

Reauthorization of the Elementary and Secondary Education Act: Current and Prospective Flexibility Under No Child Left Behind

Testimony before the House Subcommittee on Early Childhood, Elementary and Secondary Education

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Chairman Kildee, Ranking Member Castle, and Members of the Subcommittee, thank you for the opportunity to testify today on providing appropriate flexibility in the reauthorized Elementary and Secondary Education Act (ESEA). My name is Rick Melmer, and I am the Secretary of Education in South Dakota, a position I have held since 2003. I am also the president-elect of the Council of Chief State School Officers (CCSSO) and have previously been a local superintendent in Watertown, South Dakota and in Sioux City, Iowa.

Passage of the No Child Left Behind Act (NCLB) appropriately challenged states and school districts to redouble their efforts to ensure the success of all students. During the last 5 years, states have made tremendous strides in implementing the policies and programs needed to improve student achievement and close achievement gaps. In fact, *every* state has implemented state standards, state assessments, state accountability plans, and state teacher quality plans. Now the question is how do we use the opportunity presented by reauthorization to form a new state-federal partnership designed to build-on, and effectively use, the strong foundation laid by states and districts during the last few years. Working together I believe we can make a difference for each and every child in this country.

CCSSO and its members worked for nearly a year and a half in preparation for reauthorization by developing a policy statement, eight specific recommendations, and then legislative language that codified the eight recommendations into current statute. We also partnered with the National Governors Association and the National Association of State Boards of Education to deliver a separate, joint reauthorization statement to Congress.

CCSSO's membership believes that reauthorization should emphasize three principles (1) innovation, (2) capacity building; and (3) research and dissemination of best practices. These principles, and our specific recommendation for achieving them, have been delivered to the Committee through the testimony of nearly a half-dozen of my state colleagues who participated in recent hearings on adequate yearly progress, growth models, students with disabilities, and supplemental education services. I am here today to reinforce our recommendations and to talk about their specific importance in the rural context. I ask that you keep these concepts at the forefront of your internal discussions as you begin to craft the changes to the ESEA that will guide the education reform process for the next five years.

This hearing focuses appropriately on examining the proper level of state and local flexibility needed to ensure that the reauthorized ESEA helps, not hinders, the education reform process during the coming years. Congress must continue to hold states accountable for improving student achievement and closing achievement gap, while also providing them with the flexibility needed to implement innovative models for accomplishing these vital national goals. States are chomping on the bit to move forward with creative, innovative solutions to many challenging problems, but the current framework is inhibitive and too rigid to recognize unique state and local challenges and opportunities, particularly in rural areas.

Given the pace of change and the dramatic improvements we need in student achievement to make every child a graduate ready for college, work, and citizenship, the question is: How do we build a federal law that promotes state action and innovation, with continuous improvement over time? Flexibility and support are core strategies to achieving this goal. But what we need is a culture shift in federal law. Flexibility should not be understood as bending the rules, but should rather be available whenever it makes the best educational sense for students. Innovation should be the hallmark of federal law, in which states are encouraged to build better education systems that improve student achievement in their particular state contexts and may provide promising models for other states. This approach is particularly important in small and rural states like South Dakota, but also to my state colleagues who are moving towards innovations such as the use of formative and web-based, embedded assessments.

How can federal law codify such innovation without undercutting core principles? We have several concrete recommendations that build on NCLB.

I. Promote Innovative Models and Reinvent Peer Review

States should be encouraged to implement innovative education reform models, so long as they can demonstrate, through a revised peer review process, that their approach is educationally sound and is designed to raise, not lower, the achievement bar. The new system must also better recognize when schools and districts are making real progress. Rural states like South Dakota know what needs to be done to move forward, and could benefit significantly by having greater flexibility to address the unique problems they face.

