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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.

IN THE SENATE OF THE UNITED STATES

APRIL 28, 1998

Mr. SANTORUM (for himself, Mr. ABRAHAM, Mr. BROWNBACK, Mr. COATS, Mr. COVERDELL, and Mr. HUTCHINSON) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

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 “REAL Life Edu-
5 cational Opportunity Act of 1998”.

1 **SEC. 2. DEFINITIONS.**

2 Section 6003 of the Elementary and Secondary Edu-
 3 cation Act of 1965 (20 U.S.C. 7303) 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 fol-
 9 lowing:

10 “title—

11 “(1) the term”;

12 (4) in subparagraphs (A), (B), (C), and (E), by
 13 striking the period and inserting a semicolon;

14 (5) in subparagraph (D), by striking the period
 15 and inserting “; and”; and

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

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

23 “(3) the term ‘voluntary public and private pa-
 24 rental choice program’ means a program that meets
 25 the requirements of section 6301(b)(9), is authorized
 26 by State law, and includes the participation of 1 or

1 more private schools that allow low-income parents
 2 to choose the appropriate school for their children.”.

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

4 Section 6102(a) of the Elementary and Secondary
 5 Education Act of 1965 (20 U.S.C. 7312(a)) is amended
 6 to read as follows:

7 “(a) DISTRIBUTION RULE.—

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

21 “(A) children living in areas with high con-
 22 centrations of low-income families;

23 “(B) children from low-income families;

24 and

1 “(C) children living in sparsely populated
2 areas.

3 “(2) EXCEPTION.—A State that has enacted, or
4 will enact (as determined by the State legislature),
5 a law that establishes a voluntary public and private
6 parental choice program and that complies with the
7 provisions of section 6301(b)(9) may reserve an ad-
8 ditional 15 percent from the sums made available
9 each year to carry out this title if the additional
10 amount reserved is used exclusively for voluntary
11 public and private parental choice programs.”.

12 **SEC. 4. USES OF FUNDS.**

13 (a) STATE USES OF FUNDS.—Section 6201(a)(1) of
14 the Elementary and Secondary Education Act of 1965 (20
15 U.S.C. 7331(a)(1)) is amended—

16 (1) in subparagraph (B), by striking “and”
17 after the semicolon;

18 (2) by inserting after subparagraph (C) the fol-
19 lowing:

20 “(D) establishing voluntary public and private
21 parental choice programs in accordance with section
22 6301(b)(9); and”.

23 (b) LOCAL USES OF FUNDS.—Section 6301(b) of the
24 Elementary and Secondary Education Act of 1965 (20
25 U.S.C. 7351(b)) is amended—

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

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

5 (3) by inserting after paragraph (8) the follow-
6 ing:

7 “(9) voluntary public and private parental
8 choice programs that—

9 “(A) are located in an area, as determined
10 by the State, that has the greatest numbers or
11 percentages of children—

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

14 “(ii) from low-income families; or

15 “(iii) living in sparsely populated
16 areas;

17 “(B) ensure that participation in such a
18 voluntary public and private parental choice
19 program is limited to families whose family in-
20 come does not exceed 185 percent of the pov-
21 erty line;

22 “(C) award voluntary public and private
23 parental choice scholarships and ensure—

24 “(i) the maximum amount of a vol-
25 untary public and private parental choice

1 scholarship does not exceed the per pupil
 2 expenditure of the local educational agency
 3 in which an applicant for a voluntary pub-
 4 lic and private parental choice scholarship
 5 resides;

6 “(ii) the minimum amount of a vol-
 7 untary public and private parental choice
 8 scholarship is not less than 60 percent of
 9 the per pupil expenditure of the local edu-
 10 cational agency in which an applicant for
 11 a voluntary public and private parental
 12 choice scholarship resides or the cost of
 13 tuition at a private school, whichever is
 14 less;

