

EDUCATION FLEXIBILITY PARTNERSHIP ACT OF 1999

MARCH 8, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GOODLING, from the Committee on Education and the Workforce, submitted the following

REPORT

together with

MINORITY AND ADDITIONAL VIEWS

[To accompany H.R. 800]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and the Workforce, to whom was referred the bill (H.R. 800) to provide for education flexibility partnerships, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Education Flexibility Partnership Act of 1999”.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) States differ substantially in demographics, in school governance, and in school finance and funding. The administrative and funding mechanisms that help schools in 1 State improve may not prove successful in other States.

(2) Although the Elementary and Secondary Education Act of 1965 and other Federal education statutes afford flexibility to State and local educational agencies in implementing Federal programs, certain requirements of Federal education statutes or regulations may impede local efforts to reform and improve education.

(3) By granting waivers of certain statutory and regulatory requirements, the Federal Government can remove impediments for local educational agencies in implementing education reforms and raising the achievement levels of all children.

(4) State educational agencies are closer to local school systems, implement statewide education reforms with both Federal and State funds, and are responsible for maintaining accountability for local activities consistent with State standards and assessment systems. Therefore, State educational agencies are often in the best position to align waivers of Federal and State requirements with State and local initiatives.

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

(6) Expansion of waiver authority will allow for the waiver of statutory and regulatory requirements that impede implementation of State and local educational improvement plans, or that unnecessarily burden program administration, while maintaining the intent and purposes of affected programs, such as the important focus on improving math and science performance under title II of the Elementary and Secondary Education Act of 1965, (Dwight D. Eisenhower Professional Development Program), and maintaining such fundamental requirements as those relating to civil rights, educational equity, and accountability.

(7) To achieve the State goals for the education of children in the State, the focus must be on results in raising the achievement of all students, not process.

### SEC. 3. DEFINITIONS.

In this Act:

(1) ATTENDANCE AREA.—The term “attendance area” has the meaning given the term “school attendance area” in section 1113(a)(2)(A) of the Elementary and Secondary Education Act of 1965.

(2) ED-FLEX PARTNERSHIP STATE.—The term “Ed-Flex Partnership State” means an eligible State designated by the Secretary under section 4(a)(1)(B).

(3) LOCAL EDUCATIONAL AGENCY; STATE EDUCATIONAL AGENCY.—The terms “local educational agency” and “State educational agency” have the meaning given such terms in section 14101 of the Elementary and Secondary Education Act of 1965.

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

(5) STATE.—The term “State” means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

### SEC. 4. EDUCATION FLEXIBILITY PARTNERSHIP.

(a) EDUCATION FLEXIBILITY PROGRAM.—

(1) PROGRAM AUTHORIZED.—

(A) IN GENERAL.—The Secretary may carry out an education flexibility program under which the Secretary authorizes a State educational agency that serves an eligible State to waive statutory or regulatory requirements applicable to 1 or more programs or Acts described in subsection (b), other than requirements described in subsection (c), for the State educational agency or any local educational agency or school within the State.

(B) DESIGNATION.—The Secretary shall designate each eligible State participating in the program described in subparagraph (A) to be an Ed-Flex Partnership State.

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

(A)(i) has—

(I) developed and implemented the challenging State content standards, challenging State student performance standards, and aligned assessments described in section 1111(b) of the Elementary and Secondary Education Act of 1965, and for which local educational agencies in the State are producing the individual school performance profiles required by section 1116(a) of such Act; or

(II) developed and implemented content standards and interim assessments and made substantial progress, as determined by the Secretary, toward developing and implementing performance standards and final aligned 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

(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 that the eligible State has adopted an education flexibility plan for the State that includes—

(i) a description of the process the State educational agency will use to evaluate applications from local educational agencies or schools requesting waivers of—

(I) Federal statutory or regulatory requirements as described in paragraph (1)(A); and

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

(ii) a detailed description of the State statutory and regulatory requirements relating to education that the State educational agency will waive;

(iii) a description of specific educational objectives the State intends to meet under such a plan;

(iv) a description of the process by which the State will measure the progress of local educational agencies in meeting specific goals described in subsection (a)(4)(A)(iii); and

(v) an assurance that, not less than 30 days prior to waiving any Federal statutory or regulatory requirement, or in accordance with State law, the State educational agency shall give public notice in widely-read publications, such as large circulation newspapers and community newspapers, of its intent to grant such a waiver, a description of the Federal statutory or regulatory requirements that the State educational agency proposes to waive, any improved performance of students that is expected to result from the waiver, and the State official—

(I) to whom comments on the proposed waiver may be sent by interested individuals and organizations; and

(II) who will make all the comments received available for review by any member of the public.

(B) APPROVAL AND CONSIDERATIONS.—The Secretary may approve an application described in subparagraph (A) only if the Secretary determines that such application demonstrates substantial promise of assisting the State educational agency and affected local educational agencies and schools within such State in carrying out comprehensive education reform, after considering—

(i) the comprehensiveness and quality of the education flexibility plan described in subparagraph (A);

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

(iii) the degree to which the State's objectives described in subparagraph (A)(iii)—

(I) are specific and measurable; and

(II) measure the performance of local educational agencies or schools and specific groups of students affected by waivers;

(iv) the significance of the State statutory or regulatory requirements relating to education that will be waived; and

(v) the quality of the State educational agency's process for approving applications for waivers of Federal statutory or regulatory requirements described in paragraph (1)(A) and for monitoring and evaluating the results of such waivers.

(4) LOCAL APPLICATION.—

(A) IN GENERAL.—Each local educational agency or school requesting a waiver of a Federal statutory or regulatory requirement described in paragraph (1)(A) and any relevant State statutory or regulatory requirement from a State educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require. Each such application shall—

(i) indicate each Federal program affected and the statutory or regulatory requirement that will be waived;

(ii) describe the purposes and overall expected results of waiving each such requirement;

(iii) describe, for each school year, specific, measurable, educational goals for each local educational agency, school, or group of students affected by the proposed waiver;

(iv) explain why the waiver will assist the local educational agency or school in meeting such goals; and

(v) provide an assurance that, not less than 30 days prior to submitting the application to the State educational agency for a waiver under this section, or in accordance with State law, the local educational agency or school shall give public notice in widely-read publications, such as large circulation newspapers and community newspapers, of its intent to request the waiver, a description of the Federal statutory or regulatory requirements that will be waived, any improved performance of students that is expected to result from the waiver, and the name and address of the local educational agency official—

(I) to whom comments on the proposed waiver may be sent by interested individuals and organizations; and

(II) who will make all the comments received available for review by any member of the public.

(B) EVALUATION OF APPLICATIONS.—A State educational agency shall evaluate an application submitted under subparagraph (A) in accordance with the State's education flexibility plan described in paragraph (3)(A).

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

(i) the local educational agency or school requesting such waiver has developed a local reform plan that is applicable to such agency or school, respectively; and

(ii) the waiver of Federal statutory or regulatory requirements described in paragraph (1)(A) will assist the local educational agency or school in meeting its educational goals.

(D) TERMINATION.—If a local educational agency or school that receives a waiver under this section experiences a statistically significant decrease in the level of performance in achieving the objectives described in paragraph (3)(A)(iii) or goals in paragraph (4)(A)(iii) for 2 consecutive years, the State educational agency shall, after notice and an opportunity for a hearing to explain such decrease, terminate the waiver authority granted to such local educational agency or school. If, after notice and an opportunity for a hearing, the State educational agency determines that the decrease in performance was justified due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency or school, the waiver shall not be terminated.

(5) MONITORING.—

(A) IN GENERAL.—Each State educational agency participating in the program under this section shall annually monitor the activities of local educational agencies and schools receiving waivers under this section and shall submit an annual report regarding such monitoring to the Secretary.

(B) PERFORMANCE DATA.—Not later than 2 years after a State is designated as an Ed-Flex Partnership State, each such State shall include performance data demonstrating the degree to which progress has been made toward meeting the objectives outlined in paragraph (3)(A)(iii).

(6) DURATION OF FEDERAL WAIVERS.—

(A) IN GENERAL.—The Secretary shall not approve the application of a State educational agency under paragraph (3) for a period exceeding 5 years, except that the Secretary may extend such period if the Secretary determines that such agency's authority to grant waivers has been effective in enabling such State or affected local educational agencies or schools to carry out their local reform plans.

(B) PERFORMANCE REVIEW.—Three years after a State is designated an Ed-Flex Partnership State, the Secretary shall—

(i) review the performance of any State educational agency in such State that grants waivers of Federal statutory or regulatory requirements described in paragraph (1)(A); and

(ii) terminate such agency's authority to grant such waivers if the Secretary determines, after notice and opportunity for a hearing, that such agency has failed to make measurable progress in meeting the ob-

jectives outlined in paragraph (3)(A)(iii) to justify continuation of such authority.

(7) **AUTHORITY TO ISSUE WAIVERS.**—Notwithstanding any other provision of law, the Secretary is authorized to carry out the education flexibility program under this subsection for each of the fiscal years 1999 through 2004.

(b) **INCLUDED PROGRAMS.**—The statutory or regulatory requirements referred to in subsection (a)(1)(A) are any such requirements under the following programs or Acts:

- (1) Title I of the Elementary and Secondary Education Act of 1965.
- (2) Part B of title II of the Elementary and Secondary Education Act of 1965.
- (3) Subpart 2 of part A of title III of the Elementary and Secondary Education Act of 1965 (other than section 3136 of such Act).
- (4) Title IV of the Elementary and Secondary Education Act of 1965.
- (5) Title VI of the Elementary and Secondary Education Act of 1965.
- (6) Part C of title VII of the Elementary and Secondary Education Act of 1965.

