

103D CONGRESS
1ST SESSION

S. 525

To establish the Educational Flexibility Act.

IN THE SENATE OF THE UNITED STATES

MARCH 5 (legislative day, MARCH 3), 1993

Mr. HATFIELD introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To establish the Educational Flexibility Act.

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 “Educational Flexibility
5 Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—The Congress finds that—

8 (1) historically, Federal education programs
9 have addressed the Nation’s most pressing edu-
10 cational problems by providing categorical assistance
11 with detailed requirements relating to the use of
12 funds;

1 (2) while the approach described in paragraph
2 (1) has proven generally successful, some program
3 requirements may inadvertently impede educational
4 achievement;

5 (3) the Nation's schools are being asked to deal
6 effectively with increasingly diverse educational
7 needs that current program structures may not be
8 flexible enough to address; and

9 (4) in an era when educational change and re-
10 form must prevail, it is more important than ever to
11 provide programs that—

12 (A) result in improved educational out-
13 comes for all students;

14 (B) promote the coordination of education
15 and related services that benefit children and
16 their families;

17 (C) respond flexibly to the needs of a di-
18 verse student population;

19 (D) stop the proliferation of unnecessary
20 Federal, State, and local regulation; and

21 (E) place less emphasis on measuring re-
22 sources and reviewing procedures and more em-
23 phasis on achieving program results.

24 (b) PURPOSE.—It is the purpose of this Act to estab-
25 lish a national program which—

1 (1) promotes educational reform that leads to
2 improved educational outcomes for participants in
3 affected programs;

4 (2) holds accountable the schools and other re-
5 cipients of Federal funds for achieving specific edu-
6 cational goals in exchange for increased flexibility in
7 the use of their resources; and

8 (3) enables school and program administrators,
9 teachers, parents, local educational agencies, and
10 community groups to work together to develop effec-
11 tive education programs that meet the needs of all
12 participants, particularly those who are disadvan-
13 taged.

14 **SEC. 3. FLEXIBILITY AND ACCOUNTABILITY IN EDUCATION**
15 **AND RELATED SERVICES.**

16 Subpart 1 of part C of the General Education Provi-
17 sions Act (20 U.S.C. 1221 et seq.) is amended by adding
18 after section 421A the following new section:

19 **“SEC. 421B. FLEXIBILITY AND ACCOUNTABILITY IN EDU-**
20 **CATION AND RELATED SERVICES.**

21 “(a) PROGRAM AUTHORIZED.—

22 “(1) IN GENERAL.—(A) The Secretary, in ac-
23 cordance with this section, shall assist elementary
24 and secondary schools and other service providers to
25 improve the achievement of all students and other

1 participants, but particularly disadvantaged individ-
2 uals, by authorizing waivers for States to enable
3 such States to conduct projects to improve the per-
4 formance of schools and programs by increasing
5 their flexibility in the use of their resources while
6 holding them accountable for achieving educational
7 gains.

8 “(B)(i) In support of these projects, the Sec-
9 retary is authorized to waive any statutory or regu-
10 latory requirement (except as provided in subsection
11 (e)) applicable to a program described in clause (ii)
12 that the Secretary determines may impede the abil-
13 ity of a school or other service provider to meet the
14 special needs of such students and other individuals
15 in the most effective manner possible. The head of
16 any other Federal agency is similarly authorized to
17 waive such requirements (except as provided in sub-
18 section (e)) applicable to an elementary, secondary,
19 or youth vocational training program described in
20 clause (ii) and administered by such agency if the
21 head of such agency and the Secretary agree that
22 such a waiver would promote the purpose of this
23 section.

1 “(ii) The Secretary shall only waive a statutory
2 or regulatory requirement applicable to a program
3 under—

4 “(I) chapter 1 of title I of the Elementary
5 and Secondary Education Act of 1965;

6 “(II) chapter 2 of title I of the Elementary
7 and Secondary Education Act of 1965;

8 “(III) the Dwight D. Eisenhower Mathe-
9 matics and Science Education Act;

10 “(IV) the Follow Through Act;

11 “(V) subtitle B of title VII of the Stewart
12 B. McKinney Homeless Assistance Act;

13 “(VI) the Carl D. Perkins Vocational and
14 Applied Technology Education Act, except part
15 H of title III and funds allocated by States
16 under section 232 of such Act;

17 “(VII) the Jacob K. Javits Gifted and Tal-
18 ented Students Education Act of 1988;

19 “(VIII) the Drug-Free Schools and Com-
20 munities Act of 1986; and

21 “(IX) the Alcohol and Drug Abuse Edu-
22 cation Act.

