

105TH CONGRESS  
2D SESSION

# H. R. 3742

To provide flexibility to certain local educational agencies that develop voluntary public and private parental choice programs under title VI of the Elementary and Secondary Education Act of 1965.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 1998

Mr. RIGGS (for himself, Mr. WATTS of Oklahoma, Mr. TALENT, Mr. MCINTOSH, Mr. PITTS, Mr. PACKARD, Mr. SOUDER, and Mr. WAMP) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To provide flexibility to certain local educational agencies that develop voluntary public and private parental choice programs under title VI of the Elementary and Secondary Education Act of 1965.

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

**3       SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Helping Empower  
5       Low-income Parents (HELP) Scholarships Amendments  
6       of 1998”.

1 **SEC. 2. DEFINITIONS.**

2       Section 6003 of the Elementary and Secondary Edu-  
3 cation Act of 1965 is amended—

4               (1) in the section heading by striking “**DEFINI-**  
5 **TION**” and inserting “**DEFINITIONS**”;

6               (2) by striking “(1)”, “(2)”, and “(3)”;  
7               (3) in the matter proceeding subparagraph (A),  
8 by striking “title the term” and inserting the follow-  
9 ing:

10 “title—

11               “(1) the term”;

12               (4) by striking the period at the end; and

13               (5) by adding at the end the following:

14               “(2) the term ‘poverty line’ means the poverty  
15 line (as defined by the Office of Management and  
16 Budget, and revised annually in accordance with sec-  
17 tion 673(2) of the Community Services Block Grant  
18 Act (42 U.S.C. 9902(2)) applicable to a family of  
19 the size involved; and

20               “(3) the term ‘voluntary public and private pa-  
21 rental choice program’ means a program that meets  
22 the requirements of section 6301(b)(9), is authorized  
23 by State law, and includes 1 or more private schools  
24 to allow low-income parents to choose the appro-  
25 priate school for their children.”.

1 **SEC. 3. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.**

2       Section 6102(a) of the Elementary and Secondary  
3 Education Act of 1965 is amended to read as follows:

4       **“(a) DISTRIBUTION RULE.—**

5           **“(1) IN GENERAL.—**Except as provided in para-  
6 graph (2), from the sums made available each year  
7 to carry out this title, the State educational agency  
8 shall distribute not less than 90 percent to local edu-  
9 cational agencies within such State according to the  
10 relative enrollments in public and private, nonprofit  
11 schools within the school districts of such agencies,  
12 adjusted, in accordance with criteria approved by the  
13 Secretary, to provide higher per pupil allocations to  
14 local educational agencies which have the greatest  
15 numbers or percentages of children whose education  
16 imposes a higher than average cost per child, such  
17 as—

18           **“(A) children living in areas with high con-**  
19 **centrations of low-income families;**

20           **“(B) children from low-income families; and**

21           **“(C) children living in sparsely populated areas.**

22           **“(2) EXCEPTION.—**A State that has enacted or  
23 will enact a law that establishes a voluntary public  
24 and private parental choice program and that com-  
25 plies with the provisions of section 6301(b)(9) may  
26 reserve an additional 15 percent from the sums

1       made available each year to carry out this title if the  
2       additional amount reserved is used exclusively for  
3       voluntary public and private parental choice pro-  
4       grams.”.

5 **SEC. 4. USES OF FUNDS.**

6       (a) STATE USES OF FUNDS.—Section 6201(a)(1) of  
7       the Elementary and Secondary Education Act of 1965 is  
8       amended—

9               (1) in subparagraph (C), by striking “and”  
10          after the semicolon;  
11               (2) by inserting after subparagraph (C) the fol-  
12          lowing:

13               “(D) establishing voluntary public and pri-  
14          vate parental choice programs in accordance  
15          with section 6301(b)(9); and”.

16       (b) LOCAL USES OF FUNDS.—Section 6301(b) of the  
17       Elementary and Secondary Education Act of 1965 is  
18       amended—

19               (1) in paragraph (7), by striking “and” after  
20          the semicolon;

21               (2) in paragraph (8), by striking the period and  
22          inserting “; and”; and

23               (3) by inserting after paragraph (8) the follow-  
24          ing:

1           “(9) voluntary public and private parental  
2       choice programs that—

3           “(A) are located in an area that has the  
4       greatest numbers or percentages of children—

5           “(i) living in areas with a high con-  
6       centration of low-income families;

7           “(ii) from low-income families; or

8           “(iii) living in sparsely populated  
9       areas;

