



Legislative Bulletin.....July 18, 2013

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Amendments to H.R. 5 — Student Success Act

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

Order of Business: The amendments to H.R. 5 are scheduled to be considered today, July 19, 2013, under a structured rule. The rule ([H. Res. 303](#)) provides one hour of general debate divided equally and controlled by the chair and ranking minority member of the Committee on Education and the Workforce. The rule also provides for amendment debate divided equally and controlled by the proponent and opponent for the time specified in the [rule announcement](#).

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SUMMARY OF AMENDMENTS

1. **Kline (MN), Rokita (IN):** ([Submitted as #23](#)): This amendment clarifies that States are not required to participate in certain programs contained in this act. Secondly, the amendment ensures that “individual student academic proficiency and growth”, as measured by standardized testing, must meet state standards, not federal. This amendment also mandates that the Secretary use at least 50 percent of the funds reserved by this bill for credit enhancing charter school development grants for that purpose.
2. **Young, Don (AK), Gabbard (HI), Hanabusa (HI), McCollum (MN)** ([Submitted as #55](#)): This amendment would reduce Title I (a) funding by \$195,399,345, bringing it down to \$16,456,367,655. This funding goes towards school improvement and direct student services focused on disadvantaged students. The amendment also strikes all the Native American related language in the bill and replaces it with different programs for Native Americans. The base bill eliminates Title VI and replaces it with new language addressing Native Americans. The amendment would undo the new language in the base bill, and restore and modify Title VI which would provide grants benefitting American Indians, Alaskan Natives, and Native Hawaiians.

Outside Groups: Heritage Action recommends a **No** vote on this amendment. A Heritage blog discussing the rational for their position can be viewed [here](#).

3. **Cárdenas (CA) (Submitted as #51):** This amendment specifically authorizes \$775,000,000 for each fiscal year through 2019 for the English Language Acquisition, Language Enhancement, and Academic Achievement programs located in subpart 4 of Title I, part A.
Outside Groups: Heritage Action recommends a **No** vote on this amendment. A Heritage blog discussing the rationale for their position can be viewed [here](#).
4. **Luetkemeyer (MO): (Submitted as #32):** This amendment expresses the sense of congress that States and Local education agencies should maintain the rights and responsibilities of determining their educational curriculum, instruction programs, and assessments. It further goes on to express the sense of Congress that states have been coerced into requirements, such as Race to the Top funds and the Common Core standards developed by outside organizations.
Outside Groups: Heritage Action recommends a **Yes** vote on this amendment. A Heritage blog discussing the rationale for their position can be viewed [here](#).
5. **Jackson Lee (TX) (Submitted as #61):** This amendment would make it such that local educational agencies with the most neglected, delinquent, migrant students, English learners, at-risk students, and Native Americans are prioritized by State educational agencies for the receipt of grant funds.
Outside Groups: Heritage Action recommends a **No** vote on this amendment. A Heritage blog discussing the rationale for their position can be viewed [here](#).
6. **Bentivolio (MI) (Submitted as #58):** This amendment would require that the peer review process used to evaluate State plans be composed of 10 percent representatives of private sector employers and entrepreneurs. The base bill peer review process includes appointees representing parents, teachers, and State and local educational agencies. The 10 percent allotment would come out of the current 75 percent designated for practitioners, reducing their share of appointees to 65 percent.
Outside Groups: Heritage Action recommends a **No** vote on this amendment. A Heritage blog discussing the rationale can be viewed [here](#).
7. **McMorris Rodgers (WA) (Submitted as #2):** This amendment makes changes regarding testing students with cognitive disabilities based on alternative standards, ensuring that measurements will be made separately not only for each individual student as already required, but additionally across separate subject areas based on content-specific standards. The standards must be vertically aligned, evidence based, and reflects the concepts and skills that students should know and learn at that grade level for which they are enrolled in. In the bill, these alternatively-tested students are able to receive a 'Regular High School Diploma', but this amendment allows no more than 1 percent of these students to be included in the number of high school graduates for reporting purposes.
Outside Groups: Heritage Action recommends a **No** vote on this amendment. A Heritage blog discussing the rationale for their position can be viewed [here](#).