(7) The Carl D. Perkins Vocational and Technical Education Act of 1998.

(c) **WAIVERS NOT AUTHORIZED.**—The Secretary may not waive any statutory or regulatory requirement of the programs or Acts authorized to be waived under subsection (a)(1)(A)—

(1) relating to—

- (A) maintenance of effort;
- (B) comparability of services;
- (C) the equitable participation of students and professional staff in private schools;
- (D) parental participation and involvement;
- (E) the distribution of funds to States or to local educational agencies;
- (F) the selection of schools to participate in part A of title I of the Elementary and Secondary Education Act of 1965, except that a State educational agency may grant waivers to allow schools to participate in part A of title I of such Act if the percentage of children from low-income families in the attendance area of such school or who actually attend such school is within 5 percentage points of the lowest percentage of such children for any school in the local educational agency that meets the requirements of section 1113 of the Act;
- (G) use of Federal funds to supplement, not supplant, non-Federal funds; and
- (H) applicable civil rights requirements; and

(2) unless the underlying purposes of the statutory requirements of each program or Act for which a waiver is granted continue to be met to the satisfaction of the Secretary.

(d) **APPLICATION.**—

(1) **IN GENERAL.**—Except as provided in paragraphs (2) and (3), this Act shall not apply to a State educational agency that has been granted waiver authority under the following provisions of law:

- (A) Section 311(e) of the Goals 2000: Educate America Act.
- (B) The proviso referring to such section 311(e) under the heading “EDUCATION REFORM” in the Department of Education Appropriations Act, 1996 (Public Law 104–134; 110 Stat. 1321–229).

(2) **EXCEPTION.**—If a State educational agency that has been granted waiver authority, pursuant to paragraph (1)(A) or (B), applies to the Secretary to extend such authority, the provisions of this Act, except subsection (e)(1), shall apply to such agency.

(3) **EFFECTIVE DATE FOR EXISTING ED-FLEX PROGRAMS.**—This Act shall apply to a State educational agency described in paragraph (2) beginning on the date that such an extension is granted.

(e) **ACCOUNTABILITY.**—

(1) **EVALUATION FOR ED-FLEX PARTNERSHIP STATES.**—In deciding whether to extend a request for a State educational agency’s authority to issue waivers under this section, the Secretary shall review the progress of the State educational agency to determine if such agency—

- (A) makes measurable progress toward achieving the objectives described in the application submitted pursuant to subsection (a)(3)(A)(iii); and
- (B) demonstrates that local educational agencies or schools affected by such waiver or authority have made measurable progress toward achieving the desired results described in the application submitted pursuant to subsection (a)(4)(A)(iii).

(2) EVALUATION FOR EXISTING ED-FLEX PROGRAMS.—In deciding whether to extend a request for a State educational agency described in subsection (d)(2) to issue waivers under this section, the Secretary shall review the progress of the agency in achieving the objectives set forth in the application submitted pursuant to subsection (a)(2)(B)(iii) of the Goals 2000: Educate America Act.

(f) PUBLICATION.—A notice of the Secretary's decision to authorize State educational agencies to issue waivers under this section shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, other interested parties, and the public.

(g) EFFECTIVE DATE.—This Act shall be effective during the period beginning on the date of the enactment of this Act and ending on the date of the enactment of an Act (enacted after the date of the enactment of this Act) that reauthorizes the Elementary and Secondary Education Act of 1965 in its entirety.

#### PURPOSE

The purpose of H.R. 800, the "Education Flexibility Partnership Act of 1999," is to extend the waiver authority under the twelve-state "Education Partnership Flexibility Demonstration Act" to all fifty states. The legislation extends greater flexibility to states, school districts and schools in the operation of seven K-12 Federal elementary and secondary education programs in exchange for increased accountability for academic achievement.

#### SUMMARY

H.R. 800 expands education flexibility under the "Education Flexibility Partnership Demonstration Act" from twelve pilot states to all fifty states; increases academic accountability by requiring states and school districts to show specific and measurable educational goals that will be met as a result of the flexibility; adds the Technology Literacy Challenge Fund to the current-law list of six Federal K-12 programs for which waivers can be obtained; and adds civil rights requirements and a Title I-related provision to the list of requirements that cannot be waived.

#### COMMITTEE ACTION

##### *Hearings*

On February 25, 1999, the Subcommittee on Early Childhood, Youth and Families held a hearing entitled "Putting Performance First: Hearing on 'Ed-Flex' and its Role in Improving Student Performance and Reducing Bureaucracy." The hearing focused upon the issues surrounding the Education Flexibility Partnership Demonstration Act. Witnesses were invited to share their views on how Ed-Flex has worked in their participating states, including the numbers and types of waivers granted to their local school districts, and especially how Ed-Flex has worked at the local level. The hearing also focused upon the General Accounting Office's (GAO) report "Ed-Flex States Vary in Implementation of Waiver Process," released in November 1998. This report provided an overview of how Ed-Flex has been implemented in the current twelve states where it has been piloted and examined the criteria that states must meet to participate in Ed-Flex. It also presented GAO's findings on the usefulness of Ed-Flex authority, and identified certain accountability issues. The subcommittee received testimony from Dr. Carlotta Joyner, Director of Education and Employment Issues, General Ac-

counting Office, Washington, D.C., Ms. Madeleine Draeger Manigold, Coordinator of Waivers, Office for the Education of Special Populations, Texas Education Agency, Austin, Texas, Mr. Gregg Stubbs, Assistant Director, Division of Professional Development and Licensure, Ohio Department of Education, Columbus, Ohio, Dr. Michael E. Ward, Superintendent of Public Instruction, North Carolina Department of Public Instruction, Raleigh, North Carolina, and Dr. Lorraine A. Costella, Superintendent of Schools, Kent County Public Schools, Chestertown, Maryland.

In the 105th Congress, language to expand education flexibility waivers to all fifty states was included in H.R. 3248, the Dollars to the Classroom Act. H.R. 3248 passed the House on September 18, 1998 by a vote of 212–198. No legislative action on H.R. 3248 occurred in the Senate. In the fall of 1998, Representatives Castle and Roemer introduced H.R. 4590, which would have allowed all fifty states to apply for the “Ed-Flex” waiver authority. No committee or legislative action occurred on this bill.

#### *Legislative action*

On February 23, 1999, Subcommittee Chairman Castle (R–DE) and Representative Roemer (D–IN) introduced H.R. 800, “The Education Flexibility Partnership Act of 1999,” with 28 cosponsors. On March 3, 1999, the Committee on Education and the Workforce considered H.R. 800 in legislative session. The bill was favorably reported, as amended, by a vote of 33–9.

Subcommittee Chairman Mike Castle (R–DE) offered a committee substitute amendment. Thereafter, Rep. David Wu (D–OR) offered a class size reduction amendment which was ruled non-germane by Chairman Bill Goodling (R–PA). The ruling of the chair was appealed. A procedural vote to sustain the ruling of the chair then passed 23–15. Congressman George Miller (D–CA) offered an amendment relating to State assessments under Title I of the Elementary and Secondary Education Act. The amendment was defeated by a vote of 18–26. Next, Rep. Matthew Martinez (D–CA) offered an amendment relating to notice and comment which was accepted voice vote. Rep. Dale Kildee (D–MI) offered two amendments. The first was a sunset provision and the second related to termination of waiver authority for decreasing student performance. Both were accepted voice vote. Next, Rep. Rush Holt (D–NJ) offered and withdrew an amendment relating to math and science professional development. Rep. George Miller (D–CA) offered and withdrew a monitoring and reporting amendment. Finally, Rep. Bobby Scott (D–VA) offered an amendment relating to schoolwide projects under Title I of the Elementary and Secondary Education Act. The amendment was defeated by a vote of 20–24. There being no further amendments, the substitute amendment, as amended, was adopted voice vote.

The Committee on Education and the Workforce, with a majority of the Committee present, favorably reported H.R. 800 to the House by a vote of 33 to 9, on March 3, 1999.

## COMMITTEE VIEWS

*Historical perspective**The case for expanding ed-flex: federal programs place bureaucratic and regulatory burdens on all state and local school districts*

After decades of spending billions on federal education research and evaluation programs, very little is known about the effectiveness of the scores of federal elementary and secondary education programs administered by the U.S. Department of Education. Consequently, Congress lacks adequate data to determine what really works and what does not. Even the largest Federal elementary and secondary education program, Title I, has not been sufficiently evaluated to know if it is helping children learn. We are hopeful that the Department of Education will provide more useful data with respect to these programs during the next session of Congress.

Because Federal education programs are compliance and not performance-based, they generate a large amount of paperwork and require thousands of bureaucrats to administer the programs. Some examples of this burden are as follows:

*Burdensome Paperwork Requirements:* Even after accounting for recent reductions, the U.S. Department of Education still requires over 48.6 million hours worth of paperwork per year—the equivalent of 25,000 employees working full-time for a year.<sup>1</sup>

*Thousands of Federally-funded Employees at the State Level:* The Department of Education is one of the smallest Federal agencies. Yet, to administer all the Federal education programs within the states, there are nearly three times as many Federally funded employees working in state education agencies, as there are within the Federal Department of Education itself. According to GAO, there are about 13,400 FTEs (full-time equivalents) funded with Federal dollars to administer these programs.<sup>2</sup>

*A 487 Step Discretionary Grant Process:* In 1993, Vice-President Gore's National Performance Review discovered that the Department of Education's discretionary grant process lasted 26 weeks and took 487 steps from start to finish. It was not until three years later in 1996 that the Department finally took steps to begin "streamlining" their long and protracted grant review process, a process which has yet to be completed and fully implemented. After the streamlining is complete it will only take an average of twenty weeks and 216 steps to complete a review.<sup>3</sup>

The cumulative effect of federally designed programs and requirements takes its toll at the state and local level. Frank Brogan, the Florida Commissioner of Education, noted the extent of the command and control approach of Washington bureaucrats. In testimony on May 5, 1998, he stated,

<sup>1</sup> Marshall Smith, "Paper Reduction Act Accomplishments and Plans for Future," U.S. Department of Education, October 31, 1996.

