

# Notes on HR 899

Short title:	To terminate the Department of Education	
Sponsor	Rep. Thomas Massie (R-KY-4)	<a href="#">202.225.3465</a> , 2453 Rayburn House Office Bldg.
Date	7 Feb 2017	Introduced
Cosponsors:	Justin Amash (R-MI-3)	<a href="#">202.225.3831</a>
7	Andy Biggs (R-AZ-5)	<a href="#">202.225.2635</a>
	Jason Chaffetz (R-UT-3)	<a href="#">202.225.7751</a>
	Matt Gaetz (R-FL-3)	<a href="#">202.225.4136</a>
	Jody B. Hice (R-GA-10)	<a href="#">202.225.4101</a>
	Walter B. Jones, Jr. (R-NC-3)	<a href="#">202.225.3415</a>
	Paul R. Labrador (R-ID-1)	<a href="#">202.225.6611</a>
Referred to committee	7 Feb: Education & the Workforce	<a href="#">202.225.4527</a>
Virginians on Committee	Robert C. “Bobby” Scott ( <b>D-VA-3</b> )	<a href="#">202.225.8351</a>
	Dave Brat ( <b>R-VA-7</b> )	<a href="#">202.225.2815</a>
	Thomas A. Garrett, Jr. ( <b>R-VA-5</b> )	<a href="#">202.225.4711</a>
Legal basis	Chapter 48 of Title 20, United States Code. Created by Public Law 96-88 in 1979.	
U.S. Code	20 USC Chapter 48: <a href="https://www.law.cornell.edu/uscode/text/20/chapter-48">https://www.law.cornell.edu/uscode/text/20/chapter-48</a>	
PL 96-88	<a href="https://www.congress.gov/bill/96th-congress/senate-bill/210?q=%7B%22search%22%3A%5B%22pl96-88%22%5D%7D&amp;r=1">https://www.congress.gov/bill/96th-congress/senate-bill/210?q=%7B%22search%22%3A%5B%22pl96-88%22%5D%7D&amp;r=1</a>	
History	1980: Former Dept. of Health, Education, and Welfare was split to become the Dept. of Education and the Dept. of Health and Human Services under Pres. Jimmy Carter.	
Size	In 2016 Dept. of Ed. had 4,400 employees and annual budget of \$68 billion. <sup>1</sup> <ul style="list-style-type: none"><li>• Budget is <b>equivalent to \$210 per person</b> in U.S. (324 million people in 2017.)</li><li>• Includes support for primary, secondary, higher, and vocational education.</li></ul>	
Purpose	The mission of the Department of Education is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access. It engages in four major types of activities: <sup>2</sup> <ol style="list-style-type: none"><li>1. Establishes <a href="#">policies</a> related to federal education <a href="#">funding</a>, administers distribution of funds and monitors their use.</li><li>2. Collects <a href="#">data</a> and oversees <a href="#">research</a> on America's schools.</li><li>3. Identifies major issues in education and focuses national attention on them.</li><li>4. <a href="#">Enforces federal laws prohibiting discrimination</a> in programs that receive federal funds.</li></ol>	
Full text of HR 899	Be it enacted, etc. ... <b>SECTION 1.</b> <b>TERMINATION OF THE DEPARTMENT OF EDUCATION.</b> The Department of Education shall terminate on December 31, 2018. <i>Yes, no kidding, that is actually the full text of the bill (other than introductory stuff).</i>	
Source	<a href="https://www.congress.gov/bill/115th-congress/house-bill/899/committees?q=%7B%22search%22%3A%5B%22hr899%22%5D%7D&amp;r=1">https://www.congress.gov/bill/115th-congress/house-bill/899/committees?q=%7B%22search%22%3A%5B%22hr899%22%5D%7D&amp;r=1</a>	

<sup>1</sup> Viewed 2 March 2017 at [https://en.wikipedia.org/wiki/United\\_States\\_Department\\_of\\_Education](https://en.wikipedia.org/wiki/United_States_Department_of_Education) .

<sup>2</sup> Quoted from <https://www2.ed.gov/about/what-we-do.html> , viewed 2 March 2017.

