

S. 1177

# One Hundred Fourteenth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday, the sixth day of January, two thousand and fifteen

## An Act

To reauthorize the Elementary and Secondary Education Act of 1965 to ensure that every child achieves.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Every Student Succeeds Act”.

### **SEC. 8013. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.**

“(3) SPECIFIC LIMITATIONS.—The Secretary shall not require a State educational agency, local educational agency, school, or Indian tribe, as a condition of approval of a waiver request, to—

“(A) include in, or delete from, such request, specific academic standards, such as the Common Core State Standards developed under the Common Core State Standards Initiative or any other standards common to a significant number of States;

“(B) use specific academic assessment instruments or items, including assessments aligned to the standards described in subparagraph (A); or

“(C) include in, or delete from, such waiver request any specific elements of—

“(i) State academic standards;

“(ii) academic assessments;

“(iii) State accountability systems; or

“(iv) teacher and school leader evaluation systems.”;

### **“SEC. 8526A. PROHIBITION AGAINST FEDERAL MANDATES, DIRECTION, OR CONTROL.**

“(a) IN GENERAL.—No officer or employee of the Federal Government shall, through grants, contracts, or other cooperative agreements, mandate, direct, or control a State, local educational agency, or school’s specific instructional content, academic standards and assessments, curricula, or program of instruction developed and implemented to meet the requirements of this Act (including any requirement, direction, or mandate to adopt the Common Core State Standards developed under the Common Core State Standards Initiative, any other academic standards common to a significant number of States, or any assessment, instructional content, or curriculum aligned to such standards), nor shall anything in this Act be construed to authorize such officer or employee to do so.

“(b) FINANCIAL SUPPORT.—No officer or employee of the Federal Government shall condition or incentivize the receipt of any grant, contract, or cooperative agreement, the receipt of any priority or preference under such grant, contract, or cooperative agreement, or the receipt of a waiver under section 8401 upon a State, local educational agency, or school’s adoption or implementation of specific instructional content, academic standards and assessments, curricula, or program of instruction developed and implemented to meet the requirements of this Act (including any condition, priority, or preference to adopt the Common Core State Standards developed under the Common Core State Standards Initiative, any other academic standards common to a significant number of States, or any assessment, instructional content, or curriculum aligned to such standards).”.

“Every Student Succeeds Act”. Exerpts.

**“SEC. 8527. PROHIBITIONS ON FEDERAL GOVERNMENT AND USE OF FEDERAL FUNDS.**

“(a) GENERAL PROHIBITION.—Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government, including through a grant, contract, or cooperative agreement, to mandate, direct, or control a State, local educational agency, or school’s curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

“(b) PROHIBITION ON ENDORSEMENT OF CURRICULUM.—Notwithstanding any other provision of Federal law, no funds provided to the Department under this Act may be used by the Department, whether through a grant, contract, or cooperative agreement, to endorse, approve, develop, require, or sanction any curriculum, including any curriculum aligned to the Common Core State Standards developed under the Common Core State Standards Initiative or any other academic standards common to a significant number of States, designed to be used in an elementary school or secondary school.

“(c) LOCAL CONTROL .—Nothing in this section shall be construed to—

“(1) authorize an officer or employee of the Federal Government, whether through a grant, contract, or cooperative agreement to mandate, direct, review, or control a State, local educational agency, or school’s instructional content, curriculum, and related activities;

“(2) limit the application of the General Education Provisions Act (20 U.S.C. 1221 et seq.);

“(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

“(4) create any legally enforceable right.

“(d) PROHIBITION ON REQUIRING FEDERAL APPROVAL OR CERTIFICATION OF STANDARDS .—

“(1) IN GENERAL .—Notwithstanding any other provision of Federal law, no State shall be required to have academic standards approved or certified by the Federal Government, in order to receive assistance under this Act.

“(2) RULE OF CONSTRUCTION .—Nothing in this Act shall be construed to prohibit a State, local educational agency, or school from using funds provided under this Act for the development or implementation of any instructional content, academic standards, academic assessments, curriculum, or program of instruction that a State, local educational agency, or school chooses, as permitted under State and local law, as long as the use of such funds is consistent with the terms of the grant, contract, or cooperative agreement providing such funds.

**“SEC. 8529. PROHIBITION ON FEDERALLY SPONSORED TESTING.**

“(a) GENERAL PROHIBITION.—Notwithstanding any other provision of Federal law and except as provided in subsection (b), no funds provided under this Act to the Secretary or to the recipient of any award may be used to develop, incentivize, pilot test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law, including any assessment or testing materials aligned to the Common Core State Standards developed under the Common Core State Standards Initiative or any other academic standards common to a significant number of States.

**“SEC. 8544. STATE CONTROL OVER STANDARDS.**

“(a) IN GENERAL.—Nothing in this Act shall be construed to prohibit a State from withdrawing from the Common Core State Standards or from otherwise revising their standards.

“(b) PROHIBITION.—No officer or employee of the Federal Government shall, directly or indirectly, through grants, contracts or other cooperative agreements, through waiver granted under section 8401 or through any other authority, take any action against a State that exercises its rights under subsection (a).”.

**“SEC. 8549A SENSE OF CONGRESS.**

“Every Student Succeeds Act”. Exerpts.

“(a) FINDINGS.—The Congress finds as follows:

“(1) This Act prohibits the Federal Government from mandating, directing, or controlling a State, local educational agency, or school’s curriculum, program of instruction, or allocation of State and local resources, and from mandating a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

“(2) This Act prohibits the Federal Government from funding the development, pilot testing, field testing, implementation, administration, or distribution of any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

“(b) SENSE OF CONGRESS .—It is the sense of the Congress that States and local educational agencies retain the rights and responsibilities of determining educational curriculum, programs of instruction, and assessments for elementary and secondary education.

