

## Union Calendar No. 119

112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2445

[Report No. 112-180]

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

JULY 25, 2011

Additional sponsors: Mrs. ROBY and Mr. ROSS of Florida

JULY 25, 2011

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on July 7, 2011]

# **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 Funding*  
5 *Flexibility Act”.*

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

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

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

12 **“SEC. 6121. SHORT TITLE.**

13        *“This subpart may be cited as the ‘State and Local*  
14 *Funding Flexibility Act’.*

15 **“SEC. 6122. PURPOSE.**

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

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

22            *“(2) extend and enhance the funding flexibility*  
23 *provided to rural local educational agencies under*  
24 *section 6211 to all State educational agencies and*  
25 *local educational agencies by providing such agencies*

1 *flexibility in using Federal formula funds received to*  
2 *carry out authorized State or local activities for other*  
3 *authorized or required State or local activities.*

4 **“SEC. 6123. FLEXIBILITY TO USE FEDERAL FUNDS.**

5 *“(a) ALTERNATIVE USES OF FEDERAL FUNDS FOR*  
6 *STATE EDUCATIONAL AGENCIES.—*

7 *“(1) IN GENERAL.—Subject to subsections (c)*  
8 *and (d) and notwithstanding any other provision of*  
9 *law, a State educational agency may use the applica-*  
10 *ble funding that the agency receives for a fiscal year*  
11 *to carry out any State activity authorized or required*  
12 *under one or more of the following provisions:*

13 *“(A) Section 1003.*

14 *“(B) Section 1004.*

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

16 *“(D) Part C of title I.*

17 *“(E) Part D of title I.*

18 *“(F) Part A of title II.*

19 *“(G) Part B of title II.*

20 *“(H) Title III.*

21 *“(I) Part B of title IV.*

22 *“(J) Part A of title V.*

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

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

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

1           “(2) *NOTIFICATION.*—*Not later than June 1 of*  
2           *each year, a State educational agency shall notify the*  
3           *Secretary of the State educational agency’s intention*  
4           *to use the applicable funding for any of the alter-*  
5           *native uses under paragraph (1).*

6           “(3) *APPLICABLE FUNDING DEFINED.*—

7           “(A) *IN GENERAL.*—*Except as provided in*  
8           *subparagraph (B), in this subsection, the term*  
9           *‘applicable funding’ means funds provided to*  
10           *carry out State activities under one or more of*  
11           *the following provisions:*

12                   “(i) *Section 1003(g)(2).*

13                   “(ii) *Section 1004.*

14                   “(iii) *Subpart I of Part B of title I.*

15                   “(iv) *Part C of title I.*

16                   “(v) *Part D of title I.*

17                   “(vi) *Part A of title II.*

18                   “(vii) *Part B of title II.*

19                   “(viii) *Part A of title III.*

20                   “(ix) *Part B of title IV.*

21                   “(x) *Part A of title V.*

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

23           “(B) *LIMITATION.*—*In this subsection, the*  
24           *term ‘applicable funding’ does not include funds*  
25           *provided under any of the provisions listed in*

1           *subparagraph (A) that State educational agen-*  
2           *cies are required by this Act—*

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

5                   “(ii) *to allot or award to local edu-*  
6                   *cational agencies or other entities eligible to*  
7                   *receive such funds; or*

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

10           “(4) *DISBURSEMENT.—The Secretary shall dis-*  
11           *burse the applicable funding to State educational*  
12           *agencies for alternative uses under paragraph (1) for*  
13           *a fiscal year at the same time as the Secretary dis-*  
14           *burses the applicable funding to State educational*  
15           *agencies that do not intend to use the applicable*  
16           *funding for such alternative uses for the fiscal year.*