8. **Reed (NY), McKinley (WV), Owens (NY) (Submitted as #53):** This amendment adds language which allows the State to include “other measures of school success” when annually evaluating and identifying the academic achievement and performance of each public school in addition to the specific requirements already listed in the bill.
9. **Benishek (MI) (Submitted as #3):** The amendment is intended to encourage States to report the number of students that are attaining career and technical education skills at each public secondary school. This information would be reported on the already required annual state report card.
10. **Heck (NV) (Submitted as #19):** This amendment would allow local education agencies to use the funding received under sec. 1142 (b) of the bill to enter into contracts or partnerships with other entities (mental health services, day care, drug and alcohol counseling, etc.) and/or give them grants in order to help delinquent or at-risk youths. These other organizations may be able to better serve this vulnerable population due to existing experience and specialized resources.
Outside Groups: Heritage Action recommends a **No** vote on this amendment. A blog discussing the rationale for their position can be viewed [here](#).
11. **Schock (IL), Meehan (PA) (Submitted as #44):** Under the general provisions for title I, this amendment would require the Secretary to include in the list of those whose advice is obtained for negotiated rulemaking processes those “representatives and members nominated by local and national stakeholder representatives.” It requires meetings and electronic exchanges of such advice and recommendations to be made available for the public. The amendment requires that the Secretary’s assessment of these regulations, as required in the Act, must include a representative sampling of local educational agencies based on their enrollment, ‘urban, suburban, or rural character,’ and certain other factors which impact the proposed regulation. Additionally, it adds that the Secretary must provide information regarding whether the proposed regulation is “financially, operationally, and educationally viable at the local level”. A new section, *Local Control*, prohibits the secretary from imposing any requirements or exercising governance or authority over local school administration. Specifically, this includes development and expenditure over school budgets, issuing regulations or non-regulatory guidance without first consulting with local stake-holders and fairly addressing their concerns, or denying any local educational agency the right to object to administrative requirements (such as those which place additional burdens or costs).
12. **Scalise (LA), Bishop, Rob (UT) (Submitted as #67)** This amendment removes the federal mandate set-forth by H.R. 5 for states to conduct federally prescribed teacher evaluation and returns autonomy to the states to decide how to evaluate their teachers.
Outside Groups: Heritage Action is **key voting a Yes** vote on this amendment and will include a yes vote on this amendment on their Legislative Scorecard. Heritage Action’s Legislative Scorecard announcement can be viewed [here](#). **In addition**, according to amendment’s sponsor, this amendment is supported by the American Federation of Teachers, the National Education Association, and the Concerned Women for America.

13. **Moore (WI), Wilson (FL) (Submitted as #29):** The base bill establishes a new formula for determining the amount of grants allotted to each state under Title II which has a total appropriation of \$2,441,549,000 each year through 2019. This amendment would require the Secretary to confirm to Congress that the new formula would not reduce the amount of Title II funding received by “local educational agencies that serve a high percentage of students from families with incomes below the poverty line.”
14. **Bishop (UT) (Submitted as #76):** This amendment eliminates Subsection C of Section 2111, *Alternative Distribution of Funds*, which allowed local agencies to apply for and receive grants if their State agency did not first apply for those funds.
Outside Groups: Heritage Action recommends **Yes** vote on this amendment. A blog discussing the rationale for their position can be viewed [here](#).
15. **Tonko (NY) (Submitted as #15)** This amendment reserves 10 percent of existing grant funding under the Teacher and Principal Training and Recruiting Fund for competitive sub grants that would allow organizations with STEM expertise to provide STEM professional development and instructional materials throughout the state.
16. **Brooks (IN), Polis (D-CO) (Submitted as #5):** Amends those provisions under Title II (pertaining to Teacher Preparation and Effectiveness) designating the allowable use of federal funds for training or professional development to include computer science teachers. Amends provision in Title III, Part B (pertaining to the Local Academic Flexible Grant) providing for the allowable use of funds towards activities designed to support “computer science and other science, technology, engineering, and mathematics programs.”
17. **Polis (CO), Petri (WI) (Submitted as #25):** This amendment mandates that charter schools must provide “substantial outreach” to “low-income” and “underserved populations” when expanding or creating new high-quality charter schools. The amendment also allows per-student revenue to be shared amongst different educational agencies if the student is enrolled in more than one. Also, the amendment explicitly allows charter schools to use grant funds for teacher preparation, professional development, and improving school facilities.
Outside Groups: Heritage Action recommends **No** vote on this amendment. A blog discussing the rationale for their position can be viewed [here](#).
18. **Valazquez (NY) (Submitted as #68):** This amendment requires applicants for the Family Engagement in Education Program located in Title III (Sec. 3141) to target services to low-income students and parents, including those who are not proficient in English, and conduct outreach to these families.
Outside Groups: Heritage Action recommends **No** vote on this amendment. A blog discussing the rationale for their position can be viewed [here](#).
19. **Mullin (OK) (Submitted as #65):** The amendment bars consolidated local educational districts made up from two or more former districts from receiving funding without re-establishing their eligibility. The amendment also allows local educational agencies the

freedom to re-calculate their grant payments if they have an increase in enrollment. Previously, under the base bill, an increase in enrollment had to meet several criteria before a LEA could be eligible for a re-calculation. The amendment also reforms Section 8007 (20 USC 7707) which covers emergency and modernization grants. The amendment would require that the secretary prioritize the emergency grant requests over the modernization requests and within those categories, prioritize based on urgency. The amendment also stipulates that no more than 50 percent of the cost for an emergency or modernization project can be covered by these grants. In kind contributions can be used by LEAs to count towards their 50 percent. Also, the grants cannot exceed \$4,000,000 during any 4-year period.

