AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 9610 OFFERED BY MR. SCOTT OF VIRGINIA

After section 1, insert the following and redesignate the succeeding sections accordingly:

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Department of Education Organization Act (20 U.S.C. 3401 et seq.) created the Department of Education. The Act was passed by the 96th Congress and signed into law by President Carter on October 19, 1979.

(2) The Department of Education Organization Act, as amended, establishes multiple Offices within the Department of Education.

(3) As Congress created the Department of Education, it is only Congress that has the power to close the Department.

(4) The Department of Education Organization Act confers limited authority to the Secretary of Education to transfer and delegate authorities within the Department.

(5) The Congressional Research Service has found that the Secretary of Education does not have the authority under current law to "transfer her statutory duties outside the Department."

(6) During the 2024 election, then-candidate Donald Trump pledged to close the Department of Education, a pledge that legal experts widely agreed he did not have the power to do.

(7) Upon winning election, President Trump appointed Linda McMahon as Secretary of Education.

(8) Starting in 2025, the Department of Education began entering into Interagency Agreements (referred to in this section as "IAAs") with other Executive Departments to take on tasks related to the administration of programs which Congress vested sole authority with the Department of Education.

(9) The Department of Education has cited section 1535 of title 31, United States Code (commonly known as the "Economy Act"), as the legal justification for these IAAs.

(10) The Congressional Research Service has found that "given the size and scope of covered programs, tens of billions of dollars could be transferred under the IAAs."

(11) The Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2026 (Public Law 119–75) notes “concern about the Department of Education’s recent, unprecedented use of Interagency Agreements to transfer significant programmatic responsibilities, procure services, and detail staff to other Federal agencies, including to the Departments of Labor, Health and Human Services, State, and Interior. The agreement is concerned about the assignment of such programmatic responsibilities to agencies that do not have experience, expertise, or capacity to carry out these programs and activities and lack developed relationships and communications with relevant stakeholders, including States. The agreement is concerned that fragmenting responsibilities for education programs across multiple agencies will create inefficiencies, result in additional costs to the American taxpayer, and cause delays and administrative challenges in Federal funding reaching States, school districts, and schools. The agreement is also concerned this will weaken Federal support to protect the rights of students, children, youth, and families under Federal education laws.”

(12) Based on these concerns, the Joint Explanatory Statement directed ‘‘the Department of Education and signatory agencies to provide biweekly briefings . . . on implementation of any such interagency agreements. These briefings shall include information on staffing transfers, implementation costs, metrics on the delivery of services, availability of technical support for programs to grantees, the issuance of Notices Inviting Applications or other funding opportunities, plans for maintaining high standards of quality and objectivity in grant competitions through multi-reviewer peer panels, rates of accessing funds by grantees and any resulting delays through the draw down of funds, up dates on monitoring for grantees' compliance with all federal requirements, implementation of reporting requirements by grantees and Federal agencies and communications with eligible grantees, States, and other stakeholders. Such information shall include comparisons to prior years on a comparable basis.''

(13) While the Department of Education has undertaken these briefings pursuant to the Joint Explanatory Statement, they have not provided the level of detail directed by the Joint Explanatory Statement. Congress has limited ability to oversee

whether the Departments are abiding by the express terms of the IAAs.

(14) The Department of Education has recently cancelled the IAA briefings, allegedly based solely on actions taken by one Member of Congress. This action has left Congress even further in the dark as to how these agreements are functioning.

(15) These actions have to be considered along with the Secretary of Education's Reduction of Force in March of 2025 that, when coupled with other personnel actions, effectively cut the number of employees at the Department of Education by 50 percent.

(16) The Department of Education is currently being sued by states, school districts, and labor organizations that argue the IAAs are part of a broader plan to close the Department, in violation of the law.

Strike ''section 2'' each place it appears and insert ''section 3''.

Strike ''section 9'' each place it appears and insert ''section 10''.

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