



Legislative Bulletin.....July 18, 2013

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**H.R. 5 — Student Success Act**

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**H.R. 5 — Student Success Act (Kline, R-MN)**

**Order of Business:** [H.R. 5](#) will be considered today, [Thursday, July 18, 2013](#), subject to a rule ([H. Res. 303](#)). The rule provides for one hour of general debate divided equally controlled by the chair and ranking minority member of the Committee on Education and the Workforce. Amendment debate will be divided equally between the proponent and opponent of the bill for the time specified in the [rule announcement](#).

**Summary:** [H.R. 5](#) is a comprehensive reauthorization and reform to the Elementary and Secondary Education Act of 1965, currently known as the *No Child Left Behind Act of 2001* ([Public Law 107-110](#)), which was last authorized on January 2, 2002. Included in the reauthorization are numerous reforms to existing law and reauthorizations for various programs through fiscal year 2019.

**Key Provisions and Reforms:**

- **The Adequate Yearly Progress (AYP):** H.R. 5 eliminates AYP. Current law requires all states to have achieved one-hundred-percent proficiency in reading and math by the end of the 2013-2014 academic year. The AYP standards have been incredibly difficult for states to achieve. [Forty-seven](#) states and the District of Columbia have submitted requests for ESEA/NCLB flexibility, including flexibility under AYP. Under current law, schools that fail to meet AYP face harsh penalties that are detailed in Section 1116 of NCLB ([PL 107-110, 20 U.S.C. 6301](#)). After repeated failures to meet AYP a school can be required to reopen as a charter school and all relevant staff can be replaced. H.R. 5 replaces the AYP provision with state developed accountability plans that requires states to use statewide assessments in math and reading to annually measure student achievement against state developed academic standards; the academic performance of each school, each student, and student subgroup is required to be annually evaluated. Each state must develop a system to improve schools at the district level, including systems to intervene in poor performing Title I schools.
- **Maintenance of Effort:** The Maintenance of Effort requirements of NCLB are eliminated. The Maintenance of Effort provision of NCLB ([described in sections 1120A and 9521 of NCBL](#)) conditions receipt of federal dollars on maintaining the level of state

dollars provided for education, i.e., Maintenance of Effort requires states to spend local tax dollars to receive federal funds. States have been required to maintain pre-sequester funding levels even though they have received less federal dollars as a result of sequestration. H.R. 5 removes that requirement but does not allow states to use federal dollars for programs in place of state tax dollars. The new provisions are designed to ensure that states and school districts can decide their own school funding levels as dictated by local needs. The removal of the Maintenance of Effort returns some autonomy over education to the states.

- **Disaggregation of Data:** H.R. 5 maintains the provisions of ESEA that require the collection of individualized data about student, subgroup, school, and state academic performance.
- **Academic Standards for Science, Reading and Math:** Under H.R. 5 states are still required to develop academic standards for all students and all schools for science, math, and reading. However, the bill removes the federal requirement of having basic, proficient, and advanced levels of achievement.<sup>1</sup> Standards for English proficiency are placed under the Title I program.
- **Highly Qualified Teacher (HQT):** H.R. 5 repeals HQT. [HQT](#) places an emphasis on teacher credentials instead of teacher effectiveness, inputs versus outputs. The Highly Qualified Teacher (HQT) programs requires that all students be taught by teachers that have earned a bachelor’s degree, obtained full State certification, and have demonstrated knowledge in the core academic subjects they teach. More information regarding HQT can be found [here](#).
- **70 Ineffective Programs Eliminated:** The legislation eliminates 70 ESEA programs and places them under one Local Academic Flexibility Grant (block grant).
- **Common Core:** The legislation removes the Secretary of Education’s ability to coerce or incentivize states to adopt Common Core standards. The specific language in Section 111 of the bill follows: “the Secretary shall not, either directly or indirectly, attempt to influence, incentivize, or coerce State— (1) adoption of the Common Core State Standards developed under the Common Core State Standards Initiative, any other academic standards common to a significant number of States, or assessments tied to such standards; or (2) participation in any such partnerships.” The Common Core Standards Initiative developed Common Core State Standards ([Common Core](#)) with the cooperation of the National Governors Association (NGA) and the Council of Chief State School Officers (CCSSO). The federal government was not involved in the creation of Common Core. However, the Obama administration has used a “carrot and stick” approach in regards to the adoption of Common Core. The “carrot” was the use of \$4.35 billion of the [Race to the Top](#) grant program included in the American Recovery and Reinvestment Act of 2009. Under Race to the Top, states competed for grant money on a points-based system. If a state agreed to adopt Common Core as part of their grant

