

**H.R. 3989, THE STUDENT SUCCESS ACT,  
AND H.R. 3990, THE ENCOURAGING  
INNOVATION AND EFFECTIVE TEACHERS ACT**

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**HEARING**

BEFORE THE  
COMMITTEE ON EDUCATION  
AND THE WORKFORCE  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED TWELFTH CONGRESS  
SECOND SESSION

HEARING HELD IN WASHINGTON, DC, FEBRUARY 16, 2012

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**Thursday, February 16, 2012  
U.S. House of Representatives  
Committee on Education and the Workforce  
Washington, DC**

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The committee met, pursuant to call, at 10:03 a.m., in room 2175, Rayburn House Office Building, Hon. John Kline [chairman of the committee] presiding.

Present: Representatives Kline, Petri, Biggert, Platts, Foxx, Goodlatte, Hunter, Roe, Thompson, DesJarlais, Hanna, Bucshon, Roby, Heck, Ross, Miller, Kildee, Andrews, Scott, Woolsey, Hinojosa, McCarthy, Tierney, Kucinich, Holt, Davis, Grijalva, Bishop, and Altmire.

Also present: Representative Polis.

Staff present: Jennifer Allen, Press Secretary; Katherine Bathgate, Press Assistant/New Media Coordinator; James Bergeron, Director of Education and Human Services Policy; Heather Couri, Deputy Director of Education and Human Services Policy; Cristin Datch, Professional Staff Member; Lindsay Fryer, Professional Staff Member; Barrett Karr, Staff Director; Rosemary Lahasky, Professional Staff Member; Krisann Pearce, General Counsel; Mandy Schaumburg, Education and Human Services Oversight Counsel; Dan Shorts, Legislative Assistant; Alex Sollberger, Communications Director; Linda Stevens, Chief Clerk/Assistant to the General Counsel; Alissa Strawcutter, Deputy Clerk; Brad Thomas, Senior Education Policy Advisor; Kate Ahlgren, Minority Investigative Counsel; Tylease Alli, Clerk; Kelly Broughan, Minority Staff Assistant; Daniel Brown, Minority Policy Associate; Jody Calamine, Minority Staff Director; Tiffany Edwards, Minority Press Secretary for Education; Jamie Fasteau, Minority Deputy Director of Education Policy; Ruth Friedman, Minority Director of Education Policy; Brian Levin, Minority New Media Press Assistant; Kara Marchione, Minority Senior Education Policy Advisor; Megan O'Reilly, Minority General Counsel; Julie Peller, Minority Deputy Staff Director; Laura Schifter, Minority Senior Education and Disability Advisor; and Michele Varnhagen, Minority Chief Policy Advisor/Labor Policy Director.

Chairman KLINE. A quorum being present, the committee will come to order. Well, good morning. Welcome to our legislative hear-

ing on the Student Success Act and the Encouraging Innovation and Effective Teachers Act.

I want to thank our witnesses, of course, and to everybody sitting out there. There seems to be some interest in this subject this morning, as there should be. So I am very, very glad to see all of you here.

I was just wondering—Mr. Miller and I were just talking and suddenly the room became quiet, and I am trying to figure out what made that happen. I am looking for that tool so we—

Well, last January—last year—we began discussion on the importance of rewriting elementary and secondary education law. We acknowledged No Child Left Behind's shortcomings and convened a series of hearings in which dozens of witnesses described the challenges facing our nation's education system. We discussed the overly prescriptive accountability system that has labeled half our schools as failures, explored the inadequacies of federal teacher policies, and examined the regulatory burdens confronting states and school districts.

Through these conversations we have forged areas of agreement among members on both sides of the aisle. We can all see the value of parental engagement and support the development of more highly—high quality charter schools. We also agree student progress should be a larger factor in teacher evaluations and we support the continued use of disaggregated data to help protect vulnerable student populations and ensure all students have access to quality education opportunities.

No one said rewriting a law as influential as the Elementary and Secondary Education Act would be easy, and the no one was right. Just as we found common ground we also unearthed differences. All members shared the desire to see our schools improve and have negotiated in good faith.

Education reform is an issue that will shape future generations and we cannot afford to let the conversation stall. For the sake of our children we must continue working toward a consensus.

We are here today to discuss the merits of two proposals: the Student Success Act and the Encouraging Innovation and Effective Teachers Act, which I believe present a new way forward for K-12 education. These proposals build upon the progress made under No Child Left Behind while also offering thoughtful solutions to address its shortfalls. However, this is a legislative hearing, and as such, I expect and welcome a robust debate on ways the policies in these bills could be modified to better meet our shared goal of empowering students to achieve their full potential.

The Student Success Act will restore each state's authority and responsibility to meet the needs of its students and schools. Instead of a one-size-fits-all federal accountability system, our bill directs each state to develop its own system that takes into account the unique needs of students and communities with the flexibility to use multiple measures of student achievement. Each state will also implement its own methods for identifying low-performing schools and implementing successful strategies for turning failing schools around.