<sup>2</sup> U.S. General Accounting Office, Education Finance: The Extent of Federal Funding in State Education Agencies, GAO/HEHS-95-3, October 1995, p. 11.

<sup>3</sup> U.S. Department of Education Report, "A Redesignated Discretionary Grant Process"—Vice President Gore's National Performance Review 1995. Redesignated process is due to be in place in 1998.

In practice, most federal education programs typify the misguided, one size fits all command and control approach that we in the states are abandoning. Most have the requisite focus on inputs like more regulation, increasing budgets and fixed options and processes. Conceptualized in Washington, with all good intentions, federal education programs often get translated into the growing bureaucratic thicket and prove counterproductive.

Brogan further noted that in Florida, because of Federal requirements, there are 297 state employees to oversee and administer approximately \$1 billion in Federal funds. By contrast, 374 state-funded positions oversee and administer over \$8 billion in state funds. Thus, six times as many people are required to administer a Federal dollar as a state dollar.

The state of Georgia has also found federal programs to require a disproportionate number of administrators. Georgia State Superintendent Linda Schrenko, who spent eighteen years as a public school teacher and principal, testified about the excessive administrative requirements of Federal programs. She noted that about 6.4 percent of the \$9.45 billion total education budget in Georgia (from all sources—Federal, state and local) in 1996–97 came from the Federal government. In that same year, the Georgia Department of Education had 322 employees, of whom 93 worked full-time filling out paperwork and administering the federal programs. In effect, this amounted to 29 percent of their employees administering the 6.4 percent of funds that came from Washington.

Federal education programs are for the most part one-size-fits-all solutions to problems that vary widely from state to state. Every state has different needs and priorities, and the paperwork and requirements which accompany federal programs often prevent them from best addressing these issues. States often have to plan their agendas around prescriptive federal constraints, as well as overlapping and often conflicting program requirements. Given that we do not currently even have sufficient data demonstrating the effectiveness of Federal programs, and the burdens necessarily placed on state and local school districts as a result, the Federal government should expand flexibility in federal programs. As much as possible it should defer to the states and local school districts to design their own programs for ensuring that all children receive a high quality education, while at the same time making sure that taxpayers receive their money's worth by ensuring that federal investments in education improve performance.

*Education flexibility for all 50 States under H.R. 800*

Currently, the GOALS 2000: Educate America Act, authorizes twelve states to participate in the Education Flexibility Partnership Demonstration Program (Ed-Flex). In exchange for increased accountability for results, Ed-Flex provides greater state and local flexibility in using Federal education funds to support locally-designed, comprehensive school improvement efforts. It accomplishes this by allowing states to approve local applications to receive waivers from certain Federal requirements that interfere with schools' ability to educate children instead of requiring them to

submit applications to the U.S. Department of Education each time they want to waive a burdensome requirement.

H.R. 800 removes the 12 state limitation as well as the demonstration nature of Ed-Flex. Under the bill, all 50 states would be eligible to apply for this authority, and no sound reason exists to delay extending this authority now. Furthermore, by enacting this legislation now, the immediate experience of the states can help Congress identify the areas of federal regulatory burdens for school districts and then address them during the ESEA reauthorization process. Widespread support exists for such a change. The National Governors Association, Republican Governors Association, Democratic Governors Association, National School Boards Association, American Association of School Administrators, Chamber of Commerce, Association of American Educators, National Association of State Boards of Education, and the National Education Association have all endorsed H.R. 800 and extending Ed-Flex authority to all 50 states.

President Clinton, on several occasions, has advocated for expanding this authority to all states. On February 22, 1998, President Clinton, in a speech to the National Governors Association, advocated extending Ed-Flex authority to all 50 states. The President stated,

\* \* \* I will also send to Congress this year legislation to expand the Ed-Flex program. \* \* \* There are I think a dozen of you now who are part of the Ed-Flex program. The legislation that I will send would make every state in the country eligible to be a part of it, which would dramatically reduce the regulatory burden of the federal government on the states in the area of education.

More recently, in an address to the Governors on February 22, 1999 here in Washington, DC, the President advocated for more flexibility. He stated,

Since I've been here, our administration has \* \* \* granted 357 waivers so that states and school districts can have the flexibility to try new approaches. We don't have any business telling you whom to hire, how to teach, [or] how to run schools. I have vigorously supported more school-based management, and more flexibility for you.

Secretary of Education Richard Riley, in a January 27, 1997 speech before the National School Boards Association also endorsed Ed-Flex. He said,

Under Ed-Flex, I have given nine states the authority to waive burdensome federal regulations, and three more states will be added to the list. Everybody likes Ed-Flex. It improves education and it sounds like a very healthy exercise program, too.

Secretary Riley also reaffirmed the Administration's support for Ed-Flex in his testimony before the House Committee on Education and the Workforce on February 11, 1999. He said "We are proposing to expand Ed-flex to allow all eligible States to participate." In responding to questions, Riley further commented that the Castle-Roemer Ed-Flex language which was discussed late in the 105th

Congress and which forms the basis for H.R. 800 is “very good language.”

*How Ed-Flex has been used in the 12 pilot States under current law to make Federal programs more effective*

First enacted in 1994, the “Education Flexibility Partnership Demonstration Act,” gives the Secretary of Education the ability to grant to State Educational Agencies (SEAs) in up to 12 states, broad authority to waive certain statutory and regulatory requirements of several major Federal education programs. In exchange for this flexibility, States must be held accountable for results. Ed-Flex, in short is a way of reducing the burden of Federal “one-size-fits-all” programs and reducing bureaucratic hoops that divert resources from schools and students by giving local school districts more freedom to design their own improvement plans. This waiver authority was originally granted to a maximum of six states when first enacted. It was later expanded to a maximum of 12 states in 1996. The current 12 Ed-Flex states are Colorado, Illinois, Iowa, Kansas, Maryland, Massachusetts, Michigan, New Mexico, Ohio, Oregon, Texas, and Vermont.

In general, Ed-Flex has been used to support reform in the 12 Ed-Flex pilot states in three ways. First, to facilitate the coordination of programs and to improve the planning process. Second, to waive time-consuming administrative requirements and eliminate bureaucratic paperwork, and third (and most significantly), to increase student achievement.

*Planning for results at the local level*

As the Department of Education has noted,<sup>4</sup> waivers obtained under Ed-Flex give districts the freedom to first envision what their educational system should look like, and then determine what statutory and regulatory barriers inhibit this vision from becoming a reality. It provides school districts with an incentive to think “outside the box” and focus federal resources more effectively and efficiently to support student achievement. Schools and districts can better take into consideration the needs of students to determine where and how resources should be allocated to improve performance. The current arrangement of separate, inflexible funding streams places the emphasis on process rather than on student achievement results.

Some specific examples of this use of Ed-Flex are worth noting. Oregon, using Ed-Flex authority, simplified its planning and application structure so that school districts can develop a single plan that meets state planning requirements, consolidates the application for federal funds, and requests waivers of both federal and state requirements.

Kent County, Maryland found, after looking at assessment results and other indicators for students at two elementary schools, that their greatest need was for better planning and coordination of student support services and improved reading and math instruction in the two schools. Each school had a poverty rate slightly

<sup>4</sup>Appendix B: Education Flexibility Demonstration Program (Ed-Flex), Goals 2000: Reforming Education to Improve Student Achievement, Department of Education, April 30, 1998.

below the 50 percent threshold requirement for schoolwide programs, and was able to obtain a waiver under Ed-Flex to conduct schoolwide programs. As a result, they were able to better plan and coordinate programs for the entire schools, not just a segment of the population. The testimony of Dr. Lorraine Costella, the Superintendent for Kent County confirmed these improvements at a hearing of the Subcommittee on Early Childhood, Youth and Families on February 25, 1999. In addition, Costella noted that one of the two schoolwide schools (Rock Hall Elementary), which incidentally now has 60 percent poverty, has the third highest test scores in the state of Maryland on the state assessment.

Finally, Greg Stubbs of the Ohio Department of Education, in noting the benefits of Ed-Flex, stated in his testimony before the Committee that

The greatest benefit to having Ed-Flex authority is that it, combined with the ability to waive State rules and statute[s], establishes a school-planning environment unencumbered by real or perceived regulatory barriers. This environment encourages creativity, thoughtful planning, and innovation. School improvement plans created in the absence of regulatory barriers are more likely to be faithfully implemented.

