 students, this could result in further reductions to the school system's appropriation in FY 1996--formula funding mechanism or not.

Bill 11-318 limits to ten (10) the total number of schools that can be chartered in any calendar year. Specifically, the Board of Education and the Commission may each grant no more than four charters to schools during any one year, and UDC will be restricted to granting no more than two charters annually. In addition, each of the three chartering authorities is limited during the first year this legislation is in effect to chartering only one existing private or independent school. These limitations are intended to ensure that there is not a major and immediate proliferation of public charter schools--especially newly created schools, and a huge increase in the student population whose education is publicly supported, which could have enormous budgetary ramifications under the formula funding mechanism that henceforth will determine appropriations for all public schools in the District of Columbia.

It should be emphasized, however, that in addition to limitations on the number of schools that can be chartered, Bill 11-318 sets forth fairly stringent conditions for an existing public, private, or independent school to apply for, and be granted, a charter. In the case of existing schools, if proposals to seek a charter are not supported and endorsed by at least a majority of parents of students attending and a majority of faculty and other staff employed at an existing school, the school cannot petition for a charter. Another factor that may limit the number of existing schools chartered is that each public charter school, unlike public schools under the control and authority of the Board of Education, will have to pay retirement-related costs and administration fees (to monitoring chartering authorities, including the Board of Education) from its operating budget, even though employer's retirement contributions and administrative fees are not likely to be included as a component of a per-pupil driven funding formula. Implicit in the requirement that public charter schools, in effect, absorb or separately fund retirement benefits costs for their employees and unique costs stemming from their charter status is the assumption that these schools, because they are free of many bureaucratic restrictions or requirements, can provide an education that meets the student performance goals set forth in their approved charters on a more cost-effective basis than do public schools in the District of Columbia at present.

A key to revitalizing the District of Columbia as a municipality is attracting a tax base back into the city, or preventing the tax base from further eroding. Without enough public schools to which middle class taxpayers will choose to send their children, revitalization of the nation's capital will be a difficult, perhaps impossible, goal to achieve. It is, therefore, a stated intent of Bill 11-318 to increase the attractiveness of a publicly supported education in the District of Columbia by expanding public education opportunities and offering parents greater

public school choice. To the extent that this will cause increased spending on public education in the District of Columbia in FY 1997 and thereafter, with or without an attendant increase in the tax base and locally generated *revenues*, depends not so much on the number of schools that are chartered but on whether the school-age population in the District of Columbia increases overall, particularly children of middle class taxpayers, and/or the number of students receiving a publicly supported education grows--assumedly as a consequence of better public schools.

IMPACT ON EXISTING LAW

Bill 11-318 does not amend any existing law. Upon enactment, Bill 11-318 will be codified as part of Title 31, "Educational and Cultural Institutions", of the District of Columbia Code, because it authorizes the establishment of charter schools and the granting of charters to existing public schools, existing independent or private schools, and newly created schools in the District of Columbia.

A public charter school that is established pursuant to Bill 11-318 will be required to comply with certain prescribed conditions in developing and submitting a petition for a charter to an eligible chartering authority. Before a petition can be approved (or denied), Bill 11-318 prescribes a process for public notice and public hearings on the petition that is, by and large, consistent with the Administrative Procedures Act (D.C. Code §1-1501 et seq.).

Section 204(b)(4) authorizes a public charter school to enter into contracts, although section 204(c)(1) provides that when the value of a contract amounts to \$10,000 or more, the school must publish a request for proposals in the District of Columbia Register, thus ensuring that competitive bidding will occur before any such contract is awarded, though this requirement is not applicable in emergency situations. All bids for a contract of \$10,000 or more, the rationale for the award of each contract of \$10,000 or more, and the name of the successful bidder must be submitted to the Financial Responsibility and Management Assistance Authority (the "Authority") for review and approval during control years. The Authority is empowered to reject a contract during control years if it determines that the contract endangers the economic viability of the public charter school.

Section 204(c)(3) grants to a public charter school exclusive control over its expenditures, administration, personnel, and instructional methods, except for limitations specified elsewhere in Bill 11-318, and exempts a public charter school from most statutes, policies, rules, and regulations established by the Superintendent, Board of Education, Mayor, and the District of Columbia Council for public schools under the control and authority of the Board of Education.

