

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 Representa-*
2 *tives 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 Fund-
5 ing Flexibility Act”.

1 **SEC. 2. FLEXIBILITY TO USE FEDERAL FUNDS.**

2 (a) IN GENERAL.—Subpart 2 of part A of title VI
3 of the Elementary and Secondary Education Act of 1965
4 (20 U.S.C. 7305 et seq.) is amended to read as follows:

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

7 **“SEC. 6121. PURPOSE.**

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

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

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

22 **“SEC. 6122. FLEXIBILITY TO USE FEDERAL FUNDS.**

23 “(a) ALTERNATIVE USES OF FEDERAL FUNDS FOR
24 STATE EDUCATIONAL AGENCIES.—

25 “(1) IN GENERAL.—Subject to subsections (c)
26 and (d) and notwithstanding any other provision of

1 law, a State educational agency may use the applica-
2 ble funding that the agency receives for a fiscal year
3 to carry out any State activity authorized or re-
4 quired under one or more of the following provisions:

5 “(A) Section 1003.

6 “(B) Section 1004.

7 “(C) Subpart 1 of part B of title I.

8 “(D) Part C of title I.

9 “(E) Part D of title I.

10 “(F) Part A of title II.

11 “(G) Part B of title II.

12 “(H) Title III.

13 “(I) Part B of title IV.

14 “(J) Part A of title V.

15 “(K) Subpart 1 of part A of title VI.

16 “(L) Subpart 2 of part B of title VI.

17 “(M) Subpart 2 of part A of title VII.

18 “(2) NOTIFICATION.—Not later than June 1 of
19 each year, a State educational agency shall notify
20 the Secretary of the State educational agency’s in-
21 tention to use the applicable funding for any of the
22 alternative uses under paragraph (1).

23 “(3) APPLICABLE FUNDING DEFINED.—

24 “(A) IN GENERAL.—Except as provided in
25 subparagraph (B), in this subsection, the term

1 ‘applicable funding’ means funds provided to
2 carry out State activities under one or more of
3 the following provisions:

4 “(i) Section 1003(g)(2).

5 “(ii) Section 1004.

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

7 “(iv) Part C of title I.

8 “(v) Part D of title I.

9 “(vi) Part A of title II.

10 “(vii) Part B of title II.

11 “(viii) Part A of title III.

12 “(ix) Part B of title IV.

13 “(x) Part A of title V.

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

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

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

22 “(ii) to allot or award to local edu-
23 cational agencies or other entities eligible
24 to receive such funds; or

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

3 “(4) DISBURSEMENT.—The Secretary shall dis-
4 burse the applicable funding to State educational
5 agencies for alternative uses under paragraph (1) for
6 a fiscal year at the same time as the Secretary dis-
7 burses the applicable funding to State educational
8 agencies that do not intend to use the applicable
9 funding for such alternative uses for the fiscal year.

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

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

18 “(A) Section 1003.

19 “(B) Part A of title I.

20 “(C) Subpart 1 of part B of title I.

21 “(D) Part C of title I.

22 “(E) Part D of title I.

23 “(F) Part A of title II.

24 “(G) Part B of title II.

25 “(H) Part A of title III.

1 “(I) Part B of title IV.

2 “(J) Part A of title V.

3 “(K) Subpart 2 of part B of title VI.

4 “(L) Part A of title VII.

5 “(M) Section 613(f) of the Individuals
6 with Disabilities Education Act (20 U.S.C.
7 1413(f)).

8 “(2) NOTIFICATION.—A local educational agen-
9 cy shall notify the State educational agency of the
10 local educational agency’s intention to use the appli-
11 cable funding for any of the alternative uses under
12 paragraph (1) by a date that is established by the
13 State educational agency for the notification.

14 “(3) APPLICABLE FUNDING DEFINED.—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraph (B), in this subsection, the term
17 ‘applicable funding’ means funds provided to
18 carry out local activities under one or more of
19 the following provisions:

20 “(i) Part A of title I.

21 “(ii) Part C of title I.

22 “(iii) Part D of title I.

23 “(iv) Part A of title II.

24 “(v) Part A of title III.

25 “(vi) Part A of title V.

1 “(vii) Part A of title VII.

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

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

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

10 “(ii) to allot or award to entities eligi-
11 ble to receive such funds; or

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

14 “(4) DISBURSEMENT.—Each State educational
15 agency that receives applicable funding for a fiscal
16 year shall disburse the applicable funding to local
17 educational agencies for alternative uses under para-
18 graph (1) for the fiscal year at the same time as the
19 State educational agency disburses the applicable
20 funding to local educational agencies that do not in-
21 tend to use the applicable funding for such alter-
22 native uses for the fiscal year.

23 “(c) RULE FOR ADMINISTRATIVE COSTS.—A State
24 educational agency or a local educational agency may only
25 use applicable funding (as defined in subsection (a)(3) or

1 (b)(3), respectively) for administrative costs incurred in
2 carrying out a provision listed in subsection (a)(1) or
3 (b)(1), respectively, to the extent that the agency, in the
4 absence of this section, could have used funds for adminis-
5 trative costs with respect to a program listed in subsection
6 (a)(3) or (b)(3), respectively.

7 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-
8 tion shall be construed to relieve a State educational agen-
9 cy or local educational agency of any requirements relating
10 to—

11 “(1) maintenance of effort;

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

14 “(3) comparability of services;

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

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

19 “(6) section 1111;

20 “(7) section 1116; or

21 “(8) section 3122.”.

22 (b) CONFORMING AMENDMENT.—The table of con-
23 tents of the Elementary and Secondary Education Act of
24 1965 (20 U.S.C. 6301 et seq.) is amended by striking the

1 item relating to subpart 2 of part A of title VI and insert-
2 ing the following:

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

“Sec. 6121. Purpose.

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

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