#### *Reducing bureaucracy*

Ed-Flex has enabled the 12 pilot states to waive burdensome administrative requirements and eliminate excessive paperwork requirements. In Texas, for example, nearly 4,000 administrative waivers have been granted to districts for several general administrative Federal regulations. One example of what this looks like is the requirement that a school district obtain prior approval of the state before it can transfer more than 10% of its total budget from within a given program from one budget category to another (such as from equipment to salaries). With Ed-Flex waiver authority, that prior approval is not necessary. The result has been a reduction in paperwork, and the freeing-up of time and resources for other uses. The waiver of administrative requirements, while indirectly related to improving achievement, has made it possible to focus greater attention on student achievement and less on meeting the various requirements, some of which are not necessary, to ensure program integrity.<sup>5</sup>

#### *Improving student performance*

Third, Ed-Flex has been used to increase student achievement. By focusing on academic accountability in exchange for increased flexibility, Ed-Flex signals that academic results are a far better measure of the effective use of resources than are the specific processes and inputs used to implement programs. Texas, for example, has used its Texas Assessment of Academic Skills (TAAS) and other indicators to report on student achievement within specific student populations, districts, and schools. While Ed-Flex states are only required to report student achievement results for schools and districts that have had waivers for two school years, Texas did

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<sup>5</sup> Ibid.

so within one year. Their data has shown that performance gains for African Americans, Hispanics and disadvantaged students in districts utilizing Ed-Flex have exceeded those of the state as a whole. The data also shows that the performance gap on the state assessment between Caucasian and other student groups closed at a faster rate between 1996 and 1997 for schools and districts with Ed-Flex waivers.<sup>6</sup>

On the whole, the majority of waivers under Ed-Flex have been for Title I compensatory education requirements, and of those waivers, most were made to allow schools below the 50 percent poverty threshold to become eligible to operate schoolwide programs. Schools often seek these waivers because operating a schoolwide program offers increased opportunities to support comprehensive efforts to upgrade an entire school, and thereby more effectively helping to improve the achievement levels of the lowest achieving students. Schoolwides accomplish this by allowing schools to commingle their funds from multiple programs to carry out this whole-school approach.

The testimony<sup>7</sup> of Madeleine Manigold, the coordinator of State and Federal waivers for the Texas Education Agency, states that preliminary test results in Texas show that Ed-Flex schoolwide waivers have been very successful in improving academic achievement for all populations of students in reading and mathematics. In particular, for all Ed-Flex waivers under Title I, Texas requires the school or district to make enough gain each year so that in five years 90 percent of all students, and 90 percent of all African American, Hispanic, Caucasian and economically disadvantaged students will be passing the state's assessment instruments in reading and math. For the period 1996-1998, Texas achieved the Ed-Flex goal of 90 percent for all students and all groups of students—African American, Hispanic, and economically disadvantaged. Even more important is the fact that the performance gap is closing at schools with Ed-Flex Title I schoolwide waivers at an even greater rate than in the state of Texas as a whole, as earlier mentioned.

The state of Maryland has also had success with Title I schoolwide programs. In Garrett County, an Ed-Flex waiver was granted which allowed the district to lower the 50 percent threshold required for schoolwides to 45 percent at two elementary schools. Under the waiver, both schools reassigned Title I-funded teachers to the primary grade levels during reading and language arts instruction, thereby reducing the teacher to student ratio to approximately 1 to 15 for the instructional time. Additionally, out of recognition of the need for increased content knowledge of teachers in mathematics, the schools have begun employing teacher specialists in this critical area. Each year the Garrett County schools administer the Comprehensive Test of Basic Skills (also known as TerraNova) to students in grades 2, 4, 6, and 11. Both of the elementary schools with schoolwide projects have shown achievement gains well above national averages.

<sup>6</sup> Ibid.

<sup>7</sup> Testimony of Madeleine Draeger Manigold, Coordinator of State and Federal Waivers, Texas Education Agency, at hearing of Subcommittee on Early Childhood, Youth and Families on February 25, 1999.

Two additional frequently-sought waivers are for within-district allocations of Title I funds and for the use of Title II Eisenhower Professional Development funds to support subject areas other than math and science. Waivers for within-district allocations of Title I dollars enable a district to allocate Title I funds to schools on the basis of educational needs, which do not always perfectly correlate with the number of economically disadvantaged children attending a school. Generally, these Title I waivers are made to target the funds more directly to areas where achievement is low or to provide temporary services to a school that will soon be affected by changes in school boundaries.

At current funding levels, the Eisenhower Professional Development Program requires that a majority of its funds be used for math and science purposes. We expect this will largely continue to be followed, but Ed-Flex allows districts to request that this requirement of the program be waived to enable a district to first identify the subject areas where achievement is low and to prioritize professional development in these areas. Often a district utilizes the waiver to bolster training for teachers in reading. It should be noted that the district is held accountable for ensuring that reading scores improve while scores for math and science are maintained or improved.<sup>8</sup> In Texas, for example, the expectation is that each district will make an annual gain in mathematics for all students and for each student group. Ohio does not grant such waivers to districts with math and science test scores below a certain threshold.

The Committee believes that in order for states and local school districts to be as effective as possible, they should not be hamstrung by relatively small Federal funding streams that generate disproportionate amounts of paperwork and requirements. The Federal government should reward good performance, not compliance. To that end, states should ultimately be given the freedom to determine how to spend Federal funds to raise student achievement according to the needs of their students in exchange for increased accountability for producing results. Ed-Flex is an important first step in this direction. However, it represents only a modest step forward because it only applies to a portion of K-12 programs, and does not give states flexibility to consolidate funds to better coordinate them with state efforts to improve achievement.

*How H.R. 800 Strengthens Accountability*

*GAO Report on Ed-Flex implementation: More accountability needed to ensure results*

On its own, Ed-Flex is a relatively limited program that allows within-program flexibility, but does not provide for program fund consolidating or optional block granting to school districts. Consequently, in order for it to be most effective it must be a component of a larger plan to improve student achievement. Apart from a comprehensive state reform effort, Ed-Flex on its own it cannot effect enough change to warrant the expectation that student performance will improve.

<sup>8</sup>Appendix B: Education Flexibility Demonstration Program (Ed-Flex), Goals 2000: Reforming Education to Improve Student Achievement, Department of Education, April 30, 1998.

Under current law, states are not required to demonstrate that student performance is improving to maintain their Ed-Flex status. Consequently, GAO found that within certain states, objectives and goals were more subjective and less quantifiable in terms of student achievement. The state of Texas, however, has served as a model of how accountability should operate under Ed-Flex. It tracks the performance of students affected by such waivers and has found that students are performing well. Therefore, in order to encourage similar tracking of results, H.R. 800 requires states and locals to outline specifically in their applications measurable performance objectives, how they intend to measure these objectives, and to submit this information to the Secretary.

#### *Eligibility*

In order for states to be eligible for Ed-Flex they must meet certain requirements. First of all, they must either have implemented their Title I plan, or have made substantial progress towards doing so, as determined by the Secretary. This means that states must have either: (1) developed and implemented their Title I content and performance standards and their assessments; or, (2) developed and implemented content standards and interim assessments, and have made substantial progress towards implementing performance standards and aligned assessments as required by Title I. The Committee view is that these elements must be in place in order for a state to adequately ensure that disadvantaged students are making adequate performance gains under Ed-Flex. States must also agree to hold local educational agencies and schools accountable for meeting goals they set as part of the waiver application process.

In order to encourage comprehensive flexibility, state education agencies must also be able to waive either their state statutes or regulations to be eligible for Ed-Flex. They are not required to have the authority to waive both. This requirement gives states the incentive to reduce state regulatory and statutory burdens upon local schools. In addition, sometimes state regulations or statutes duplicate federal regulations such that both must be waived for a local applicant to be able to implement their reform plan.

In states such as Arizona, whose SEA is defined as the state board of education, the authority of the state board to waive regulations should be considered sufficient state waiver authority to be considered eligible for Ed-Flex.

#### *Application process*

In order to ensure that states and local applicants set measurable performance goals that specifically measure the performance of LEAs, schools and students affected by waivers, the Committee has added additional accountability language to the original Ed-Flex authority.

#### *State applications*

H.R. 800 provides that states must demonstrate that they have adopted an education flexibility plan for the state. They must describe how they will evaluate local waiver applications, and what state requirements the SEA intends to waive. In their applications

they must describe what specific objectives they intend to meet, and how they intend to measure the progress of LEAs and hold them accountable to meet their own specific waiver objectives.

Applications submitted to the Secretary will be evaluated according to the degree to which the plan will assist them in carrying out comprehensive education reform. The objectives must be measurable and specific, and measure the performance of schools, LEAs or groups of students affected by these waivers. Tracking performance measures helps to ensure that federal programs are improving student performance, and that students who might have otherwise received direct services without the waiver continue to improve.

For example, the state of Texas reports the test scores of students affected by schoolwide waivers by race and whether students are economically disadvantaged in order to ensure that all students are making gains. Their waiver board at the state level also helps to set performance standards for individual waiver requests in order to measure their progress. Texas school districts with declining performance for two consecutive years are subject to having their waiver terminated.

Any anticipated changes in state assessments should be detailed in a State's application, and should include a description of the steps they will take to provide the Secretary with adequate and reliable performance data to properly evaluate the progress of student performance measures.

The Secretary will also consider the comprehensiveness and quality of their plan, and the significance of the state regulatory or statutory requirements that will be waived, and the quality of the approval process they intend to have in place.

States that wish to request the authority to issue statewide waivers must specifically request this authority when they submit their application to the Secretary. States with this authority, such as Texas and Ohio, have generally had more success in integrating Ed-Flex with their state reform efforts.

#### *Local applications*

LEAs and individual schools can submit waiver applications to their state education agencies. As part of their application, local applicants must describe why they want such a waiver and the overall results they expect. Such a requirement is in keeping with the purpose of Ed-Flex in assisting LEAs and schools to remove roadblocks to implementing reform, not providing piecemeal regulatory relief. Local applicants must also set specific and measurable goals to achieve on an annual basis.