#### **SEC. 9202. SENSE OF CONGRESS ON FIRST AMENDMENT RIGHTS.**

It is the sense of Congress that a student, teacher, school administrator, or other school employee of an elementary school or secondary school retains the individual’s rights under the First Amendment to the Constitution of the United States during the school day or while on the grounds of an elementary school or secondary school.

#### **SEC. 9203. PREVENTING IMPROPER USE OF TAXPAYER FUNDS.**

To address the misuse of taxpayer funds, the Secretary of Education shall—

(1) require that each recipient of a grant or subgrant under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) display, in a public place, the hotline contact information of the Office of Inspector General of the Department of Education so that any individual who observes, detects, or suspects improper use of taxpayer funds can easily report such improper use;

#### **SEC. 9204. ACCOUNTABILITY TO TAXPAYERS THROUGH MONITORING AND OVERSIGHT.**

To improve monitoring and oversight of taxpayer funds authorized for appropriation under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), and to deter and prohibit waste, fraud, and abuse with respect to such funds, the Secretary of Education shall—

(1) notify each recipient of a grant under such Act (and, if applicable, require the grantee to inform each subgrantee) of its responsibility to—

(A) comply with all monitoring requirements under the applicable program or programs; and

(B) monitor properly any subgrantee under the applicable program or programs;

(2) review and analyze the results of monitoring and compliance reviews—

(A) to understand trends and identify common issues; and

(B) to issue guidance to help grantees address such issues before the loss or misuse of taxpayer funding occurs; prevent fraud, waste, and abuse with respect to such taxpayer funds; and

(4) work with the Office of Inspector General of the Department of Education, as needed, to help ensure that employees of the Department understand how to adequately monitor grantees and to help grantees adequately monitor any subgrantees.

#### **SEC. 9206. POSTHUMOUS PARDON.**

(a) FINDINGS.—Congress finds the following:

(1) John Arthur “Jack” Johnson was a flamboyant, defiant, and controversial figure in the history of the United States who challenged racial biases.

(2) Jack Johnson was born in Galveston, Texas, in 1878 to parents who were former slaves.

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(3) Jack Johnson became a professional boxer and traveled throughout the United States, fighting White and African- American heavyweights.

(4) After being denied (on purely racial grounds) the opportunity to fight 2 White champions, in 1908, Jack Johnson was granted an opportunity by an Australian promoter to fight the reigning White title-holder, Tommy Burns.

(5) Jack Johnson defeated Tommy Burns to become the first African-American to hold the title of Heavyweight Champion of the World.

(6) The victory by Jack Johnson over Tommy Burns prompted a search for a White boxer who could beat Jack Johnson, a recruitment effort that was dubbed the search for the “great white hope”.

(7) In 1910, a White former champion named Jim Jeffries left retirement to fight Jack Johnson in Reno, Nevada.

(8) Jim Jeffries lost to Jack Johnson in what was deemed the “Battle of the Century”.

(9) The defeat of Jim Jeffries by Jack Johnson led to rioting, aggression against African-Americans, and the racially motivated murder of African-Americans throughout the United States.

(10) The relationships of Jack Johnson with White women compounded the resentment felt toward him by many Whites.

(11) Between 1901 and 1910, 754 African-Americans were lynched, some simply for being “too familiar” with White women.

(12) In 1910, Congress passed the Act of June 25, 1910 (commonly known as the “White Slave Traffic Act” or the “Mann Act”) (18 U.S.C. 2421 et seq.), which outlawed the transportation of women in interstate or foreign commerce “for the purpose of prostitution or debauchery, or for any other immoral purpose”.

(13) In October 1912, Jack Johnson became involved with a White woman whose mother disapproved of their relationship and sought action from the Department of Justice, claiming that Jack Johnson had abducted her daughter.

(14) Jack Johnson was arrested by Federal marshals on October 18, 1912, for transporting the woman across State lines for an “immoral purpose” in violation of the Mann Act.

(15) The Mann Act charges against Jack Johnson were dropped when the woman refused to cooperate with Federal authorities, and then married Jack Johnson.

(16) Federal authorities persisted and summoned a White woman named Belle Schreiber, who testified that Jack Johnson had transported her across State lines for the purpose of “prostitution and debauchery”.

(17) In 1913, Jack Johnson was convicted of violating the Mann Act and sentenced to 1 year and 1 day in Federal prison.

(18) Jack Johnson fled the United States to Canada and various European and South American countries.

(19) Jack Johnson lost the Heavyweight Championship title to Jess Willard in Cuba in 1915.

(20) Jack Johnson returned to the United States in July 1920, surrendered to authorities, and served nearly a year in the Federal penitentiary in Leavenworth, Kansas.

(21) Jack Johnson subsequently fought in boxing matches, but never regained the Heavyweight Championship title.

(22) Jack Johnson served the United States during World War II by encouraging citizens to buy war bonds and participating in exhibition boxing matches to promote the war bond cause.

(23) Jack Johnson died in an automobile accident in 1946.

(24) In 1954, Jack Johnson was inducted into the Boxing Hall of Fame.

(25) Senate Concurrent Resolution 29, 111th Congress, agreed to July 29, 2009, expressed the sense of the 111<sup>th</sup> Congress that Jack Johnson should receive a posthumous pardon for his racially-motivated 1913 conviction.

(b) RECOMMENDATIONS.—It remains the sense of Congress that Jack Johnson should receive a posthumous pardon—

(1) to expunge a racially-motivated abuse of the prosecutorial authority of the Federal Government from the annals of criminal justice in the United States; and

(2) in recognition of the athletic and cultural contributions of Jack Johnson to society.