Most notably, the legislation recognizes the need to preserve a high bar for student success. The bill maintains important require-

ments that states and school districts continue to make and meet high benchmarks for student learning. States must administer annual reading and math assessments and report the results disaggregated by student population, providing parents important information about their child's school.

The second bill we will discuss today, the Encouraging Innovation and Effective Teachers Act, consolidates several federal teacher programs into a flexible grant state and local leaders can use to fund programs that work. It also empowers states to develop their own teacher evaluation systems based on student learning and supports creative approaches, such as performance pay and alternative paths to certification, which will help recruit and keep the most effective educators in our schools.

The provisions included in the Student Success Act and the Encouraging Innovation and Effective Teachers Act reflect the input we have received from parents, teachers, principals, superintendents, and others in the education community. Additionally, these proposals strike a more appropriate balance between the need for a limited federal role to ensure transparency and the demand for state and local control.

Unlike the administration's plan to offer temporary waivers that keep schools tied to a failing law, the proposals before us today take a step closer to enacting lasting education reforms that will raise the bar for student achievement and improve the classroom experience for children nationwide.

I have no doubt that there will be differences of opinion today. However, I look forward to getting feedback from our excellent panel of witnesses, stakeholders in the education community, and from my colleagues on both sides of the aisle.

With that, I will now yield to the senior Democratic member of the committee, Mr. Miller, for his opening remarks.

[The statement of Chairman Kline follows:]

**Prepared Statement of Hon. John Kline, Chairman,  
Committee on Education and the Workforce**

Last January, we began a discussion on the importance of rewriting elementary and secondary education law. We acknowledged No Child Left Behind's shortcomings, and convened a series of hearings in which dozens of witnesses described the challenges facing our nation's education system. We discussed the overly prescriptive accountability system that has labeled half our schools as failures, explored the inadequacies of federal teacher policies, and examined the regulatory burdens confronting states and school districts.

Through these conversations, we have forged areas of agreement among members on both sides of the aisle. We can all see the value of parental engagement and support the development of more high quality charter schools. We also agree student progress should be a larger factor in teacher evaluations, and we support the continued use of disaggregated data to help protect vulnerable student populations and ensure all students have access to quality education opportunities.

No one said rewriting a law as influential as the Elementary and Secondary Education Act would be easy. Just as we found common ground, we also unearthed differences. All members share the desire to see our schools improve and have negotiated in good faith. Education reform is an issue that will shape future generations, and we cannot afford to let the conversation stall. For the sake of our children, we must continue working toward a consensus.

We are here today to discuss the merits of two proposals, the Student Success Act and the Encouraging Innovation and Effective Teachers Act, which I believe present a new way forward for K-12 education. These proposals build upon the progress made under No Child Left Behind, while also offering thoughtful solutions to address its shortfalls. However, this is a legislative hearing, and as such, I expect and

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Most notably, the legislation recognizes the need to preserve a high bar for student success. The bill maintains important requirements that states and school districts continue to make and meet high benchmarks for student learning. States must administer annual reading and math assessments and report the results disaggregated by student population, providing parents important information about their child's school.

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Unlike the administration's plan to offer temporary waivers that keep schools tied to a failing law, the proposals before us today take a step closer to enacting lasting education reforms that will raise the bar for student achievement and improve the classroom experience for children nationwide.

I have no doubt there will be differences of opinion today. However, I look forward to getting feedback from our excellent panel of witnesses, stakeholders in the education community, and from my colleagues on either side of the aisle.

Mr. MILLER. Thank you, Mr. Chairman.

And good morning to our witnesses, and thank you for sharing your experiences and your knowledge with the committee this morning.

There is nothing more important for families around this country than the quality of education for their children. We all agree that—on one thing: that we must act to reauthorize No Child Left Behind, and I have said before in this committee and I will say again, I am a very proud coauthor of that law. But over the last 10 years we have learned many things about our children's education thanks to that law.

It is, however, long overdue for a rewrite. This fact is evident in nearly 40 states signaling interest in applying for flexibility from No Child Left Behind under the Department of Education's waiver process. Just last week 10 states—and I guess another state yesterday, New Mexico—11 states have been granted the—to go through the process of receiving the waivers, and a number of states are expected to apply in the next few weeks.

What is exciting about this announcement is that these states aren't just running away from one-size-fits-all approach of NCLB. Instead, they are running toward a system that strikes the right balance between flexibility and accountability.

The department's approach demonstrates that the federal education policy can provide flexibility without losing sight of the core values of equal opportunity for all. Regrettably, the two bills we are examining today do not reflect those values. Rather than looking



toward the future, these bills have the real potential to turn back the clock decades.

I have heard a full range of views on NCLB since its enactment. For instance, I have heard the word “flexibility” thrown around and offered up as the solution to the problems of our current law, but I have found that flexibility often gets raised when people are trying to avoid accountability.

Clearly there are places in the current law where the federal policy needs to be more flexible, such as in school improvement and consolidating programs. But at no point should we be promoting flexibility at the expense of accountability or at the expense of equity in education.

