

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 2445  
OFFERED BY MR. THOMPSON OF PENNSYLVANIA**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 The Act may be cited as the “State and Local Fund-  
3 ing Flexibility Act”.

4 **SEC. 2. FLEXIBILITY TO USE FEDERAL FUNDS.**

5 (a) **IN GENERAL.**—Subpart 2 of part A of title VI  
6 of the Elementary and Secondary Education Act of 1965  
7 (20 U.S.C. 7305 et seq.) is amended to read as follows:

8 **“Subpart 2—Funding Flexibility for State and Local  
9 Educational Agencies**

10 **“SEC. 6121. SHORT TITLE.**

11 “This subpart may be cited as the ‘State and Local  
12 Funding Flexibility Act’.

13 **“SEC. 6122. PURPOSE.**

14 “The purpose of this subpart is to allow States and  
15 local educational agencies the flexibility to—

16 “(1) design flexible programs that use Federal  
17 funds to support student achievement for all stu-  
18 dents, including students most at risk of failing to

1 meet the State's academic achievement standards;  
2 and

3 “(2) extend and enhance the funding flexibility  
4 provided to rural local educational agencies under  
5 section 6211 to all State educational agencies and  
6 local educational agencies by providing such agencies  
7 flexibility in using Federal formula funds received to  
8 carry out authorized State or local activities for  
9 other authorized or required State or local activities.

10 **“SEC. 6123. FLEXIBILITY TO USE FEDERAL FUNDS.**

11 “(a) ALTERNATIVE USES OF FEDERAL FUNDS FOR  
12 STATE EDUCATIONAL AGENCIES.—

13 “(1) IN GENERAL.—Subject to subsections (c)  
14 and (d) and notwithstanding any other provision of  
15 law, a State educational agency may use the applica-  
16 ble funding that the agency receives for a fiscal year  
17 to carry out any State activity authorized or re-  
18 quired under one or more of the following provisions:

19 “(A) Section 1003.

20 “(B) Section 1004.

21 “(C) Subpart 1 of part B of title I.

22 “(D) Part C of title I.

23 “(E) Part D of title I.

24 “(F) Part A of title II.

25 “(G) Part B of title II.

1 “(H) Title III.

2 “(I) Part B of title IV.

3 “(J) Part A of title V.

4 “(K) Subpart 1 of part A of title VI.

5 “(L) Subpart 2 of part B of title VI.

6 “(M) Subpart 2 of part A of title VII.

7 “(2) NOTIFICATION.—Not later than June 1 of  
8 each year, a State educational agency shall notify  
9 the Secretary of the State educational agency’s in-  
10 tention to use the applicable funding for any of the  
11 alternative uses under paragraph (1).

12 “(3) APPLICABLE FUNDING DEFINED.—

13 “(A) IN GENERAL.—Except as provided in  
14 subparagraph (B), in this subsection, the term  
15 ‘applicable funding’ means funds provided to  
16 carry out State activities under one or more of  
17 the following provisions:

18 “(i) Section 1003(g)(2).

19 “(ii) Section 1004.

20 “(iii) Subpart I of Part B of title I.

21 “(iv) Part C of title I.

22 “(v) Part D of title I.

23 “(vi) Part A of title II.

24 “(vii) Part B of title II.

25 “(viii) Part A of title III.

1 “(ix) Part B of title IV.

2 “(x) Part A of title V.

3 “(xi) Title I of Public Law 111-226.

4 “(B) LIMITATION.—In this subsection, the  
5 term ‘applicable funding’ does not include funds  
6 provided under any of the provisions listed in  
7 subparagraph (A) that State educational agen-  
8 cies are required by this Act—

9 “(i) to reserve, allocate, or spend for  
10 required activities;

11 “(ii) to allot or award to local edu-  
12 cational agencies or other entities eligible  
13 to receive such funds; or

14 “(iii) to use for technical assistance or  
15 monitoring.

16 “(4) DISBURSEMENT.—The Secretary shall dis-  
17 burse the applicable funding to State educational  
18 agencies for alternative uses under paragraph (1) for  
19 a fiscal year at the same time as the Secretary dis-  
20 burse the applicable funding to State educational  
21 agencies that do not intend to use the applicable  
22 funding for such alternative uses for the fiscal year.