NCLB properly focused the nation's attention on improving basic skills for all students. Now the new law should take the next step forward by fostering a "culture of innovation." Implementing this new approach will require incentives for encouraging innovation and a transformed peer review process. The current peer review process is a challenge not only for states, but also the U.S. Department of Education. South Dakota is now in the middle of its standards and assessment peer review and is currently labeled as "approval pending." We admittedly have work to do to make our system better, but the current peer review framework does not always facilitate improvement. For example, a revamped peer review system supported by greater resources would enable the Department to provide more timely communication to us and to other states. The current process would also be more effective if it included a strong technical assistance component that informed our work. Rigid penalties are also a problem. For example, even though all interested parties acknowledge that we have made significant progress over the past year in improving the state's assessment system, 25% of our Title I administrative funds may be

withheld. Such withholding will make it even more difficult for us to accomplish our objectives. I believe the new law should reward or acknowledge improvement, and avoid rigid penalties for states, like mine, that are making good faith efforts to improve.

In sum, we believe a revised peer review process should grant states a role in the selection of qualified peers, focus on technical assistance, full transparency, real communication and dialogue with states, consistency in peer review standards and outcomes across states, timeliness of feedback and results, dissemination of best practices, and more.

II. Improve Accountability Determinations

States should be able to use a variety of accountability models, including growth models and compensatory data that build on AYP, to promote more valid, reliable, educationally meaningful accountability determinations.

South Dakota applied to be a growth model pilot state for the testing year 2006. Unfortunately, the Department denied our application and many other states' applications. More states might have been able to take advantage of this important flexibility if the law placed a greater emphasis on fostering innovation and provided increased resources and strong technical support. For example, many rural states do not have the "in-house" expertise (i.e., psychometricians) to develop and evaluate their own assessment systems. In this instance, an enhanced peer review process that includes technical assistance and provides incentives for innovation could have had powerful results. Therefore, while we strongly urge you to encourage growth models as part of ESEA reauthorization, we also ask that you ensure the new law encourages states to pursue such innovations and provides proper financial and technical supports needed to help them succeed.

III. Differentiated Consequences

The reauthorized ESEA should encourage a full range of rewards and consequences for districts and schools that differ appropriately in nature and degree. Based, for example, on whether schools miss AYP by a little versus a lot. In that context, the new law should permit states to exercise appropriate judgment and differentiate both accountability determinations and consequences based on sound evidence.

This is particularly important in rural areas where the rigid consequences of NCLB often do not fit the needs of the school or district struggling to make improvements. For example, the Sioux Falls School District in South Dakota is our largest district. The Sioux Falls district is currently on Level 2 of District Improvement even though the district has reached over 80% of the academic targets (180 of 224). Furthermore, there are three schools in Sioux Falls that reached 17 of 18 academic targets and yet remain "in improvement." This designation is the same as a school that reaches 0 of 18 would receive. The "all or none" approach to school and district improvement must change to reflect an accurate assessment of educational progress or lack thereof. Unless a school in improvement reaches a perfect score two years in a row, the school remains "in improvement."

IV. Enhance Teacher Quality

Incentives should be put in place for states to create the best teaching force by continuously improving teacher quality, by supporting best-in-class professional development, and by using multiple individual pathways to pedagogical and subject matter expertise.

South Dakota has 45 school districts with less than 200 students in the K – 12 districts. High school teachers are expected to teach in multiple disciplines in order for the small high schools to meet the state's graduation requirements. As a result, the highly qualified teacher guidelines, which tend to favor large districts with specialized teachers, can hamper a rural district's ability to meet the intent of the law.

The highly qualified expectations for high school special education teachers have made a challenging circumstance even more difficult. South Dakota currently has a shortage of special education teachers, especially at the high school level. The current law that requires a special education teacher to be highly qualified in all content areas is unrealistic and problematic in rural states.

I mentioned only a few of the areas where rural states like South Dakota have felt most challenged by the rigidity of the current framework. We have learned a lot in just the past few years about what is working in our schools and what is not. It's fair to say that the federal government, nor states, nor districts, nor schools have all the answers, so the law must provide room for continuous improvement and states and districts should be able to use their judgment about how to accomplish NCLB's core objectives.

Thank you again for the opportunity to testify today and I look forward to answering any questions you may have.