As with all of the—all other policy changes, the only question we should be asking is whether or not the flexibility will lead to better outcomes for the students, which is why the federal role in education exists, to support better and more equitable outcomes for all students. Given the state of education debate in our country today you might think that the role of education started with NCLB, but it didn’t; it started with the *Brown v. Board of Education* decision and the Elementary and Secondary Act of 1965.

We cannot ignore the history of how education of millions of children has improved since then and how student performance has increased across the board. The fact is elementary and secondary education was not better before *Brown*, or the first ESEA, or even NCLB. To say so ignores the chapters in our history that we are not proud of, but neither should be forgotten nor repeated.

We must not shrink from our responsibility to provide children with an equal opportunity at a first-class education. With that comes the responsibility to demand accountability.

I visit schools at every opportunity. I admire the teachers, the principals, and other school personnel who work with students daily and care deeply about their education and their advancement. Requiring accountability and good outcomes isn’t a criticism of their work; it is a recognition that there are enormous pressures at all levels and sometimes in different directions within an education system.

The federal government plays a critical role here. It can create guardrails to ensure equity. It can ensure that when states and districts and schools have to make hard decisions those decisions are made in the best interest of the children.

The federal government should never be expected to micro-manage the improvement of an individual school nor should it try. However, we can and should require action on behalf of the students where willingness to act doesn’t exist.

We must continue to support the simple idea that low-performing schools should be identified and required to improve. As members of Congress it is our job to update the law and to reflect the current best practices and protect kids in the process. Through the rewrite of ESEA we can alter roles, we can increase flexibility, but we cannot abandon the principles of equity and accountability.

If we want to uphold the promise of *Brown v. Board of Education* and the Elementary Secondary Education Act in its most recent iteration reducing the federal footprint in education should not be single-minded goal of this reauthorization. Improving the edu-

cational outcomes for children and strengthening our nation's global competitiveness. The question is how best to achieve that goal.

These bills don't come close. Democrats believe that education must continue to be a driver of opportunity, not a system that locks you into a station in life, not a system that impedes a child taking advantage of the opportunities that America has to offer.

We are proud to stand with the voices of opposition on these bills, and once again, we are in good company on opposing the majority's efforts. Groups from across the political educational ideological spectrum have rejected the attempts here to turn back the clock on America's schools. Teachers, business groups like the U.S. Chamber of Commerce, local education groups, civil rights and disability groups, and the national PTA have all raised serious concerns over the majority's rewrite of this nation's education law.

Chairman Kline, this hearing is important for us to explore the weight of opposition from all corners of the country. We take seriously the task at hand. Kids' lives and their ability to have an opportunity to succeed are at stake, and I am very protective of a single year of a child's life; they don't get it back and it is very hard to make up.

Our kids only get one shot at a decent education and that is why we in the Congress need to work together, not apart, to support state and local efforts to build a world-class education system, and the stakes could not be higher. It is the most important thing we can do—important to our nation's economic competitiveness and important to the lives of our nation's children and their families. Thank you.

[The statement of Mr. Miller follows:]

**Prepared Statement of Hon. George Miller, Senior Democratic Member,  
Committee on Education and the Workforce**

Good morning, Chairman Kline. I would like to welcome our witnesses to this very important hearing.

There is nothing more important for families around this country than the quality education of their children. We all agree on one thing—that we must reauthorize the No Child Left Behind Act. I have said before in this Committee and I will say it again. I am a proud co-author of that law.

Over the last ten years, we have learned many things about our children's education thanks to that law. It is, however, long-overdue for a rewrite.

This fact is evident in the nearly 40 states signaling interest in applying for flexibility from NCLB under the Department of Education's waiver process. Just last week, ten states were given the green light to proceed with their new plans for improving public education and dozens more are expected to apply in the next few weeks.

As I said last week, what is exciting about this announcement is that these states aren't just running away from the one-size-fits-all approach of NCLB. Instead, they are running towards a system that strikes the right balance between flexibility and accountability. The Department's approach demonstrates that federal education policy can provide flexibility without losing sight of the core values of equal opportunity for all.

Regrettably, the two bills we are examining today do not reflect those values. Rather than looking toward the future, these bills have the very real potential to turn the clock back decades.

I have heard the full range of views on NCLB since its enactment. For instance, I have heard the word "flexibility" thrown around and offered up as the solution to the problems with our current law. But, I have found that "flexibility" often gets raised when people are trying to avoid accountability.

Clearly, there are places in the current law where federal policy needs to be more flexible, such as in school improvement and in consolidating programs. But, at no

point should we be promoting flexibility at the expense of accountability or at the expense of equity in education.

As with all other policy changes, the only question we should be asking is whether flexibility will lead to better outcomes for kids. Which is why the federal role in education exists—to support better and more equitable outcomes for all students.

Given the state of the education debate in our country today, you might think that our role in education started with NCLB, but it didn't. It started with the *Brown v. Board of Education* decision and the Elementary and Secondary Act of 1965.