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<sup>1</sup> [Section 1111 of NCLB](#) details the basic, proficient, and advanced levels of academic achievement under current law.

application they received a certain number of points. However, some states that agreed to adopt Common Core, such as California, still failed to be awarded Race to the Top grant awards. A Department of Education Executive Summary of the Race to the Top program can be viewed [here](#). In 2011, Secretary Duncan announced the NCLB waiver program.<sup>2</sup> The Obama Administration has used the nearly impossible to achieve standards of NCLB as the “stick”, or threat, to coerce states to adopt Common Core. Only five states have either never made a NCLB waiver request or withdrawn their request.<sup>3</sup> Thirty-nine states have been granted NCLB waivers in return for adopting Common Core or other “college- and career ready standards”.<sup>4</sup> Secretary Duncan’s letter to states regarding ESEA “flexibility” and waivers can be viewed [here](#).

## COMMON CORE ADOPTION TABLE

### 45 States, Plus the District of Columbia, Have Adopted Common Core

\*Denotes States That Have Paused Common Core Implementation

States In **Red** Were Awarded Funding Through Race To the Top

Alabama	Arizona	Arkansas	California	Colorado	Connecticut	Delaware	District of Columbia	Florida	Georgia
Hawaii	Idaho	Illinois	Indiana*	Iowa	Kansas	Kentucky	Louisiana	Maine	Maryland
Massachusetts	Michigan*	Minnesota (English)	Mississippi	Missouri	Montana	Nevada	New Hampshire	New Jersey	New Mexico
New York	North Carolina	North Dakota	Ohio	Oregon	Pennsylvania*	Rhode Island	South Carolina	South Dakota	Tennessee
Utah	Vermont	Washington	West Virginia	Wisconsin	Wyoming				

- **State Accountability:** H.R. 5 maintains the requirement that states test student proficiency in math and reading at different grade levels. All students in the state must be tested annually in reading and math from the 3<sup>rd</sup> through the 6<sup>th</sup> grade and once in high school. For science, all students must be tested once from the 3<sup>rd</sup> to the 5<sup>th</sup> grade, again between the 6<sup>th</sup> and 9<sup>th</sup> grade, and again at another point between the 10<sup>th</sup> and the 12<sup>th</sup> grades.
- **Parent Information:** The requirement of an annual academic report card by school districts and states is maintained. However, the mechanism for reporting the information is streamlined.

<sup>2</sup> A statement by Secretary Duncan from June 26, 2013, regarding the waiver program can be viewed [here](#).

<sup>3</sup> California, Montana, Nebraska, North Dakota (request withdrawn), and Vermont (request withdrawn).

<sup>4</sup> Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, District of Columbia, Delaware, Florida, Georgia, Hawaii, Idaho, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, West Virginia, Wisconsin. A letter from Secretary Duncan to Chief State School Officers regarding “college- and career-ready standards” can be viewed [here](#).

- **State Laws on Parent Authority:** The legislation contains a specific provision detailing that state laws on parent authority over low-performing schools will not be superseded by any of the provisions of H.R. 5. See [H.R. 5](#), Section 1111, “(7) EXISTING STATE LAW.—Nothing in this section shall be construed to alter any State law or regulation granting parents authority over schools that repeatedly failed to make adequate yearly progress under this section, as in effect on the day before the date of the enactment of the Student Success Act.”
- **Funding Flexibility:** The bill provides the States and schools districts the flexibility to use Title I money for any authorized programs. Separate funding streams are maintained for the Neglected and Delinquent, Migratory Education, Indian Education Programs, and the English Language acquisition but these programs are placed under Title I.<sup>5</sup>
- **School-wide Programs:** H.R. 5 eliminates the 40 percent poverty threshold for school-wide Title I programs so that more low-income schools can have flexibility to improve achievement.
- **Local Academic Flexible Grant.** The bill creates a new grant, the Local Academic Flexible Grant.<sup>6</sup> Most elementary and secondary educational programs are consolidated under this new grant.
- **Private Sector Initiatives:** The bill requires ten percent of Local Academic Flexibility Grants to be reserved by states for “non-governmental entities, including public or private organizations, community-based or faith-based organizations, and business entities or a program or project to increase the academic achievement of public school students attending public elementary or secondary schools (or both) in compliance with the requirements in this section.”<sup>7</sup>
- **Reduced Department of Education Workforce:** The bill requires the Secretary of Education to identify the number of Full Time Equivalent (FTE) employees associated with the eliminated programs and eliminate an equivalent number of positions.