Section 204(c)(12) requires a public charter school to provide to the Board of Education student enrollment data to ensure that the Board is in compliance with laws setting forth the Board's responsibility to perform and report on an annual census of minors; these requirements are contained in compulsory school attendance statutes, specifically in D.C. Code §31-404.

Section 204(c)(16) requires that a public charter school must be organized under the District of Columbia Nonprofit Corporation Act, (D.C. Code, §20-501 et. seq).

Section 204(c)(17) provides personal and professional immunity, to a certain extent and under certain conditions, to incorporators, individual Trustees, officers, employees, and volunteers of a public charter school and also preserves common law immunity from civil liability. This is akin to standard governmental immunity.

Section 207(a)(3) permits an employee of the District of Columbia public schools, who takes a leave of absence without pay from the school system to accept employment with a public charter school, to return to the school system after one or two 2-year terms of leave under the terms and conditions set forth by Board of Education rules and regulations in effect on October 1, 1995, regarding employees returning from extended leaves of absence.

Section 207(b) provides that while an employee of the District of Columbia is on extended leave without pay in order to work at a charter school, the period of time that the employee is employed by the public charter school is to be considered creditable service as defined in section 2604 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code §1-627.4) and applicable rules and regulations. This section also authorizes a public charter school to establish a retirement system for its employees and requires former employees of the school system to choose between remaining in their previous District retirement system or moving into the public charter school's retirement system. In the case of the former, the public charter school is required to pay on a quarterly basis both the employer's and employee's contribution into the District retirement system; and in the case of the latter, the District retirement system must transfer to the school's retirement system, at the time the former employee elects to become covered by the school's retirement system, the amounts contributed by both the employee and the government into the District retirement system.

Section 207(c) authorizes public charter school employees to organize as a separate bargaining unit for collective bargaining purposes and to elect their own bargaining representatives, in accordance with applicable local and Federal law.

Section 207(e) provides that notwithstanding any other provisions of law, employees of public charter schools shall not be considered employees of the District of Columbia public schools or the District of Columbia Government.

Section 208 ensures that students attending public charter schools who use public transportation are eligible for reduced fares on the same terms and conditions as all other students attending public schools in the District of Columbia, in accordance with D.C. Code §§ 44-216 through 44-221.

Section 210 and Section 224 provide that a public charter school is to be considered a local educational agency and is therefore eligible for the same federal financial assistance as schools under the control and administration of the Board of Education. A public charter school

is exempt from District of Columbia property and sales taxes, but is subject to all statutes, policies, rules and regulations established by the D.C. government relating to non-profit corporations--such as: tax and reporting requirements; land use and zoning requirements; building and fire code requirements; and other health and safety requirements.

Section 212(d) immunizes, to a certain extent and under certain conditions, eligible chartering authorities, directors, officers, and their employees, and preserves common law immunity from civil liability. This is akin to standard governmental immunity.

Section 220 prescribes a process for developing the Board of Education's FY 1997 budget request that mandates actions that are in addition to existing law and requirements. Specifically, the Board must, by no later than December 15, 1995, develop, approve, and submit to the Mayor, the Council of the District of Columbia, the Authority, and the Congress of the United States, a Revised FY 1996 gross operating budget that reflects the Congressionally approved FY 1996 appropriation, and which is broken out on the basis of appropriated funds and non-appropriated funds, control center, responsibility center, agency reporting code, object class, and object; and indicates by position title, grade, and agency reporting code all staff actually allocated to each school as of October 15, 1995, and, on an object basis, all other-than-personnel-services financial resources allocated to each school. For FY 1997, the Board of Education is required to build its gross operating budget and appropriated funds request from a zero-base, starting from the local school level up through central office. The Board of Education's initial FY 1997 gross operating budget and appropriated funds budget request submitted to the Mayor, the Council of the District of Columbia, and the Authority shall: contain school-by-school budgets and shall also be broken out on the basis of appropriated funds and non-appropriated funds, control center, responsibility center, agency reporting code, object class, and object; indicate by position title, grade, and agency reporting code all staff budgeted for each school, and, on an object basis, all other-than-personnel-services financial resources allocated to each school; and indicate the amount and reason for all changes made to the initial FY 1997 gross operating budget and appropriated funds request from the Revised FY 1996 gross operating budget that Bill 11-318 requires the Board to develop.