We cannot ignore the history of how the education of millions of children has improved since then and how student performance has increased across the board. The fact is, elementary and secondary education was not better before *Brown* or the first ESEA or even NCLB. To say so ignores chapters in our history that we are not proud of, but should neither be forgotten, nor repeated. We must not shirk our responsibility to provide children with equal opportunity. With that comes a responsibility to demand accountability.

I visit schools at every opportunity. I admire the teachers, principals and other school personnel who work with students daily and care deeply about their education.

Requiring accountability and good outcomes isn't a criticism of their work. It is recognition that there are enormous pressures at all levels, sometimes in different directions, within an education system.

The federal government plays a critical role here. It can create guardrails to ensure equity. It can ensure that, when states, districts and schools have to make hard decisions, those decisions are not made on the backs of children.

The federal government should never be expected to micromanage the improvement of an individual school, nor should it try. However, we can and should require action on behalf of students where willingness to act doesn't exist.

We must continue to support the simple idea that low-performing schools should be identified and required to improve.

As members of Congress, it's our job to update the law to reflect current best practice and protect kids in the process. Through a rewrite of ESEA, we can alter roles. We can increase flexibility. But we cannot abandon the principles of equity and accountability if we want to uphold the promise of *Brown v. the Board of Education*, the first ESEA and its most recent iteration.

Reducing the federal footprint in education should not be the single-minded goal of this reauthorization. Improving the educational outcomes for children and strengthening our nation's global competitiveness should be the goal.

The question is how best to achieve that goal. These bills don't come close.

Democrats believe that education must continue to be a driver of opportunity, not a system that locks you into a station in life.

We are proud to stand with the voices of opposition to these bills. And once again, we're in good company in opposing the majority's effort. Groups from across the political, educational and ideological spectrum have rejected the attempt here to turn back the clock on America's schools.

Teachers, business groups like the U.S. Chamber of Commerce, local education groups, civil rights and disability groups, and the national PTA have all raised deep concerns over the majority's rewrite of the nation's education law.

Chairman Kline, this hearing is important for us to explore the weight of opposition from all corners of the country. We need to take seriously the task at hand. Kids' lives and their ability to have the opportunity to succeed are at stake.

I am very protective of a single year in a child's life—they don't get that back. Our kids only get one shot at a decent education.

That's why we in Congress need to work together, not apart, to support state and local efforts to build a world class education system. The stakes couldn't be higher.

It's the most important thing we can do: Important to our nation's economic competitiveness and important to the lives of our nation's children.

I yield back.

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Chairman KLINE. Thank you.

Pursuant to Committee Rule 7c all committee members will be permitted to submit written statements to be included in the permanent hearing record, and without objection the hearing record will remain open for 14 days to allow statements, questions for the

record, and other extraneous material referenced during the hearing to be submitted in the official hearing record.

It is now my pleasure to introduce our distinguished panel of witnesses. I will just go across this way.

Mr. Tom Luna is the superintendent of public instruction for the Idaho Department of Education. He served as a senior advisor to former U.S. secretary of education, Rod Paige, from 2003 to 2005. Additionally, he currently serves as president of the Council of Chief State School Officers, the national organization representing state education chiefs, and will be testifying on their behalf during this hearing.

Ms. Delia Pompa is the senior vice president of programs at the National Council of La Raza, where she conducts oversight of NCLR programs, including housing and community development, education, Institute for Hispanic Health, and workforce development. Ms. Pompa is former director of the Office of Bilingual Education and Minority Languages Affairs in the U.S. Department of Education and former executive director of the National Association for Bilingual Education.

Former Representative—boy, you are a brave man, coming back and sitting on that side—Former Representative Bob Schaffer is the chairman of the Colorado State Board of Education. He also serves as the principal of Liberty Common High School, a public, tuition-free, college preparatory charter school serving students in grades seven through 12 that consistently rates among the state's top-performing schools. From 1997 until early 2003 he represented Colorado's fourth congressional district in the U.S. House of Representatives and served on the House Committee on Education and the Workforce.

Welcome back.

Dr. Robert Balfanz is co-director at the Everyone Graduates Center in the School of Education at Johns Hopkins University. He currently works with more than 50 high-poverty secondary schools to develop, implement, and evaluate comprehensive, whole-school reforms. Dr. Balfanz has published widely on secondary school reform, high school dropouts, and instructional interventions in high-poverty schools.

Ms. Felicia Kazmier is an art teacher at Otero Elementary School in Colorado Springs, Colorado. She is a graduate of the University of Colorado at Colorado Springs with a master of arts and special education and completed the University of Colorado at Colorado Springs certification program for teachers of gifted and talented students. She earned a distinguished teacher designation through the school district's teacher evaluation system.

And Mr. Jimmy Cunningham is the superintendent of schools for Hampton School District in Hampton, Arkansas. He has worked in education for 35 years, including 24 years as an administrator. He is on the governing board of the American Association of School Administrators and is president elect of the National Rural Education Association. He is testifying on behalf of the American Association of School Administrators.

