

110TH CONGRESS
1ST SESSION

S. 1014

To amend the Elementary and Secondary Education Act of 1965 to provide parental choice for those students that attend schools that are in need of improvement and have been identified for restructuring.

IN THE SENATE OF THE UNITED STATES

MARCH 28, 2007

Mr. ALEXANDER (for himself, Mr. ENSIGN, Mr. MARTINEZ, and Mr. DEMINT) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Elementary and Secondary Education Act of 1965 to provide parental choice for those students that attend schools that are in need of improvement and have been identified for restructuring.

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 “Empowering Parents
5 Through Choice Act”.

6 **SEC. 2. PURPOSE.**

7 It is the purpose of this Act to support State and
8 local efforts to enable students from low-income families

1 who attend a school identified for restructuring under sec-
 2 tion 1116(b)(8) of the Elementary and Secondary Edu-
 3 cation Act of 1965 (20 U.S.C. 6316(b)(8))—

4 (1) to attend a private elementary school or sec-
 5 ondary school, or a public elementary school or sec-
 6 ondary school outside the student’s home school dis-
 7 trict, including a public charter school; or

8 (2) to receive intensive, sustained supplemental
 9 educational services.

10 **SEC. 3. PROMISE SCHOLARSHIPS FOR PARENTS AND STU-**
 11 **DENTS.**

12 Section 1116(b)(8) of that Act (20 U.S.C.
 13 6316(b)(8)) is amended—

14 (1) in subparagraph (A)—

15 (A) in clause (ii) by striking “and” at the
 16 end;

17 (B) by redesignating clause (iii) as clause
 18 (iv); and

19 (C) by inserting after clause (ii) the fol-
 20 lowing:

21 “(iii) make scholarships available to
 22 students to attend a private elementary or
 23 secondary school chosen by the student’s
 24 parents; and”;

1 (2) by redesignating subparagraph (C) as sub-
2 paragraph (F); and

3 (3) by inserting after subparagraph (B) the fol-
4 lowing:

5 “(C) SPECIAL RULE FOR PRIVATE SCHOOL
6 CHOICE.—If a local education agency imple-
7 ments subparagraph (A)(iii), it shall—

8 “(i) apply fair and equitable proce-
9 dures for awarding scholarships under that
10 subparagraph when the number of appli-
11 cants exceeds available funding, which
12 must include giving priority to students
13 whose schools are in the second or a later
14 year of restructuring under section
15 1116(b)(8);

16 “(ii) make scholarship payments to
17 the parents of the students, in a manner
18 that ensures that those payments are used
19 only for the payment of tuition, fees, and
20 necessary transportation expenses, in ac-
21 cordance with this section;

22 “(iii) ensure that the amount a stu-
23 dent receives under such a scholarship for
24 an academic year, together with any funds

1 the student receives under section 1116(e)
2 for that academic year—

3 “(I) does not exceed \$4,000; and

4 “(II) does not exceed the costs,
5 including necessary transportation
6 and other expenses, to attend the pri-
7 vate elementary or secondary school;

8 “(iv) if a student uses such a scholar-
9 ship, continue to provide such a scholar-
10 ship to that student for each academic
11 year thereafter until the student completes
12 the grade that is the final grade taught at
13 the school that the student attended before
14 using the scholarship;

15 “(v) assess that student in reading or
16 language arts, mathematics, and science
17 (at the grade levels specified in section
18 1111(b)(3)(C)) by using the State assess-
19 ments administered under section
20 1111(b)(3), and include the student’s
21 scores on those assessments in its annual
22 report cards under section 1111(h)(2) and
23 in determining whether the school and
24 local educational agency made adequate
25 yearly progress under section 1111;

“(vi) separately display, for the local educational agency as a whole, the assessment results for students using the scholarships in its annual report cards under section 1111(h)(2), except where doing so would reveal personally identifiable information about an individual student.

“(D) SPECIAL RULE FOR PRIVATE SCHOOLS.—A private elementary or secondary school that enrolls a student who is using a scholarship under subparagraph (A)(iii) shall—

“(i) assess that student in reading or language arts, mathematics, and science (at the grade levels specified in section 1111(b)(3)(C)) by using either the State assessments administered under section 1111(b)(3) or nationally normed assessments; and

“(ii) provide the results of those assessments to the local educational agency that made the scholarship available.

