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TIME TO SUPERSIZE THE FEDERAL ED-FLEX PROGRAM

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In his State of the Union address, President Bill Clinton promised to send Congress a plan that holds all “states and school districts accountable for progress and rewards them for results.” Congress soon will consider S. 280, a bipartisan measure introduced by Senators William Frist (R-TN) and Ron Wyden (D-OR) to expand the current Education Flexibility Partnership Demonstration Act of 1994 (Ed-Flex). If Congress is serious about meeting the President’s laudable goal, it should expand the proposal found in S. 280 to allow interested states further control and flexibility to use most of their federal K-12 funds as they see fit in exchange for clear academic improvements.

The Current Ed-Flex Program. Ed-Flex gives state and local school officials in 12 states greater freedom from federal regulation in the use of federal aid. Under current law, Colorado, Illinois, Iowa, Kansas, Maryland, Massachusetts, Michigan, New Mexico, Ohio, Oregon, Texas, and Vermont benefit from the use of Ed-Flex waivers, which gives them some flexibility in administering certain federal programs in their districts so long as program goals are met. To qualify for this limited flexibility, the states must have a Goals 2000 education reform proposal and be able to modify the requirements associated with their federal waivers.

According to a November 1998 U.S. General Accounting Office (GAO) report, *Elementary and Secondary Education: Ed-Flex States Vary in Implementation of Waiver Process*, if Ed-Flex were

expanded under the *current* requirements, only Utah and Washington State would be clearly eligible to participate. But Alabama, Delaware, Georgia, Hawaii, Kentucky, Minnesota, New Jersey, and West Virginia would come close to meeting the eligibility criteria and could qualify as well.

States that qualify can waive specific requirements (except those that deal with health, safety, and civil rights) under six federal programs: Title I of the Elementary and Secondary Education Act (ESEA), Aid to Disadvantaged Children; Title II of the ESEA, the Eisenhower Professional Development Program; Title IV of the ESEA, the Safe and Drug-Free Schools and Communities Program; Title VI of the ESEA, Innovative Education Program Strategies; Part C of Title VII of the ESEA, Emergency Immigrant Education; and the Carl D. Perkins Vocational-Technical Education Act.

The Effectiveness of Ed-Flex. States vary in the degree to which they view Ed-Flex as helpful. The 1998 GAO report reveals that some states have

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found that Ed-Flex created a climate that encourages innovation and flexibility, even if they received only a few waivers. Other states see the program of limited value. The states that give Ed-Flex high marks use the program to waive many of their restrictions. Texas, for example, uses Ed-Flex to grant 40 waivers to its 1,044 school districts and 8 waivers on a statewide basis. Texas also has one of the best accountability systems in the country.

Title I waivers are perhaps the most effective and most used under the Ed-Flex program. For example, they allow schools that have less than 50 percent of their students in the Title I program to use their funds on a school-wide plan that would improve education for *all* their students, not just Title I students.

S. 280's Expanded Approach. S. 280 would allow all 50 states to be considered for Ed-Flex by changing the eligibility requirements and broadening the menu of federal programs for which state waivers could be granted. The bill would grant states more flexibility in implementing curriculum-content and pupil-performance standards and assessments instead of relying only on Goals 2000-approved state reform plans. Under S.280, at least 40 states would qualify technically for Ed-Flex; states also would be able to waive parts of Title III of the ESEA, Technology for Education.

Time to Supersize Ed-Flex. Although S. 280 represents a step in the right direction, it does not go far enough. Congress should consider further broadening the scope of the current Ed-Flex program to allow more innovation and flexibility while boosting outcomes. Toward this end, states or large school districts (cities) that are interested in taking a bolder approach to boosting students' academic outcomes should be free to consolidate their federal funds for some or all ESEA programs, with few if any regulatory constraints, to use on programs that fit their needs. In exchange, they should be held accountable for the academic improvement of their students, especially those they serve under the ESEA. Under a supersized Ed-Flex program, states would have:

- **Performance objectives.** Each state or qualifying city would enter into a binding agreement with the federal government (much like charter schools do with their sponsors) that establishes clear performance objectives and timetables for achieving academic improvement. This plan must include target goals for students whom those programs previously served. To test for academic improvement, states could use the state-level National Assessment of Educational Progress test, a commercial test, a state test, or another mutually acceptable test.
- **A reward for meeting goals.** The federal government would institute a bonus pool of funding for states that met their performance goals.
- **The ability to remain in the current program.** States or cities that did not wish to consolidate categorical programs under this plan would continue to operate the programs as they did in the past.

Conclusion. Ed-Flex has been a useful tool to promote flexibility. As Senator George Voinovich (R), former governor of Ohio (an Ed-Flex state), told the House Education and Workforce Committee on January 27, 1999,

the flexibility provided under Ed-Flex can foster numerous creative responses tailored to meet the needs of local school districts.... [Expanding] Ed-Flex will help states spend more money on our children, and not on regulatory red tape.

It is with this goal in mind that Members of Congress should expand eligibility for Ed-Flex to all 50 states. But if Congress is serious about holding states and school districts accountable for progress and rewarding them for positive results, then allowing some states further waivers and the ability to commingle funds in exchange for improvements in academic outcomes will add considerably to the overall effectiveness of Ed-Flex. It is time not just to expand Ed-Flex, but to supersize it.

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