Welcome to you all. Before I recognize each of you to provide your testimony let me briefly explain our lighting system. You can see it now there in front of you.

You will each have 5 minutes to present your testimony. When you begin the light in front of you will turn green; when 1 minute is left the light will turn yellow; when your time has expired the light will turn red, at which point I ask that you wrap up your remarks as best you are able.

After everyone has testified members will each have 5 minutes to ask questions of the panel.

So, it looks like we are ready to go. And again, we will just go this way down the panel and we will start with Mr. Luna.

Sir, you are recognized.

**STATEMENT OF TOM LUNA, SUPERINTENDENT OF PUBLIC INSTRUCTION, IDAHO DEPARTMENT OF EDUCATION**

Mr. LUNA. Thank you, Chairman Kline, Ranking Member Miller, and members of the committee, for inviting me here today to testify. As was stated, my name is Tom Luna and I am the superintendent of public instruction for the great state of Idaho and the current president of the Council of Chief State School Officers.

Again, I want to thank Chairman Kline for these proposals to reauthorize the Elementary and Secondary Education Act of 1965, what today we refer to as No Child Left Behind. I am pleased to be here today to discuss how to best preserve and advance the focus on ensuring that all children have access to high-quality education opportunities and ensure that they are all prepared for success after graduation.

States have demonstrated that they are staunchly committed to raising the bar with college and career ready standards for all students, and we believe that federal policy must support the ultimate goal of ensuring that all students graduate from high school prepared to go on to post-secondary education and the workforce, and once they get there they do not need remediation. We urgently need Congress to reauthorize the ESEA law because for the past 10 years American schools have lived under a law that I have referred to as—it reminds me of the old Clint Eastwood movie, “The Good, the Bad, and the Ugly,” because there is a little bit of all of that found in this law.

The good is that No Child Left Behind has placed a spotlight on student achievement in America with a heavy focus on math and reading, and it has had a specific focus on disadvantaged students, and it has established grade level proficiency as a target for every child. The bad is that the current law doesn’t recognize student growth, so schools have numerous ways to not meet state goals but very few avenues to demonstrate success. The ugly: Because the law has not been authorized in a timely manner—going on 5 years—it has become a stumbling block to state and local education reforms. The longer reauthorization stalls the uglier the law becomes and the good parts become overshadowed.

Thankfully, states have not waited for the federal government to act on ESEA and we have acted on our own to advance meaningful, state-driven levels of high accountability. There is a renaissance happening all across the country when it comes to education reform to better help our students meet the needs of the 21st century.

In Idaho, for example, last year we passed the most comprehensive education reform laws in the country. We implemented a ro-

bust, statewide, pay-for-performance plan, giving our teachers the opportunity to not only be recognized but financially rewarded for their great work. We created 21st century schools by making historic investments in technology for teachers and students and quality-focused professional development for all teachers.

We have eliminated tenure. We have eliminated antiquated last-hired-first-fired laws. We have adopted academic standards that are equal to any other academic standards in the world. And today in Idaho 50 percent of a teacher's evaluation is tied to student achievement, and parental input must be part of a teacher evaluation.

Idaho is not alone. More than 30 states last year passed some form of comprehensive education reform legislation and has led to increased levels of accountability.

We know states are willing and ready to take the lead. And how do we know this? It is because they have.

Just look at the common core standards as just one example. Today 45 states have worked together with CCSSO to develop, adopt, and implement college and career ready standards for all public schools. This was a state-led effort and voluntary; the federal government did not lead in this effort nor did it compel states to participate.

And states did not stop there. We are also collaborating to build the next generation of assessments aligned to these higher standards. Now that we have the standards in place and are working towards the next generation of assessments we must have new systems of increased accountability, and 45 states are working with CCSSO to develop and adopt next-generation accountability principles aimed at assuring better outcomes for all students.

In short, state and local leaders are not running from accountability and improvement; we are stepping up and embracing high levels of it on our own accord and now we need for Congress to reauthorize ESEA to recognize states' rights and give states the flexibility and authority to continue this great work.

What I am suggesting is a 10th Amendment approach to the federal government's role in education, where states define the federal government's role in education rather than the other way around. This is already happening around the country as governors, state superintendents, legislators, and others have helped to move education reform forward.

So I commend Chairman Kline for offering a bill that acknowledges and respects that it is the state and local leaders who are driving education reform. Specifically, we support the elements of the Student Access—or Success Act and Encouraging Innovation and Effective Teachers Act that—and we have a number of different points that we support, Mr. Chairman, and a number of areas that we think need to be improved in the law, and they are part of my testimony.

So since the red light is on and I will be a good example for the others, let me just say that I do believe that as long as the federal government spends tax dollars to fund public education there must be accountability for how those dollars are spent. Accountability means results, and results means that student—higher student achievement. And so we must define and lead education reforms

with a limited federal role in supporting authentic, comprehensive state and local reform efforts.

Thank you, Mr. Chairman.