The House Committee on Education and the Workforce has compiled additional information that can be viewed [here](#). In addition, Committee Report 113-150 can be viewed [here](#).

## **Title-by-Title Analysis of H.R. 5 and Key Changes from Current Law**

### **TITLE I OF ESEA—AID TO LOCAL EDUCATIONAL AGENCIES**

The legislation replaces Title I of the current ESEA. Title I provides funds to help rural school districts and to help states target low-income students. This provision also authorizes assessments designed to gauge the effectiveness of Title I programs. H.R. 5 provides funding support for six new subparts of part A. The assessments are authorized in subpart B. **Six new subparts:** (Title I, subpart A, 1-5, and Title I, subpart B)

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<sup>5</sup> See Section 1001 of [H.R. 5](#).

<sup>6</sup> See Section 3201 of [H.R. 5](#).

<sup>7</sup> See Section 3205 of [H.R. 5](#).

- **Improving Basic Programs Operated by Local Educational Agencies** (part A, subpart 1)
- **Education of Migratory Children** (part A, subpart 2)
- **Prevention and Intervention Programs for Children and Youth Who are Neglected, Delinquent, or At-Risk** (part A, subpart 3)
- **English Language Acquisition, Language Enhancement, and Academic Achievement** (part A, subpart 4)
- **Rural Education Achievement Program** (part A, subpart 5)
- **Indian Education** (part A, subpart 6)
- **National Assessments** (part B): This subpart reauthorizes and modifies programs to assess the effectiveness of Title I.

### **TITLE II OF ESEA—TEACHER PREPARATION AND EFFECTIVENESS**

H.R. 5 modifies grant programs for teacher training and improvement.

- **Highly Qualified Teacher (HQT)**: H.R. 5 repeals this program and allows states to use teacher quality funds to develop and implement teacher evaluation programs. In essence, teacher effectiveness will be the new target, not teacher credentials.
- **Math and Science Partnership Program**: H.R. 5 repeals this program and replaces it with the Teacher and School Leader Flexible grant program.
- **Teacher and School Leader Flexible Grant Program**: H.R. 5 creates this new grant program. Remaining teacher quality programs are consolidated under this heading. States and schools districts will be allowed to partner with institutions of higher learning, or develop programs by themselves, to increase student-achievement through the recruitment and development of effective teachers.
- **Teacher Evaluations**: H.R. 5 mandates that states develop systems to gauge student achievement and use them when making personnel decisions. However, the states are able to develop their own criteria within certain guidelines. See Section 2123.<sup>8</sup>

### **TITLE III OF ESEA—PARENTAL ENGAGEMENT AND LOCAL FLEXIBILITY**

H.R. 5 modifies magnet and charter school programs currently under Title V of ESEA and transfers them to Title III. **Title III authorizes the following activities:**

- **Charter School Program** (part A, subpart 1)
- **Magnet School Assistance** (part A, subpart 2)
- **Family Engagement for Education Programs** (part A, subpart 3)
- **Local Academic Flexible Grants** (part B): H.R. 5 eliminates over 70 elementary and secondary education grant programs and consolidates them under this new block grant program. According to the Committee on Education and the Workforce this is an alternative to “programs like Race to the Top, which awards funds to the few states willing to adopt numerous federal requirements, or Investing in Innovation (i3), which artificially limit participation to only non-profit entities, this new grant will provide a

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<sup>8</sup> “SEC. 2123. LOCAL USE OF FUNDS. A local educational agency receiving a sub-grant under this subpart— (1) shall use such funds— (A) to develop and implement a teacher evaluation system that— (i) uses student achievement data derived from a variety of sources as a significant factor in determining a teacher’s evaluation, with the weight given to such data defined by the local educational agency; (ii) uses multiple measures of evaluation for evaluating teachers; (iii) has more than 2 categories for rating the performance of teachers; (iv) shall be used to make personnel decisions, as determined by the local educational agency; and (v) is based on input from parents, school leaders, teachers, and other staff of schools served by the local educational agency; or ...”

certain funding stream to states and school districts in need of additional assistance to support initiatives that will help improve student learning.” The only requirement is that the programs using the grant funds be authorized by state law and that they increase academic achievement.