Local applicants are required to measure the performance of schools and groups of students affected by waivers. For example, if a district requests a waiver to allocate additional Eisenhower Professional Development Funds to train teachers in effective reading instruction methods, it should monitor the performance of students in math and science to ensure that they maintain or increase their performance

In setting specific, measurable performance objectives, local applicants may distinguish between administrative waivers, which indirectly affect student performance, and programmatic waivers,

which directly affect student performance. Performance objectives should be appropriate to the waivers requested.

*Federal oversight under H.R. 800*

The Secretary has several means by which to exercise oversight over a State's use of their Ed-Flex authority.

*Monitoring provisions*

States are annually required to monitor the progress of local waiver recipients, and submit an annual report of their findings to the Secretary. Two years after receiving their Ed-Flex authority, states must include performance data in their annual reports in order to demonstrate how much progress has been made towards meeting their educational objectives outlined in their applications. This performance data should include, but is not limited to, student achievement data for the groups of students, schools and districts affected by waivers. States should include information on the number and types of waivers granted. Moreover, states should ensure that this data is consistent over the five-year period of their waiver authority.

*Performance review*

The Committee strengthened language under this section to ensure that the Secretary conducts a performance review three years after a state is designated as an Ed-Flex state. As part of this review, the Secretary can terminate a state's authority to grant waivers if the state has not made measurable progress towards reaching its stated objectives, after proper notice and opportunity for a hearing.

*Application to renew Ed-Flex status*

H.R. 800 holds states accountable for results by requiring the Secretary to consider state performance before renewing their Ed-Flex status. States that fail to produce measurable results can lose their Ed-Flex authority.

The Secretary is authorized to designate states as Ed-Flex states for up to five years. Once the authority has expired, states that wish to continue to participate in this program must request permission. In deciding whether to extend a states' request, the Secretary will review the degree to which a state has made measurable progress toward meeting the objectives submitted in their application. The Secretary will also review the state's track record in ensuring that local applicants meet their performance objectives.

*Authority of current Ed-Flex States remains the same under H.R. 800*

The authority of the twelve States with Ed-Flex under existing law will not be affected until they apply to renew their Ed-Flex status. When these states apply to receive approval from the Secretary to continue their Ed-Flex waiver, they will then be required to meet the requirements of this legislation. However, the Secretary shall evaluate the progress these states have made toward achieving their objectives under Ed-Flex according to the statute under which they originally received their Ed-Flex authority.

*New program to which Ed-Flex applies under H.R. 800*

Current law allows the 12 pilot states to use Ed-Flex waiver authority for the following Federal Elementary and Secondary Education Act programs: (1) Title I assistance to the educationally disadvantaged; (2) Title II Eisenhower professional development state grants; (3) Title IV Safe and Drug Free Schools grants; (4) Title VI education block grant; (5) Title VII Emergency Immigrant Education Act grants; and (6) the Carl Perkins Vocational and Applied Technology Education Act grants. A characteristic common to each of these programs is that they are state-administered, formula grant, Federal K-12 education programs. Section 4(b) of H.R. 800 would expand the current law's list of programs to also include the Technology Literacy Challenge Fund, another state-administered, formula grant, Federal education program. This program was not authorized when Ed-Flex was first authorized in 1994.

*Requirements that cannot be waived under H.R. 800*

Finally, it should be noted that several elementary and secondary education requirements may not be waived. Those requirements are maintenance of effort, comparability of services, equitable participation by private school pupils and teachers, parental involvement, and the allocation of funds to States and LEAs. Section 4(c) of H. R. 800 adds to the list of things that cannot be waived the use of funds to supplement and not supplant, non-Federal funds, the selection of schools to participate in Title I Part A unless a school's poverty rate is within 5 percentage points of the lowest poverty rate of a school that qualifies for Title I without a waiver, and applicable civil rights requirements.

*H.R. 800 protects civil rights*

Even though civil rights requirements cannot not be waived, they are specifically listed in the non-waivable section of the bill. Civil rights laws are separate, independent freestanding statutes and not part of the Federal elementary and secondary education programs to which Ed-Flex applies. However, the Committee wished to address this specifically to alleviate any concern that Ed-Flex could in some way be used to subvert federal civil rights requirements.

*Protects high poverty schools*

H.R. 800 gives local school districts the flexibility to use federal funds to address their needs better and focus on improving student achievement. However, with respect to Title I, the Committee has taken certain steps to ensure that Ed-Flex waivers can only be used to allocate funds to otherwise ineligible schools if they are marginally (five percentage points) below the lowest poverty rate of a school that qualifies for Title I without a waiver. If a district wishes to request a waiver to allocate funds to schools with poverty rates that are not marginally below what is required, they would still be able to request a waiver from the Federal Department of Education.

The Citizens' Commission on Civil Rights issued a report on Title I, which specifically addresses the issue of eligibility and targeting waiver requests. While it only addresses the Department's use of

the ESEA waiver authority and not Ed-Flex per-se, certain inferences can be made from the local waiver requests. Most of the waivers were for schools that were very close to qualifying for Title I services, and districts requesting such waivers were usually small so the overall fiscal impact was somewhat limited. Overall, the Commission found that the Department generally made reasonable case-by-case waiver determinations and required that the needs of the higher poverty schools would be adequately addressed. It also found that these waivers “did not seriously undermine the statute’s intent to target aid to poor children.”

H.R. 800 requires local school districts to measure the performance of schools and groups of students affected by waivers. Therefore, when school districts allocate funds to schools within five percent of the qualifying Title I school with the lowest poverty, they will be required to demonstrate that disadvantaged students in all affected schools continue to improve their performance.

*Ed-Flex: Focusing Federal programs on students and results*

Although Ed-Flex is a relatively small, limited program, it can serve as a catalyst at the local level to effect meaningful change in the classroom by creating a climate of innovation and reform, and by focusing resources on students, not process. The commitment that teachers, parents, and administrators must make to request a waiver, the meaningful planning that takes place when local educators have the flexibility to design and implement their own programs based upon the needs of students in their communities, and the use of the data on each student group to evaluate the results, all work together to bring this about.

Ed-Flex gives states more freedom to design their own reform efforts to meet their needs and not merely follow the contours of federal requirements at every turn. In the end, what matters are results. H.R. 800 provides all states with the opportunity to focus federal programs on results and implement effective education reforms to produce them.

SECTION-BY-SECTION ANALYSIS

Section 1—gives the short title of the act as the “Education Flexibility Partnership Act of 1999”.

Section 2—states the Findings for the Act.

Section 3—Definitions.

(1) Term “Attendance Area” is used as defined by ESEA of 1965.

(2) “Ed-Flex Partnership State” means an eligible state.

(3) References to “Local Educational Agency” and “State Educational Agency” have the meaning given such terms in section 14101 of the Elementary and Secondary Education Act of 1965.

(4) References to “Secretary” refer to the Secretary of Education.

(5) References to “State” means each of the 50 states, the District of Columbia, Puerto Rico, and the outlying areas.

Section 4—Describes the Education Flexibility Partnership.

(a) Authorizes the Education Flexibility Program.

(1) authorizes the Secretary to carry out an education flexibility program and designate states as “Ed Flex Partnership States.”

(2) states the eligibility requirements for a state to become an “Ed-Flex Partnership State”.

(a)(3) Describes the process by which states apply to the Secretary to become an Ed-Flex state and the criteria by which applications are evaluated.

(4) Describes the process by which local school districts can apply to their state educational agency to request federal and state statutory or regulatory waivers and the criteria by which applications are evaluated.

(5) States that each participating state educational agency will monitor waiver recipients and submit an annual report containing performance data to the Secretary.

(6) States that the Secretary will not approve state applications for a period longer than five years and that the Secretary shall conduct a performance review three years after a state is designated as an Ed-Flex Partnership State.

(7) Authorizes the program from fiscal year 1999 through 2004.

(b) Sets forth the programs included in this Act as Title I, Part B of Title II; Title III, Subpart 2 of part A; Title IV, Title VI, and Title VII, of the Elementary and Secondary Education Act of 1965, and the Perkins Vocational and Applied Technology Education Act.

(c) Describes the waivers not authorized by this act.

(d) States that this act does not apply to current Ed-Flex states until their authorization expires.

(e) Describes the evaluation criteria for which state educational agencies are held accountable when the Secretary decides whether to renew a request for a State’s authority to issue waivers.

(f) States that the Secretary’s decision to grant states waiver authority shall be published in the Federal Register.

(g) Sets the effective dates of this Act to begin on enactment and to end on the enactment of the reauthorization of the Elementary and Secondary Education Act.

#### EXPLANATION OF AMENDMENTS

The Amendment in the Nature of a Substitute is explained in the body of this report.

#### APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch. This bill makes all fifty states eligible for the Education Flexibility Partnership Demonstration Program. The bill does not prevent legislative branch employees from receiving the benefits of this legislation.

#### UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement of whether the provisions of the reported bill include unfunded mandates. This bill

makes all fifty states eligible for the Education Flexibility Partnership Demonstration Program. As such, the bill does not contain any unfunded mandates.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each record vote on a motion to report the measure or matter and on any amendment offered to the measure of matter the total number of votes cast for and against and the names of the Members voting for and against.

## COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 1 BILL H.R. 800 DATE March 3, 1999  
 PASSED 23 - 15

SPONSOR/AMENDMENT Chairman Goodling / to sustain the ruling of the Chair

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. GOODLING, Chairman	X			
Mr. PETRI, Vice Chairman	X			
Mrs. ROUKEMA	X			
Mr. BALLENGER	X			
Mr. BARRETT				X
Mr. BOEHNER	X			
Mr. HOEKSTRA	X			
Mr. McKEON	X			
Mr. CASTLE	X			
Mr. JOHNSON	X			
Mr. TALENT				X
Mr. GREENWOOD	X			
Mr. GRAHAM	X			
Mr. SOUDER	X			
Mr. McINTOSH				X
Mr. NORWOOD	X			
Mr. PAUL	X			
Mr. SCHAFFER	X			
Mr. UPTON	X			
Mr. DEAL	X			
Mr. HILLEARY	X			
Mr. EHLERS	X			
Mr. SALMON	X			
Mr. TANCREDO				X
Mr. FLETCHER	X			
Mr. DEMINT	X			
Mr. ISAKSON	X			
Mr. CLAY		X		
Mr. MILLER		X		
Mr. KILDEE		X		
Mr. MARTINEZ		X		
Mr. OWENS		X		
Mr. PAYNE		X		
Mrs. MINK		X		
Mr. ANDREWS		X		
Mr. ROEMER		X		
Mr. SCOTT		X		
Ms. WOOLSEY		X		
Mr. ROMERO-BARCELO				X
Mr. FATAH				X
Mr. HINOJOSA				X
Mrs. McARTHUR		X		
Mr. TIERNEY				X
Mr. KIND		X		
Ms. SANCHEZ				X
Mr. FORD				X
Mr. KUCINICH				X
Mr. WU		X		
Mr. HOLT		X		
<b>TOTALS</b>	23	15		11

## COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 2 BILL H.R. 800 DATE March 3, 1999

AMENDMENT NUMBER 3 DEFEATED 18 - 26

SPONSOR/AMENDMENT Mr. Miller / amendment to require states to have their Title I final state assessments in place in order to be eligible to participate in Ed-Flex

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. GOODLING, Chairman		X		
Mr. PETRI, Vice Chairman		X		
Mrs. ROUKEMA		X		
Mr. BALLENGER		X		
Mr. BARRETT		X		
Mr. BOEHNER				X
Mr. HOEKSTRA		X		
Mr. McKEON		X		
Mr. CASTLE		X		
Mr. JOHNSON		X		
Mr. TALENT		X		
Mr. GREENWOOD		X		
Mr. GRAHAM		X		
Mr. SOUDER		X		
Mr. McINTOSH		X		
Mr. NORWOOD		X		
Mr. PAUL		X		
Mr. SCHAFFER				X
Mr. UPTON		X		
Mr. DEAL		X		
Mr. HILLEARY		X		
Mr. EHLERS		X		
Mr. SALMON		X		
Mr. TANCREDO		X		
Mr. FLETCHER		X		
Mr. DEMINT		X		
Mr. ISAKSON		X		
Mr. CLAY	X			
Mr. MILLER	X			
Mr. KILDEE	X			
Mr. MARTINEZ	X			
Mr. OWENS	X			
Mr. PAYNE	X			
Mrs. MINK	X			
Mr. ANDREWS	X			
Mr. ROEMER		X		
Mr. SCOTT	X			
Ms. WOOLSEY	X			
Mr. ROMERO-BARCELO				X
Mr. FATTAH	X			
Mr. HINOJOSA				X
Mrs. McARTHUR	X			
Mr. TIERNEY	X			
Mr. KIND	X			
Ms. SANCHEZ				X
Mr. FORD	X			
Mr. KUCINICH	X			
Mr. WU	X			
Mr. HOLT	X			
<b>TOTALS</b>	<b>18</b>	<b>26</b>		<b>5</b>

## COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 3 BILL H.R. 800 DATE March 3, 1999

AMENDMENT NUMBER 9 DEFEATED 20 - 24

SPONSOR/AMENDMENT Mr. Scott / amendment to limit the threshold for waivers in Title I funds for schoolwide programs serving less than 35 percent of low-income children

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. GOODLING, Chairman		X		
Mr. PETRI, Vice Chairman		X		
Mrs. ROUKEMA		X		
Mr. BALLENGER		X		
Mr. BARRETT		X		
Mr. BOEHNER				X
Mr. HOEKSTRA		X		
Mr. McKEON				X
Mr. CASTLE		X		
Mr. JOHNSON		X		
Mr. TALENT		X		
Mr. GREENWOOD		X		
Mr. GRAHAM		X		
Mr. SOUDER		X		
Mr. McINTOSH		X		
Mr. NORWOOD				X
Mr. PAUL		X		
Mr. SCHAFFER		X		
Mr. UPTON		X		
Mr. DEAL		X		
Mr. HILLEARY		X		
Mr. EHLERS		X		
Mr. SALMON		X		
Mr. TANCREDO		X		
Mr. FLETCHER		X		
Mr. DEMINT		X		
Mr. ISAKSON		X		
Mr. CLAY	X			
Mr. MILLER	X			
Mr. KILDEE	X			
Mr. MARTINEZ	X			
Mr. OWENS	X			
Mr. PAYNE	X			
Mrs. MINK	X			
Mr. ANDREWS	X			
Mr. ROEMER	X			
Mr. SCOTT	X			
Ms. WOOLSEY	X			
Mr. ROMERO-BARCELO				X
Mr. FATTAH	X			
Mr. HINOJOSA	X			
Mrs. McCARTHY	X			
Mr. TIERNEY	X			
Mr. KIND	X			
Ms. SANCHEZ				X
Mr. FORD	X			
Mr. KUCINICH	X			
Mr. WU	X			
Mr. HOLT	X			
<b>TOTALS</b>	<b>20</b>	<b>24</b>		<b>5</b>

## COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 4

BILL H.R. 800

DATE March 3, 1999

PASSED 33 - 9

SPONSOR/AMENDMENT Mr. Petri / motion to report the bill to the House with an amendment  
and with the recommendation that the amendment be agreed to and that the bill as amended do pass

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. GOODLING, Chairman	X			
Mr. PETRI, Vice Chairman	X			
Mrs. ROUKEMA	X			
Mr. BALLENGER	X			
Mr. BARRETT	X			
Mr. BOEHNER				X
Mr. HOEKSTRA	X			
Mr. McKEON	X			
Mr. CASTLE	X			
Mr. JOHNSON	X			
Mr. TALENT	X			
Mr. GREENWOOD	X			
Mr. GRAHAM	X			
Mr. SOUDER	X			
Mr. McINTOSH	X			
Mr. NORWOOD				X
Mr. PAUL	X			
Mr. SCHAFFER				X
Mr. UPTON	X			
Mr. DEAL	X			
Mr. HILLEARY	X			
Mr. EHLERS				X
Mr. SALMON	X			
Mr. TANCREDO	X			
Mr. FLETCHER	X			
Mr. DEMINT	X			
Mr. ISAKSON	X			
Mr. CLAY		X		
Mr. MILLER		X		
Mr. KILDEE	X			
Mr. MARTINEZ	X			
Mr. OWENS		X		
Mr. PAYNE		X		
Mrs. MINK		X		
Mr. ANDREWS	X			
Mr. ROEMER	X			
Mr. SCOTT		X		
Ms. WOOLSEY		X		
Mr. ROMERO-BARCELO				X
Mr. FATTAH				X
Mr. HINOJOSA	X			
Mrs. McCARTHY	X			
Mr. TIERNEY		X		
Mr. KIND	X			
Ms. SANCHEZ				X
Mr. FORD	X			
Mr. KUCINICH		X		
Mr. WU	X			
Mr. HOLT	X			
<b>TOTALS</b>	<b>33</b>	<b>9</b>		<b>7</b>

## CORRESPONDENCE

HOUSE OF REPRESENTATIVES,  
Washington, DC, March 4, 1998.

Hon. WILLIAM F. GOODLING,  
*Chairman, Committee on Education and the Workforce, Rayburn  
House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: On roll call vote number four, regarding reporting H.R. 800 to the House floor, I was unavoidably detained due to legislative duties. Had I been present, I would have voted aye.

I would appreciate this letter being inserted into the Committee's report. Thank you for your attention to this matter.

Sincerely,

CHARLIE NORWOOD, *Member of Congress.*

HOUSE OF REPRESENTATIVES,  
Washington, DC, March 3, 1999.

Hon. WILLIAM GOODLING,  
*Chairman, Committee on Education and the Workforce, Rayburn  
House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: On roll call vote number four, regarding reporting H.R. 800 to the House floor, I was unavoidably detained due to legislative duties. Had I been present, I would have voted aye.

I would appreciate this letter being inserted into the Committee's report. Thank you for your attention to this matter.

Very truly yours,

BOB SCHAFFER, *Member of Congress.*

HOUSE OF REPRESENTATIVES,  
Washington, DC, March 3, 1999.

Hon. WILLIAM F. GOODLING,  
*Chairman, Committee on Education and the Workforce, Rayburn  
House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: On roll call vote number four, regarding H.R. 800 to the House floor, I was unavoidably detained due to legislative duties. Had I been present, I would have voted aye.

I would appreciate this letter being inserted into the Committee's report. Thank you for your attention to this matter.

Sincerely,

VERNON J. EHLERS, *Member of Congress.*

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE  
COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST  
ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of 3(c)(3) of rule XIII of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 800 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, March 5, 1999.*

Hon. WILLIAM F. GOODLING,  
*Chairman, Committee on Education and the Workforce,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed revised cost estimate for H.R. 800, the Education Flexibility Partnership Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Josh O'Harra.

Sincerely,

BARRY B. ANDERSON,  
(For Dan L. Crippen, Director).

Enclosure.