[The statement of Mr. Luna follows:]

**Prepared Statement of Tom Luna, Idaho Superintendent of Public Instruction; President of the Council of Chief State School Officers (CCSSO)**

Chairman Kline, Ranking Member Miller, Members of the Committee, thank you for inviting me to testify today about the Student Success Act and the Encouraging Innovation and Effective Teachers Act, Chairman Kline's proposals to reauthorize the Elementary and Secondary Education Act of 1965 (ESEA). My name is Tom Luna, and I am the Superintendent of Public Instruction for Idaho and the current President of the Council of Chief State School Officers (CCSSO).

I am pleased to be here today to discuss how to best preserve and advance the ESEA's longstanding focus on ensuring that all children—especially children of color, low-income students, English Language Learners, and students with disabilities—have access to high quality educational opportunities to ensure they are prepared for success after graduation. States remain staunchly committed to raising the bar with college and career ready standards for all students, and we believe that federal policy must support the ultimate goal of ensuring that all students graduate ready for higher learning or entering the workforce. We urgently need for Congress to reauthorize the ESEA now, because for the last 10 years, American schools have lived under a law that is akin to the classic Clint Eastwood movie, "The Good, the Bad and the Ugly."

First the good: No Child Left Behind has placed a spotlight on student achievement in America, especially among disadvantaged students, and it has established grade level proficiency as the target for every child. But while No Child Left Behind has focused America's schools upon improving learning for every child, it also has many bad parts. Notably, current law doesn't recognize student growth, so schools have numerous ways to fail but few avenues to demonstrate success. And now the ugly: because the law has not been reauthorized in a timely manner, its rigid accountability system has become a stumbling block to state and local education reforms.

Thankfully, the states have not waited for the federal government to act on ESEA and have acted on our own to advance meaningful state-driven accountability; in fact, States are currently engaged in a "renaissance" of education reform. More than 30 states last year passed some form of comprehensive education reform legislation. States across the nation are addressing antiquated labor practices, improving student access to technology, engaging in system redesign, adopting clear and high academic standards, and developing data systems that support targeted student interventions and improved program evaluation.

States' record of also initiating and tenaciously pursuing educational improvements at the national level in recent years speaks for itself. Working without federal involvement, 45 states worked together with CCSSO to develop, adopt, and now implement college and career ready standards for all public school students. Nearly every state is also currently collaborating to develop next generation assessments aligned to those standards to better measure what students know and can do; Idaho is the lead state in one of the two state assessment coalitions. Building on these successes, 45 states have worked with CCSSO to develop and adopt next generation accountability principles aimed at ensuring better outcomes for all students, including but not limited to a continued commitment to regular assessments, a continued focus on accountability for subgroup performance, and ongoing public transparency and reporting to ensure that parents and communities understand how their schools are performing. In short, state and local leaders are not running from accountability and improvement; we are stepping up and embracing higher levels of it on our own accord.

Let me be clear: these education reform efforts have been carried out across the country willingly and without coercion by engaged and reform-oriented state leaders. We do not need the federal government to dictate the specific terms of state and local reforms, because we are situated best to develop and implement state, local, and national initiatives that benefit students in our state. I know of no Governor or State Superintendent who passively accepts current conditions in our public schools or seeks to conceal inadequacies in their systems; in fact, almost every state is, to an extent unprecedented in recent history, pursuing aggressive education reforms on our own accord. Federal law must now recognize state leadership by holding us to high standards and requiring adherence to core principles while

unleashing and empowering state innovation, evaluation, and continuous improvement.

And yet Congress and the Administration are still broadly debating what federal role is appropriate for education. As a conservative Republican, I submit to you that where taxpayer dollars are spent there is an appropriate federal role in ensuring accountability for student performance. The freedom for states to innovate must be built into statute, however. I prefer a 10th Amendment approach to the federal government's role in education. The 10th Amendment to the United States Constitution states, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." The states should therefore define the federal government's role in education, instead of the federal government defining the states' role.

The fact that states have waited almost five years for Congress and the President to reauthorize the ESEA is further evidence that the federal role in education should be minimal. Today, states are left to live under an outdated law or submit ESEA waiver requests to the U.S. Department of Education. Last week, the President announced that 10 states will receive waivers from central provisions of current law; nearly 30 states, including Idaho, are in the process of submitting waivers at the end of February. Many states are driven to submit waivers to secure temporary relief from NCLB, but what we really want is reauthorization of the entire law.

As I stated above, the new ESEA must support, not hinder, the innovative work being done at the state and local levels. State and local leaders must be empowered to develop and implement a range of new educational models that would ensure that all students graduate college and career ready. That includes allowing states to develop meaningful accountability, improvement, teacher effectiveness, professional development, and other systems that reflect local conditions and needs, while holding us accountable for achieving the outcomes that we promise. In other words, the new law must set clear expectations for states across core areas of reform, but should not prescribe a single approach for how states must meet these reform objectives. We must stop legislating and regulating to the lowest common denominator, and begin to unleash educators to educate.

