112TH CONGRESS  
1ST SESSION  
H. R. 2445  

To amend the Elementary and Secondary Education Act of 1965 to provide States and local educational agencies with maximum flexibility in using Federal funds provided under such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 7, 2011

Mr. KLINE (for himself, Mr. HUNTER, Mr. MCKEON, Mr. GOODLATTE, Mr. ROE of Tennessee, Mr. THOMPSON of Pennsylvania, Mr. DESJARLAIS, Mr. HANNA, Mr. BUCSHON, Mr. BARLETTA, Mrs. NOEM, Mr. HECK, and Mr. KELLY) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Elementary and Secondary Education Act of 1965 to provide States and local educational agencies with maximum flexibility in using Federal funds provided under such Act, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 The Act may be cited as the “State and Local Funding Flexibility Act”.

5
SEC. 2. FLEXIBILITY TO USE FEDERAL FUNDS.

(a) In General.—Subpart 2 of part A of title VI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7305 et seq.) is amended to read as follows:

“Subpart 2—Funding Flexibility for State and Local Educational Agencies

SEC. 6121. PURPOSE.

“The purpose of this subpart is to allow States and local educational agencies the flexibility to—

“(1) design flexible programs that use Federal funds to support student achievement for all students, including students most at risk of failing to meet the State’s academic achievement standards; and

“(2) extend and enhance the funding flexibility provided to rural local educational agencies under section 6211 to all State educational agencies and local educational agencies by providing such agencies flexibility in using Federal formula funds received to carry out authorized State or local activities for other authorized or required State or local activities.

SEC. 6122. FLEXIBILITY TO USE FEDERAL FUNDS.

“(a) Alternative Uses of Federal Funds for State Educational Agencies.—

“(1) In General.—Subject to subsections (e) and (d) and notwithstanding any other provision of
law, a State educational agency may use the applicable funding that the agency receives for a fiscal year to carry out any State activity authorized or required under one or more of the following provisions:

“(A) Section 1003.
“(B) Section 1004.
“(C) Subpart 1 of part B of title I.
“(D) Part C of title I.
“(E) Part D of title I.
“(F) Part A of title II.
“(G) Part B of title II.
“(H) Title III.
“(I) Part B of title IV.
“(J) Part A of title V.
“(K) Subpart 1 of part A of title VI.
“(L) Subpart 2 of part B of title VI.
“(M) Subpart 2 of part A of title VII.

“(2) Notification.—Not later than June 1 of each year, a State educational agency shall notify the Secretary of the State educational agency’s intention to use the applicable funding for any of the alternative uses under paragraph (1).

“(3) Applicable funding defined.—

“(A) In general.—Except as provided in subparagraph (B), in this subsection, the term
‘applicable funding’ means funds provided to carry out State activities under one or more of the following provisions:

“(i) Section 1003(g)(2).

“(ii) Section 1004.

“(iii) Subpart I of part B of title I.

“(iv) Part C of title I.

“(v) Part D of title I.

“(vi) Part A of title II.

“(vii) Part B of title II.

“(viii) Part A of title III.

“(ix) Part B of title IV.

“(x) Part A of title V.

“(xi) Title I of Public Law 111–226.

“(B) LIMITATION.—In this subsection, the term ‘applicable funding’ does not include funds provided under any of the provisions listed in subparagraph (A) that State educational agencies are required by this Act—

“(i) to reserve, allocate, or spend for required activities;

“(ii) to allot or award to local educational agencies or other entities eligible to receive such funds; or
“(iii) to use for technical assistance or monitoring.

“(4) DISBURSEMENT.—The Secretary shall disburse the applicable funding to State educational agencies for alternative uses under paragraph (1) for a fiscal year at the same time as the Secretary disburse the applicable funding to State educational agencies that do not intend to use the applicable funding for such alternative uses for the fiscal year.

“(b) ALTERNATIVE USES OF FEDERAL FUNDS FOR LOCAL EDUCATIONAL AGENCIES.—

“(1) IN GENERAL.—Subject to subsections (c) and (d) and notwithstanding any other provision of law, a local educational agency may use the applicable funding that the agency receives for a fiscal year to carry out any local activity authorized or required under one or more of the following provisions:

“(A) Section 1003.

“(B) Part A of title I.

“(C) Subpart 1 of part B of title I.

“(D) Part C of title I.

“(E) Part D of title I.

“(F) Part A of title II.

“(G) Part B of title II.

“(H) Part A of title III.
“(I) Part B of title IV.
“(J) Part A of title V.
“(K) Subpart 2 of part B of title VI.
“(L) Part A of title VII.
“(M) Section 613(f) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(f)).
“(2) NOTIFICATION.—A local educational agency shall notify the State educational agency of the local educational agency’s intention to use the applicable funding for any of the alternative uses under paragraph (1) by a date that is established by the State educational agency for the notification.
“(3) APPLICABLE FUNDING DEFINED.—
“(A) IN GENERAL.—Except as provided in subparagraph (B), in this subsection, the term ‘applicable funding’ means funds provided to carry out local activities under one or more of the following provisions:
“(i) Part A of title I.
“(ii) Part C of title I.
“(iii) Part D of title I.
“(iv) Part A of title II.
“(v) Part A of title III.
“(vi) Part A of title V.
“(vii) Part A of title VII.

“(viii) Title I of Public Law 111–226.

“(B) LIMITATION.—In this subsection, the term ‘applicable funding’ does not include funds provided under any of the provisions listed in subparagraph (A) that local educational agencies are required by this Act—

“(i) to reserve, allocate, or spend for required activities;

“(ii) to allot or award to entities eligible to receive such funds; or

“(iii) to use for technical assistance or monitoring.

“(4) DISBURSEMENT.—Each State educational agency that receives applicable funding for a fiscal year shall disburse the applicable funding to local educational agencies for alternative uses under paragraph (1) for the fiscal year at the same time as the State educational agency disburses the applicable funding to local educational agencies that do not intend to use the applicable funding for such alternative uses for the fiscal year.

“(c) RULE FOR ADMINISTRATIVE COSTS.—A State educational agency or a local educational agency may only use applicable funding (as defined in subsection (a)(3) or
(b)(3), respectively) for administrative costs incurred in carrying out a provision listed in subsection (a)(1) or (b)(1), respectively, to the extent that the agency, in the absence of this section, could have used funds for administrative costs with respect to a program listed in subsection (a)(3) or (b)(3), respectively.

“(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to relieve a State educational agency or local educational agency of any requirements relating to—

“(1) maintenance of effort;

“(2) use of Federal funds to supplement, not supplant, non-Federal funds;

“(3) comparability of services;

“(4) equitable participation of private school students and teachers;

“(5) the selection of a school attendance area or school under subsections (a) and (b) of section 1113;

“(6) section 1111;

“(7) section 1116; or

“(8) section 3122.”.

(b) CONFORMING AMENDMENT.—The table of contents of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended by striking the
item relating to subpart 2 of part A of title VI and inserting the following:

“SUBPART 2—FUNDING FLEXIBILITY FOR STATE AND LOCAL EDUCATIONAL AGENCIES

“Sec. 6121. Purpose.
“Sec. 6122. Flexibility to use Federal funds.”.