*H.R. 800—Education Flexibility Partnership Act of 1999*

Summary: H.R. 800 would implement a nationwide policy allowing the Department of Education to delegate to states a portion of its waiver-granting authority. Under this bill, state education agencies could decide whether particular school districts could waive requirements imposed by certain federal regulations. Currently, education flexibility waivers are available to 12 states for demonstration purposes.

CBO estimates that this bill would have no budgetary impact. H.R. 800 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). Any costs to state and local governments resulting from enactment of the bill would be incurred voluntarily. Tribal governments would not be affected by the provisions of H.R. 800.

Basis of estimate: H.R. 800 would require that states meet two criteria in order to qualify for waivers. First, states and districts must have in place, or be making substantial progress toward, the standards and assessments described in Title I of the Elementary and Secondary Education Act (ESEA). Second, state education agencies must have the ability to modify their own regulatory or statutory requirements to make them consistent with the federal waivers they grant.

The bill would allow states to waive the requirements of seven education programs: titles I, IV, and VI of ESEA; part B of title II of ESEA; subpart 2 of part A of title III of ESEA; part C of title VII of ESEA; and the Carl D. Perkins Vocational and Technical Education Act.

The waivers would neither affect the total amount of a state's federal grant nor the state's allocation among competing districts but could change the allocation received by the schools within a given district.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 800 contains no private-sector or intergovernmental mandates as defined in UMRA. The bill would allow officials in all 50 states to participate in the education flexibility partnership. Twelve states now participate in the education flexibility demonstration program, which gives state officials the authority to temporarily free individual school districts from certain requirements under specified federal education grant programs. Participation in these programs would be voluntary, as would any associated costs. Tribal governments would not be affected by the provisions of this bill.

Previous CBO estimates: On March 4, 1999, CBO provided an estimate of this bill. The current estimate revises the earlier one, by deleting incorrect references to the Goals 2000 program and to any redistribution of funds among school districts. Neither estimate contains a budgetary impact.

On February 10, 1999, CBO estimated S. 280, the Education Flexibility Partnership Act of 1999. That bill had no budgetary impact.

Estimate prepared by: Federal Cost: John O'Harra; Impact on State, Local, and Tribal Governments: Susan Sieg; and Impact on the Private Sector: Nabeel Alsalam.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

#### STATEMENT OF OVERSIGHT FINDINGS OF THE COMMITTEE ON GOVERNMENT REFORM

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on the subject of H.R. 800.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress in the Constitution to enact the law proposed by H.R. 800. The Committee believes that the Education Flexibility Partnership Demonstration Program and the amendments thereto made by this bill are within Congress' authority under Article I, section 8, clause 1 of the Constitution.

#### COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 800. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Direc-

tor of the Congressional Budget Office under section 402 of the Congressional Budget Act.

CHANGES IN EXISTING LAW

There are no changes to existing law made by this bill.

## MINORITY VIEWS

H.R. 800, the Education Flexibility Partnership Act, authorizes States to waive Federal statutory and regulatory provisions of certain Federal education programs. We support flexibility in the administration of Federal education programs, but only if coupled with strong accountability provisions, and an emphasis on serving poor children. H.R. 800 fails on both accounts. H.R. 800 provides inadequate accountability to ensure valid and reliable reporting and increased student achievement. Additionally, the bill would allow States to significantly diminish the mission of Title I, which is to serve our poorest schools and children first.

We are pleased that the latest data from the National Assessment of Education Progress (NAEP) showed that 9-year olds in the poorest schools improved their reading scores by eight points or almost one grade level between 1992 and 1998. In addition, in the recently released report, *Promising Results, Continuing Challenges*, the achievement of elementary school students in high poverty schools in 4 out of 5 states in mathematics and in 5 out of 6 States in reading improved. Also, 10 out of 13 urban districts showed increases in the percentage of elementary students in the highest-poverty schools achieving in math and reading. Secretary Riley believes that these results from 6 States and 13 urban school districts are attributable to Title I assistance.

These indicators of measurable success should only serve to broaden our commitment to increasing investment in public schools, to continue our targeting to the poorest children, and to insist on greater accountability for results.

We think it is irresponsible to allow States to waive our major elementary and secondary programs before we have even begun the process of reauthorization. How does it make sense to authorize waiving a law before it's drafted?

Other than an attempt by the Majority to score political points, there is no urgency for this bill. Current law authorizes Secretary Riley to waive Federal education laws, and he has granted hundreds of such waivers. Secretary Riley testified that he believes this measure should be considered with the overall ESEA reauthorization. Further, the GAO recently reported that the Department of Education has insufficient information to assess the Ed-Flex Pilot that allowed waivers in 12 states. And recently, the Leadership Conference on Civil Rights wrote that Ed-Flex, as drafted, "could undermine the fundamental objectives of Title I."

### *Title I targeting*

Under H.R. 800, States which receive Ed-Flex authority may allow waivers of both the threshold for schools to operate "schoolwide programs," and provisions which require school districts to send higher per-pupil allocations to needy schools. Pres-

ently, the Title I statute allows schools with at least 50 percent of their children from low-income families to operate a schoolwide program. Schoolwide programs allow schools with high concentrations of poverty to combine funding from various Federal education programs with the goal of enacting whole school reform aimed at increasing the educational achievement of all students. This provision has been a vital reform in Title I schools with high percentages of poor children because it allows schools to coordinate efforts among Federal programs targeted at the most needy children that would not happen without such authority. Unfortunately, this bill would allow waivers for schools with practically zero poor children to implement schoolwide programs and neglect the needs of disadvantaged children. Congressmen Scott and Payne offered an amendment to prohibit the approval of waivers which allowed schools with less than 35 percent poverty from operating a schoolwide program. This amendment failed on a party-line vote.

Under current law, if a school district sends funds to schools with less than 35 percent of their students from low-income families, they must allocate, to each school, a 125 percent per-pupil allocation. This prevents school districts from succumbing to political pressure to spread Title I funding too thinly. Very simply, the waiver of the 125 percent provision will mean that higher poverty schools will receive substantially less in funding. While the introduced bill would have addressed this issue, the manager's package of amendments removed language that would have prevented a waiver of this provision.

This bill would also allow school districts to waive the requirement that prohibits giving wealthier schools more per student than poorer schools.

The Majority claims that H.R. 800 will not reduce funding for poor children. In fact, with the lack of data on Ed-Flex justifying its expansion, we presently know little about the impact of waiving Title I targeting provisions. However, an initial report from the Department of Education found that waivers reduced funds for poor children by 18 percent in 1995–96. If this trend was extended nationwide, it would have a devastating effect on our most disadvantaged school children.

#### *Accountability*

The Majority claims that this legislation provides the proper balance between accountability and flexibility—demanding results without dictating how to achieve them. While the Committee reported bill is improved in this respect over the introduced version, we believe the accountability provisions in this legislation must be strengthened.

Representatives Miller and Kildee offered three amendments to improve the accountability provisions in this legislation. The first amendment would require States, in order to be eligible to participate in Ed-Flex, to have their content and performance standards and aligned assessments required under the Title I statute in place. In addition, this amendment would reinforce that assessments should be designed to measure change in student performance from year to year and disaggregate data based on categories of at-risk children. Lastly, the amendment would require States to

hold LEAs accountable for both State level and local level educational objectives and goals required by the Act, including closing the achievement gap between disadvantaged students and their peers.

This amendment is based on the Texas statute and seeks to adopt the sensible accountability provisions that have made the Texas model so successful, especially at driving increases in the achievement of at-risk youth. Its requirement to set numerical goals and disaggregate data are essential to measuring the achievement of all students. The Majority rejected this amendment.

The second amendment would require States to report on the specific characteristics of waivers they issue and their impact on student performance. States, in reporting this data to the Secretary in the State's annual report, would have to certify the data as valid and reliable or state how they will attempt to make such data reliable and valid in the future. The Secretary, in reporting to Congress, would also have to assess the validity and reliability of the data. The Majority rejected this amendment.

This amendment was written in close collaboration with the Inspector General's Office (IG) of the Department of Education and addressed one of the key findings of a November General Accounting Office (GAO) Report.<sup>1</sup> The focus of the Inspector General, both in a recent report to this Committee and in compliance with the Government Performance and Results Act, has been to ensure programmatic data is valid and reliable. This amendment would not only seek to fill in the gaps that GAO and the Department have identified in reporting on Ed-Flex, but would also seek to ensure that the enhanced reporting we would receive under this bill would contain data that would allow us to accurately judge program results. Included in these views are two letters, one from the IG expressing support for this amendment and the other from Representatives Armey and Horn to the IG supporting the concept of valid and reliable programmatic data. This amendment was withdrawn with a commitment between Chairmen Goodling and Castle and Representatives Roemer and Miller to work out differences prior to floor consideration of this legislation.

The third amendment would require States to terminate waivers issued to school districts which experience two consecutive years of decreasing academic performance after notice and opportunity for a hearing. This amendment was adopted by voice vote.

All of these amendments attempt to strengthen the accountability in this legislation and ensure that this program produces results. Taxpayers are entitled to receive strong accountability for the Federal educational investments. This bill will provide most States with new, sweeping authority to waive Federal law. Given that the Federal government will invest an additional \$50 billion in education funding over the next several years, these accountability provisions are quite appropriate.

#### *ESEA reauthorization*

This Congress, we are scheduled to reauthorize the Elementary and Secondary Education Act (ESEA), the National Assessment

<sup>1</sup> GAO/HEHS-99-17.

Governing Board, the National Assessment of Education Progress, the Office of Educational Research and Improvement, and other related elementary and secondary education programs. Presently, these programs address a wide array of critical educational needs: the education of disadvantaged children, professional development for teachers, technology in classrooms, high quality research aimed at improving instructional practices and safety in our schools. In total, our work this year will involve the review of the bulk of the Federal elementary and secondary education arena.