15 “(D) ensure that for a private school,
 16 which may include a religiously affiliated school,
 17 choosing to participate in a voluntary public
 18 and private parental choice program—

19 “(i) such a school is permitted to im-
 20 pose the same academic requirements for
 21 all students, including students selected for
 22 a scholarship under this paragraph;

23 “(ii) receipt of funds under this title
 24 is not conditioned with requirements or
 25 regulations that preclude the use of such

1 funds for sectarian educational purposes or
 2 require removal of religious art, icons,
 3 scripture, or other symbols; and

4 “(iii) such a school is in compliance
 5 with all State requirements applicable to
 6 the operation of a private school that are
 7 in effect in the year preceding the date of
 8 the enactment of the REAL Life Edu-
 9 cational Opportunity Act of 1998;

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

13 “(F) ensure priority for students who were
 14 enrolled in a public school in the school year
 15 preceding the school year in which a voluntary
 16 public and private parental choice school begins
 17 operation.”.

18 **SEC. 5. EDUCATION FLEXIBILITY.**

19 Part C of title VI of the Elementary and Secondary
 20 Education Act of 1965 (20 U.S.C. 7351 et seq.) is amend-
 21 ed by adding at the end the following:

22 **“SEC. 6304. EDUCATION FLEXIBILITY.**

23 “(a) IN GENERAL.—A local educational agency that
 24 establishes a voluntary public and private parental choice
 25 program in accordance with section 6301(b)(9) is eligible

1 to apply for an education flexibility waiver of certain Fed-
 2 eral statutory or regulatory requirements if such agency
 3 complies with the requirements of subsection (b).

4 “(b) APPLICATION.—The requirements referred to in
 5 subsection (a) are as follows:

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

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

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

13 “(C) includes a statement of justification
 14 for waiving such requirements;

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

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

1 “(F) includes any comments received pur-
2 suant to subparagraph (E);

3 “(2) STATE WAIVERS.—A statement from the
4 State educational agency that describes the action
5 the agency has undertaken or will undertake, not
6 later than 90 days after notification from the Sec-
7 retary that the waiver request has been granted, to
8 remove State statutory or regulatory barriers for
9 such local educational agency.

10 “(c) APPROVAL AND NOTICE.—

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

15 “(A) such agency complies with this sec-
16 tion; and

17 “(B) the State in which such agency is lo-
18 cated has granted one or more of the waivers
19 sought by the local educational agency or agrees
20 to grant, not later than 90 days after notifica-
21 tion by the Secretary that the waiver request
22 has been granted, one or more waivers that the
23 State and local educational agency determine
24 mutually acceptable.

1 “(2) NOTICE.—The Secretary shall notify each
2 local educational agency for which a waiver request
3 is submitted whether the request complies with the
4 requirements of this section not later than 60 days
5 after receiving the request. If the Secretary does not
6 notify the local educational agency, as required
7 under this paragraph, the application shall be con-
8 sidered, for purposes of this section, to have been
9 determined to comply with the requirements of this
10 section and the local educational agency shall be
11 considered to have been notified of compliance upon
12 the expiration of such 60-day period.

13 “(d) PROHIBITION AGAINST CERTAIN WAIVERS.—
14 The Secretary shall not waive any of the following provi-
15 sions:

16 “(1) CIVIL RIGHTS.—Civil rights protections
17 and discrimination prohibitions, including the safety
18 and procedural provisions under title VI of the Civil
19 Rights Act of 1964 (42 U.S.C. 2000d et seq.), title
20 IX of the Education Amendments of 1972 (20
21 U.S.C. 1681 et seq.), section 504 of the Rehabilita-
22 tion Act of 1973 (29 U.S.C. 794), or the Age Dis-
23 crimination Act of 1975 (42 U.S.C. 6101 et seq.).

1 “(2) SERVICES FOR DISABLED.—Services pro-
 2 vided under the Individuals with Disabilities Edu-
 3 cation Act (20 U.S.C. 1400 et seq.).

