

113TH CONGRESS
2D SESSION

H. R. 5394

To provide for the elimination of the Department of Education, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2014

Mr. BROUN of Georgia introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To provide for the elimination of the Department of Education, 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 This Act may be cited as the “Department of Edu-
5 cation Elimination Act of 2014”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Principles of federalism embodied in the
9 Constitution of the United States entrust authority
10 over issues of educational policy to the States and

1 the people and a Federal Department of Education
2 is inconsistent with such principles.

3 (2) Tradition and experience dictate that the
4 governance and management of schools in the
5 United States are best performed by parents, teach-
6 ers, and communities.

7 (3) The education of the Nation's students is
8 suffering under a managerial government.

9 (4) The Department of Education has weak-
10 ened the ability of parents to make essential deci-
11 sions about their children's education and has un-
12 dermined the capacity of communities to govern
13 their schools.

14 (5) In the 34 years of its existence, the Depart-
15 ment of Education has grown from a budget of \$14
16 billion to almost \$65.7 billion in annual discre-
17 tionary appropriations administering around 100
18 programs. Meanwhile, education performance for 17-
19 year olds has stagnated since 1971.

20 (6) The Department of Education has fostered
21 over-regulation, standardization, bureaucratization,
22 and litigation in United States education.

23 (7) The Department of Education expends
24 large amounts of money on its own maintenance and
25 overhead. While the average salary for public school

1 teachers is around \$56,000, the average salary for
2 a Department of Education employee is \$108,571.

3 (8) Recent tests reflect poor results in mathe-
4 matics, science, and reading for American students
5 compared with students from other nations.

6 (9) Only through initiatives led by parents and
7 local communities with the power to act can the
8 United States elevate educational performance to-
9 ward an acceptable level.

10 (10) The current system of top down education
11 uniformity is detrimental to local businesses and
12 communities, the economic needs of the states, and
13 the Nation's ability to compete globally for jobs.

14 (11) The Department of Education has been
15 hostile to many promising reform ideas or empow-
16 ering parents, teachers, and local communities. The
17 United States, once a laboratory of innovation
18 through the experiments of the States, is moving to-
19 ward education standardization that does not con-
20 sider the individual educational needs of our diverse
21 population of students.

22 **SEC. 3. ABOLITION OF DEPARTMENT OF EDUCATION.**

23 The Department of Education is abolished, and, with
24 the exception of the programs transferred under section
25 7, any program for which the Secretary of Education or

1 the Department of Education has administrative responsi-
2 bility as provided by law or by delegation of authority pur-
3 suant to law is repealed, including each program under
4 the following:

5 (1) The Department of Education Organization
6 Act (20 U.S.C. 3401 et seq.).

7 (2) The General Education Provisions Act (20
8 U.S.C. 1221 et seq.).

9 **SEC. 4. GRANTS TO STATES FOR ELEMENTARY AND SEC-**
10 **ONDARY AND FOR POSTSECONDARY EDU-**
11 **CATION PROGRAMS.**

12 (a) IN GENERAL.—Subject to the requirements of
13 this title, each State is entitled to receive from the Sec-
14 retary of the Treasury, by not later than July 1 of the
15 preceding fiscal year—

16 (1) a grant for fiscal year 2015 and each suc-
17 ceeding fiscal year through fiscal year 2024, that is
18 equal to the amount of funds appropriated for the
19 State for Federal elementary school and secondary
20 school programs for fiscal year 2012 (except for the
21 funds appropriated for fiscal year 2012 for such pro-
22 grams for such State that are being transferred
23 under section 7); and

24 (2) a grant for fiscal year 2015 and each suc-
25 ceeding fiscal year through fiscal year 2024, that is

1 equal to the amount of funds appropriated for the
2 State for Federal postsecondary education programs
3 for fiscal year 2012 (except for the funds appro-
4 priated for fiscal year 2012 for such programs for
5 such State that are being transferred under section
6 7).

7 (b) APPROPRIATION.—Out of any money in the
8 Treasury of the United States not otherwise appropriated,
9 there are appropriated for fiscal years 2015 through 2024,
10 such sums as are necessary for grants under subsection
11 (a).