“(E) NONDISCRIMINATION.—

“(i) IN GENERAL.—A local educational agency or private elementary or secondary school participating in any pro-

1 gram under subparagraph (A)(iii) shall not
2 discriminate against participants or appli-
3 cants on the basis of race, color, national
4 origin, religion, or sex.

5 “(ii) RELIGIOUS TENETS OR BELIEFS
6 WITH RESPECT TO SEX.—The prohibition
7 of sex discrimination in clause (i) does not
8 apply to a participating school that is oper-
9 ated by, supervised by, controlled by, or
10 connected to a religious organization to the
11 extent that the application of that prohibi-
12 tion is inconsistent with the religious te-
13 nets or beliefs of the school.

14 “(iii) SINGLE-SEX EDUCATION.—Not-
15 withstanding the prohibition of sex dis-
16 crimination in clause (i), a participating
17 school may offer, and a participating par-
18 ent may choose, a single-sex school, class,
19 or activity.

20 “(iv) NEUTRALITY.—Section 909 of
21 the Education Amendments of 1972 (20
22 U.S.C. 1688) shall apply to a program
23 under subparagraph (A)(iii).

24 “(v) CHILDREN WITH DISABILITIES.—
25 Subparagraphs (C), (D), and (E) do not

1 affect any requirement of the Individuals
 2 with Disabilities Education Act (20 U.S.C.
 3 1400 et seq.).

4 “(vi) MATTERS OF EMPLOYMENT.—
 5 Notwithstanding clause (i), a private ele-
 6 mentary or secondary school participating
 7 in any program under subparagraph
 8 (A)(iii) that is operated by, supervised by,
 9 controlled by, or connected to a religious
 10 organization may exercise its right in mat-
 11 ters of employment consistent with title
 12 VII of the Civil Rights Act of 1964 (42
 13 U.S.C. 2000e–1 et seq.), including the ex-
 14 emptions in that title.

15 “(vii) FIRST AMENDMENT.—Con-
 16 sistent with the First Amendment to the
 17 Constitution of the United States, a par-
 18 ticipating school shall not, by reason of re-
 19 ceiving funds under a program under sub-
 20 paragraph (A)(iii), be required to—

21 “(I) change its teaching mission;

22 “(II) remove religious art, icons,
 23 scriptures, or other symbols;

24 “(III) remove religious terms or
 25 references from its name, mission

1 statement, or other chartering or gov-
 2 erning documents; or

3 “(IV) refrain from using religion
 4 as a basis in selecting its board mem-
 5 bers.”.

6 **SEC. 4. OPPORTUNITY SCHOLARSHIPS FOR PARENTS AND**
 7 **STUDENTS.**

8 Part B of title I of the Elementary and Secondary
 9 Education Act of 1965 is amended by adding at the end
 10 the following:

11 **“Subpart 5—Opportunity Scholarships for Parents**
 12 **and Students**

13 **“SEC. 1261. DEFINITIONS.**

14 “In this subpart:

15 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-
 16 tity’ means—

17 “(A) a local educational agency;

18 “(B) a State educational agency; or

19 “(C) a nonprofit organization or a consor-
 20 tium of nonprofit organizations.

21 “(2) ELIGIBLE STUDENT.—The term ‘eligible
 22 student’ means a student from a low-income family
 23 who—

24 “(A) with respect to a school identified for
 25 restructuring under section 1116(b)(8)—

1 “(i) is eligible to enroll in the begin-
2 ning grade of the school;

3 “(ii) except as provided in subpara-
4 graph (C), attended the school for the en-
5 tire school year preceding the identifica-
6 tion;

7 “(iii) in the case of a student who
8 transfers to the school to attend any grade
9 beyond the beginning grade of the school,
10 attends the school for the remainder of the
11 school year in which the transfer occurs; or

12 “(iv) received a scholarship under this
13 subpart in a preceding school year due to
14 such identification; or

15 “(B) is a sibling of a student described in
16 any 1 of clauses (i) through (iv) of subpara-
17 graph (A).

18 “(3) LOW-INCOME FAMILY.—The term ‘low-in-
19 come family’ means a family whose income does not
20 exceed 185 percent of the poverty line, except that
21 in the case of a student participating in a project
22 under this subpart for a second or any succeeding
23 school year the term includes a family whose income
24 does not exceed 220 percent of the poverty line.

