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(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

To amend the Elementary and Secondary Education Act of 1965 and the Individuals with Disabilities Education Act to ensure no funds made available under such Acts may be awarded to a charter school that enters into a contract with a for-profit entity for operating, overseeing, or managing the charter school, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. DELAURO introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Elementary and Secondary Education Act of 1965 and the Individuals with Disabilities Education Act to ensure no funds made available under such Acts may be awarded to a charter school that enters into a contract with a for-profit entity for operating, overseeing, or managing the charter school, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Championing Honest
3 and Responsible Transparency in Education Reform Act”
4 or the “CHARTER Act”.

5 **SEC. 2. PURPOSE AND FINDINGS.**

6 (a) **PURPOSE.**—The purpose of this Act is to ensure
7 that each charter school that receives funding under the
8 Elementary and Secondary Education Act of 1965 (20
9 U.S.C. 6301 et seq.) (in this section referred to as the
10 “ESEA”) or the Individuals with Disabilities Education
11 Act (20 U.S.C. 1400 et seq.) (in this section referred to
12 as the “IDEA”)—

13 (1) complies with the intent of the requirements
14 for funding under such Act; and

15 (2) best serves the educational needs of stu-
16 dents by prohibiting such charter school and its
17 charter management organization from entering into
18 a contract with a for-profit entity under which the
19 for-profit entity—

20 (A) operates, oversees, or manages the
21 charter school in order to exert influence in
22 school management; and

23 (B) receives a portion of school revenue in
24 order to extract profit for itself or its related
25 entities.

26 (b) **FINDINGS.**—Congress finds the following:

1 (1) An “elementary school” is defined as “a
2 nonprofit institutional day or residential school, in-
3 cluding a public elementary charter school, that pro-
4 vides elementary education, as determined under
5 State law” under section 8101 of the ESEA (20
6 U.S.C. 7801) and section 602 of the IDEA (20
7 U.S.C. 1401).

8 (2) A “secondary school” is defined as “a non-
9 profit institutional day or residential school, includ-
10 ing a public secondary charter school, that provides
11 secondary education, as determined under State law,
12 except that the term does not include any education
13 beyond grade 12” under section 8101 of the ESEA
14 (20 U.S.C. 7801) and section 602 of the IDEA (20
15 U.S.C. 1401).

16 (3) The term “nonprofit” as applied to a
17 school, agency, organization, or institution means “a
18 school, agency, organization, or institution owned
19 and operated by 1 or more nonprofit corporations or
20 associations no part of the net earnings of which in-
21 ures, or may lawfully inure, to the benefit of any pri-
22 vate shareholder or individual” under section 602 of
23 the IDEA (20 U.S.C. 1401).

24 (4) In 2003, the Department of Education Of-
25 fice of Inspector General, upon auditing the Arizona

1 Department of Education, concluded that the State
2 educational agency in Arizona had improperly dis-
3 tributed funds under the ESEA and the IDEA to
4 for-profit charter schools.

5 (5) In 2006, the United States Court of Ap-
6 peals Ninth Circuit Court in *Arizona State Bd. v.*
7 *U.S. Dept. of Educ.*, 464 F.3d 1003 (9th Cir. 2006)
8 found that the terms “elementary school” and “sec-
9 ondary school” in the ESEA and the IDEA were
10 limited to nonprofit entities, holding that for-profit
11 charter schools were ineligible for Federal funds
12 under the ESEA and the IDEA.

13 (6) In response to the decision in *Arizona State*
14 *Bd. v. U.S. Dept. of Educ.*, the appellant for-profit
15 charter schools reorganized as for-profit operators of
16 nonprofit organizations, enabling the appellants to
17 continue to receive Federal funds under the ESEA
18 and the IDEA.

19 (7) Every student in a publicly funded school in
20 the United States, including charter school students,
21 is entitled to access education services without hav-
22 ing publicly funded resources depleted due to profit
23 extraction.

24 (8) Every taxpayer in the United States should
25 be confident that public funds are responsibly

1 stewarded and not funding the enrichment of for-
2 profit charter operators at the expense of students
3 and taxpayers.

4 **SEC. 3. ESEA DEFINITION OF CHARTER SCHOOL.**

5 (a) PROHIBITION OF CONTRACTING WITH FOR-
6 PROFIT ENTITY FOR ESSENTIAL SERVICES.—Section
7 4310(2) of the Elementary and Secondary Education Act
8 of 1965 (20 U.S.C. 7221i(2)) is amended—

9 (1) in subparagraph (L), by striking “and” at
10 the end;

11 (2) in subparagraph (M)—

12 (A) by moving the margins of such para-
13 graph 2 ems to the left; and

14 (B) by striking the period and inserting a
15 semicolon; and

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

17 “(N) does not enter into a contract with a
18 for-profit entity, or have a charter management
19 organization or other nonprofit entity enter into
20 such a contract on behalf of such school, under
21 which the for-profit entity operates, oversees,
22 manages, or otherwise carries out the adminis-
23 tration of such school, which may include cur-
24 riculum development, budget management, and

1 faculty management (such as hiring, termi-
2 nating, or supervising school-level staff); and

3 “(O) may enter into a contract with a for-
4 profit or nonprofit entity for the provision of—

5 “(i) food, payroll, facilities mainte-
6 nance, or transportation services;

7 “(ii) classroom supplies (such as text-
8 books); or

9 “(iii) ancillary services or supplies.”.

10 (b) GENERAL DEFINITIONS.—Section 8101 of the
11 Elementary and Secondary Education Act of 1965 (20
12 U.S.C. 7801) is amended by adding at the end the fol-
13 lowing:

14 “(53) CHARTER SCHOOL.—The term ‘charter
15 school’ has the meaning given the term in section
16 4310.”.

17 **SEC. 4. IDEA DEFINITION OF CHARTER SCHOOL.**

18 Section 602 of the Individuals with Disabilities Edu-
19 cation Act (20 U.S.C. 1401) is amended by adding at the
20 end the following:

21 “(37) CHARTER SCHOOL.—The term ‘charter
22 school’ has the meaning given the term in section
23 4310 of the Elementary and Secondary Education
24 Act of 1965 (20 U.S.C. 7221i).”.

1 **SEC. 5. EFFECTIVE DATE; APPLICABILITY.**

2 The amendments made by this Act—

3 (1) shall take effect on the date that is 3 years
4 after the date of the enactment of this Act; and

5 (2) shall only apply with respect to any contract
6 entered into, renewed, or extended on or after the
7 date of the enactment of this Act.