23 “(b) ALTERNATIVE USES OF FEDERAL FUNDS FOR  
24 LOCAL EDUCATIONAL AGENCIES.—

1           “(1) IN GENERAL.—Subject to subsections (c)  
2           and (d) and notwithstanding any other provision of  
3           law, a local educational agency may use the applica-  
4           ble funding that the agency receives for a fiscal year  
5           to carry out any local activity authorized or required  
6           under one or more of the following provisions:

7                   “(A) Section 1003.

8                   “(B) Part A of title I.

9                   “(C) Subpart 1 of part B of title I.

10                  “(D) Part C of title I.

11                  “(E) Part D of title I.

12                  “(F) Part A of title II.

13                  “(G) Part B of title II.

14                  “(H) Part A of title III.

15                  “(I) Part B of title IV.

16                  “(J) Part A of title V.

17                  “(K) Subpart 2 of part B of title VI.

18                  “(L) Part A of title VII.

19                  “(M) Section 613(f) of the Individuals  
20                  with Disabilities Education Act (20 U.S.C.  
21                  1413(f)).

22           “(2) NOTIFICATION.—A local educational agen-  
23           cy shall notify the State educational agency of the  
24           local educational agency’s intention to use the appli-  
25           cable funding for any of the alternative uses under

1 paragraph (1) by a date that is established by the  
2 State educational agency for the notification.

3 “(3) APPLICABLE FUNDING DEFINED.—

4 “(A) IN GENERAL.—Except as provided in  
5 subparagraph (B), in this subsection, the term  
6 ‘applicable funding’ means funds provided to  
7 carry out local activities under one or more of  
8 the following provisions:

9 “(i) Part A of title I.

10 “(ii) Part C of title I.

11 “(iii) Part D of title I.

12 “(iv) Part A of title II.

13 “(v) Part A of title III.

14 “(vi) Part A of title V.

15 “(vii) Part A of title VII.

16 “(viii) Title I of Public Law 111-226.

17 “(B) LIMITATION.—In this subsection, the  
18 term ‘applicable funding’ does not include funds  
19 provided under any of the provisions listed in  
20 subparagraph (A) that local educational agen-  
21 cies are required by this Act—

22 “(i) to reserve, allocate, or spend for  
23 required activities;

24 “(ii) to allot or award to entities eligi-  
25 ble to receive such funds; or

1 “(iii) to use for technical assistance or  
2 monitoring.

3 “(4) DISBURSEMENT.—Each State educational  
4 agency that receives applicable funding for a fiscal  
5 year shall disburse the applicable funding to local  
6 educational agencies for alternative uses under para-  
7 graph (1) for the fiscal year at the same time as the  
8 State educational agency disburses the applicable  
9 funding to local educational agencies that do not in-  
10 tend to use the applicable funding for such alter-  
11 native uses for the fiscal year.

12 “(c) RULE FOR ADMINISTRATIVE COSTS.—A State  
13 educational agency or a local educational agency may only  
14 use applicable funding (as defined in subsection (a)(3) or  
15 (b)(3), respectively) for administrative costs incurred in  
16 carrying out a provision listed in subsection (a)(1) or  
17 (b)(1), respectively, to the extent that the agency, in the  
18 absence of this section, could have used funds for adminis-  
19 trative costs with respect to a program listed in subsection  
20 (a)(3) or (b)(3), respectively.

21 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-  
22 tion shall be construed to relieve a State educational agen-  
23 cy or local educational agency of any requirements relating  
24 to—

25 “(1) maintenance of effort;

1           “(2) use of Federal funds to supplement, not  
2           supplant, non-Federal funds;

3           “(3) comparability of services;

4           “(4) equitable participation of private school  
5           students and teachers;

6           “(5) applicable civil rights requirements;

7           “(6) the selection of school attendance areas or  
8           schools under subsections (a) and (b), and alloca-  
9           tions to such areas or schools under subsection (c),  
10          of section 1113;

11          “(7) section 1111;

12          “(8) section 1116; or

13          “(9) section 3122.”.

14          (b) CONFORMING AMENDMENT.—The table of con-  
15          tents of the Elementary and Secondary Education Act of  
16          1965 (20 U.S.C. 6301 et seq.) is amended by striking the  
17          item relating to subpart 2 of part A of title VI and insert-  
18          ing the following:

“SUBPART 2—FUNDING FLEXIBILITY FOR STATE AND LOCAL EDUCATIONAL  
AGENCIES

“Sec. 6121. Short title.

“Sec. 6122. Purpose.

“Sec. 6123. Flexibility to use Federal funds.”.