12 (c) REQUIREMENTS RELATING TO INTERGOVERN-
13 MENTAL FINANCING.—The Secretary of the Treasury
14 shall make the transfer of funds under grants under sub-
15 section (a) directly to each State in accordance with the
16 requirements of section 6503 of title 31, United States
17 Code.

18 (d) EXPENDITURE OF FUNDS.—Amounts received by
19 a State under this section for any fiscal year shall be ex-
20 pended by the State in such fiscal year or in the suc-
21 ceeding fiscal year.

22 (e) USE OF FUNDS.—Funds made available to a
23 State—

1 (1) under subsection (a)(1), shall be used by
2 the State for any elementary or secondary education
3 purpose permitted by State law; and

4 (2) under subsection (a)(2), shall be used by
5 the State for any postsecondary education purpose
6 permitted by State law.

7 (f) SUPPLEMENT, NOT SUPPLANT.—A grant received
8 under subsection (a) shall only be used to supplement the
9 amount of funds that would, in the absence of such grant,
10 be made available from non-Federal sources for elemen-
11 tary school and secondary school programs or postsec-
12 ondary education programs, and not to supplant those
13 funds.

14 **SEC. 5. ADMINISTRATIVE AND FISCAL ACCOUNTABILITY.**

15 (a) AUDITS.—

16 (1) CONTRACT WITH APPROVED AUDITING EN-
17 TITY.—Not later than October 1, 2015, and annu-
18 ally thereafter, a State shall contract with an ap-
19 proved auditing entity (as defined under paragraph
20 (3)(B)) for purposes of conducting an audit under
21 paragraph (2) (with respect to the fiscal year ending
22 September 30 of such year).

23 (2) AUDIT REQUIREMENT.—Under a contract
24 under paragraph (1), an approved auditing entity
25 shall conduct an audit of the expenditures or trans-

1 fers made by a State from amounts received under
2 a grant under section 4, with respect to the fiscal
3 year which such audit covers, to determine the ex-
4 tent to which such expenditures and transfers were
5 expended in accordance with section 4.

6 (3) ENTITY CONDUCTING AUDIT.—

7 (A) IN GENERAL.—With respect to a
8 State, the audit under paragraph (2) shall be
9 conducted by an approved auditing entity in ac-
10 cordance with generally accepted auditing prin-
11 ciples.

12 (B) APPROVED AUDITING ENTITY.—For
13 purposes of this section, the term “approved
14 auditing entity” means, with respect to a State,
15 an entity that is—

16 (i) approved by the Secretary of the
17 Treasury;

18 (ii) approved by the chief executive of-
19 ficer of the State; and

20 (iii) independent of any Federal,
21 State, or local agency.

22 (4) SUBMISSION OF AUDIT.—Not later than
23 April 30, 2016, and annually thereafter, a State
24 shall submit the results of the audit under para-
25 graph (2) (with respect to the fiscal year ending on

1 September 30 of such year) to the State legislature
2 and to the Secretary of the Treasury.

3 (b) REIMBURSEMENT AND PENALTY.—If, through an
4 audit conducted under subsection (a), an approved audit-
5 ing entity finds that a State violated the requirements of
6 subsection (d) or (e) of section 4, the State shall pay to
7 the Treasury of the United States 100 percent of the
8 amount of State funds that were used in violation of sec-
9 tion 4 as a penalty. Insofar as a State fails to pay any
10 such penalty, the Secretary of the Treasury shall offset
11 the amount not so paid against the amount of any grant
12 otherwise payable to the State under this Act.

13 (c) ANNUAL REPORTING REQUIREMENTS.—

14 (1) IN GENERAL.—Not later than January 31,
15 2016, and annually thereafter, each State shall sub-
16 mit to the Secretary of the Treasury and the State
17 legislature a report on the activities carried out by
18 the State during the most recently completed fiscal
19 year with funds received by the State under a grant
20 under section 4 for such fiscal year.