#### **TITLE IV OF ESEA—IMPACT AID**

“Impact Aid” is under Title VIII of current ESEA. This title provides funding to assist schools impacted by the activities of the federal government. For example, schools on military bases or Indian reservations do not receive local property taxes because they are on federal land that is exempt from local property taxes, which normally provide the funding for schools. In addition, a portion of the funds authorized under this section can be used to maintain schools in federally connected areas.

#### **TITLE V OF ESEA—GENERAL PROVISIONS OF THE ACT**

“General Provisions” are currently under Title IX. H.R. 5 amends ESEA and moves General Provisions to Title V.

- **Reduction of the federal workforce:** Numerous programs are eliminated under this bill. The Secretary is required to identify the number of full-time equivalent (FTE) employees in those programs and eliminate an equivalent number of employees within one year after enactment.

#### **TITLE VI OF ESEA—HOMELESS EDUCATION**

- **McKinney-Vento Homeless Assistance Act:** Title IV reauthorizes this act that provides grants to states to education homeless children. The McKinney-Vento Homeless Act is the main federal program to help educate homeless children. The reauthorization increases information sharing and collaboration between state and federal agencies regarding homeless assistance services.

### **Detailed Section-by-Section Analysis of H.R. 5, As Provided by the House Education and the Workforce Committee in Committee Report 113-150<sup>9</sup>**

#### **SECTION-BY-SECTION ANALYSIS**

**Section 1—Short title:** States the short title as the Student Success Act.

**Section 2—Table of contents:** Lists the table of contents for the Act.

**Section 3—References:** References the Elementary and Secondary Education Act.

**Section 4—Transitions:** States that any person or agency that previously received a grant under the Elementary and Secondary Education Act prior to enactment of this Act will continue to receive that award in accordance with the terms of that award up to one year from the enactment of the Act, unless otherwise stated in this Act.

**Section 5—Effective dates:** Specifies the effective dates of the amendments and programs within the Act.

**Section 6—Authorization of appropriations:** Amends 20 USC 6301 et seq. to authorize the appropriations for the Act.

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<sup>9</sup> <http://www.gpo.gov/fdsys/pkg/CRPT-113hrpt150/pdf/CRPT-113hrpt150-pt1.pdf>

## Title I SUBTITLE A

**Section 101—Title heading:** Amends the title heading for Title I (20 U.S.C. 6301 et seq.) to read ‘Title I—Aid to Local Educational Agencies.’

**Section 102—Statement of purpose:** Amends Section 1001 (20 U.S.C. 6301) to reflect the purpose of Title I—Aid to Local Educational Agencies.

**Section 103—Flexibility to use federal funds:** Amends Section 1002 (20 U.S.C. 6302) to specify general requirements for alternative uses of federal funds.

**Section 104—School improvement:** Amends Section 1003 (20 U.S.C. 6303) to specify the general requirements for school improvement of poorly performing Title I schools.

**Section 105—Direct student services:** Amends ESEA by inserting a section to require states to set aside Title I money to provide competitive grants to school districts for direct student services.

**Section 106—State administration:** Amends Section 1004 (20 U.S.C. 6304) to specify the general requirements for how the states may administer the title.

## SUBTITLE B

**Section 111—Part A headings:** States the Part A heading of Title I as ‘Part A—Improving the Academic Achievement of the Disadvantaged.’ States the subpart heading for Subpart 1 of Part A of Title I as ‘Subpart 1—Improving Basic Programs Operated by Local Educational Agencies’ ‘Chapter A—Basic Program Requirements.’ States the subpart heading for Subpart 2 of Part A of Title I as ‘Chapter B—Allocations.’

**Section 112—State plans:** Amends Section 1111 (20 U.S.C. 6311) to specify the general requirements for plans submitted by states wishing to receive a grant under this subpart.

**Section 113—Local educational agency plans:** Amends Section 1112 (20 U.S.C. 6312) to specify the general requirements for plans submitted by local educational agencies wishing to receive sub-grants under this subpart.

