

108TH CONGRESS
1ST SESSION

S. 1551

To provide educational opportunities for disadvantaged children, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 31 (legislative day, JULY 21), 2003

Mr. McCAIN introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide educational opportunities for disadvantaged children, 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,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Excellence through
5 Choice to Elevate Learning Act”.

6 SEC. 2. PURPOSES.

7 The purposes of this Act are—

8 (1) to assist States to—

9 (A) give children from low-income families
10 the same choices among all elementary and sec-

1 ondary schools and other academic programs as
2 children from wealthier families already have;

3 (B) improve schools and other academic
4 programs by giving parents in low-income fami-
5 lies increased consumer power to choose the
6 schools and programs that the parents deter-
7 mine best fit the needs of their children; and

8 (C) more fully engage parents in their chil-
9 dren's schooling; and

10 (2) to demonstrate, through a 3-year national
11 grant program, the effects of a voucher program
12 that gives parents in low-income families—

13 (A) choice among public, private, and reli-
14 gious schools for their children; and

15 (B) access to the same academic options as
16 parents in wealthy families have for their chil-
17 dren.

18 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

19 (a) IN GENERAL.—There is authorized to be appro-
20 priated to carry out this Act (other than section 11)
21 \$1,800,000,000 for each of fiscal years 2004 through
22 2007.

23 (b) EVALUATION.—There is authorized to be appro-
24 priated to carry out section 11 \$17,000,000 for fiscal
25 years 2005 through 2008.

1 SEC. 4. PROGRAM AUTHORITY.

2 (a) IN GENERAL.—The Secretary shall make grants
3 to States, from allotments made under section 5 to enable
4 the States to carry out educational choice programs that
5 provide scholarships, in accordance with this Act.

6 (b) LIMIT ON FEDERAL ADMINISTRATIVE EXPENDI-
7 TURES.—The Secretary may reserve not more than
8 \$1,000,000 of the amounts appropriated under section
9 3(a) for a fiscal year to pay for the costs of administering
10 this Act.

11 SEC. 5. ALLOTMENTS TO STATES.

12 (a) ALLOTMENTS.—The Secretary shall make the al-
13 lotments to States in accordance with a formula specified
14 in regulations issued in accordance with subsection (b).
15 The formula shall provide that the Secretary shall allot
16 to each State an amount that bears the same relationship
17 to the amounts appropriated under section 3(a) for a fiscal
18 year (other than funds reserved under section 4(b)) as the
19 number of covered children in the State bears to the num-
20 ber of covered children in all such States.

21 (b) FORMULA.—Not later than 90 days after the date
22 of enactment of this Act, the Secretary shall issue regula-
23 tions specifying the formula referred to in subsection (a).

24 (c) LIMIT ON STATE ADMINISTRATIVE EXPENDI-
25 TURES.—The State may reserve not more than 1 percent

1 of the funds made available through the State allotment
2 to pay for the costs of administering this Act.

3 (d) DEFINITION.—In this section, the term “covered
4 child” means a child who is enrolled in a public school
5 (including a charter school) that is an elementary school
6 or secondary school.

7 **SEC. 6. ELIGIBLE SCHOOLS.**

8 (a) ELIGIBILITY.—

9 (1) IN GENERAL.—Schools identified by a State
10 under paragraph (2) shall be considered to be eligi-
11 ble schools under this Act.

12 (2) DETERMINATION.—Not later than 180 days
13 after the date the Secretary issues regulations under
14 section 5(b), each State shall identify the public ele-
15 mentary schools and secondary schools in the State
16 that are at or below the 25th percentile for academic
17 performance of schools in the State.

18 (b) PERFORMANCE.—The State shall determine the
19 academic performance of a school under this section based
20 on such criteria as the State may consider to be appro-
21 priate.

22 **SEC. 7. SCHOLARSHIPS.**

23 (a) IN GENERAL.—

24 (1) SCHOLARSHIP AWARDS.—With funds
25 awarded under this Act, each State awarded a grant

1 under this Act shall provide scholarships to the par-
2 ents of eligible children, in accordance with sub-
3 sections (b) and (c). The State shall ensure that the
4 scholarships may be redeemed for elementary or sec-
5 ondary education for the children at any of a broad
6 variety of public and private schools, including reli-
7 gious schools, in the State.

8 (2) SCHOLARSHIP AMOUNT.—The amount of
9 each scholarship shall be \$2000 per year.

10 (3) TAX EXEMPTION.—Scholarships awarded
11 under this Act shall not be considered income of the
12 parents for Federal income tax purposes or for de-
13 termining eligibility for any other Federal program.

14 (b) ELIGIBLE CHILDREN.—To be eligible to receive
15 a scholarship under this Act, a child shall be—

16 (1) a child who is enrolled in a public elemen-
17 tary school or secondary school that is an eligible
18 school; and

19 (2) a member of a family with a family income
20 that is not more than 200 percent of the poverty
21 line.

22 (c) AWARD RULES.—

23 (1) PRIORITY.—In providing scholarships under
24 this Act, the State shall provide scholarships for eli-
25 gible children through a lottery system administered

1 for all eligible schools in the State by the State edu-
2 cational agency.

3 (2) CONTINUING ELIGIBILITY.—Each State re-
4 ceiving a grant under this Act to carry out an edu-
5 cational choice program shall provide a scholarship
6 in each year of the program to each child who re-
7 ceived a scholarship during the previous year of the
8 program, unless—

9 (A) the child no longer resides in the area
10 served by an eligible school;

11 (B) the child no longer attends school;

12 (C) the child's family income exceeds, by
13 20 percent or more, 200 percent of the poverty
14 line; or

15 (D) the child is expelled or convicted of a
16 felony, including felonious drug possession, pos-
17 session of a weapon on school grounds, or a vio-
18 lent act against an other student or a member
19 of the school's faculty.

