

Calendar No. 11

106TH CONGRESS
1ST SESSION**S. 271**

To provide for education flexibility partnerships.

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1999

Mr. FRIST (for himself, Mr. WYDEN, Mr. ABRAHAM, Mr. ALLARD, Mr. ASHCROFT, Mr. BAYH, Mr. BENNETT, Mr. BROWNBACK, Ms. COLLINS, Mr. COVERDELL, Mr. DEWINE, Mr. GORTON, Mr. GREGG, Mr. HATCH, Mrs. HUTCHISON, Mr. KERREY, Mr. LEVIN, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. SMITH of Oregon, Mr. THOMPSON, Mr. VOINOVICH, Mr. NICKLES, Mr. SESSIONS, Mr. HUTCHINSON, Mr. THOMAS, Mrs. LINCOLN, and Mr. BREAUX) introduced the following bill; which was read the first time

JANUARY 22, 1999

Read the second time and placed on the calendar

A BILL

To provide for education flexibility partnerships.

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 “Education Flexibility
 5 Partnership Act of 1999”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) States differ substantially in demographics,
4 in school governance, and in school finance and
5 funding. The administrative and funding mecha-
6 nisms that help schools in 1 State improve may not
7 prove successful in other States.

8 (2) Although the Elementary and Secondary
9 Education Act of 1965 and other Federal education
10 statutes afford flexibility to State and local edu-
11 cational agencies in implementing Federal programs,
12 certain requirements of Federal education statutes
13 or regulations may impede local efforts to reform
14 and improve education.

15 (3) By granting waivers of certain statutory
16 and regulatory requirements, the Federal Govern-
17 ment can remove impediments for local educational
18 agencies in implementing educational reforms and
19 raising the achievement levels of all children.

20 (4) State educational agencies are closer to
21 local school systems, implement statewide edu-
22 cational reforms with both Federal and State funds,
23 and are responsible for maintaining accountability
24 for local activities consistent with State standards
25 and assessment systems. Therefore, State edu-
26 cational agencies are often in the best position to

1 align waivers of Federal and State requirements
2 with State and local initiatives.

3 (5) The Education Flexibility Partnership Dem-
4 onstration Act allows State educational agencies the
5 flexibility to waive certain Federal requirements,
6 along with related State requirements, but allows
7 only 12 States to qualify for such waivers.

8 (6) Expansion of waiver authority will allow for
9 the waiver of statutory and regulatory requirements
10 that impede implementation of State and local edu-
11 cational improvement plans, or that unnecessarily
12 burden program administration, while maintaining
13 the intent and purposes of affected programs, and
14 maintaining such fundamental requirements as those
15 relating to civil rights, educational equity, and ac-
16 countability.

17 (7) To achieve the State goals for the education
18 of children in the State, the focus must be on results
19 in raising the achievement of all students, not proc-
20 ess.

21 **SEC. 3. DEFINITIONS.**

22 In this Act:

23 (1) LOCAL EDUCATIONAL AGENCY; STATE EDU-
24 CATIONAL AGENCY.—The terms “local educational
25 agency” and “State educational agency” have the

1 meaning given such terms in section 14101 of the
 2 Elementary and Secondary Education Act of 1965.

3 (2) OUTLYING AREAS.—The term “outlying
 4 areas” means Guam, American Samoa, the United
 5 States Virgin Islands, the Commonwealth of the
 6 Northern Mariana Islands, the Republic of Palau,
 7 the Republic of the Marshall Islands, and the Fed-
 8 erated States of Micronesia.

9 (3) SECRETARY.—The term “Secretary” means
 10 the Secretary of Education.

11 (4) STATE.—The term “State” means each of
 12 the 50 States, the District of Columbia, the Com-
 13 monwealth of Puerto Rico, and each of the outlying
 14 areas.

15 **SEC. 4. EDUCATION FLEXIBILITY PARTNERSHIP.**

16 (a) EDUCATION FLEXIBILITY PROGRAM.—

17 (1) PROGRAM AUTHORIZED.—

18 (A) IN GENERAL.—The Secretary may
 19 carry out an education flexibility program under
 20 which the Secretary authorizes a State edu-
 21 cational agency that serves an eligible State to
 22 waive statutory or regulatory requirements ap-
 23 plicable to 1 or more programs or Acts de-
 24 scribed in subsection (b), other than require-
 25 ments described in subsection (c), for the State

1 educational agency or any local educational
2 agency or school within the State.