**Section 114—Eligible school attendance areas:** Amends Section 1113 (20 U.S.C. 6313) to specify the school attendance areas eligible for using funds received under this subpart.

**Section 115—Schoolwide programs:** Amends Section 1114 (20 U.S.C. 6314) to specify the general requirements for schoolwide programs operated through funds allocated in this subpart.

**Section 116—Targeted assistance schools:** Amends Section 1115 (20 U.S.C. 6315) by specifying general requirements for using funds related to targeted assistance schools.

**Section 117—Academic assessment and local educational agency and school improvement; school support and recognition:** Repeals Sections 1116 and 1117 (20 U.S.C. 6316; 6317) regarding local educational agency and school improvement, and school support and recognition.

**Section 118—Parental involvement:** Amends Section 1118 (20 U.S.C. 6318) to specify the general requirements for the use of funds regarding parental involvement programs.

**Section 119—Qualifications for teachers and paraprofessionals:** Repeals Section 1119 (20 U.S.C. 6319), which sets federal requirements around teachers and paraprofessionals and removes the requirement that teachers be highly qualified.

**Section 120—Participation of children enrolled in private schools:** Amends Section 1120 (20 U.S.C. 6320), which specifies the participation of private school students and teachers in the programs funded under this Act. Improves the consultation and negotiation processes to provide clearer procedures and faster notice for private school officials.

**Section 121—Fiscal requirements:** Amends Section 1120A (20 U.S.C. 6321) to specify the

fiscal requirements of the subpart and to remove the maintenance of effort provision.

**Section 122—Coordination requirements:** Amends Section 1120B (20 U.S.C. 6322) to specify the general requirements for coordination with entities carrying out early childhood development programs.

**Section 123—Grants for the outlying areas and the secretary of the interior:** Amends Section 1121 (20 U.S.C. 6331) to specify the general requirements for grants for the outlying areas and the Secretary of the Interior.

**Section 124—Allocations to states:** Amends Section 1122 (20 U.S.C. 6332) to specify the general requirements for allocating to states funds reserved under this Act.

**Section 125—Basic grants to local educational agencies:** Amends Section 1124 (20 U.S.C. 6333) to specify the general requirements for awarding basic grants to local educational agencies.

**Section 126—Adequacy of funding of targeted grants to local educational agencies in fiscal years after fiscal year 2001:** Amends Section 1125AA (20 U.S.C. 6336) to specify the adequate level of funding of targeted grants to local educational agencies in fiscal years after fiscal year 2001.

**Section 127—Education finance incentive grant program:** Amends Section 1125A (20 U.S.C. 6337) to specify the general requirements of the Education Finance Incentive Grant Program.

**Section 128—Carryover and waiver:** Amends Section 1127 (20 U.S.C. 6339) by specifying the general requirements regarding the carryover of funds to additional years and the waiver of those requirements.

### **SUBTITLE C**

**Section 131—Additional aid:** Amends Title I (20 U.S.C. 6301 et seq.) to specify the general requirements for additional aid to schools and school districts. Maintains separate funding streams for the Migratory Education, Neglected and Delinquent, English Language Acquisition, Rural Education, and Indian Education programs, but merges them into Title I.

### **SUBTITLE D**

**Section 141—National assessment of title I:** Redesignates Part E of Title I (20 U.S.C. 6491 et seq.) as Part B of Title I. Repeals Sections 1502 and 1504 (20 U.S.C. 6492; 6494) to remove the grant program for demonstrations of innovation practices and the Close Up Fellowship program. Redesignates Sections 1501 and 1503 (20 U.S.C. 6491; 6493) as Sections 1301 and 1302, respectively. Amends Section 1301 and 1302, as redesignated, to specify the general requirements for the national assessment of Title I.

### **SUBTITLE E**

**Section 151—General provisions for title I:** Redesignates Part I of Title I (20 U.S.C. 6571 et seq.) as Part C of Title I of the Act and amends it to specify the general provisions for Title I.

### **Title II**

**Section 201—Teacher preparation and effectiveness:** Amends the title heading for Title II to read ‘Title II—Teacher Preparation and Effectiveness.’ Amends Part A of Title II (20 U.S.C. 6601 et seq.) to specify general requirements for providing grants to state educational agencies and subgrants to local educational agencies in order to support effective instruction. Amends Part B of Title II (20 U.S.C. 6661 et seq.) to specify general requirements of teacher and school



leader flexible grants in order to improve student achievement. Amends Part C of Title II (20 U.S.C. 6671 et seq.) to repeal Subparts 1 to 4 and specifies general requirements for teacher liability protection. Amends Part D of Title II (20 U.S.C. 6751 et seq.) to specify general provisions of the title.

**Section 202—Conforming repeals:** Repeals Sections 201 to 204 of Title II of the Higher Education Act of 1965 (20 U.S.C. 1021 et seq.) to address the changes made under this legislation and specifies the effective date of the repeals.

### **Title III**

**Section 301—Parental engagement and local flexibility:** Amends Title III (20 U.S.C. 6801 et seq.) to specify general requirements regarding parental engagement and local flexibility. Specifies the Charter School Program under Part B of Title V be reauthorized as amended under the provisions of H.R. 2218. Specifies general requirements for magnet school assistance, family engagement in education programs, and local academic flexible grants.

### **Title IV**

**Section 401—Purpose:** Amends Section 8002 (20 U.S.C. 7701) to reflect the purpose of Title III—Impact Aid.

**Section 402—Payments relating to federal acquisition of real property:** Amends Section 8002 (20 U.S.C. 7702) to specify general requirements for payments relating to federal acquisitions of real property.

**Section 403—Payments for eligible federally connected children:** Amends Section 8003(a) (20 U.S.C. 7703(a)) to specify the computation of payments for Eligible Federally Connected Children. Amends Section 8003(b) (20 U.S.C. 7703(b)) to specify basic support payments for heavily impacted local educational agencies. Amends paragraph (2) of Section 8003(c) (20 U.S.C. 7703(c)) to specify general requirements with regards to prior year data. Amends Section 8003(d)(1) (20 U.S.C. 7703(d)) to specify general requirements for appropriations regarding children with disabilities. Amends Section 8003(e) (20 U.S.C. 7703(e)) to specify general requirements of the hold harmless provision. Strikes Subsection (g) of Section 8003 (20 U.S.C. 7703) to repeal the maintenance of effort provision.

**Section 404—Policies and procedures relating to children residing on Indian lands:** Amends Section 8004(e)(9) by changing ‘Bureau of Indian Affairs’ to ‘Bureau of Indian Education.’

**Section 405—Applications for payments under Sections 8002 and 8003:** Amends Section 8005(b) (20 U.S.C. 7705(b)) to specify general requirements for applications for payments under Sections 8002 and 8003.

**Section 406—Construction:** Amends Section 8007 (20 U.S.C. 7707) to specify general requirements for the authorization of construction payments and school facility emergency and modernization grants.

**Section 407—Facilities:** Amends Section 8008 (20 U.S.C. 7708) to specify general requirements regarding facilities.

**Section 408—State consideration of payments providing state aid:** Amends Section 8009(c)(1)(B) (20 U.S.C. 7709(c)(1)(B)) to specify the general requirements of state consideration of payments providing state aid.

**Section 409—Federal administration:** Amends Section 8010 (20 U.S.C. 7710) to specify general requirements of federal administration of impact aid and to include a provision on timely payments.

**Section 410—Administrative hearings and judicial review:** Amends Section 8011(a) (20 U.S.C. 7711(a)) to make minor and technical changes.

**Section 411—Definitions:** Amends Section 8013 by making a change to the definition of ‘armed forces,’ ‘current expenditures,’ ‘federal property,’ ‘local contribution percentage,’ and ‘local educational agency.’

**Section 412—Authorization of appropriations:** Repeals Section 8014 (20 U.S.C. 7801) regarding the authorization of appropriations for this title.

**Section 413—Conforming amendments:** Modifies the Elementary and Secondary Education Act to address the changes made under this legislation.

## **Title V**

**Section 501—General provisions for the act:** Amends Title V (20 U.S.C. 7201 et seq.) to specify the general provisions for the Act.

**Section 502—Repeal:** Repeals Title IX (20 U.S.C. 7801 et seq.), which previously specified the general provisions for the Act.

**Section 503—Other laws:** Specifies references to the term “highly qualified” in other laws.

**Section 504—Amendment to IDEA:** Amends Section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401) to remove the highly qualified teacher provision in the Act.

## **Title VI**

**Section 601—Repeal of title VI:** Repeals Title VI—Flexibility and Accountability (20 U.S.C. 7301 et seq.).

## **Title VII**

**Section 701—Statement of policy:** Amends Section 721 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431) to specify the policy of Congress with regard to the education of homeless children and youths.

**Section 702—Grants for state and local activities for the education of homeless children and youths:** Amends Section 722 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432) to specify the general requirements for grants for state and local activities for the education of homeless children and youths.

**Section 703—Local educational agency subgrants for the education of homeless children and youths:** Amends Section 723 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11433) to specify the general requirements for local educational agency subgrants for the education of homeless children and youths.

**Section 704—Secretarial responsibilities:** Amends Section 724 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434) to specify the responsibilities of the secretary.

**Section 705—Definitions:** Amends Section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a) by modifying the definition of ‘homeless children and youths,’ ‘local educational agency,’ and ‘State educational agency’ to address prior changes made under this legislation.

**Section 706—Authorization of appropriations:** Amends Section 726 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11435) to specify the authorization of appropriations for the Act.”

**Additional Background:** The ESEA has been due for reauthorization since 2007 but programs have continued to be funded. Several of the requirements of No Child Left Behind Act of 2001

([PL 107-110](#)) have been difficult for states to achieve, such as requiring states to have one-hundred percent of their students certified as proficient in reading and math by 2014. As a result, states have been faced with two options; either face stiff penalties for NCLB noncompliance or agree to accept the Obama Administration's NCLB waivers in return for implementing Administration policy directives. The waivers have been used as a tool by the Administration to force states to adopt its policies.

### **Summary of the Titles of the Current ESEA (NCLB):**

#### **TITLE I—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED**

-This section provides funding for programs geared towards disadvantaged children.

#### **TITLE II—PREPARING, TRAINING, AND RECRUITING HIGH QUALITY TEACHERS AND PRINCIPALS**

-Section 2102 of NCLB states: “The purpose of this part is to provide grants to State educational agencies, local educational agencies, State agencies for higher education, and eligible partnerships in order to —(1) increase student academic achievement through strategies such as improving teacher and principal quality and increasing the number of highly qualified teachers in the classroom and highly qualified principals and assistant principals in schools; and (2) hold local educational agencies and schools accountable for improvements in student academic achievement.”

#### **TITLE III—LANGUAGE INSTRUCTION FOR LIMITED ENGLISH PROFICIENCY AND IMMIGRANT STUDENTS<sup>10</sup>**

#### **TITLE IV—21<sup>ST</sup> CENTURY SCHOOLS**

- This title is primarily geared toward school safety programs (“safe and drug-free schools and communities”).<sup>11</sup>

#### **TITLE V—PROMOTING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS**

-The purpose of this section is to promote innovation.<sup>12</sup>

#### **TITLE IV—FLEXIBILITY AND ACCOUNTABILITY**

-This section provides funding to states to develop and administer academic assessments.<sup>13</sup>

#### **TITLE VII—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION**

-This section provides funding to local educational agencies geared towards Indian, Native Hawaiian, and Alaska Native students.<sup>14</sup>

#### **TITLE VIII—IMPACT AID PROGRAM**

-This section provides funds to local educational agencies that have lost tax revenue due to tax-exempt federal property in their jurisdictions.<sup>15</sup>

**Committee Action:** House Education and the Workforce Committee Chairman Kline (R-MN) introduced [H.R. 5](#) on June 6, 2013. The bill was referred to the House Committee on Education

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<sup>10</sup> <http://www2.ed.gov/policy/elsec/leg/esea02/pg39.html>

<sup>11</sup> <http://www2.ed.gov/policy/elsec/leg/esea02/pg51.html>

<sup>12</sup> <http://www2.ed.gov/policy/elsec/leg/esea02/pg57.html>

<sup>13</sup> <http://www2.ed.gov/policy/elsec/leg/esea02/pg87.html>

<sup>14</sup> <http://www2.ed.gov/policy/elsec/leg/esea02/pg98.html>

<sup>15</sup> <http://www2.ed.gov/policy/elsec/leg/esea02/pg106.html>

and the Workforce and the House Committee on Financial Services. The House Committee on Education and the Workforce held a markup on the bill on June 19, 2013. Rep. Rotika (R-IN) offered an amendment in the nature of a substitute and the bill was favorably reported by a [vote of 23-16](#). On July 11, 2013 the Committee on Education and the Workforce was reported an amended version of the bill, H. Rept. 113-150. The House Committee on Financial Services discharged the bill on July 11, 2013.

**Possible Conservative Concerns:** Some conservatives have expressed concern that there is no provision in the bill that would allow Title I portability. In addition, some conservatives have expressed concern that under Title II, Section 2123, there is a mandate that states expand teacher evaluations, including using student performance data when making personnel decisions.

**Administration Position:** On Wednesday, July 17, 2013, The Executive Office of the President issued a [Statement of Administration Policy](#) in opposition to H.R. 5. The Memo stated that that if “the President were presented with H.R. 5, his senior advisors would recommend that he veto the bill.”

**Cost to Taxpayers:** The below table details the authorized spending of \$114.3 billion by Title area, over the 2014-2018 period. However, according to the Congressional Budget Office (CBO) [cost estimate](#), implementing this bill “would cost about \$85.6 billion over the 2014-2018 period and an additional \$52 billion after 2018, assuming appropriation of the estimated amounts.”

**Authorization table on next page:**

**This Act Authorizes the Following Changes in Spending, Subject to  
Appropriation  
(By Fiscal Year, in Millions of Dollars)**

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	Total FY14 - FY 18
<b>Title I: Aid to Local Educational Agencies</b>	16,655	16,655	16,655	16,655	16,655	<b>83,274</b>
Sect. A	16,652	16,652	16,652	16,652	16,652	83,260
Sect. B	3	3	3	3	3	15
<b>Title II: Teacher Preparation and Effectiveness</b>	2,4412	2,442	2,442	2,442	2,442	<b>12,210</b>
<b>Title III: Parental Engagement and Flexibility</b>	2,472	2,472	2,472	2,472	2,472	<b>12,362</b>
Sect. A, Pt. 1	300	300	300	300	300	1,500
Sect. A, Pt. 2	92	92	92	92	92	460
Sect. A, Pt. 3	25	25	25	25	25	125
Sect. B	2,056	2,056	2,056	2,056	2,056	10,280
<b>Title IV: Impact Aid</b>	1,223	1,223	1,223	1,223	1,223	<b>6,113</b>
Federal Acquisition of Real Property	63	63	63	63	63	315
Heavily Impacted LEA's	1,093	1,093	1,093	1,093	1,093	5,465
Children with Disabilities	46	46	46	46	46	230
Construction	16	16	16	16	16	80
<b>Title V: General Provisions</b>	-2	-2	-2	-2	-2	<b>-10</b>
<b>Title VI: Homeless Education</b>	62	62	62	62	62	<b>232</b>
<b>Total Funding Authorized</b>						
<b>Title I - VI</b>	22,852	22,852	22,852	22,852	22,852	<b>114,258</b>

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No. According to the [CBO](#), "H.R. 5 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments."

**Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10<sup>th</sup> Amendment?:** No.

**Does the Bill Delegate Any Legislative Authority to the Executive Branch?:** No.

**Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** No.

**Constitutional Authority:** According the sponsor, Congress has the power to enact this legislation pursuant to the following: Article I, section 8 of the Constitution of the United States. Chairman Kline’s statement in the Congressional Record can be viewed [here](#).

**Outside Organizations In Support of Some or All of the Reforms Included in H.R. 5:**

- [American Association of School Administrators](#)
- [Americans for Prosperity](#)
- [Americans for Tax Reform](#)
- [Agudath Israel of America](#)
- [Association of Christian Schools International](#)
- [Concerned Women For America](#)
- [Council for American Private Education](#)
- [Council of Chief State School Officers](#)
- [Knowledge Alliance](#)
- [Knowledge Alliance for Public Charter Schools](#)
- [National Association of Charter School Authorizers](#)
- [National Association of Independent Schools](#)
- [National Catholic Educational Association](#)
- [National Center for Technological Literacy](#)
- [National School Boards Association](#)
- [The School Superintendents Association](#)
- [United States Conference of Catholic Bishops](#)

**Outside Organizations In Opposition:**

- The United States Chamber of Commerce opposes H.R.5 and “may consider including votes on, or in relation to, this bill in [their] annual *How They Voted* scorecard.”
- The Heritage Foundation issued a blog highlighting their concerns with the bill. The blog can be viewed [here](#).

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**NOTE:** *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

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