20 **SEC. 8. USES OF FUNDS.**

21 Any scholarship awarded under this Act for a year
22 shall be used—

23 (1) first, for—

4 (B) the reasonable costs of the child's
5 transportation to the school, if the school is not
6 the school to which the child would be assigned
7 in the absence of a program under this Act;

18 SEC. 9. STATE REQUIREMENT.

19 A State that receives a grant under this Act shall
20 allow lawfully operating public and private elementary
21 schools and secondary schools, including religious schools,
22 if any, serving the area involved to participate in the pro-
23 gram.

1 **SEC. 10. EFFECT OF PROGRAMS.**

2 (a) TITLE I.—Notwithstanding any other provision
3 of law, if a local educational agency in the State would,
4 in the absence of an educational choice program that is
5 funded under this Act, provide services to a participating
6 eligible child under part A of title I of the Elementary
7 and Secondary Education Act of 1965 (20 U.S.C. 6311
8 et seq.), the State shall ensure the provision of such serv-
9 ices to such child.

10 (b) INDIVIDUALS WITH DISABILITIES.—Nothing in
11 this Act shall be construed to affect the requirements of
12 part B of the Individuals with Disabilities Education Act
13 (20 U.S.C. 1411 et seq.).

14 (c) AID.—

15 (1) IN GENERAL.—Scholarships under this Act
16 shall be considered to aid families, not institutions.
17 For purposes of determining Federal assistance
18 under Federal law, a parent's expenditure of schol-
19 arship funds under this Act at a school or for sup-
20 plementary academic services shall not constitute
21 Federal financial aid or assistance to that school or
22 to the provider of supplementary academic services.

23 (2) SUPPLEMENTARY ACADEMIC SERVICES.—

24 (A) IN GENERAL.—Notwithstanding para-
25 graph (1), a school or provider of supple-
26 mentary academic services that receives scholar-

1 ship funds under this Act shall, as a condition
2 of participation under this Act, comply with the
3 provisions of title VI of the Civil Rights Act of
4 1964 (42 U.S.C. 2000d et seq.) and section
5 504 of the Rehabilitation Act of 1973 (29
6 U.S.C. 794).

7 (B) REGULATIONS.—The Secretary shall
8 promulgate regulations to implement the provi-
9 sions of subparagraph (A), taking into account
10 the purposes of this Act and the nature, vari-
11 ety, and missions of schools and providers that
12 may participate in providing services to children
13 under this Act.

14 (d) OTHER FEDERAL FUNDS.—No Federal, State, or
15 local agency may, in any year, take into account Federal
16 funds provided to a State or to the parents of any child
17 under this Act in determining whether to provide any
18 other funds from Federal, State, or local resources, or in
19 determining the amount of such assistance, to such State
20 or to a school attended by such child.

21 (e) NO DISCRETION.—Nothing in this Act shall be
22 construed to authorize the Secretary to exercise any direc-
23 tion, supervision, or control over the curriculum, program
24 of instruction, administration, or personnel of any edu-

1 cational institution or school participating in a program
2 under this Act.

3 **SEC. 11. EVALUATION.**

4 The Comptroller General of the United States shall
5 conduct an evaluation of the program authorized by this
6 Act. Such evaluation shall, at a minimum—

7 (1) assess the implementation of educational
8 choice programs assisted under this Act and their ef-
9 fect on participants, schools, and communities in the
10 school districts served, including parental involve-
11 ment in, and satisfaction with, the program and
12 their children's education;

13 (2) compare the educational achievement of
14 participating eligible children with the educational
15 achievement of similar non-participating children be-
16 fore, during, and after the program; and

17 (3) compare—

18 (A) the educational achievement of eligible
19 children who use scholarships to attend schools
20 other than the schools the children would at-
21 tend in the absence of the program; with

22 (B) the educational achievement of chil-
23 dren who attend the schools the children would
24 attend in the absence of the program.

1 **SEC. 12. ENFORCEMENT.**

2 (a) REGULATIONS.—The Secretary shall promulgate
3 regulations to enforce the provisions of this Act.

4 (b) PRIVATE CAUSE.—No provision or requirement
5 of this Act shall be enforced through a private cause of
6 action.

7 **SEC. 13. FUNDING.**

8 The Committee on Finance and the Committee on
9 Appropriations of the Senate and the Committee on Ways
10 and Means and the Committee on Appropriations of the
11 House of Representatives shall identify wasteful spending
12 (including loopholes to revenue raising tax provisions) by
13 the Federal Government as a means of providing funding
14 for this Act. Not later than 60 days after the date of en-
15 actment of this Act, the committees referred to in the pre-
16 ceding sentence shall jointly prepare and submit to the
17 Majority and Minority Leaders of the Senate and the
18 Speaker and Minority Leader of the House of Representa-
19 tives, a report concerning the spending (and loopholes)
20 identified under such sentence.

21 **SEC. 14. DEFINITIONS.**

22 In this Act:

23 (1) CHARTER SCHOOL.—The term “charter
24 school” has the meaning given the term in section
25 5210 of the Elementary and Secondary Education
26 Act of 1965 (20 U.S.C. 7221i).

(2) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; PARENT; SECONDARY SCHOOL; STATE EDUCATIONAL AGENCY.—The terms “elementary school”, “local educational agency”, “parent”, “secondary school”, and “State educational agency” have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

15 (4) SECRETARY.—The term “Secretary” means
16 the Secretary of Education.