4 “(3) FISCAL ACCOUNTABILITY MEASURES.—
 5 Fiscal accountability measures, including—

6 “(A) maintenance of effort or comparabil-
 7 ity of services requirements under any program;
 8 and

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

11 “(4) GENERAL REQUIREMENTS.—Requirements
 12 to provide for—

13 “(A) the equitable participation of private
 14 school students and teachers; and

15 “(B) parental involvement in program ac-
 16 tivities and services.”.

17 **SEC. 6. EVALUATION.**

18 Part D of title VI of the Elementary and Secondary
 19 Education Act of 1965 (20 U.S.C. 7371 et seq.) is amend-
 20 ed—

21 (1) by adding at the end of section 6402 the
 22 following new subsection:

23 “(j) APPLICATION.—This section shall not apply to
 24 funds that a State or local educational agency uses to es-

1 tablish a voluntary public and private parental choice pro-
 2 gram in accordance with section 6301(b)(9).”; and

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

5 **“SEC. 6404. EVALUATION.**

6 “(a) ANNUAL EVALUATION.—

7 “(1) CONTRACT.—The Comptroller General
 8 shall enter into a contract, with an evaluating agen-
 9 cy that has demonstrated experience in conducting
 10 evaluations, for the conduct of an ongoing rigorous
 11 evaluation of the programs established under section
 12 6301(b)(9).

13 “(2) ANNUAL EVALUATION REQUIREMENT.—

14 The contract described in paragraph (1) shall re-
 15 quire the evaluating agency entering into such con-
 16 tract to evaluate annually each program established
 17 under section 6301(b)(9) in accordance with the
 18 evaluation criteria described in subsection (b) and
 19 each such program for which an education flexibility
 20 waiver is granted under section 6304.

21 “(3) TRANSMISSION.—The contract described
 22 in paragraph (1) shall require the evaluating agency
 23 entering into such contract to transmit to the Comp-
 24 troller General the findings of each annual evalua-
 25 tion under paragraph (1).

1 “(b) EVALUATION CRITERIA.—The Comptroller Gen-
 2 eral, in consultation with the Secretary, shall establish
 3 minimum criteria for evaluating each program established
 4 under section 6301(b)(9). Such criteria shall provide for—

5 “(1) a description of the implementation of
 6 each program established under section 6301(b)(9)
 7 and the program’s effects on all participants,
 8 schools, and communities in the program area, with
 9 particular attention given to the effect of parent par-
 10 ticipation in the life of the school and the level of
 11 parental satisfaction with the program; and

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

15 “(A) students receiving a voluntary public
 16 and private parental choice scholarships under
 17 section 6301(b)(9); and

18 “(B) students not receiving a voluntary
 19 public and private parental choice scholarships
 20 under such section.

21 “(c) EVALUATION FUNDS.—Pursuant to the author-
 22 ity provided under section 14701, the Secretary shall re-
 23 serve not more than 0.50 percent of the amount of funds
 24 made available under section 6002 to carry out this sec-
 25 tion. To determine the amount necessary for evaluation

1 purposes, the Secretary shall consider the prospective
2 scale and scope of the evaluation, including the number
3 of local educational agencies conducting voluntary public
4 and private parental choice programs.

5 **“SEC. 6405. APPLICABILITY.**

6 “(a) NOT SCHOOL AID.—Subject to subsection (b),
7 funds used under this title to establish a voluntary public
8 and private parental choice program shall be considered
9 assistance to the student and shall not be considered as
10 assistance to any school that chooses to participate in such
11 program.

12 “(b) NO FEDERAL CONTROL.—The Secretary is not
13 permitted to exercise any direction, supervision, or control
14 over the curricula, program of instruction, administration,
15 or personnel of any school that chooses to participate in
16 a voluntary public and private choice program established
17 under section 6309(b)(9).”.

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