23 “(2) PROJECT DURATION.—Projects assisted
24 under this section, and any waivers associated with
25 such projects, shall last not longer than 3 years, ex-

1 cept that the Secretary may extend a project and
2 any associated waivers for an additional 2 years if
3 the Secretary determines that the project is making
4 substantial progress in meeting its goals.

5 “(3) TERMINATION.—The Secretary shall ter-
6 minate a project and its associated waivers if the
7 Secretary, at any time, determines it is not making
8 acceptable progress toward meeting its goals. The
9 head of any other Federal agency who has granted
10 waivers under this section shall determine whether
11 to extend or terminate those waivers, but the Sec-
12 retary shall have exclusive authority to extend or
13 terminate the project.

14 “(b) ELIGIBILITY.—

15 “(1) IN GENERAL.—(A) The Secretary shall
16 only assist a project under this section in a State
17 which has demonstrated to the satisfaction of the
18 Secretary that the State has implemented a com-
19 prehensive regulatory reform plan at least 2 years
20 prior to the date on which the State transmits ap-
21 proved applications pursuant to subsection (c)(2).

22 “(B) For the purposes of this section, the term
23 ‘comprehensive regulatory reform plan’ means a plan
24 developed by a State that offers local educational
25 agencies within such State waivers of certain State

1 statutory and regulatory requirements while holding
2 such local educational agencies accountable for im-
3 proved performance of students affected by such
4 waivers.

5 “(2) GRADE AND PROGRAM REQUIREMENT.—
6 To the extent possible, each grade and academic
7 program in a participating school shall participate in
8 a project assisted under this section.

9 “(c) APPLICATIONS.—

10 “(1) LOCAL.—A local educational agency desir-
11 ing to participate in a project assisted under this
12 section shall submit an application to the State edu-
13 cational agency for approval.

14 “(2) APPROVAL AND TRANSMISSION TO SEC-
15 RETARY.—The State educational agency shall trans-
16 mit approved applications described in paragraph (1)
17 to the Secretary.

18 “(3) CONTENTS.—Each application transmitted
19 pursuant to paragraph (2) shall include a plan which
20 meets the purposes of the Educational Flexibility
21 Act and—

22 “(A) describes the purposes and overall ex-
23 pected outcomes of the project;

24 “(B) indicates the Federal programs and
25 requirements of such programs which will be

1 waived and how such waivers will improve or
2 maintain educational achievement among all
3 students affected by such programs and re-
4 quirements;

5 “(C) indicates which State and local re-
6 quirements will be waived;

7 “(D) describes specific, measurable, edu-
8 cational goals for each school or other site in
9 the project and for each school year of the
10 project, including—

11 “(i) goals for improving the achieve-
12 ment of all participants, including dis-
13 advantaged individuals, with respect to
14 achievement in basic and advanced skills;

15 “(ii) goals that reflect the broad pur-
16 poses of each program for which a waiver
17 is sought; and

18 “(iii) an explanation of how the appli-
19 cant will measure progress in meeting the
20 goals set for each school or site in the
21 project and for disadvantaged individuals
22 participating in the project; and

23 “(E) identifies the elementary or secondary
24 schools to be included in the project and de-

1 scribes the student population at each such
2 school, including—

3 “(i) current data regarding the
4 achievement of disadvantaged students as
5 well as other students; and

6 “(ii) the number of students who—

7 “(I) are of limited-English pro-
8 ficiency, as defined in section
9 7003(a)(1) of the Bilingual Education
10 Act;

11 “(II) are children with disabil-
12 ities, as such term is defined in sec-
13 tion 602(a)(1) of the Individuals with
14 Disabilities Education Act;

15 “(III) are currently or formerly
16 migratory;

17 “(IV) are educationally deprived,
18 as determined by eligibility for assist-
19 ance under chapter 1 of title I of the
20 Elementary and Secondary Education
21 Act of 1965; and

22 “(V) are eligible for a free or re-
23 duced price school lunch.

24 “(d) APPROVAL OF PROJECTS.—

1 “(1) IN GENERAL.—The Secretary shall ap-
2 prove an application from a State that the Secretary
3 determines shows substantial promise of achieving
4 the purposes of the Educational Flexibility Act after
5 considering—

6 “(A) the comprehensiveness of the project,
7 including the types of students, schools, pro-
8 grams, and activities to be included;

9 “(B) the extent to which the provisions for
10 which waivers are sought impede educational
11 improvement;

12 “(C) the State and local requirements that
13 will be waived for the project;

14 “(D) the significance and feasibility of the
15 proposed project’s goals for each participating
16 school or site; and

17 “(E) the quality of the plan for ensuring
18 accountability for the proposed plan’s activities
19 and goals.

20 “(2) CONSULTATION.—The Secretary shall con-
21 sult with the heads of other appropriate Federal
22 agencies, if any, in determining whether to approve
23 a project. Each such agency head shall notify the
24 Secretary of any waivers granted by such agency
25 head as part of such project.