10           “(B) ensure that participation in such a  
11       voluntary public and private parental choice  
12       program is limited to families whose family in-  
13       come does not exceed 185 percent of the pov-  
14       erty line;

15           “(C) ensure that—

16           “(i) the maximum amount of a vol-  
17       untary public and private parental choice  
18       scholarship does not exceed the per pupil  
19       expenditure of the local educational agency  
20       in which an applicant for a voluntary pub-  
21       lic and private parental choice scholarship  
22       resides;

23           “(ii) the minimum amount of a vol-  
24       untary public and private parental choice  
25       scholarship is not less than 60 percent of

1 the per pupil expenditure of the local edu-  
2 cational agency in which an applicant for  
3 a voluntary public and private parental  
4 choice scholarship resides or the cost of  
5 tuition at a private school, whichever is  
6 less;

7                   “(D) ensure that for a private school,  
8                   which may include a religiously affiliated school,  
9                   choosing to participate in a voluntary public  
10                  and private parental choice program—

1 the enactment of the Helping Empower  
2 Low-income Parents (HELP) Scholarships  
3 Amendments of 1997;

4                   “(E) may allow State, local, and private  
5                   funds to be used for voluntary public and pri-  
6                   vate parental choice programs; and

7                   “(F) ensure priority for students who were  
8                   enrolled in a public school in the school year  
9                   preceding the school year in which a voluntary  
10                  public and private parental choice school begins  
11                  operation.”.

## 12 SEC. 5. EDUCATION FLEXIBILITY.

13       Part C of title VI of the Elementary and Secondary  
14 Education Act of 1965 is amended by adding at the end  
15 the following:

## 16 “SEC. 6304. EDUCATION FLEXIBILITY.

17       “(a) IN GENERAL.—A local educational agency that  
18 establishes a voluntary public and private parental choice  
19 program in accordance with section 6301(b)(9) is eligible  
20 to apply for an education flexibility waiver of certain Fed-  
21 eral statutory or regulatory requirements if such agency  
22 complies with the requirements of subsection (b).

23        "(b) APPLICATION.—The requirements referred to in  
24 subsection (a) are as follows:

1           “(1) IN GENERAL.—Submission of an applica-  
2        tion, approved by the State educational agency, to  
3        the Secretary that—

4           “(A) identifies the State statutory and reg-  
5        ulatory requirements sought to be waived;

6           “(B) identifies the Federal statutory and  
7        regulatory requirements sought to be waived;

8           “(C) includes a statement of justification  
9        for waiving such requirements;

10          “(D) describes the goals and performance  
11        criteria that will be used to determine the effec-  
12        tiveness of waiving such requirements;

13          “(E) certifies that the information in the  
14        application has been submitted to the units of  
15        local governments in which such local edu-  
16        cational agency is located, the State legislature,  
17        and the Governor encouraging such entities to  
18        comment for a period of not less than 60 days;  
19        and

20          “(F) includes any comments received pur-  
21        suant to subparagraph (E);

22          “(2) STATE WAIVERS.—A statement from the  
23        State educational agency that describes the action  
24        the agency has undertaken or will undertake, not  
25        later than 90 days after notification from the Sec-

1       retary that the waiver request has been granted, to  
2       remove State statutory or regulatory barriers for  
3       such local educational agency.

4       “(c) APPROVAL AND NOTICE.—

5           “(1) APPROVAL.—Except as provided in sub-  
6       section (d), the Secretary shall approve the request  
7       of a local educational agency to waive certain Fed-  
8       eral statutory or regulatory requirements if—

9           “(A) such agency complies with this sec-  
10       tion; and

11           “(B) the State in which such agency is lo-  
12       cated has granted one or more of the waivers  
13       sought by the local educational agency or agrees  
14       to grant, not later than 90 days after notifica-  
15       tion by the Secretary that the waiver request  
16       has been granted, one or more waivers that the  
17       State and local educational agency find mutu-  
18       ally acceptable.

19           “(2) NOTICE.—The Secretary shall notify each  
20       local educational agency for which a waiver request  
21       is submitted whether the request complies with the  
22       requirements of this section not later than 60 days  
23       after receiving the request. If the Secretary does not  
24       notify the local educational agency, as required  
25       under this paragraph, the application shall be con-

1       sidered, for purposes of this section, to have been  
2       determined to comply with the requirements of this  
3       section and the local educational agency shall be  
4       considered to have been notified of compliance upon  
5       the expiration of such 60-day period.