Unfortunately, our consideration of this bill prior to a thoughtful and comprehensive review of these programs simply puts the cart before the horse. Allowing the waiver of existing program provisions prior to our review of their importance makes little sense. How can this Committee determine what provisions should be waived without first deciding what these provisions are supposed to accomplish?

To address this situation, Representative Kildee offered an amendment to sunset this legislation's authority once the ESEA is reauthorized. Specifically, the Kildee amendment will terminate the authority provided in this bill when legislation is passed, presumably later this Congress, to reauthorize ESEA. This will require Congress to review the authority provided in this legislation during our work on ESEA and make adjustments should we find this bill inconsistent with our final policy decisions. The Kildee amendment was adopted by voice vote.

#### *Clinton/Clay Class Size Reduction Act*

During the markup, Representative Wu offered an amendment to authorize the Clinton/Clay Class Size Reduction Act. We are disappointed that the Majority used a parliamentary device to avoid passing this urgent priority.

Last year, Congress made a down payment on President Clinton's plan to hire 100,000 new teachers over 7 years in order to reduce the average class size to 18 students in the early grades. We ought to send the message to these communities that we intend to fulfill this commitment by authorizing this initiative.

#### *Conclusion*

We believe that H.R. 800, in its present form, lacks sufficient accountability, reporting requirements, and will jeopardize the long-standing mission of Title I to assist in the education of disadvantaged children. In addition, this legislation should not be considered outside of a comprehensive elementary and secondary reauthorization effort, as it allows States to negate yet undecided Federal priorities. While the Majority has sought to capitalize on the simplicity of the call for more flexibility, we do not believe this should be at the expense of targeting resources towards needy children or eliminating our ability to ensure results from our Federal investments in education.

WILLIAM L. CLAY.  
MAJOR R. OWENS.  
PATSY T. MINK.  
LYNN WOOLSEY.  
CHAKA FATTAH.

GEORGE MILLER.  
DONALD M. PAYNE.  
BOBBY SCOTT.  
JOHN F. TIERNEY.  
DENNIS J. KUCINICH.

## ADDITIONAL VIEWS

While I supported final passage of H.R. 800, the Education Flexibility Partnership Act of 1999, I want to voice several concerns that must still be addressed in this legislation prior to action by the House. The authors of H.R. 800 come close to striking the proper balance between flexibility and accountability. The bill could be improved, however, with the inclusion of several provisions addressing the eligibility of States, valid and reliable reporting requirements, and Title I targeting.

During Committee consideration of this legislation, three amendments were not adopted that would address the concerns I have with this legislation. Congressman Miller and I offered two of these amendments. The first amendment would have required States to have their final assessments in place under Title I and that these assessments disaggregate results of categories of at-risk students and set numerical goals for students with the specific aim of closing achievement gaps. The second amendment sought to improve the validity and reliability of, and expand upon, the existing reporting requirements of the bill so we can get a better understanding of the impact of Ed-Flex on student achievement.

The bill, as reported by Committee, does require States to have interim assessments required by Title I in place, but these assessments do not need to meet the disaggregation or standards requirements required of final Title I assessments which all States must have in place by the 2000–2001 school year. Most importantly, little will be learned about Ed-Flex's impact on student achievement or its success or failure, next time this program is reviewed if we allow States to utilize different categories of assessments and substantive data reported by States under this program isn't valid and reliable.

The third critical amendment which was offered in Committee, but failed, would prohibit States from approving applications for schools to do schoolwide programs if they had less than 35 percent poverty. Schoolwide programs, which allow schools to combine and coordinate funding under various Federal education programs, are utilized to do whole-school reform aimed at improving the achievement of all students in a school. This authority is appropriate when there is a high percentage of low-income children in a school. However, it is not appropriate to extend this authority to schools with relatively few low-income students since resources will be expended on children without special needs.

In total, I believe we need to more closely examine the effects of Ed-Flex on the targeting of Title I resources. Little is known of the extent to which Ed-Flex has altered targeting of Title I funds to high-poverty schools, or what impact this has had on student achievement. Fortunately, the Committee approved my amendment to sunset Ed-Flex authority when the next ESEA reauthorization

bill is signed into law. This will force the Committee to reexamine the effect of Ed-Flex on Title I and student achievement generally.

As we proceed towards House action on this legislation, it is my hope that differences on these three amendments can be reconciled. While I believe that flexibility coupled with sensible accountability can positively impact efforts to increase student achievement, the issues encompassed by these amendments would improve this legislation. It is important to remember that expansion of Ed-Flex, from 12 existing States to all 50, is new for most States. This bill will provide States and school districts with increased flexibility, but we should be careful to require sensible accountability that will lead to students achieving high academic standards.

HAROLD E. FORD, Jr.  
DALE E. KILDEE.

## ADDITIONAL VIEWS

H.R. 800, the “Education Flexibility Partnership Act of 1999”, or “Ed-Flex” is an expansion of a demonstration program that 12 states have successfully used to implement reforms at the state and local level. This innovative program moves the federal government towards developing a performance-based, results oriented approach in education policy. It is a “Third Way” for federal education policy—a move away from the restrictive requirements in programs that may handcuff local schools, while strengthening the accountability that is necessary in light of the significant investment that we make in our children.

The “Ed-Flex” program has removed many federal and state regulatory and statutory requirements that have hampered creativity and innovation at the state and local level. Ed-Flex will allow eligible States and local school districts to experiment with innovative reforms in exchange for demonstrating and improvement in student achievement.

In addition to fostering creativity and innovation at the local level, States have effectively used Ed-Flex to facilitate the seamless delivery of services to children. Ed-Flex helps states better manage various federal and state programs that may be duplicative at the local level. Some States, like Oregon, have simplified the planning and application process, while other States, such as Kansas, have used Ed-Flex to better coordinate Title I and special education services.

The majority report notes the lack of sufficient data to evaluate federal education programs. Additionally, the majority has strongly encouraged federal agency efforts to develop and implement, in coordination with agency Inspector Generals, standards for determining progress towards performance goals and program outcomes. In fact, the General Accounting Office (GAO) raised concerns that the Ed-Flex program did not require states and local education agencies to outline specific performance goals and objectives. Subsequently, H.R. 800 responds to a number of these concerns, but additional language about state and local level activity, in line with recommendations related to the Government Performance and Results Act (GPRA), should be adopted in H.R. 800 so that Congress may effectively evaluate federal education programs, including Ed-Flex.

Adequate data from the States and local education agencies will also provide important information about the impact of Ed-Flex on the Title I program. Under Ed-Flex, States and locals are permitted to waive statutory requirements related to allocation of Title I funds at the district level and the poverty threshold for schoolwide programs. There is evidence that more flexibility with the schoolwide poverty threshold can show effective results. In Kent County, Maryland, Garnett Elementary had a poverty thresh-

old of 45 percent (which has since increased to 55 percent), yet received an Ed-Flex waiver to implement a schoolwide program. The school used the waiver to develop early identification and special programs to meet the needs of their minority children, and state assessment results indicate that their African-American students are quickly approaching the achievement level of the Caucasian students. According to Dr. Lorraine Costella, who is the Superintendent of Schools for Kent County Public Schools, the third grade African-American males met the state standard, and achieved a higher level in math on state assessments.

While some States have shown positive results from the use of either the Ed-Flex or secretarial waiver authority for Title I, not all 50 States have the necessary accountability systems in place, nor has the Secretary or the Congress received adequate data about the impact of these waivers. Therefore, it is appropriate to adopt a provision in H.R. 800 to limit the poverty threshold for the schoolwide program to 35%, which is consistent with how the Secretary has used his waiver authority.

TIM ROEMER.  
HAROLD E. FORD, Jr.

ADDITIONAL VIEWS OF REPRESENTATIVES RUSH HOLT OF  
NEW JERSEY

I support the overall goals of the Education Flexibility Partnership Act—allowing local school districts flexibility to use money where they need it most, in return for a greater level of accountability.

I am concerned, however, that H.R. 800 as reported by the Education and the Workforce Committee, may unintentionally undermine the emphasis on math and science teacher training in the Eisenhower Professional Development Program.

Through the Eisenhower Professional Development Program, previous Congresses have ensured, both through law and through allocation of money, that math and science teacher training should be a priority. All students need a solid grounding in these subjects to be productive in an increasingly technological world. By the time they finish high school, American students have fallen far behind their international peers in these important subjects. We need to give them a better competitive edge in these subjects if they are going to succeed in the global economy. Clearly, Congress placed a priority on math and science professional development in allocation of these funds because math and science are two areas where teachers have traditionally needed the most help.

The Eisenhower Professional Development Program is the main federal program that helps teachers become better trained in math and science. Because of the way that the math and science priority is expressed in Title II, math and science professional development could stand to lose significantly through implementation of Ed Flex as it is currently written. While I don't believe this is an intended change, the language of the bill allows local schools to waive the math-science priority in professional development with very little oversight of how these important needs will be met.

I believe that Local Education Agencies who are applying for a waiver of the math-science priority under the Eisenhower Act should be required to explain in their application how the professional development needs of their teachers in these vital subject areas will be, or already are being met. This change will preserve the importance of math science professional development while still allowing LEA's to waive the math-science priority if they need help in other areas. I believe that this is a simple change, in keeping with the bill, and maintains a needed focus on math and science education which might be lost under the Education Flexibility Partnership Act as it stands now. I am hopeful that this issue can be addressed as H.R. 800 moves through the legislative process.