Due to the vehemence of opposition to the Dept. of Education in some circles, and a considerable amount of misinformation about the Department's purposes, it is instructive to read the first three sections of Chapter 48 (sections 3401-3403). Quoted below for convenience. Highlights added.

### **Section 3401 – Congressional findings**

The Congress finds that—

- (1) education is fundamental to the development of individual citizens and the progress of the Nation;
- (2) there is a continuing need to ensure equal access for all Americans to educational opportunities of a high quality, and such educational opportunities should not be denied because of race, creed, color, national origin, or sex;
- (3) parents have the primary responsibility for the education of their children, and States, localities, and private institutions have the primary responsibility for supporting that parental role;
- (4) in our Federal system, the primary public responsibility for education is reserved respectively to the States and the local school systems and other instrumentalities of the States;
- (5) the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the workplace, the community, and the home;
- (6) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted;
- (7) there is a need for improvement in the management and coordination of Federal education programs to support more effectively State, local, and private institutions, students, and parents in carrying out their educational responsibilities;
- (8) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education;
- (9) Presidential and public consideration of issues relating to Federal education programs is hindered by the present organizational position of education programs in the executive branch of the Government; (*Note: as of 1979, prior to Dept. of Ed.*) and
- (10) there is no single, full-time, Federal education official directly accountable to the President, the Congress, and the people. (*Note: as of 1979, hence the need for PL 96-88.*)

### **Section 3402 – Congressional declaration of purpose**

The Congress declares that the establishment of a Department of Education is in the public interest, will promote the general welfare of the United States, will help ensure that education issues receive proper treatment at the Federal level, and will enable the Federal Government to coordinate its education activities more effectively. Therefore, the purposes of this chapter are—

- (1) to strengthen the Federal commitment to ensuring access to equal educational opportunity for every individual;
- (2) to supplement and complement the efforts of States, the local school systems and other instrumentalities of the States, the private sector, public and private educational institutions, public and private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education;

- (3) to encourage the increased involvement of the public, parents, and students in Federal education programs;
- (4) to promote improvements in the quality and usefulness of education through federally supported research, evaluation, and sharing of information;
- (5) to improve the coordination of Federal education programs;
- (6) to improve the management and efficiency of Federal education activities, especially with respect to the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds; and
- (7) to increase the accountability of Federal education programs to the President, the Congress, and the public.

### **Section 3402 – Relationship with States**

#### **(a) RIGHTS OF LOCAL GOVERNMENTS AND EDUCATIONAL INSTITUTIONS**

It is the intention of the Congress in the establishment of the Department to protect the rights of State and local governments and public and private educational institutions in the areas of educational policies and administration of programs and to strengthen and improve the control of such governments and institutions over their own educational programs and policies. The establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States and the local school systems and other instrumentalities of the States.

#### **(b) CURRICULUM, ADMINISTRATION, AND PERSONNEL; LIBRARY RESOURCES**

No provision of a program administered by the Secretary or by any other officer of the Department shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, over any accrediting agency or association, or over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent authorized by law.

#### **(c) FUNDING UNDER PRE-EXISTING PROGRAMS** *(Note: After 1980 this was moot.)*

The Secretary shall not, during the period within eight months after May 4, 1980, take any action to withhold, suspend, or terminate funds under any program transferred by this chapter by reason of the failure of any State to comply with any applicable law requiring the administration of such a program through a single organizational unit.

*Comment: The prohibition of section 3402(b) is substantial. Opponents of federal education regulations ignore this substantial prohibition. The green highlight is key: except to the extent authorized by law. Generally, that authorized extent is tied to receipt of federal funds. States and localities are free to accept or reject federal funds. If they accept funds, they accept the rules that go with them.*

*Of course there have been many court cases and new laws since 1980, such as No Child Left Behind.*

*To see the size and complexity of the Department of Education, look at all the Chapters under Title 20, U.S. Code. Chapters are numbered 1 through 80. There are more than 80 chapters because some are alphanumeric, like chapter 25A. Chapter 1 is vacant because of things moved or repealed over the years.*

*<https://www.law.cornell.edu/uscode/text/20>*

*Then look at the regulations in Chapter 34, Code of Federal Regulations.*

*<https://www.law.cornell.edu/cfr/text/34>*