6       “(d) PROHIBITION AGAINST CERTAIN WAIVERS.—  
7       The Secretary shall not waive any of the following provi-  
8       sions:

9           “(1) CIVIL RIGHTS.—Civil rights protections  
10       and discrimination prohibitions, including the safety  
11       and procedural provisions under title VI of the Civil  
12       Rights Act, title IX of the Education Amendments  
13       of 1972, section 504 of the Rehabilitation Act of  
14       1973, or the Age Discrimination Act of 1975.

15           “(2) SERVICES FOR DISABLED.—Services pro-  
16       vided under the Individuals with Disabilities Edu-  
17       cation Act.

18           “(3) FISCAL ACCOUNTABILITY MEASURES.—  
19       Fiscal accountability measures, including—

20               “(A) maintenance of effort or comparabil-  
21       ity of services requirements under any program;  
22       and

23               “(B) requirements that Federal funds sup-  
24       plement, not supplant non-Federal funds.

1               “(4) GENERAL REQUIREMENTS.—Requirements  
2               to provide for—  
3                       “(A) the equitable participation of private  
4               school students and teachers; and  
5                       “(B) parental involvement in program ac-  
6               tivities and services.

7 **SEC. 6. EVALUATION.**

8               Part D of title VI of the Elementary and Secondary  
9 Education Act of 1965 is amended—

10               (1) by adding at the end of section 6402 the  
11               following new subsection:

12               “(j) APPLICATION.—This section shall not apply to  
13 funds that a State or local educational agency uses to es-  
14 tablish a voluntary public and private parental choice pro-  
15 gram in accordance with section 6301(b)(9).”; and

16               (2) by adding at the end of such part the fol-  
17               lowing new sections:

18 **“SEC. 6404. EVALUATION.**

19               “(a) ANNUAL EVALUATION.—

20               “(1) CONTRACT.—The Comptroller General of  
21 the United States shall enter into a contract, with  
22 an evaluating agency that has demonstrated experi-  
23 ence in conducting evaluations, for the conduct of an  
24 ongoing rigorous evaluation of the programs estab-  
25 lished under section 6301(b)(9).

## 1           “(2) ANNUAL EVALUATION REQUIREMENT.—

2           The contract described in paragraph (1) shall re-  
3           quire the evaluating agency entering into such con-  
4           tract to evaluate annually each program established  
5           under section 6301(b)(9) in accordance with the  
6           evaluation criteria described in subsection (b) and  
7           each such program that has applied for an education  
8           flexibility waiver under section 6304.

9           “(3) TRANSMISSION.—The contract described  
10          in paragraph (1) shall require the evaluating agency  
11          entering into such contract to transmit to the Compt-  
12          roller General of the United States the findings of  
13          each annual evaluation under paragraph (1).

14          “(b) EVALUATION CRITERIA.—The Comptroller Gen-  
15          eral of the United States, in consultation with the Sec-  
16          retary, shall establish minimum criteria for evaluating  
17          each program established under section 6301(b)(9). Such  
18          criteria shall provide for—

19           “(1) a description of the implementation of  
20          each program established under section 6301(b)(9)  
21          and the program’s effects on all participants,  
22          schools, and communities in the program area, with  
23          particular attention given to the effect of parent par-  
24          ticipation in the life of the school and the level of  
25          parental satisfaction with the program; and

1           “(2) a comparison of the educational achieve-  
2        ment of all students in the program area, including  
3        a comparison between—

4           “(A) students receiving a voluntary public  
5        and private parental choice scholarships under  
6        section 6301(b)(9); and

7           “(B) students not receiving a voluntary  
8        public and private parental choice scholarships  
9        under such section.

10          “(c) EVALUATION FUNDS.—Pursuant to the author-  
11        ity provided under section 14701, the Secretary shall re-  
12        serve not more than 0.50 percent of the amount of funds  
13        made available under section 6002 to carry out this sec-  
14        tion. To determine the amount necessary for evaluation  
15        purposes, the Secretary shall consider the prospective  
16        scale and scope of the evaluation, including the number  
17        of local educational agencies conducting voluntary public  
18        and private choice programs.

19        **“SEC. 6405. APPLICABILITY.**

20          “(a) NOT SCHOOL AID.—Subject to subsection (b),  
21        funds used under this title to establish a voluntary public  
22        and private parental choice program shall be considered  
23        assistance to the student and shall not be considered as  
24        assistance to any school that chooses to participate in such  
25        program.

1        “(b) NO FEDERAL CONTROL.—The Secretary is not  
2    permitted to exercise any direction, supervision, or control  
3    over curricula, program of instruction, administration, or  
4    personnel of any school that chooses to participate in a  
5    voluntary public and private choice program established  
6    under 6309(b)(9).”.

○