20. **Garret (NJ) ([Submitted as #18](#)):** This amendment clarifies that States are not required to participate in any of the programs contained in this act. Also for those programs which a state opts out of, the state is not required to implement any of the provisions or requirements contained in said programs.

Outside Groups: Heritage Action recommends **Yes** vote on this amendment. A blog discussing the rationale for their position can be viewed [here](#).

21. **Broun (GA) ([Submitted as #21](#)):** This amendment requires the Secretary of Education to report to Congress the average salary of the employees who were eliminated due to the termination or consolidation of the program they worked on. The amendment also requires the reporting of the average salary of Department of Education employees delineated by job function.

Outside Groups: Heritage Action recommends **Yes** vote on this amendment. A blog discussing the rationale for their position can be viewed [here](#).

22. **Culberson (TX) ([Submitted as #39](#)):** Under the Uniform Provisions portion of the bill, this amendment would include a new subpart called *Restoration of State Sovereignty Over Public Education and Parental Rights Over the Education of their Children*. This subpart requires the legislature of each State which wishes to operate programs to expressly approve that program, in doing so, “waived the State’s rights and authorities to act inconsistently with any requirement that might be imposed by the Secretary as a condition of receiving that assistance.” For example, the legislature could pass a budget including such Federal funds. It includes a section called “Dedication of Savings to Deficit Reduction”, stating that any funds not allocated to a State because it did not agree on receiving them shall not be reallocated among States. Additionally, it expresses the intent of Congress that control over public education and parental rights to control the education of their children are “vested exclusively within the autonomous zone of independent authority reserved to the States and individual Americans,” other than federal equal protection and due process minimum standards.

23. **Fitzpatrick (PA), Meehan (PA) ([Submitted as #8](#)):** This amendment makes a state or local educational agency ineligible for any funding if that agency knowingly employs or transfers an individual who has been convicted of certain felonies, State criminal activity, or a sexual misconduct crime at the State or Federal level. Additionally, agencies may not employ or transfer individuals who refuse their consent to a criminal background check.

The amendment also expresses the sense of congress that confidentiality agreements between educational agencies or schools and suspected child sex abusers should be prohibited in order to better protect children.

24. **Jackson Lee (TX) (Submitted as #75)**: This amendment adds *Title VIII – Miscellaneous Provisions* to the bill, requiring the Secretary to conduct a study on how state educational agencies are monitoring, supervising, or controlling underperforming local agencies, and whether equal educational opportunities are being provided to those students. No later than 180 days of enactment, the Secretary shall provide the results of this study to Congress, including recommendations regarding the authority a State should have to close a local agency even if the local school board opposes, and the best practices governing the exercise of authority over underperforming agencies. A particular emphasis must be made on rural agencies and those which disproportionately serve minority students.
25. **Cantor (VA), Bishop (UT) (Submitted as #30)**: This amendment would allow states to apportion Title I grant funds in a manner that is proportional to the number of impoverished children in each local education agency. These funds must be used to supplement and not replace any already existing resources.
Outside Groups: Heritage Action recommends a **Yes** vote for this amendment. A Heritage blog supporting the rationale for their position can be viewed [here](#).
26. **Miller (CA) (Submitted as #12)**: This amendment is in the form of an entire Substitute bill, completely re-writing and altering HR 5. Introduced by ranking democrat Rep. Miller, the substitute substantially amends Title I, II, IV, V, VIII, and IX. Notably, under Title II, States are required to establish teacher and principal evaluation systems, local agencies are also required to development and implement assessments, and effective teachers and leaders are required to be equitably spread across an LEA to reach all students. Additionally, it restores and adds new accountability provisions to Title III, *English Language Learners*, which was eliminated and consolidated into other programs under HR 5. This a substitute amendment cuts many of the reforms that are included in the overall bill. Rep. Miller offered a similar amendment in the Education and the Workforce Committee [markup](#) that was defeated by a party line [vote](#) of 16 yeas to 23 nays.
Outside Groups: Heritage Action recommends a **No** vote for this amendment. A Heritage blog discussing the rationale for their position can be viewed [here](#).

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