21 (2) CONTENT.—A report under paragraph (1)
22 shall, with respect to a fiscal year—

23 (A) contain the results of the audit con-
24 ducted by an approved auditing entity for a
25 State for such fiscal year, in accordance with

1 the requirements of subsection (a) of this sec-
2 tion;

3 (B) specify the amount of the grant made
4 to the State under section 4; and

5 (C) be in such form and contain such other
6 information as the State determines is nec-
7 essary to provide—

8 (i) an accurate description of the ac-
9 tivities conducted by the State for the pur-
10 pose described under section 4; and

11 (ii) a complete record of the purposes
12 for which amounts were expended in ac-
13 cordance with this section.

14 (3) PUBLIC AVAILABILITY.—A State shall make
15 copies of the reports required under this section
16 available on a public Web site and shall make copies
17 available in other formats upon request.

18 (d) FAILURE TO COMPLY WITH REQUIREMENTS.—
19 The Secretary of the Treasury shall not make any pay-
20 ment to a State under a grant authorized by section 4—

21 (1) if an audit for a State is not submitted as
22 required under subsection (a), during the period be-
23 tween the date such audit is due and the date on
24 which such audit is submitted;

1 (2) if a State fails to submit a report as re-
2 quired under subsection (c), during the period be-
3 tween the date such report is due and the date on
4 which such report is submitted; or

5 (3) if a State violates a requirement of section
6 4, during the period beginning on the date the Sec-
7 retary becomes aware of such violation and the date
8 on which such violation is corrected by the State.

9 (e) ADMINISTRATIVE SUPERVISION AND OVER-
10 SIGHT.—

11 (1) LIMITED ROLE FOR SECRETARY OF TREAS-
12 URY AND THE ATTORNEY GENERAL.—

13 (A) TREASURY.—The authority of the Sec-
14 retary of the Treasury under this Act is limited
15 to—

16 (i) promulgating regulations, issuing
17 rules, or publishing guidance documents to
18 the extent necessary for purposes of imple-
19 menting subsection (a)(3)(B), subsection
20 (b), and subsection (d);

21 (ii) making payments to the States
22 under grants under section 4;

23 (iii) approving entities under sub-
24 section (a)(3)(B) for purposes of the audits
25 required under subsection (a);

1 (iv) withholding payment to a State of
2 a grant under subsection (d) or offsetting
3 a payment of such a grant to a State
4 under subsection (b); and

5 (v) exercising the authority relating to
6 nondiscrimination that is specified in sec-
7 tion 6(b).

8 (B) ATTORNEY GENERAL.—The authority
9 of the Attorney General to supervise the
10 amounts received by a State under section 4 is
11 limited to the authority under section 6(b).

12 (f) RESERVATION OF STATE POWERS.—Nothing in
13 this section shall be construed to limit the power of a
14 State, including the power of a State to pursue civil and
15 criminal penalties under State law against any individual
16 or entity that misuses, or engages in fraud or abuse re-
17 lated to, the funds provided to a State under section 4.

18 **SEC. 6. NONDISCRIMINATION PROVISIONS.**

19 (a) NO DISCRIMINATION AGAINST INDIVIDUALS.—
20 No individual shall be excluded from participation in, de-
21 nied the benefits of, or subjected to discrimination under,
22 any program or activity funded in whole or in part with
23 amounts paid to a State under section 4 on the basis of
24 such individual's—

1 (1) disability under section 504 of the Rehabili-
2 tation Act of 1973 (29 U.S.C. 794);

3 (2) sex under title IX of the Education Amend-
4 ments of 1972 (20 U.S.C. 1681 et seq.); or

5 (3) race, color, or national origin under title VI
6 of the Civil Rights Act of 1964 (42 U.S.C. 2000d
7 et seq.).

8 (b) COMPLIANCE.—

9 (1) IN GENERAL.—If the Attorney General de-
10 termines that a State or an entity that has received
11 funds from amounts paid to a State under a grant
12 under section 4 has failed to comply with a provision
13 of law referred to in subsection (a), the Secretary of
14 the Treasury shall notify the chief executive officer
15 of the State of such failure to comply and shall re-
16 quest that such chief executive officer secure such
17 compliance.