3 (B) DESIGNATION.—Each eligible State
4 participating in the program described in sub-
5 paragraph (A) shall be known as an “Ed-Flex
6 Partnership State”.

7 (2) ELIGIBLE STATE.—For the purpose of this
8 subsection the term “eligible State” means a State
9 that—

10 (A)(i) has—

11 (I) developed and implemented the
12 challenging State content standards, chal-
13 lenging State student performance stand-
14 ards, and aligned assessments described in
15 section 1111(b) of the Elementary and
16 Secondary Education Act of 1965, includ-
17 ing the requirements of that section relat-
18 ing to disaggregation of data, and for
19 which local educational agencies in the
20 State are producing the individual school
21 performance profiles required by section
22 1116(a) of such Act; or

23 (II) made substantial progress, as de-
24 termined by the Secretary, toward develop-
25 ing and implementing the standards and

assessments, and toward having local educational agencies in the State produce the profiles, described in subclause (I); and

(ii) holds local educational agencies and schools accountable for meeting the educational goals described in the local applications submitted under paragraph (4), and for taking corrective actions, consistent with section 1116 of the Elementary and Secondary Education Act of 1965, for the local educational agencies that do not meet the goals; and

(B) waives State statutory or regulatory requirements relating to education while holding local educational agencies or schools within the State that are affected by such waivers accountable for the performance of the students who are affected by such waivers.

(3) STATE APPLICATION.—

(A) IN GENERAL.—Each State educational agency desiring to participate in the education flexibility program under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall demonstrate

1 that the eligible State has adopted an edu-
2 cational flexibility plan for the State that
3 includes—

4 (i) a description of the process the
5 State educational agency will use to evalu-
6 ate applications from local educational
7 agencies or schools requesting waivers of—

8 (I) Federal statutory or regu-
9 latory requirements as described in
10 paragraph (1)(A); and

11 (II) State statutory or regulatory
12 requirements relating to education;
13 and

14 (ii) a detailed description of the State
15 statutory and regulatory requirements re-
16 lating to education that the State edu-
17 cational agency will waive.

18 (B) APPROVAL AND CONSIDERATIONS.—

19 The Secretary may approve an application de-
20 scribed in subparagraph (A) only if the Sec-
21 retary determines that such application dem-
22 onstrates substantial promise of assisting the
23 State educational agency and affected local edu-
24 cational agencies and schools within such State

1 in carrying out comprehensive educational re-
2 form, after considering—

3 (i) the comprehensiveness and quality
4 of the educational flexibility plan described
5 in subparagraph (A);

6 (ii) the ability of such plan to ensure
7 accountability for the activities and goals
8 described in such plan;

9 (iii) the significance of the State stat-
10 utory or regulatory requirements relating
11 to education that will be waived; and

12 (iv) the quality of the State edu-
13 cational agency's process for approving ap-
14 plications for waivers of Federal statutory
15 or regulatory requirements as described in
16 paragraph (1)(A) and for monitoring and
17 evaluating the results of such waivers.

18 (4) LOCAL APPLICATION.—

19 (A) IN GENERAL.—Each local educational
20 agency or school requesting a waiver of a Fed-
21 eral statutory or regulatory requirement as de-
22 scribed in paragraph (1)(A) and any relevant
23 State statutory or regulatory requirement from
24 a State educational agency shall submit an ap-
25 plication to the State educational agency at

1 such time, in such manner, and containing such
2 information as the State educational agency
3 may reasonably require. Each such application
4 shall—

5 (i) indicate each Federal program af-
6 fected and the statutory or regulatory re-
7 quirement that will be waived;

8 (ii) describe the purposes and overall
9 expected results of waiving each such re-
10 quirement;

11 (iii) describe for each school year spe-
12 cific, measurable, educational goals for
13 each local educational agency or school af-
14 fected by the proposed waiver; and

15 (iv) explain why the waiver will assist
16 the local educational agency or school in
17 reaching such goals.

18 (B) EVALUATION OF APPLICATIONS.—A
19 State educational agency shall evaluate an ap-
20 plication submitted under subparagraph (A) in
21 accordance with the State’s educational flexibil-
22 ity plan described in paragraph (3)(A).

23 (C) APPROVAL.—A State educational
24 agency shall not approve an application for a
25 waiver under this paragraph unless—

1 (i) the local educational agency or
 2 school requesting such waiver has devel-
 3 oped a local reform plan that is applicable
 4 to such agency or school, respectively; and

5 (ii) the waiver of Federal statutory or
 6 regulatory requirements as described in
 7 paragraph (1)(A) will assist the local edu-
 8 cational agency or school in reaching its
 9 educational goals.