COMMITTEE ACTION

The Committee on Education and Libraries met on Monday, October 23, 1995, to consider Bill 11-318, the "Public Charter Schools Act of 1995."

At the request of Committee Chairperson Mason, the President of the Board of Education, Wilma R. Harvey, briefly addressed the Committee to describe the reasons for the Board's opposition to Bill 11-318, a position that had been communicated by letter dated October 23, 1995, from the Board President and the Superintendent of Schools. (See the section entitled "Board of Education Testimony", pages 6 and 7 of this Report, for a lengthier summary of the Board's October 23, 1995, comments on Bill 11-318.)

Committee member Whittington offered a series of amendments to Bill 11-318, the first of which was to preclude any institution of higher education in the District of Columbia from being an eligible chartering authority. Because public charter schools must be non-sectarian in their operations and in all other respects, the exclusion of Georgetown University and Catholic University as eligible chartering entities was accepted immediately by consensus, though it was pointed out that a sectarian or religious institution could conceivably *sponsor* a charter school that was non-sectarian in all of its policies and operations. It was also noted that in only two other states are colleges or universities actually granting charters at this time, and in both cases the chartering entity is a state (i.e., public) institution of higher education. For this reason, and because it might be preferable to encourage universities and colleges located in the District of Columbia to sponsor, or operate, public charter schools, rather than be designated as chartering entities, the Committee decided that the University of the District of Columbia should be the only institution of higher education authorized to charter public schools in the District of Columbia. The Committee further reasoned that UDC already has a relationship with the D.C. public schools, UDC likewise has chosen to place renewed emphasis on its undergraduate and graduate education, teacher training, and teacher development programs as a result of its recent downsizing and reorganization, and UDC could potentially guide or assist sponsors of charter schools who petition UDC for a charter in developing, for example, early childhood education and college preparatory programs, insofar as UDC is attempting to work with the school system in expanding offerings of this nature to public school students. The amendment to authorize UDC as the only institution of higher education that could charter public schools in the District of Columbia was approved unanimously, with Chairperson Mason and Committee members Lightfoot, Patterson, and Whittington voting in favor; Committee member Thomas was absent.

Subsequent to the Committee's mark-up, UDC officials indicated to the Committee that UDC did wish to be designated a chartering entity. The University indicated that it was appropriate that UDC be designated as an eligible chartering authority "for two reasons. First, inasmuch as UDC fulfills the function of the entire state system of postsecondary education, it has the responsibility of helping to maintain and improve the quality of public education at the primary and secondary levels. Second,... many graduates of public...schools will continue their education at UDC (and) there should be a seamless transition between the two levels of education... (D)esignating UDC as an (eligible) chartering authority...further both of these purposes."

Committee member Whittington next moved to delete language allowing existing independent and private schools to be eligible to become public charter schools. She indicated that she was sympathetic to the Board of Education's arguments that no public funds now supporting D.C. public schools should become available to pay for the education of students who are now attending private or independent schools, and if a significant number of existing private and independent schools were granted charters in the near future, this could cause a huge drain on funds appropriated to educate students who remained in public schools under the control and authority of the Board of Education. Committee member Lightfoot argued against the amendment, emphasizing that there were now educational programs being operated by community-based organizations and some churches, particularly pre-school and early childhood

education programs, that should be maintained and expanded, and which would benefit from being incorporated into the educational program of a public charter school and therefore brought into the public domain. Committee member Patterson observed that the increasing public education opportunities for students and choice for parents--and taxpayers--was a laudable goal, and perhaps a necessary step in efforts to retain or attract back to the District a middle class tax base. The amendment failed, with Chairperson Mason and Committee member Whittington voting in favor, Committee members Lightfoot and Patterson voting in opposition, and Committee member Thomas absent.

