

116TH CONGRESS
2D SESSION

S. 4563

To give States the flexibility to have Federal education funds follow the child.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 10, 2020

Mrs. LOEFFLER introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To give States the flexibility to have Federal education funds follow the child.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Choice for Every Child
5 Act”.

6 **SEC. 2. TITLE I PORTABILITY.**

7 (a) IN GENERAL.—Part A of title I of the Elemen-
8 tary and Secondary Education Act of 1965 (20 U.S.C.
9 6311 et seq.) is amended by adding at the end the fol-
10 lowing:

1 **“SEC. 1128. TITLE I FUNDS FOLLOW THE LOW-INCOME**
2 **CHILD STATE OPTION.**

3 “(a) IN GENERAL.—

4 “(1) ALLOCATION TO LEAS.—Notwithstanding
5 any other provision of law and to the extent per-
6 mitted under State law, a State educational agency
7 may allocate grant funds under this part to the local
8 educational agencies in the State based on the num-
9 ber of eligible children in each local educational
10 agency (including such children who are enrolled in
11 the public schools served by the local educational
12 agency, enrolled in the State-accredited private
13 schools within local educational agency’s geographic
14 jurisdiction, or participating in homeschool in such
15 jurisdiction).

16 “(2) CHOICE OF DISTRIBUTION.—Each State
17 may choose whether to have local educational agen-
18 cies in the State distribute funds made available for
19 eligible children who are enrolled in State-accredited
20 private schools within each local educational agen-
21 cy’s geographic jurisdiction directly to such schools
22 in accordance with subsection (c)(3)(A) or directly to
23 the parents of such children in accordance with sub-
24 section (c)(3)(B).

25 “(b) ELIGIBLE CHILD.—

1 “(1) DEFINITION.—In this section, the term
2 ‘eligible child’ means a child aged 5 to 17, inclusive,
3 from a family with an income below the poverty level
4 on the basis of the most recent satisfactory data
5 published by the Department of Commerce.

6 “(2) CRITERIA OF POVERTY.—In determining
7 the families with incomes below the poverty level for
8 the purposes of this section, a State educational
9 agency shall use the criteria of poverty used by the
10 Census Bureau in compiling the most recent decen-
11 nial census, as the criteria have been updated by in-
12 creases in the Consumer Price Index for All Urban
13 Consumers, published by the Bureau of Labor Sta-
14 tistics.

15 “(3) AMOUNT PER ELIGIBLE CHILD.—The
16 amount available for each eligible child in the State
17 shall be equal to—

18 “(A) the total amount available to the
19 State under this section; divided by

20 “(B) the total number of eligible children
21 in the State.

22 “(c) STUDENT ENROLLMENT IN PUBLIC AND PRI-
23 VATE SCHOOLS.—

24 “(1) IDENTIFICATION OF ELIGIBLE CHIL-
25 DREN.—On an annual basis, on a date to be deter-

1 mined by the State educational agency, each local
2 educational agency that receives grant funding in ac-
3 cordance with subsection (a) shall inform the State
4 educational agency of the number of eligible children
5 enrolled in the public schools served by the local
6 educational agency, enrolled in the State-accredited
7 private schools within local educational agency’s geo-
8 graphic jurisdiction, or participating in homeschool
9 in such jurisdiction.

10 “(2) ALLOCATION TO LOCAL EDUCATIONAL
11 AGENCIES.—Based on the identification of eligible
12 children in paragraph (1), the State educational
13 agency shall provide to a local educational agency an
14 amount equal to the sum of the amount available for
15 each eligible child in the State multiplied by the
16 number of eligible children identified by the local
17 educational agency under paragraph (1).

18 “(3) DISTRIBUTION.—

19 “(A) DIRECT DISTRIBUTION TO PRIVATE
20 SCHOOLS.—In the case of a State that chooses
21 to have funds under this section distributed di-
22 rectly to State-accredited private schools within
23 the local educational agency’s geographic juris-
24 diction, the local educational agency that re-
25 ceives funds under paragraph (2) shall dis-

1 tribute such funds to the public schools served
2 by the local educational agency and State-ac-
3 credited private schools within the local edu-
4 cational agency's geographic jurisdiction—

5 “(i) based on the number of eligible
6 children enrolled in such schools; and

7 “(ii) in a manner that would, in the
8 absence of such Federal funds, supplement
9 the funds made available from non-Federal
10 resources for the education of pupils par-
11 ticipating in programs under this subpart,
12 and not to supplant such funds.