ESEA must help more states continue on the road to better performance by incentivizing continued state leadership, clearing away hurdles like those I described, and creating the necessary flexibility for states, districts and schools to customize solutions aimed at addressing persistent underperformance. Regardless of federal action, Idaho intends to implement college and career ready standards and establish a new accountability system consistent with the principles outlined in the Council of Chief State School Officers accountability framework. Passage of a strong ESEA reauthorization would enable our state to forgo costly and burdensome implementation and administration of dual federal and state systems at this critical junction of reform.

We commend Chairman Kline for offering a bill that acknowledges and respects that it is state and local leaders who are driving education reform. Specifically, we support the elements of the Student Success Act and Encouraging Innovation and Effective Teachers Act that:

- Maintain a strong focus on accountability for all schools and recognition of the need to accurately measure student growth in addition to proficiency. We support eliminating the federally-defined 100% proficiency target (AYP), but requiring states to define, report, and act using authentic student growth;
- Seek annual determinations, disaggregation, and reporting on the performance of all schools by overall student performance and subgroup population performance;
- Ensure states have a school improvement intervention strategy in place while granting states flexibility from the prescriptive federal turnaround models set forth in the School Improvement Grant program;
- Allow states to develop and implement computer adaptive assessments; and
- Promote policies that advance teacher and leader evaluation reforms, which are a top ESEA priority for Idaho and CCSSO.

CCSSO supports modifications to the legislation, however, to strengthen the ability of states to deliver on their commitments to stronger accountability systems rooted in the ultimate goal of college and career readiness for all students. These include:

- Including two additional parameters for state accountability and school improvement systems: states identifying at least a baseline percentage of lowest-performing schools and asking states to establish ambitious yet achievable performance targets for their students, without mandating a single goal or approach;



- Granting states the express authority to withhold federal school improvement funding from districts that fail to implement their school improvement plans or strategies adequately or if those strategies fail to improve student achievement;
- Clarifying that the legislation does not bar federal funds from being used to support the two existing state-led assessment consortia that are working to develop next-generation assessments capable of more accurately measuring student performance. Nearly every state is a member of one of these consortia and has a strong interest in maintaining a limited federal role in the support of these consortia; and
- In keeping with your legislation's reliance upon increased state and local leadership in education, ensuring that the new ESEA authorizes sufficient funding to support the capacity-building and programmatic support necessary to advance education reform at the state and local levels and avoid unfunded federal mandates.

Addressing these issues is critically important as the bill moves through the legislative process, but I see the Committee's upcoming consideration of this legislation as an important step in moving toward a much more effective law.

Let me reiterate that as long as the federal government contributes to funding public education, it should play a limited role in ensuring accountability both for ensuring positive results for all students and encouraging the best and highest use of taxpayer dollars towards achieving those results. Congress must empower states also to define and lead education reform efforts, while limiting the federal role to supporting authentic, comprehensive state and local reform efforts. One needs only look at what is going on in Idaho, Indiana, Ohio, Florida and dozens of other states across the country to see evidence of our commitment to accountability and comprehensive reform.

Four years ago, states were told to wait for reauthorization until a new Congress and a new President were elected. We cannot wait another two or four years. CCSSO and I look forward to working with this Committee and the full Congress to support a sensible and timely reauthorization.

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Chairman KLINE. Thank you, Mr. Luna.

And for all the witnesses, your entire testimony will be included in the record.

Ms. Pompa, you are recognized.

**STATEMENT OF DELIA POMPA, SENIOR VICE PRESIDENT OF PROGRAMS, NATIONAL COUNCIL OF LA RAZA**

Ms. POMPA. Thank you, Chairman Kline, Ranking Member Miller, and all members of the committee for providing me the opportunity to present testimony this morning. My name is Delia Pompa. I am the senior vice president for programs at the National Council of La Raza, or NCLR. NCLR, the largest national Hispanic civil rights and advocacy organization in the United States, works to improve opportunities for Hispanic Americans in the United States.

In my role at NCLR I oversee all education programs, including a network of over 100 charter schools. My work on public school reform is shaped by more than 35 years of experience leading local, state, and federal agencies and national and international organizations.

I began my career as a kindergarten teacher and went on to serve as the district administrator and as assistant commissioner for the Texas Education Agency. I was formerly the director of the Office of Bilingual Education and Minority Language Affairs in the U.S. Department of Education, as noted, and my focus has always been on helping schools and teachers understand and respond to the needs of underserved children.

In 2009 students of color represented 41.3 percent of all public school students. It is important to note that suburban schools added 3.4 million students between 1993 and 2006, with nearly all

of this increase due to an increase in the enrollment of children of color. Given these demographic shifts the academic achievement of students of color and other underserved groups of children becomes particularly important.

Over the last 15 years student achievement, as measured by the National Assessment of Educational Progress, or NAEP, has improved much too slowly for Hispanic, Black, and economically disadvantaged students. English language learners and students with disabilities have lost ground on NAEP after years of improvement.