1 “(4) POVERTY LINE.—The term ‘poverty line’
 2 means the income official poverty line (as defined by
 3 the Office of Management and Budget, and revised
 4 annually in accordance with section 673(2) of the
 5 Community Services Block Grant Act (42 U.S.C.
 6 9902(2)) applicable to a family of the size involved.

7 “(5) PRIVATE PROVIDER.—The term ‘private
 8 provider’ means a nonprofit or for-profit private pro-
 9 vider of supplemental educational services described
 10 in section 1116(e)(1) that is on the updated list of
 11 approved providers maintained by the State edu-
 12 cational agency under section 1116(e)(4)(C).

13 “(6) SUPPLEMENTAL EDUCATIONAL SERV-
 14 ICES.—The term ‘supplemental educational services’
 15 has the meaning given the term in section
 16 1116(e)(12)(C).

17 **“SEC. 1262. PROGRAM AUTHORIZED.**

18 “(a) AUTHORITY.—

19 “(1) IN GENERAL.—Subject to paragraph (2)
 20 and from amounts appropriated under section 1264
 21 for a fiscal year, the Secretary shall award grants,
 22 on a competitive basis, to eligible entities to support
 23 projects that provide—

24 “(A) scholarships to enable eligible stu-
 25 dents to attend—

1 “(i) the private elementary school or
2 secondary school of their parent’s choice;
3 or

4 “(ii) a public elementary school or
5 secondary school of their parents’ choice
6 outside of the eligible student’s home
7 school district, consistent with State law;
8 or

9 “(B) eligible students with intensive, sus-
10 tained supplemental educational services on an
11 annual basis.

12 “(2) SCHOLARSHIP DURATION RULE.—Each eli-
13 gible entity that receives a grant under this subpart
14 shall award a scholarship under this subpart only to
15 an eligible student for—

16 “(A)(i) in the case of an eligible student
17 described in section 1261(2)(A), the first school
18 year for which the eligible student is eligible to
19 receive the scholarship with respect to a school
20 identified for restructuring under section
21 1116(b)(8); and

22 “(ii) in the case of an eligible student de-
23 scribed in section 1261(2)(B), the first school
24 year taught at the school so identified; and

1 “(B) each subsequent school year through
2 the school year applicable to the final grade
3 taught at the school so identified.

4 “(b) DURATION OF GRANTS.—The Secretary may
5 award grants under this subpart for a period of not more
6 than 5 years.

7 “(c) PRIORITIES.—In awarding grants under this
8 subpart, the Secretary shall give priority to eligible entities
9 that—

10 “(1) make scholarships available to students to
11 attend a private elementary or secondary school cho-
12 sen by the student’s parents as authorized under
13 section 1116(b)(8)(A)(iii);

14 “(2) propose to serve eligible students in a local
15 educational agency with a large number or percent-
16 age of schools identified for restructuring under sec-
17 tion 1116(b)(8);

18 “(3) possess the knowledge and capacity to in-
19 form parents of eligible students, in urban, subur-
20 ban, and rural areas, about public and private ele-
21 mentary school and secondary school options; and

22 “(4) will augment the scholarships provided to
23 eligible students under this subpart in order to help
24 ensure that parents can afford the cost (including
25 tuition, fees, and necessary transportation expenses)

1 of the schools the parents choose to have their chil-
 2 dren attend under this subpart.

3 “(d) APPLICATION REQUIREMENTS.—

4 “(1) IN GENERAL.—To be considered for a
 5 grant under this subpart, an eligible entity shall sub-
 6 mit an application to the Secretary at such time, in
 7 such manner, and containing such information as
 8 the Secretary may reasonably require.