13 “(B) DISTRIBUTION TO PARENTS OF PRI-
14 VATE SCHOOL STUDENTS.—In the case of a
15 State that chooses to have funds under this sec-
16 tion distributed directly to parents of children
17 that are enrolled in State-accredited private
18 schools within the local educational agency's ge-
19 ographic jurisdiction, the local educational
20 agency that receives funds under paragraph (2)
21 shall—

22 “(i) distribute such funds to the pub-
23 lic schools served by the local educational
24 agency based on the number of eligible
25 children enrolled in such schools;

1 “(ii) distribute the amount available
 2 for each eligible child to the parents of
 3 each child who is enrolled in a State-ac-
 4 credited private school within the local
 5 educational agency’s geographic jurisdic-
 6 tion for use for qualified educational ex-
 7 penses; and

8 “(iii) distribute funds under para-
 9 graph (2) in a manner that would, in the
 10 absence of such Federal funds, supplement
 11 the funds made available from non-Federal
 12 resources for the education of pupils par-
 13 ticipating in programs under this subpart,
 14 and not to supplant such funds.

15 “(C) DISTRIBUTION TO PARENTS OF HOME
 16 SCHOOL STUDENTS.—Each local educational
 17 agency that receives funds under paragraph (2)
 18 shall distribute the amount available for each
 19 eligible child to the parents of each child who
 20 participates in homeschool for use for qualified
 21 educational expenses.

22 “(d) QUALIFIED EDUCATIONAL EXPENSES.—

23 “(1) IN GENERAL.—In this section, the term
 24 ‘qualified educational expenses’ means—

25 “(A) tuition;

1 “(B) curriculum and curricular materials;

2 “(C) books or other instructional mate-
3 rials;

4 “(D) online educational materials; and

5 “(E) tuition for tutoring or educational
6 classes outside of the home, including at a tu-
7 toring facility, but only if the tutor or instruc-
8 tor—

9 “(i) is not related to the student;

10 “(ii) is licensed as a teacher in any
11 State; and

12 “(iii) is a subject matter expert in the
13 relevant subject.

14 “(2) HOMESCHOOL.—Qualified educational ex-
15 penses shall include expenses for the purposes de-
16 scribed in subparagraphs (A) through (E) of para-
17 graph (1) in connection with a homeschool (whether
18 treated as a homeschool or a private school for pur-
19 poses of applicable State law).

20 “(e) TREATMENT OF DIRECT PAYMENTS.—The
21 amount of any direct payment to parents of an eligible
22 child under this section shall not be treated as income of
23 the child or his or her parents for purposes of the Internal
24 Revenue Code of 1986 or for determining eligibility for
25 any other Federal program.

1 “(f) PROHIBITION OF CONTROL OVER NON-PUBLIC
2 EDUCATION.—Nothing in this section shall be construed
3 to authorize additional Federal or State control over non-
4 public education providers.”.

5 (b) TABLE OF CONTENTS AMENDMENT.—The table
6 of contents in section 2 of the Elementary and Secondary
7 Education Act of 1965 (20 U.S.C. 6301 et seq.) is amend-
8 ed by inserting after the item relating to section 1127 the
9 following:

“1128. Title I funds follow the low-income child State option.”.

10 **SEC. 3. FEDERAL FUNDING UNDER THE INDIVIDUALS WITH**
11 **DISABILITIES EDUCATION ACT TO FOLLOW**
12 **THE CHILD.**

13 Part B of the Individuals with Disabilities Education
14 Act (20 U.S.C. 1411 et seq.) is amended by adding at
15 the end the following:

16 **“SEC. 620. IDEA FUNDS FOLLOW THE CHILD STATE OPTION.**

17 “(a) IN GENERAL.—Notwithstanding any other pro-
18 vision of law and to the extent permitted under State law,
19 a State educational agency may establish a program
20 through which the funds made available under this part
21 are allocated to the local educational agencies in the State
22 based on the number of eligible children within each local
23 educational agency’s geographic jurisdiction.