10 (5) MONITORING.—Each State educational
 11 agency participating in the program under this sec-
 12 tion shall annually monitor the activities of local
 13 educational agencies and schools receiving waivers
 14 under this section and shall submit an annual report
 15 regarding such monitoring to the Secretary.

16 (6) DURATION OF FEDERAL WAIVERS.—

17 (A) IN GENERAL.—The Secretary shall not
 18 approve the application of a State educational
 19 agency under paragraph (3) for a period ex-
 20 ceeding 5 years, except that the Secretary may
 21 extend such period if the Secretary determines
 22 that such agency's authority to grant waivers
 23 has been effective in enabling such State or af-
 24 fected local educational agencies or schools to
 25 carry out their local reform plans.

1 (B) PERFORMANCE REVIEW.—The Sec-
2 retary shall periodically review the performance
3 of any State educational agency granting waiv-
4 ers of Federal statutory or regulatory require-
5 ments as described in paragraph (1)(A) and
6 shall terminate such agency's authority to grant
7 such waivers if the Secretary determines, after
8 notice and opportunity for hearing, that such
9 agency's performance has been inadequate to
10 justify continuation of such authority.

11 (7) AUTHORITY TO ISSUE WAIVERS.—Notwith-
12 standing any other provision of law, the Secretary is
13 authorized to carry out the education flexibility pro-
14 gram under this subsection for each of the fiscal
15 years 2000 through 2004.

16 (b) INCLUDED PROGRAMS.—The statutory or regu-
17 latory requirements referred to in subsection (a)(1)(A) are
18 any such requirements under the following programs or
19 Acts:

20 (1) Title I of the Elementary and Secondary
21 Education Act of 1965.

22 (2) Part A of title II of the Elementary and
23 Secondary Education Act of 1965.

1 (3) Subpart 2 of part A of title III of the Ele-
 2 mentary and Secondary Education Act of 1965
 3 (other than section 3136 of such Act).

4 (4) Title IV of the Elementary and Secondary
 5 Education Act of 1965.

6 (5) Title VI of the Elementary and Secondary
 7 Education Act of 1965.

8 (6) Part C of title VII of the Elementary and
 9 Secondary Education Act of 1965.

10 (7) The Carl D. Perkins Vocational and Tech-
 11 nical Education Act of 1998.

12 (c) WAIVERS NOT AUTHORIZED.—The Secretary
 13 may not waive any statutory or regulatory requirement of
 14 the programs or Acts authorized to be waived under sub-
 15 section (a)(1)(A)—

16 (1) relating to—

17 (A) maintenance of effort;

18 (B) comparability of services;

19 (C) the equitable participation of students
 20 and professional staff in private schools;

21 (D) parental participation and involve-
 22 ment;

23 (E) the distribution of funds to States or
 24 to local educational agencies;

1 (F) use of Federal funds to supplement,
 2 not supplant, non-Federal funds; and

3 (G) applicable civil rights requirements;
 4 and

5 (2) unless the underlying purposes of the statu-
 6 tory requirements of each program or Act for which
 7 a waiver is granted continue to be met to the satis-
 8 faction of the Secretary.

9 (d) CONSTRUCTION.—Nothing in this Act shall be
 10 construed to affect the authority of a State educational
 11 agency that has been granted waiver authority under the
 12 following provisions of law:

13 (1) Section 311(e) of the Goals 2000: Educate
 14 America Act.

15 (2) The proviso referring to such section 311(e)
 16 under the heading “**EDUCATION REFORM**” in the
 17 Department of Education Appropriations Act, 1996
 18 (Public Law 104–134; 110 Stat. 1321–229).

19 (e) ACCOUNTABILITY.—In deciding whether to ex-
 20 tend a request for a State educational agency’s authority
 21 to issue waivers under this section, the Secretary shall re-
 22 view the progress of the State education agency, local edu-
 23 cational agency, or school affected by such waiver or au-
 24 thority to determine if such agency or school has made
 25 progress toward achieving the desired results described in

1 the application submitted pursuant to subsection
2 (e)(4)(A)(ii).

3 (f) PUBLICATION.—A notice of the Secretary’s deci-
4 sion to authorize State educational agencies to issue waiv-
5 ers under this section shall be published in the Federal
6 Register and the Secretary shall provide for the dissemina-
7 tion of such notice to State educational agencies, inter-
8 ested parties, including educators, parents, students, advo-
9 cacy and civil rights organizations, other interested par-
10 ties, and the public.

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