A third amendment proposed by Committee member Whittington adding "financial status" as a non-discriminatory factor in the admissions policies of public charter schools, set forth in section 206(b), was approved without discussion, Committee Chairperson Mason and Committee members Lightfoot, Patterson, and Whittington voting in favor, and Committee member Thomas absent.

Committee member Whittington also moved to strike the reference to "informal" where public charter schools were directed to establish a complaint resolution process, and to change reference from "informal" to "formal" when describing processes set forth in sections 215 and 217, respectively, by which Boards of Trustees of public charter schools could appeal decisions by an eligible chartering authority to revoke a charter or to deny a charter renewal application. This amendment was accepted by consensus.

Committee member Patterson moved to limit the total number of schools that could be charter during any one calendar year to 10. After discussion, the Committee decided to further specify this limitation by restricting UDC to chartering no more than two schools in a given year, and by placing a ceiling of four each on the number of schools the two other chartering entities, the Board of Education and the Commission for Public Charter Schools, could annually charter. This amendment passed unanimously, with Chairperson Mason and Committee members Lightfoot, Patterson, and Whittington voting in favor; Committee member Thomas was absent. The amendment is contained in section 203(j) of the committee print. Because each eligible chartering authority cannot approve, in the first year after enactment of Bill 11-318, a charter for more than one existing private or independent school, this amendment also has the consequence of limiting to three the total number of current private or independent schools that can be granted charters within a year after this proposed legislation becomes law.

Committee member Whittington called attention to a section in the committee draft of Bill 11-318 that would prevent elected officials, government employees, or government entities from making, directly participating in, or intervening in decisions to approve or deny a petition for a charter. Upon discussion, Committee members agreed that the proposed language was unnecessary, and Committee member Lightfoot moved that it be deleted. This amendment was accepted by consensus.

Committee staff pointed out that language requiring that funds appropriated to public charter schools, which remained unspent at the end of FY 1996 and at the end of fiscal years

thereafter, had been inadvertently deleted from the discussion draft of Bill 11-318. Staff was directed to reinsert this language.

It was also the consensus of the Committee that Bill 11-318 should not preclude academic schools, especially at the junior and senior high school levels such as Banneker Senior High School, from being eligible for charters. Committee staff was directed to ensure that the committee report was clear in this regard.

The Committee also discussed safeguards contained in Bill 11-318 that are aimed at ensuring that a two-tiered system of public schools in the District of Columbia would not be a consequence of creating public charter schools. Some public testimony and that of the Executive Branch had expressed the fear that children of parents who, for reasons of poverty or other inhibiting socio-economic factors, did not or could not exercise public school choice options, could be left with no other recourse but to attend inadequately funded and poorly performing schools that remained part of the school system.

Specifically, Bill 11-318 requires in section 203(i)(2) that, in the first year after its enactment, eligible chartering authorities must give "strong preference to proposed public charter schools that will focus on students with special needs, such as those who have dropped out of school, or disruptive students." Likewise, section 219(b) of Bill 11-318 requires the Mayor and the Council, in consultation with the Board of Education and the Superintendent of Schools, to develop a per capita funding formula for all public schools in the District. In addition to the funding formula being based on the "number of students enrolled at each school", the funding formula must "define and then take into consideration students with special needs, including students with disabilities, disruptive students, or students who have dropped out of school."

If it is assumed that the cost of educating students with special needs may, depending on the specific needs, be greater than the norm, and that special needs must be defined, quantified, and funded via a pre-established per student formula, then Bill 11-318 may offer financial inducements for potential sponsors of public charter schools to develop programs that are especially aimed at students who are at-risk and/or whose families earn an income approximating, or even falling below, the poverty level.

After discussion concluded, Committee Chairperson Mason moved approval of Bill 11-318 and the accompanying Committee Report. The Committee's vote was as follows:

In Favor: Chairperson Mason and Committee Members Lightfoot, Patterson, and Whittington

Opposed: None

Absent: Committee Member Thomas

Attachments: Committee Print
Bill 11-318 , as Introduced
Public Testimony on Bill 11-318
Supporting Documents

Some supporting documents are inserted into the text of this Report