9 “(2) CONTENTS.—The application shall, at a
 10 minimum, include a description of—

11 “(A) the eligible entity’s plan for—

12 “(i) recruiting private schools, local
 13 educational agencies, charter schools, and
 14 private providers to participate in the
 15 project in order to meet eligible student de-
 16 mand for private and public school admis-
 17 sion and supplemental educational services;
 18 and

19 “(ii) ensuring that participating
 20 schools that enroll eligible students receiv-
 21 ing scholarships under this subpart, and
 22 private providers participating in the
 23 project, will meet the applicable require-
 24 ments of the project;

1 “(B) each school identified for restruc-
2 turing that will be served under the project, in-
3 cluding—

4 “(i) the name of each such school; and

5 “(ii) such demographic and socio-
6 economic information as the Secretary may
7 require;

8 “(C) how the eligible entity will work with
9 the identified schools and the local educational
10 agency to identify the parents of eligible stu-
11 dents (including through contracts or coopera-
12 tive agreements with the public school or local
13 educational agency) consistent with the require-
14 ments of the Family Educational Rights and
15 Privacy Act of 1974 (20 U.S.C. 1232g);

16 “(D) how the eligible entity will structure
17 the project in a manner that permits eligible
18 students to participate in the second and suc-
19 ceeding school years of the project if the schools
20 the eligible students attend with scholarship as-
21 sistance under this subpart are subsequently
22 identified for restructuring under section
23 1116(b)(8);

24 “(E) how the eligible entity will use funds
25 received under this subpart;

1 “(F) how the eligible entity will ensure
2 that if more eligible students seek admission to
3 the project than the project can accommodate,
4 the eligible students will be selected through a
5 random selection process;

6 “(G) how the eligible entity will notify par-
7 ents of eligible students of the expanded choice
8 opportunities provided under the project and
9 how the eligible entity will provide parents with
10 sufficient information to enable the parents to
11 make an informed decision;

12 “(H) how the eligible entity will ensure
13 that the schools receiving eligible students
14 under the grant are financially responsible and
15 will use the grant funds received under this
16 subpart effectively;

17 “(I) how the eligible entity will prioritize
18 between providing scholarships and providing
19 sustained, intensive supplemental educational
20 services, including the timing and duration of
21 offering the opportunity for parents to deter-
22 mine which provision the parents prefer; and

23 “(J) how the eligible entity will address the
24 renewal of support for participating eligible stu-
25 dents, including continued eligibility.

1 “(e) USES OF FUNDS.—

2 “(1) IN GENERAL.—Each eligible entity that re-
3 ceives a grant under this subpart may—

4 “(A) reserve not more than 5 percent of
5 the grant funds for administrative expenses, in-
6 cluding costs associated with recruiting and se-
7 lecting eligible students, private schools, and
8 private providers, to participate in the project;

9 “(B) only for the first year for which grant
10 funds are received under this subpart, reserve
11 not more than 5 percent of the grant funds (in
12 addition to the funds reserved under subpara-
13 graph (A)), for initial implementation expenses,
14 including costs associated with outreach, pro-
15 viding information to parents and school offi-
16 cials, and other administrative expenses;

17 “(C) use the grant funds to provide schol-
18 arships to eligible students to pay for the cost,
19 including tuition, fees, and necessary transpor-
20 tation expenses to attend the private school of
21 their parents’ choice or a public elementary
22 school or secondary school of their parents’
23 choice outside of the eligible students’ home
24 school district (consistent with State law), ex-

1 cept that the scholarship shall not exceed
2 \$4,000 per student per school year; and

3 “(D) use the grant funds to pay the costs,
4 including reasonable transportation costs, of
5 supplemental educational services (including
6 summer school or after-school programs) pro-
7 vided by a private provider to eligible students,
8 except that the costs shall not exceed \$3,000
9 per student per school year.

10 “(2) FUNDING ORDER.—Each eligible entity
11 that receives a grant under this subpart shall—

12 “(A) first fund scholarships for eligible
13 students to attend the private school of their
14 parents’ choice or a public elementary school or
15 secondary school of their parents’ choice outside
16 of the eligible students’ home school district
17 (consistent with State law); and

18 “(B) use any remaining grant funds to
19 provide eligible students with access to supple-
20 mental educational services.

21 “(3) PAYMENT.—Each eligible entity that re-
22 ceives a grant under this subpart shall make scholar-
23 ship payments under this subpart to the parent of
24 the eligible student participating in the project, in a
25 manner that ensures that the payments will be used

1 only for the payment of tuition, fees, and necessary
2 transportation expenses, in accordance with this sub-
3 part.

4 “(f) PROHIBITION.—A student who receives supple-
5 mental educational services under this subpart shall not
6 be eligible to receive other such services under section
7 1116(e).