18 (2) ENFORCEMENT.—If, not later than 60 days
19 after receiving notification under paragraph (1), the
20 chief executive officer of a State fails or refuses to
21 secure compliance with the provision of law referred
22 to in such notification, the Attorney General may—

23 (A) institute an appropriate civil action; or

24 (B) exercise the powers and functions pro-

25 vided under section 505 of the Rehabilitation

1 Act of 1973 (29 U.S.C. 794a), title IX of the
2 Education Amendments of 1972 (20 U.S.C.
3 1681 et seq.), or title VI of the Civil Rights Act
4 of 1964 (42 U.S.C. 2000d et seq.) (as applica-
5 ble).

6 **SEC. 7. TRANSFER OF CERTAIN DEPARTMENT OF EDU-**
7 **CATION PROGRAMS.**

8 Not later than 24 months after the date of enactment
9 of this Act—

10 (1) each job training program under the juris-
11 diction of the Department of Education, including
12 the Carl D. Perkins Career and Technical Education
13 Act of 2006 (20 U.S.C. 2301 et seq.) shall be trans-
14 ferred to the Department of Labor;

15 (2) each special education grant program under
16 the Individuals with Disabilities Education Act (20
17 U.S.C. 1460 et seq.) shall be transferred to the De-
18 partment of Health and Human Services;

19 (3) each Indian Education program under the
20 jurisdiction of the Department of Education shall be
21 transferred to the Department of the Interior;

22 (4) each Impact Aid program under title VIII
23 of the Elementary and Secondary Education Act of
24 1965 (20 U.S.C. 7701 et seq.) shall be transferred
25 to the Department of Defense; and

1 (5) the Federal Pell Grant program under sub-
2 part 1 of part A of title IV of the Higher Education
3 Act of 1965 (20 U.S.C. 1070a), which shall be
4 capped at \$18,000,000,000 per fiscal year, and the
5 Federal student loan programs under parts B and D
6 of title IV of such Act (20 U.S.C. 1070 et seq.; 20
7 U.S.C. 1087a et seq.) shall be transferred to the De-
8 partment of Health and Human Services.

9 **SEC. 8. GAO REPORT.**

10 Not later than 90 days after the date of enactment
11 of this Act, the Comptroller General of the United States
12 shall submit to the Committee on Education and the
13 Workforce of the House of Representatives and the Com-
14 mittee on Health, Education, Labor, and Pensions of the
15 Senate report, which shall include—

16 (1) a review and evaluation as to the feasibility
17 of enhancing the ability of States and local commu-
18 nities to fund education by reducing the Federal tax
19 burden and commensurately eliminating Federal
20 Government involvement in providing grants for edu-
21 cation programs; and

22 (2) an evaluation of the feasibility of the suc-
23 cessor Federal agencies for maintaining the pro-
24 grams to be transferred under section 7.

1 **SEC. 9. PLAN FOR WINDING UP AFFAIRS.**

2 Not later than 180 days after the date of the enact-
3 ment of this Act, the President shall submit to the Con-
4 gress a plan for winding up the affairs of the Department
5 of Education in accordance with this Act.

6 **SEC. 10. DEFINITIONS.**

7 In this Act:

8 (1) **ELEMENTARY SCHOOL; SECONDARY**
9 **SCHOOL.**—The terms “elementary school” and “sec-
10 ondary school” have the meanings given the terms
11 in section 9101 of the Elementary and Secondary
12 Education Act of 1965 (20 U.S.C. 9101).

13 (2) **INSTITUTION OF HIGHER EDUCATION.**—The
14 term “institution of higher education” has the
15 meaning given the term in section 102 of the Ele-
16 mentary and Secondary Education Act of 1965 (20
17 U.S.C. 1002).

18 (3) **STATE.**—The term “State” has the mean-
19 ing given the term in section 103 of the Higher
20 Education Act of 1965 (20 U.S.C. 1003).

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