

117TH CONGRESS
1ST SESSION

H. R. 2106

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 2021

Mr. ROUZER (for himself and Mr. STEUBE) introduced the following bill;
which was referred to the Committee on Education and Labor

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 “States’ Education Rec-
5 lamation Act of 2021”.

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 41 years of its existence, the Depart-
15 ment of Education has grown from a budget of \$14
16 billion to almost \$73.5 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 national salary for pub-

1 lic school teachers is \$61,730 the average salary for
2 a Department of Education employee is \$112,724.

3 (8) In certain States, the average State salary
4 for a public school teacher is less than the national
5 average. In North Carolina, the average salary for a
6 public school teacher is \$53,975.

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

10 (10) Only through initiatives led by parents and
11 local communities with the power to act can the
12 United States elevate educational performance to-
13 ward an acceptable level.

14 (11) The current system of top-down education
15 uniformity is detrimental to local businesses and
16 communities, the economic needs of the States, and
17 the Nation's ability to compete globally for jobs.

18 (12) The Department of Education has been
19 hostile to many promising reforms, including re-
20 forms that would empower parents, teachers, and
21 local communities. The United States, once a labora-
22 tory of innovation through the experiments of the
23 States, is moving toward education standardization
24 that does not consider the individual educational
25 needs of our diverse population of students.

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

2 The Department of Education is abolished, and, with
3 the exception of the programs transferred under section
4 7, any program for which the Secretary of Education or
5 the Department of Education has administrative responsi-
6 bility as provided by law or by delegation of authority pur-
7 suant to law is repealed, including each program under
8 the following:

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

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

13 **SEC. 4. GRANTS TO STATES FOR ELEMENTARY AND SEC-**
14 **ONDARY AND FOR POSTSECONDARY EDU-**
15 **CATION PROGRAMS.**

16 (a) IN GENERAL.—Subject to the requirements of
17 this Act, each State is entitled to receive from the Sec-
18 retary of the Treasury, by not later than July 1 of the
19 preceding fiscal year—

20 (1) a grant for fiscal year 2021 and each suc-
21 ceeding fiscal year through fiscal year 2029, that is
22 equal to the amount of funds appropriated for the
23 State for Federal elementary school and secondary
24 school programs for fiscal year 2021 (except for the
25 funds appropriated for fiscal year 2021 for such pro-

1 grams for such State that are being transferred
2 under section 7); and

3 (2) a grant for fiscal year 2021 and each suc-
4 ceeding fiscal year through fiscal year 2029, that is
5 equal to the amount of funds appropriated for the
6 State for Federal postsecondary education programs
7 for fiscal year 2021 (except for the funds appro-
8 priated for fiscal year 2021 for such programs for
9 such State that are being transferred under section
10 7).

11 (b) APPROPRIATION.—Out of any money in the
12 Treasury of the United States not otherwise appropriated,
13 there are appropriated for fiscal years 2021 through 2029,
14 such sums as are necessary for grants under subsection
15 (a).

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

22 (d) EXPENDITURE OF FUNDS.—Amounts received by
23 a State under this section for any fiscal year shall be ex-
24 pended by the State in such fiscal year or in the suc-
25 ceeding fiscal year.

1 (e) USE OF FUNDS.—Funds made available to a
2 State—

3 (1) under subsection (a)(1), shall be used by
4 the State for any elementary or secondary education
5 purpose permitted by State law, including increases
6 in teacher salaries; and

7 (2) under subsection (a)(2), shall be used by
8 the State for any postsecondary education purpose
9 permitted by State law.

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

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

18 (a) AUDITS.—

19 (1) CONTRACT WITH APPROVED AUDITING EN-
20 TITY.—Not later than October 1, 2021, and annu-
21 ally thereafter, a State shall contract with an ap-
22 proved auditing entity (as defined under paragraph
23 (3)(B)) for purposes of conducting an audit under
24 paragraph (2) (with respect to the fiscal year ending
25 September 30 of such year).

1 (2) AUDIT REQUIREMENT.—Under a contract
2 under paragraph (1), an approved auditing entity
3 shall conduct an audit of the expenditures or trans-
4 fers made by a State from amounts received under
5 a grant under section 4, with respect to the fiscal
6 year which such audit covers, to determine the ex-
7 tent to which such expenditures and transfers were
8 expended in accordance with section 4.

9 (3) ENTITY CONDUCTING AUDIT.—

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

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

19 (i) approved by the Secretary of the
20 Treasury;

21 (ii) approved by the chief executive of-
22 ficer of the State; and

23 (iii) independent of any Federal,
24 State, or local agency.

1 (4) SUBMISSION OF AUDIT.—Not later than
2 April 30, 2022, and annually thereafter, a State
3 shall submit the results of the audit under para-
4 graph (2) (with respect to the fiscal year ending on
5 September 30 of such year) to the State legislature
6 and to the Secretary of the Treasury.

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

17 (c) ANNUAL REPORTING REQUIREMENTS.—

18 (1) IN GENERAL.—Not later than January 31,
19 2022, and annually thereafter, each State shall sub-
20 mit to the Secretary of the Treasury and the State
21 legislature a report on the activities carried out by
22 the State during the most recently completed fiscal
23 year with funds received by the State under a grant
24 under section 4 for such fiscal year.