1 “(3) DISTRIBUTION OF PROJECTS.—The Sec-
2 retary shall ensure that, to the extent feasible,
3 projects assisted under this section are geographi-
4 cally distributed, and equitably distributed among
5 urban, suburban, and rural areas, as well as large
6 and small schools.

7 “(e) ALLOCATION OF FEDERAL FUNDS; RESTRIC-
8 TION ON WAIVERS.—

9 “(1) ALLOCATION OF FEDERAL FUNDS.—Fed-
10 eral funds under any program that are used to sup-
11 port a project under this section shall be allocated
12 to local educational agencies and other recipients
13 within the local educational agency in accordance
14 with the statutory and regulatory requirements that
15 govern the operation of that program, except that,
16 for the purpose of such a project, the Secretary (or
17 the head of any other Federal agency) may extend
18 the duration of, and provide continuation funding to,
19 a project chosen on a competitive basis that a par-
20 ticipating agency is conducting.

21 “(2) RESTRICTION ON WAIVERS.—Neither the
22 Secretary nor the head of any other Federal agency
23 shall waive under this section any statutory or regu-
24 latory requirement in awarding a grant after the
25 date of enactment of the Educational Flexibility Act

1 to a service provider within the local educational
2 agency or other applicant participating in a project
3 under this section.

4 “(3) SPECIAL RULE.—Neither the Secretary
5 nor, where applicable, the head of any other Federal
6 agency shall waive under this section any statutory
7 or regulatory requirement—

8 “(A) under section 438 and 439 of the
9 General Education Provisions Act;

10 “(B) under title VI of the Civil Rights Act
11 of 1964, section 504 of the Rehabilitation Act
12 of 1973, title IX of the Education Amendments
13 of 1972, or title II of the Americans with Dis-
14 abilities Act;

15 “(C) under the Individuals with Disabil-
16 ities Education Act; or

17 “(D) relating to—

18 “(i) maintenance of effort;

19 “(ii) comparability; or

20 “(iii) the equitable participation of
21 students attending private schools.

22 “(f) REPORTS AND EVALUATIONS.—

23 “(1) PROJECT REPORTS.—Each project assisted
24 under this section shall submit, not later than 90

1 days after the end of each fiscal year of the project,
2 an annual report to the Secretary that—

3 “(A) summarizes the principal activities of
4 the project;

5 “(B) contains school-by-school and other
6 data, as described in the project plan, that show
7 the extent to which the project is meeting its
8 overall goals, including its goals for improving
9 the achievement of all participants, particularly
10 disadvantaged individuals, with respect to
11 achievement in basic and advanced skills, and is
12 meeting the goals for each school or other site;

13 “(C) describes the impact of the project on
14 disadvantaged children in schools, if any, that
15 are not participating in the project;

16 “(D) describes the effectiveness of efforts
17 to coordinate programs and services for chil-
18 dren and their families as appropriate; and

19 “(E) provides information or comparable
20 data regarding the achievement levels dem-
21 onstrated by children or students served pursu-
22 ant to programs described in clause (ii) of sub-
23 section (a)(1)(B) during the preceding 3 fiscal
24 years compared with the achievement levels

1 demonstrated by children or students served
2 under this section.

3 “(2) SECRETARY’S REPORT.—Beginning in fis-
4 cal year 1995 and every 2 years thereafter, the Sec-
5 retary shall submit a report to the Congress that
6 summarizes and analyzes the project reports re-
7 quired by paragraph (1).

8 “(3) EVALUATION REPORTS.—Within 7 years
9 of the date of enactment of the Educational Flexibil-
10 ity Act, and at such interim points as the Secretary
11 deems appropriate, the Secretary shall provide to the
12 Congress an independent evaluation of the projects
13 assisted under this section, as well as an evaluation
14 of the program assisted under this section by the
15 Department of Education and other affected Federal
16 agencies. Such reports may include recommendations
17 for amendments to program statutes that are based
18 on the experience of projects that successfully raise
19 educational achievement by eliminating or modifying
20 statutory or regulatory provisions that impede edu-
21 cational improvement.

22 “(g) DEFINITION.—For the purpose of this section,
23 the term ‘disadvantaged students’ includes students of
24 limited English proficiency, children with disabilities, stu-

1 dents who are currently or formerly migratory, and stu-
2 dents who are educationally deprived.

3 “(h) BUDGET NEUTRALITY.—The authority provided
4 by this section shall not be exercised in a manner that,
5 for any fiscal year, increases total obligations or outlays
6 of discretionary appropriations for programs subject to
7 such authority, or that increases total obligations or out-
8 lays of funding for all direct-spending programs subject
9 to such authority over those that would have occurred ab-
10 sent such authority.”.

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