8 “(g) PROJECT PERFORMANCE.—Each eligible entity
9 receiving a grant under this subpart shall prepare and
10 submit to the Secretary a final report on the results of
11 the project assisted under this subpart that contains such
12 information as the Secretary may require. At a minimum,
13 the report shall include information on the academic
14 achievement of students receiving scholarships and supple-
15 mental educational services under the project.

16 “(h) PERFORMANCE INFORMATION.—Each eligible
17 entity that receives a grant under this subpart shall collect
18 and report such performance information as the Secretary
19 may require for the national evaluation conducted under
20 subsection (i).

21 “(i) NATIONAL EVALUATION.—From the amount
22 made available for any fiscal year under section 1264, the
23 Secretary shall reserve such sums as may be necessary to
24 conduct an independent evaluation, by grant or by con-
25 tract, of the program carried out under this subpart,

1 which shall include an assessment of the impact of the
 2 program on student achievement. The Secretary shall re-
 3 port the results of the evaluation to the appropriate com-
 4 mittees of Congress.

5 **“SEC. 1263. NONDISCRIMINATION.**

6 “(a) IN GENERAL.—An eligible entity or a school
 7 participating in a project under this subpart shall not dis-
 8 criminate against an individual participant in, or an indi-
 9 vidual applicant to participate in, the project on the basis
 10 of race, color, religion, sex, or national origin.

11 “(b) RELIGIOUS TENETS OR BELIEFS.—Notwith-
 12 standing any other provision of law, the prohibition of sex
 13 discrimination described in subsection (a) shall not apply
 14 to a school described in subsection (a) that is operated
 15 by, supervised by, controlled by, or connected to, a reli-
 16 gious organization, to the extent that the application of
 17 subsection (a) is inconsistent with the religious tenets or
 18 beliefs of the organization.

19 “(c) SINGLE-SEX EDUCATION.—Notwithstanding the
 20 prohibition of sex discrimination in subsection (a), a par-
 21 ticipating school may offer, and a participating parent
 22 may choose, a single-sex school, class, or activity.

23 “(d) NEUTRALITY.—Section 909 of the Education
 24 Amendments of 1972 (20 U.S.C. 1688) shall apply to this
 25 subpart.

1 “(e) CHILDREN WITH DISABILITIES.—This subpart
 2 does not affect any requirement of the Individuals with
 3 Disabilities Education Act (20 U.S.C. 1400 et seq.).

4 “(f) MATTERS OF EMPLOYMENT.—Notwithstanding
 5 subsection (a), a participating school that is operated by,
 6 supervised by, controlled by, or connected to a religious
 7 organization may exercise its right in matters of employ-
 8 ment consistent with title VII of the Civil Rights Act of
 9 1964 (42 U.S.C. 2000e–1 et seq.), including the exemp-
 10 tions in that title.

11 “(g) FIRST AMENDMENT.—Consistent with the First
 12 Amendment to the Constitution of the United States, a
 13 participating school shall not, by reason of receiving funds
 14 under this subpart, be required to—

15 “(1) change its teaching mission;

16 “(2) remove religious art, icons, scriptures, or
 17 other symbols;

18 “(3) remove religious terms or references from
 19 its name, mission statement, or other chartering or
 20 governing documents; or

21 “(4) refrain from using religion as a basis in
 22 selecting its board members.

23 “(h) RULES OF CONSTRUCTION.—For purposes of
 24 Federal law, a scholarship provided under this subpart to
 25 a student shall be considered to be assistance to the parent

1 of the student and shall not be considered to be assistance
2 to the school that enrolls the student. The amount of any
3 scholarship (or other form of support for the provision of
4 supplemental educational services) provided to a parent of
5 an eligible student under this subpart shall not be treated
6 as income of a parent of the eligible student for purposes
7 of Federal tax laws or for purposes of determining eligi-
8 bility for any other Federal program, other than the pro-
9 gram carried out under this subpart.

10 **“SEC. 1264. AUTHORIZATION OF APPROPRIATIONS.**

11 “There are authorized to be appropriated to carry out
12 this subpart \$300,000,000 for fiscal year 2008 and such
13 sums as may be necessary for each of the 4 succeeding
14 fiscal years.”.

