

109TH CONGRESS
1ST SESSION

H. R. 3499

To restore State sovereignty over public elementary and secondary education.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2005

Mr. CULBERSON (for himself, Mr. BARTLETT of Maryland, Mr. BISHOP of Utah, Mr. FEENEY, Mr. PAUL, Mr. PENCE, Mr. PITTS, Mr. POE, and Mr. ROHRBACHER) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To restore State sovereignty over public elementary and secondary education.

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 This Act may be cited as the “Local Control of Edu-
5 cation Act of 2005”.

6 **SEC. 2. FINDING.**

7 The Congress finds that the creation, funding, sup-
8 port, maintenance, operation, and all other aspects of ele-
9 mentary and secondary education are residual core sov-
10 ereign functions reserved to the control of the States

1 under the United States Constitution, as expressed in the
2 Tenth Amendment.

3 **SEC. 3. RULE OF CONSTRUCTION.**

4 This Act shall be liberally construed and shall be vig-
5 orously and promptly enforced so as to ensure the preser-
6 vation of the States' core sovereign authority over all as-
7 pects of elementary and secondary education under the
8 United States Constitution, as expressed in the Tenth
9 Amendment.

10 **SEC. 4. RESTORATION OF STATE SOVEREIGNTY WITH RE-**
11 **SPECT TO CERTAIN FEDERAL EDUCATION**
12 **FUNDS.**

13 (a) FUNDING TO STATES.—

14 (1) IN GENERAL.—With respect to any program
15 under which Federal funds may be provided to a
16 State under the Elementary and Secondary Edu-
17 cation Act of 1965 (20 U.S.C. 6301 et seq.), unless
18 the legislature of the State has by law expressly and
19 specifically authorized operation of the program and,
20 in doing so, has waived the State's rights and au-
21 thorities to act inconsistently with any requirement
22 that might be imposed by the Federal Government
23 as a condition of receiving Federal funds under the
24 program—

1 (A) the Secretary of Education may not
2 provide any funds to the State pursuant to the
3 program;

4 (B) no officer, employee, or other authority
5 of the Federal Government shall enforce against
6 an authority of the State, nor shall any author-
7 ity of the State have any obligation to obey, any
8 requirement of the program; and

9 (C) the program shall not operate within
10 the State.

11 (2) TERM OF AUTHORIZATION.—If a State en-
12 acts (and does not repeal or otherwise terminate) a
13 law authorizing operation of an education program
14 described in paragraph (1), such authorization shall
15 have effect for purposes of paragraph (1) until the
16 later of—

17 (A) the end of the 5-year period beginning
18 on the date of the enactment of the law; or

19 (B) the end of any regular legislative ses-
20 sion of the State that begins during the last
21 year of such 5-year period and is ongoing at the
22 end of such period.

23 (b) FUNDING TO LOCAL GOVERNMENTAL ENTI-
24 TIES.—With respect to any program under which Federal
25 funds may be provided to a local governmental entity (in-

1 cluding any local educational agency, public kindergarten,
2 public elementary school, or public secondary school)
3 under the Elementary and Secondary Education Act of
4 1965 (20 U.S.C. 6301 et seq.), the Secretary of Education
5 may not provide any funds to the local governmental enti-
6 ty under such program unless the chief law enforcement
7 officer of the State involved certifies that participation by
8 the entity in the program is consistent with any applicable
9 requirements under the law of the State.

10 (c) DEFINITIONS.—For purposes of this section:

11 (1) The term “authority of a State” includes
12 any officer or employee of the State and any local
13 government authority of the State.

14 (2) The terms “elementary school”, “local edu-
15 cational agency”, and “secondary school” have the
16 meanings given to those terms in section 9101 of the
17 Elementary and Secondary Education Act of 1965
18 (20 U.S.C. 7801).

19 (d) EFFECTIVE DATE.—This section applies in each
20 State beginning at the end of the first regular session of
21 the legislature of that State that begins after the date of
22 the enactment of this Act and shall continue to apply in
23 subsequent years until otherwise provided by law.

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