24 “(b) ELIGIBLE CHILD.—

1 “(1) ELIGIBLE CHILD DEFINED.—In this sec-
 2 tion, the term ‘eligible child’ means a child with a
 3 disability who is eligible to receive special education
 4 and related services under this part.

5 “(2) AMOUNT PER ELIGIBLE CHILD.—The
 6 amount available for each eligible child in the State
 7 shall be equal to—

8 “(A) the total amount available to the
 9 State under this part; divided by

10 “(B) the total number of eligible children
 11 in the State.

12 “(c) ALLOCATION TO LEAS.—

13 “(1) IDENTIFICATION OF ELIGIBLE CHIL-
 14 DREN.—On an annual basis, on a date to be deter-
 15 mined by the State educational agency, each local
 16 educational agency that receives grant funding in ac-
 17 cordance with subsection (a) shall inform the State
 18 educational agency of the number of eligible children
 19 within the local educational agency’s geographic ju-
 20 risdiction.

21 “(2) ALLOCATION TO LOCAL EDUCATIONAL
 22 AGENCIES.—Based on the identification of eligible
 23 children in paragraph (1), the State educational
 24 agency shall provide to a local educational agency an
 25 amount equal to the amount available for each eligi-

1 ble child in the State multiplied by the number of
2 eligible children identified by the local educational
3 agency under paragraph (1).

4 “(3) DISTRIBUTION OF FUNDS.—Each local
5 educational agency that receives funds under para-
6 graph (2) shall—

7 “(A) distribute to each public school served
8 by the local educational agency an amount
9 equal to—

10 “(i) number of eligible children en-
11 rolled in such school; multiplied by

12 “(ii) the amount available for each eli-
13 gible child in the State;

14 “(B) distribute to the parents of each eligi-
15 ble child in local educational agency’s geo-
16 graphic jurisdiction who is not enrolled in pub-
17 lic school an amount equal to the amount avail-
18 able for each eligible child in the State for use
19 for qualified educational expenses; and

20 “(C) distribute the funds under paragraph
21 (2) in a manner that would, in the absence of
22 such Federal funds, supplement the funds made
23 available from non-Federal resources for the
24 education of pupils participating in programs

1 under this subpart, and not to supplant such
2 funds.

3 “(d) QUALIFIED EDUCATIONAL EXPENSES.—

4 “(1) IN GENERAL.—In this section, the term
5 ‘qualified educational expenses’ means—

6 “(A) tuition;

7 “(B) curriculum and curricular materials;

8 “(C) books or other instructional mate-
9 rials;

10 “(D) online educational materials; and

11 “(E) tuition for tutoring or educational
12 classes outside of the home, including at a tu-
13 toring facility, but only if the tutor or instruc-
14 tor—

15 “(i) is not related to the student;

16 “(ii) is licensed as a teacher in any
17 State; and

18 “(iii) is a subject matter expert in the
19 relevant subject.

20 “(2) HOMESCHOOL.—Qualified educational ex-
21 penses shall include expenses for the purposes de-
22 scribed in subparagraphs (A) through (E) of para-
23 graph (1) in connection with a homeschool (whether
24 treated as a homeschool or a private school for pur-
25 poses of applicable State law).

1 “(e) PAYMENTS TO PARENTS.—In the case of an eli-
2 gible child who is not enrolled in public school and whose
3 parents receive a direct payment under subsection
4 (c)(3)(B), the State shall be considered to have provided
5 that child with a free appropriate public education, to have
6 provided special education and related services to that
7 child, and to have fulfilled the State’s other obligations
8 under this part with respect to that child.

9 “(f) TREATMENT OF DIRECT PAYMENTS.—The
10 amount of any direct payment to parents of an eligible
11 child under this section shall not be treated as income of
12 the child or his or her parents for purposes of the Internal
13 Revenue Code of 1986 or for determining eligibility for
14 any other Federal program.

15 “(g) PROHIBITION OF CONTROL OVER NON-PUBLIC
16 EDUCATION.—Nothing in this section shall be construed
17 to authorize additional Federal or State control over non-
18 public education providers.”.

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