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

3 (A) contain the results of the audit con-
4 ducted by an approved auditing entity for a
5 State for such fiscal year, in accordance with
6 the requirements of subsection (a) of this sec-
7 tion;

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

10 (C) be in such form and contain such other
11 information as the State determines is nec-
12 essary to provide—

13 (i) an accurate description of the ac-
14 tivities conducted by the State for the pur-
15 pose described under section 4; and

16 (ii) a complete record of the purposes
17 for which amounts were expended in ac-
18 cordance with this section.

19 (3) PUBLIC AVAILABILITY.—A State shall make
20 copies of the reports required under this section
21 available on a public website and shall make copies
22 available in other formats upon request.

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

1 (1) if an audit for a State is not submitted as
2 required under subsection (a) during the period be-
3 tween the date such audit is due and the date on
4 which such audit is submitted;

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

9 (3) if a State violates a requirement of section
10 4 during the period beginning on the date the Sec-
11 retary becomes aware of such violation and the date
12 on which such violation is corrected by the State.

13 (e) ADMINISTRATIVE SUPERVISION AND OVER-
14 SIGHT.—

15 (1) LIMITED ROLE FOR SECRETARY OF THE
16 TREASURY.—The authority of the Secretary of the
17 Treasury under this Act is limited to—

18 (A) promulgating regulations, issuing
19 rules, or publishing guidance documents to the
20 extent necessary for purposes of implementing
21 subsection (a)(3)(B), subsection (b), and sub-
22 section (d);

23 (B) making payments to the States under
24 grants under section 4;

1 (C) approving entities under subsection
2 (a)(3)(B) for purposes of the audits required
3 under subsection (a);

4 (D) withholding payment to a State of a
5 grant under subsection (d) or offsetting a pay-
6 ment of such a grant to a State under sub-
7 section (b); and

8 (E) exercising the authority relating to
9 nondiscrimination that is specified in section
10 6(b).

11 (2) LIMITED ROLE FOR ATTORNEY GENERAL.—

12 The authority of the Attorney General to supervise
13 the amounts received by a State under section 4 is
14 limited to the authority under section 6(b).

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

21 **SEC. 6. NONDISCRIMINATION PROVISIONS.**

22 (a) NO DISCRIMINATION AGAINST INDIVIDUALS.—
23 No individual shall be excluded from participation in, de-
24 nied the benefits of, or subjected to discrimination under,
25 any program or activity funded in whole or in part with

1 amounts paid to a State under section 4 on the basis of
2 such individual's—

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

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

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

10 (b) COMPLIANCE.—

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

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

25 (A) institute an appropriate civil action; or

(B) exercise the powers and functions provided under section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794a), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), or title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) (as applicable).

SEC. 7. TRANSFER OF CERTAIN DEPARTMENT OF EDUCATION PROGRAMS.

(a) TRANSFER OF CERTAIN PROGRAMS.—Not later than 24 months after the date of the enactment of this Act—

(1) each job training program under the jurisdiction of the Department of Education, including the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), shall be transferred to the Department of Labor;

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

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

1 (4) each Impact Aid program under title VIII
2 of the Elementary and Secondary Education Act of
3 1965 (20 U.S.C. 7701 et seq.) shall be transferred
4 to the Department of Defense;

5 (5) the Federal Pell Grant program under title
6 IV of the Higher Education Act of 1965 (20 U.S.C.
7 1070a) shall be transferred to the Department of
8 the Treasury;

9 (6) each Federal student loan program under
10 the jurisdiction of the Department of Education
11 shall be transferred to the Department of the Treas-
12 ury;

13 (7) each program under the jurisdiction of the
14 Institute of Education Sciences shall be transferred
15 to the Department of Health and Human Services;
16 and

17 (8) each program under the jurisdiction of the
18 D.C. Opportunity Scholarship Program shall be
19 transferred to the Department of Health and
20 Human Services.

21 (b) LIMITATION ON TRANSFER OF CERTAIN PRO-
22 GRAMS.—The transfer of programs pursuant to subsection
23 (a) is limited to only the transfer of administrative respon-
24 sibility as provided by law or the delegation of authority
25 pursuant to law and does not extend to the transfer of

1 personnel employed by the Department of Education to
2 carry out such programs.

3 **SEC. 8. GAO REPORT.**

4 Not later than 90 days after the date of the enact-
5 ment of this Act, the Comptroller General of the United
6 States shall submit to the Committee on Education and
7 Labor of the House of Representatives and the Committee
8 on Health, Education, Labor, and Pensions of the Senate
9 report, which shall include—

10 (1) a review and evaluation as to the feasibility
11 of enhancing the ability of States and local commu-
12 nities to fund education by reducing the Federal tax
13 burden and commensurately eliminating Federal
14 Government involvement in providing grants for edu-
15 cation programs; and

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

19 **SEC. 9. PLAN FOR CLOSURE OF THE DEPARTMENT OF EDU-**
20 **CATION.**

21 Not later than 365 days after the date of the enact-
22 ment of this Act, the President shall submit to the Con-
23 gress a plan to implement closure of the Department of
24 Education in accordance with this Act.

1 **SEC. 10. DEFINITIONS.**

2 In this Act:

3 (1) ELEMENTARY SCHOOL; SECONDARY
4 SCHOOL.—The terms “elementary school” and “sec-
5 ondary school” have the meanings given the terms
6 in section 9101 of the Elementary and Secondary
7 Education Act of 1965 (20 U.S.C. 9101).

8 (2) INSTITUTION OF HIGHER EDUCATION.—The
9 term “institution of higher education” has the
10 meaning given the term in section 102 of the Ele-
11 mentary and Secondary Education Act of 1965 (20
12 U.S.C. 1002).

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

○