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

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

25                           “(A) *Section 1003.*

1                   “(B) *Part A of title I.*

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

3                   “(D) *Part C of title I.*

4                   “(E) *Part D of title I.*

5                   “(F) *Part A of title II.*

6                   “(G) *Part B of title II.*

7                   “(H) *Part A of title III.*

8                   “(I) *Part B of title IV.*

9                   “(J) *Part A of title V.*

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

11                  “(L) *Part A of title VII.*

12                  “(M) *Section 613(f) of the Individuals with*  
13                  *Disabilities Education Act (20 U.S.C. 1413(f)).*

14                  “(2) *NOTIFICATION.—A local educational agency*  
15                  *shall notify the State educational agency of the local*  
16                  *educational agency’s intention to use the applicable*  
17                  *funding for any of the alternative uses under para-*  
18                  *graph (1) by a date that is established by the State*  
19                  *educational agency for the notification.*

20                  “(3) *APPLICABLE FUNDING DEFINED.—*

21                  “(A) *IN GENERAL.—Except as provided in*  
22                  *subparagraph (B), in this subsection, the term*  
23                  *‘applicable funding’ means funds provided to*  
24                  *carry out local activities under one or more of*  
25                  *the following provisions:*

1                   “(i) *Part A of title I.*

2                   “(ii) *Part C of title I.*

3                   “(iii) *Part D of title I.*

4                   “(iv) *Part A of title II.*

5                   “(v) *Part A of title III.*

6                   “(vi) *Part A of title V.*

7                   “(vii) *Part A of title VII.*

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

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

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

16                   “(ii) *to allot or award to entities eligi-*  
17 *ble to receive such funds; or*

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

20                   “(4) *DISBURSEMENT.—Each State educational*  
21 *agency that receives applicable funding for a fiscal*  
22 *year shall disburse the applicable funding to local*  
23 *educational agencies for alternative uses under para-*  
24 *graph (1) for the fiscal year at the same time as the*  
25 *State educational agency disburses the applicable*



1       *funding to local educational agencies that do not in-*  
2       *tend to use the applicable funding for such alternative*  
3       *uses for the fiscal year.*

4       “(c) *RULE FOR ADMINISTRATIVE COSTS.—A State*  
5       *educational agency or a local educational agency may only*  
6       *use applicable funding (as defined in subsection (a)(3) or*  
7       *(b)(3), respectively) for administrative costs incurred in*  
8       *carrying out a provision listed in subsection (a)(1) or*  
9       *(b)(1), respectively, to the extent that the agency, in the ab-*  
10       *sence of this section, could have used funds for administra-*  
11       *tive costs with respect to a program listed in subsection*  
12       *(a)(3) or (b)(3), respectively.*

13       “(d) *RULE OF CONSTRUCTION.—Nothing in this sec-*  
14       *tion shall be construed to relieve a State educational agency*  
15       *or local educational agency of any requirements relating*  
16       *to—*

17               “(1) *maintenance of effort;*

18               “(2) *use of Federal funds to supplement, not sup-*  
19       *plant, non-Federal funds;*

20               “(3) *comparability of services;*

21               “(4) *equitable participation of private school stu-*  
22       *dents and teachers;*

23               “(5) *applicable civil rights requirements;*

24               “(6) *the selection of school attendance areas or*  
25       *schools under subsections (a) and (b), and allocations*

1        *to such areas or schools under subsection (c), of sec-*  
2        *tion 1113;*

3                *“(7) section 1111;*

4                *“(8) section 1116; or*

5                *“(9) section 3122.”.*

6        *(b) CONFORMING AMENDMENT.—The table of contents*  
7        *of the Elementary and Secondary Education Act of 1965*  
8        *(20 U.S.C. 6301 et seq.) is amended by striking the items*  
9        *relating to subpart 2 of part A of title VI and inserting*  
10       *the following:*

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

*“Sec. 6121. Short title.*

*“Sec. 6122. Purpose.*

*“Sec. 6123. Flexibility to use Federal funds.”.*



Union Calendar No. 119

112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 2445**

[Report No. 112-180]

---

---

**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.

---

---

JULY 25, 2011

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed