



H.R. 5—The Student Success Act (Rep. Kline, R-MN) [UPDATED]

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FLOOR SCHEDULE: THIS BILL IS SCHEDULED TO BE CONSIDERED ON JULY 8, 2015. THE RULES COMMITTEE MET FOR A SECOND TIME ON JULY 7 AND MADE IN ORDER AN ADDITIONAL [FOUR AMENDMENTS](#), WHICH CAN BE FOUND AT THE END OF THIS BULLETIN.

TOPLINE SUMMARY: This bill would reauthorize and reform the Elementary and Secondary Education Act, currently known as No Child Left Behind Act (NCLB).

CONSERVATIVE CONCERNS: Conservatives have raised several concerns regarding this bill including: (1) the continuation of the [annual testing](#) mandate that dictates to states how frequently to assess students; (2) no mechanism for a [complete opt-out](#) of NCLB while still allowing states to receive federal funds in the form of a block grant; (3) no extension of Title I portability to private schools; and (4) not significant enough reduction in [spending levels](#).

CONSERVATIVE SUPPORT: Conservatives have also indicated support for reforms included in this bill including: (1) prohibitions on the federal government from coercing states to participate in Common Core or other [national standards](#); (2) repeal of [national accountability](#) metrics and achievement levels (adequate yearly progress); (3) Title I portability for low-income students to traditional public and charter schools; and (4) workforce reduction at the Department of Education due to eliminated and consolidated programs.

- **Expand** the Size and Scope of the Federal Government? No.
- **Encroach** into State or Local Authority? Some conservative believe there should be no federal role in education.
- **Delegate** Any Legislative Authority to the Executive Branch? No.
- **Contain** Earmarks/Limited Tax Benefits/Limited Tariff Benefits? No.

DETAILED SUMMARY AND ANALYSIS: In the 113th Congress, the House passed H.R. 5, the Student Success Act, by a vote of [221-207](#). The bill passed by the House last Congress is very similar to the version being voted on in the 114th Congress. Below is a summary of key reforms by bill title.

COST: The [Congressional Budget Office](#) (CBO) estimates that H.R. 5 would authorize the appropriation of \$116.5 billion over the 2016-2020 period. In addition, CBO estimates that implementing the bill would have discretionary costs of \$87.7 billion over the 2016-2020 period, and an additional \$52 billion after 2020, assuming appropriation of the specified and estimated amounts.

Title I – Aid to Local Educational Agencies

- **School improvement.** The bill would increase to 7 percent the state reserve for school improvement to aid low-achieving schools that have shown a commitment to improve. In addition, the bill would eliminate the [School Improvement Grant Program](#), which received increased funding under the American Recovery and Reinvestment Act of 2009.
- **Academic Standards.** As a condition of grant money, this bill would require states to adopt academic content standards in math, reading, and science, which would apply to all public schools and students in the state. For students with significant cognitive disabilities, the state would have flexibility in adopting alternate academic achievement standards. In addition, the state plan would address how the state education agency would establish English language proficiency standards.
- **Academic Assessments.** States would be required to implement high-quality student academic assessments in math, reading and science. The state, at their discretion, could choose to implement assessments in other subjects. Math and reading assessments would be administered once a year in grades three through eighth and at least once in grades nine through 12. Science assessments would be administered at least one time in grades three through five, then six through nine and finally once in grades 10 through 12. The results of the assessments would be disaggregated within each state by major factors such as gender, racial and ethnic groups, English language proficiency, and students with disabilities. States would still participate in the biennial state academic assessments of fourth and eighth grade reading and math under the [National Assessment of Educational Progress](#).
- **State Accountability.** States would be required to demonstrate the development and implementation of a single, statewide accountability system to ensure all public school students graduate from high school prepared for postsecondary education or the workforce. The state accountability system would annually measure the academic achievement of all public school students in a state against the state adopted standards for math and reading. This section would prohibit the Secretary of Education from establishing any criteria or aspect of a state's accountability system.
- **Repeals Federally Mandated Achievement Levels.** This bill would repeal federally mandated basic, proficient, and advanced [achievement levels](#), which measure how well students are learning certain information. Under NCLB, all students were expected to reach proficient level. This bill would allow states to develop their own accountability systems.
- **Parental Involvement.** This bill would encourage parental involvement with the goal of lowering barriers to achieve greater participation by parents in school planning, review, and improvement.
- **Annual State Report Card.** As a condition of funding, a state would be required to prepare and disseminate an annual state report card, which would include the performance of students in aggregate and disaggregated data, participation rate on assessments, graduation rates at high schools, and the results of assessments.
- **Voluntary Partnerships.** States would be given the opportunity to enter into a voluntary partnership with another state to develop and implement academic standards and assessments. The Secretary of Education would be prohibited from directly or indirectly coercing a state to implement the Common Core State Standards or any other standards.
- **Highly Qualified Teacher Program.** This bill would repeal the [Highly Qualified Teacher program](#), which was created under NCLB and required states to institute onerous requirements on their teachers.

- **Title I Portability.** This bill would allow Title I fund to follow low-income children to the public or charter school of their choice.

Title II – Teacher Preparation and Effectiveness

- Grant money awarded under this title would be used to (1) provide local education agencies with training and assistance on the development and implementation of a teacher evaluation system; (2) disseminate and share evidence-based practices; (3) provide professional development for teachers and school leaders; and, (4) develop and implement policies in the state to address teacher workforce shortages.
- This title would allow local education agencies to develop and implement teacher evaluations which are administered through school leaders. These evaluations could use student achievement data, multiple measures for evaluation, and be based on input from parents, school leaders, and teachers.
- This bill would allow parents to request information regarding the professional qualifications of the student’s classroom teachers.

Title III – Parental Engagement and Local Flexibility

- This title would provide financial assistance for the planning, program design, and initial implementation of charter schools, while expanding the number of high-quality charters schools available to students. In addition, it would encourage states to provide support to charter schools for facilities financing in an amount similar to what the state typically provided for traditional public schools.
- This title would authorize the secretary to carry out a charter school program that supports charter schools that serve both elementary and secondary school students. This would be accomplished by carrying out national activities to support charter school development, best practices, and stronger charter school authorizing.
- States receiving grants under this title would need to demonstrate how the state would (1) support the opening of new charter schools; (2) meet the needs of students including those with disabilities and English learners; and (3) share best practices between charter schools and other public schools.
- The secretary would award grants to states on the basis of the quality of their application after taking into consideration (1) the degree of flexibility afforded by the state’s public charter laws; (2) the ambitiousness of the state’s objectives for the quality charter school program; and, (3) the quality of the strategy for assessing the achievement of their objectives.
- The secretary would also strengthen the magnet school program with the goals of bringing students from different social, economic, ethnic, and racial backgrounds together.
- Grant money would be awarded to statewide organizations to establish Statewide Family Engagement Centers that provide comprehensive training and technical assistance to state educational agencies, local educational agencies, schools, and organizations that support family-school partnerships to carry out parent education and family engagement in education programs.
- The Statewide Family Engagement Centers would assist parents in participating effectively in their children’s education by engaging in activities that will improve academic achievement and become active participants in school planning and improvement.

- Local Academic Flexible Grant would provide local education agencies with the access to funds to support the initiatives important to their school and students to improve academic achievement and engagement. In addition, it would provide nonprofit and for-profit entities the opportunity to work with students to improve academic achievement and student engagement. This grant money could be used by states to pay for the costs of developing assessments, administering assessments, or other activities to ensure students are meeting the state’s academic standards.

Title IV – Impact Aid

- This bill would update the formula by which school district allotments are determined for a district with federal property located within its boundaries. The new formula includes two parts. First, an eligible school district will get a foundation or base payment of either 90 percent of the payment most recently received (Fiscal Year 2009) or 90 percent of the average payment received from Fiscal Years 2006-2009, whichever is higher. Second, the district will receive an additional payment using as calculated per acre value.
- The payments for [heavily impacted school districts](#) would also be amended to standardize eligibility. A district is eligible for these payments if it is (1) located on a military installation; (2) has a combination of high enrollment of federally connected students, high tax rates, and low per-pupil revenues; or (3) meets certain other criteria. Twenty-seven school districts serving more than 61,000 federally connected students in 2014 received these payments, which accounted for approximately 24 percent of all Basic Support payments in Fiscal Year 2014. This bill would standardize eligibility criteria for these districts at 45 percent enrollment of federally-connected children; bases per pupil expenditure eligibility requirements on state averages rather than national averages; and allows federally-connected children to be counted in enrollment numbers in the case of open enrollment policies in a state.
- The Secretary would be required to provide Impact Aid payments within three years due long-standing issues with the Department of Education not providing on-time payment.

Title V – The Federal Government’s Trust Responsibility to American Indian, Alaska Native, and Native Hawaiian Education

- This title would allow the secretary to make grants available to local education agencies that provide schooling to eligible Indian children, Indian tribes, Indian organizations and Alaska Native Organizations. These grants would be used to create comprehensive programs that meet the culturally related academic needs of this population, and includes academic content and achievement goals.
- This title would allow the secretary to authorize a grant program to increase the number of qualified Indian and Alaska Native teachers and administrators, and the improve the skills of qualified Indian and Alaskan Natives to become educators.
- The title would allow tribes to enter into cooperative agreements, known as Tribal Education Agencies Cooperative Amendments, with a state educational agency operating a school within Indian lands. This agreement would allow a tribe to plan, conduct, consolidate, and administer programs administered by the state or local education agency. In addition, it would allow the tribe to reallocate funds for such programs.
- This title would establish a National Advisory Council on Indian Education that would (1) advise the Secretary on funding and program administration; (2) make recommendations for the Director of Indian Education in the event of a vacancy; and (3) submit recommendations to Congress on improvements to federal education programs that include Indian children or adults.

Title VI – General Provisions for the Act

- This title would allow states to consolidate funds specifically made available for administrative purposes. The state could use the funds for administrative activities designed to enhance their effective and coordinated use. Local education agencies, with the approval of the state, would also be able to consolidate funds for local administration.
- This title would allow a state education agency, local education agency, or Indian tribe that receives funds to submit a request to the secretary to waive any statutory or regulatory requirement of this act. As a condition of a waiver, the secretary would not be allowed to require a state or local education agency to include specific academic standards such as the Common Core Standards or use specific academic assessments, including those aligned with standards such as Common Core.
- This title would strengthen provisions to ensure the participation of private school students and teachers to programs funded in this act.
- The federal government would be prohibited from directly or indirectly through grants, contracts, academic standards, or mandates incentivize or mandate the adoption of the Common Core standards.
- The federal government would also be prohibited from directly or indirectly making financial support available in a manner that is conditioned upon a state, local education agency or school's adoption of specific instruction content, standards and assessments, curriculum, or program of instruction, including a mandate to adopt the Common Core State Standards.
- This title would prohibit any federal funds provided under this act to be used by the Department of Education to endorse, approve, develop, require, and sanction any curriculum. This would include any curriculum aligned to the Common Core State Standards.
- States would not be required to have their academic standards approved or certified by the federal government in order to receive assistance under this act.
- No funds in this bill would be allowed to develop, pilot test, implement or administer any federal sponsored national test or testing materials.
- States who opt out of receiving funds, or that have not been awarded funds, would not be required to carry out any of the requirements of such program and nothing in this act should be construed to require a state to participate in any program.
- This title would require the secretary to identify the number of Department of Education employees who worked on or administered a program no longer authorized under this act and reduce the workforce of the department by the equivalent number within one year of enactment.
- A state or local education agency would be ineligible to receive funds under this act if the agency employs an individual who refuses to consent to a background check or is a registered sex offender.

Title VII – Homeless Education

- This title would reauthorize the Education for Homeless Children and Youths program within the McKinney-Vento Homeless Assistance Act.
- The Coordinator for Education of Homeless Children and Youth, which is established by each state, would make information available on the number of homeless children in the state, and the difficulties

in identifying the special needs and barriers to the participation in public schools of the homeless children.

- To receive funding under this section, a state would submit a plan to the secretary describing how the state will provide education for homeless children and youth.

Title VIII - Miscellaneous Provisions

- It is the sense of Congress that confidentially agreements between local educational agencies and schools and suspected sex abusers would be prohibited.
- In addition, the practice of employee transfers after suspected or proven sexual misconduct would be stopped.

The Education and Workforce Committee has provided additional [background information](#), and you can read the committee report, [here](#).

AMENDMENTS MADE IN ORDER ON JULY 7:

[#134 Rokita \(R-IN\); Grothman \(R-WI\)](#): This amendment would set the authorization period of the bill from FY 2016 to 2019.

[#36 Walker \(R-NC\); DeSantis \(R-FL\)](#): This amendment would include the Academic Partnerships Lead Us to Success Act (A PLUS) to H.R. 5. A PLUS gives states and local communities added flexibility to determine how to improve achievement and implement reforms. This amendment would allow states to submit a declaration of intent to the secretary to receive federal funds in the form of a block grant and then use those funds as the state sees fit for education purposes. [Heritage Action](#) supports this amendment and will include it as a key vote on their legislative scorecard.

[#129 Salmon \(R-AZ\)](#): This amendment would allow parents to opt their student out of the academic assessments mandated by the bill for any reason. These students would not be counted in the schools' participation requirements.

[#132 Polis \(D-CO\)](#): This amendment would strike section 112, which addresses state plans and rewrites the section to expand No Child Left Behind requirements on states.

AMENDMENTS MADE IN ORDER IN FEBRUARY THAT STILL NEED TO RECEIVE A VOTE:

[#2 Thompson \(D-MS\)](#): This amendment would delay implementation of the ESEA reauthorization until the Secretary of Education submits a written notification to Congress that H.R. 5 would not decrease the college and career readiness of racial and ethnic minorities, the disabled, English learners, and low-income students.

[#8 Grayson \(D-FL\)](#): This amendment would require the Secretary of Education to conduct an assessment of the impact of school start times on student health, well-being, and performance.

[#23 Scott \(D-VA\)](#): This amendment is the Democratic full-substitute amendment and would authorize the ESEA through Fiscal Year 2022. The substitute amendment would increase the ESEA authorization level from \$23 billion in the underlying bill to \$30 billion in Fiscal Year 2016 and "such sums" over the 2017-2022 period. In addition, the Scott amendment would (1) increase the authorization level of education of migratory children to \$500 million in Fiscal Year 2016 and "such sums" in the succeeding years; and (2) increase the authorization level of programs for neglected, delinquent, or at risk youth to \$55 million in Fiscal Year 2016 and "such sums" in

the succeeding years. In addition, it would maintain the civil rights and equity focus of the law and to ensure all students have access to an education that prepares them for college and the workforce.

#24 Meng (D-NY): This amendment would authorize a 5-year grant program for states to encourage professional development, credentialing, and increased compensation of Head Start/early-childhood educators. This amendment would authorize “such sums” over the 5-year period and includes state maintenance of effort requirements, as well as a requirement that grants supplement and not supplant other federal, state, and local funds for early childhood educator development.

#40 Moore (D-WI); Davis, Danny (D-IL); Wilson (D-FL): This amendment would delay the implementation of the new funding formulas under Title II until the Secretary of Education determines the implementation will not decrease the level and quality of educational services for families with incomes below the poverty line.

#50 Wilson (D-FL): This amendment would fund dropout prevention and reentry programs and provide grants to raise academic achievement levels for all students. Specifically, this amendment would authorize \$125 million in Fiscal Year 2016 and “such sums” over the Fiscal Year 2017-2021 period.

#54 Carson (D-IN): This amendment would require the Secretary of Education to develop an elementary and secondary education national research strategy that includes measures of student learning, effective teacher preparation, education administration, and international comparison of education.

#62 Loeb sack (D-IA): This amendment would authorize a competitive grant program to evaluate the technology-based learning practices, strategies, tools, or courses at rural schools. Specifically, this amendment would establish 3 to 5-year grants awarded by the Secretary of Education through a peer-reviewed process.

#106 Brownley (D-CA): This amendment would create a grant program for states to create or expand biliteracy seal programs to recognize student proficiency in speaking, reading, and writing in both English and a second language for graduating high school seniors. Specifically, the amendment would create 2-year grants and would authorize \$10 million for such purposes per year over the Fiscal Year 2016-2021 period.

#110 Wilson (D-FL): This amendment would establish and expand intensive care reading laboratories to assist elementary school students who are reading below grade level. In addition, it would provide for the specialization of school staffing for the purposes of basic skills in language arts, mathematics, and science in grades 1-3.

#111 Zeldin (R-NY): This amendment would clarify that nothing in the bill would prohibit a state from withdrawing from Common Core Standards or any other specific standard. This amendment would also prohibit federal employees from taking action against states that withdraw from Common Core Standards or any other specific standards.

#114 Hurd (R-TX): This amendment would establish a sense of Congress regarding student privacy and that the Secretary of Education should review all regulations addressing student privacy, including the protection of students’ personally identifiable information.

OUTSIDE GROUPS OPPOSE:

- [Club for Growth](#) urges a “no” on this bill and will include this vote on their 2015 Congressional Scorecard.
- [National Education Association](#)

OUTSIDE GROUPS SUPPORT:

- [Americans for Prosperity](#)
- [American Association of Christian School](#)
- [National Alliance for Public Charter Schools](#)
- [Committee on Catholic Education](#)
- [Council of Chief State School Officers](#)
- [Council for American Private Education](#)
- [Union of Orthodox Jewish Congregations of America](#)
- [Catapult Learning](#)
- [Homeschool Legal Defense Association](#)
- [Minnesota Association of School Administrators](#)
- [Minnesota School Boards Association](#)

COMMITTEE ACTION: This bill was introduced on February 3, 2015, by Representative Kline and referred to the Committee on Education and the Workforce, and the Committee on Financial Services. On February 11, 2015, the Committee on Education and the Workforce held a [mark-up](#) and the bill was ordered to be reported out, as amended, by a vote of [21-16](#).

ADMINISTRATION POSITION: The [administration](#) strongly opposes H.R. 5, the Student Success Act, as approved by the House Committee on Education and the Workforce. If the President were presented with H.R. 5, his senior advisors would recommend that he veto the bill.

CONSTITUTIONAL AUTHORITY: According to the sponsor, “Congress has the power to enact this legislation pursuant to the following: Article 1, section 8 of the Constitution of the United States.”

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