Addressing these challenges requires federal policy interventions grounded in the origins of the Elementary and Secondary Education Act. The Elementary and Secondary Education Act of 1965 is a civil rights law, enacted along with the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

Similar to those laws, ESEA was designed to break down legal and social barriers to equal opportunity. Since then our nation has made enormous progress in many areas of American life, including the elimination of Jim Crow laws, greater access to the ballot box, as well as the end of legal school segregation. However, challenges remain and ESEA remains the main vehicle for addressing the needs of all children and subgroups of children.

Early versions of ESEA relied almost exclusively on additional resources to schools serving poor students with no real performance standards. Low expectations and poor results pervaded many schools attended by Latino, African American, and other economically disadvantaged students.

Before NCLB the question was whether or not children with disabilities and English language learners could be educated. Now the question is, how can we prepare them for success in college and the workplace?

While NCLB hasn't achieved everything we had hoped for there is no question that this change in mindset has been immensely important for these children and their families. Changes to ESEA must be undertaken with great care with an eye toward the law's initial purpose to provide an excellent education to all children.

The fact that changes to NCLB contained in the Student Success Act seem to be designed to address mainly the challenges that school administrators face in implementing current law is unacceptable to the civil rights community. Rarely in the debate has there been an emphasis on what children need in order to compete in a 21st century global workforce, what parents hope for their children, and what taxpayers would expect the school system to achieve with its taxpayer dollars.

If this legislation is to make a positive difference in the lives of children it must be improved in the following ways: We must require states to develop and implement college and career ready standards, including English language proficiency standards. States, districts, and schools must be accountable for all students by setting progress targets and a timeframe in which to provide results.

Graduation rates must be disaggregated by subgroups and must include targets and a timeframe in which to produce results. The comparability loophole must be closed. Gender and migrant status must be included in state and school district report cards.

The cap on alternate assessments on alternate achievement standards for students with disabilities must be restored. And finally, English proficiency and achievement targets for ELLs must be maintained.

In closing, some say that family poverty predetermines the academic prospects of millions of children and that poverty must be eradicated before schools can be held accountable for helping children learn. We reject this notion.

Our policies should ensure that all children have the opportunity to obtain an excellent education irrespective of the neighborhoods in which they live, their parents' education level, or their family's income. We believe that a smart and robust federal role is necessary to achieve this.

I look forward to answering any questions you might have. Thank you.

[The statement of Ms. Pompa follows:]



**Improving the Elementary and Secondary Education Act:  
A Civil Rights Perspective**

Presented at

**“H.R. 3989, ‘Student Success Act’ and H.R. 3990, ‘Encouraging Innovation  
and Effective Teachers Act’”**

Submitted to

**U.S. House of Representatives Committee on Education and the Workforce**

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**Introduction**

Thank you Chairman Kline, Ranking Member Miller, and members of the Committee for providing me the opportunity to present testimony this morning. My name is Delia Pompa; I am the Senior Vice President for Programs at the National Council of La Raza (NCLR). NCLR—the largest national Hispanic civil rights and advocacy organization in the United States—works to improve opportunities for Hispanic Americans. Through its network of nearly 300 affiliated community-based organizations, NCLR reaches millions of Hispanics each year in 41 states, Puerto Rico, and the District of Columbia. To achieve its mission, NCLR conducts applied research, policy analysis, and advocacy, providing a Latino perspective in five key areas—assets/investments, civil rights/immigration, education, employment and economic status, and health. In addition, it provides capacity-building assistance to its Affiliates who work at the state and local level to advance opportunities for individuals and families.

Founded in 1968, NCLR is a private, nonprofit, nonpartisan, tax-exempt organization headquartered in Washington, DC. NCLR serves all Hispanic subgroups in all regions of the country and has regional offices in Chicago, Los Angeles, New York, Phoenix, and San Antonio, as well as state operations in Colorado, Florida, Nevada, and New Jersey.

In my role as Senior Vice President, I oversee programs ranging from prekindergarten and early childhood education to early college high schools and charter schools. My work on public school reform has been shaped by more than 35 years of experience leading local, state, and federal agencies and national and international organizations. I began my career as a kindergarten teacher in San Antonio, and went on to serve as a district administrator in Houston and as Assistant Commissioner of the Texas Education Agency. I was formerly the Director of Education, Adolescent Pregnancy Prevention, and Youth Development for the Children's Defense Fund, and Director of the Office of Bilingual Education and Minority Language Affairs at the U.S. Department of Education. In particular, I am focused on helping academic institutions understand and respond to the needs of underserved children and their teachers.

NCLR appreciates the Committee's efforts to hold this hearing on the reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA). While I am here as a representative of NCLR, I hope to present the views of a large network of civil rights and education reform organizations working on behalf of children. In my testimony today I will focus on provisions of the "Student Success Act" which address accountability, resource equity, and teacher quality.

Specifically, I will provide a brief description of the public school student population; background on the importance of ESEA to children of color, English language learners (ELLs), students with disabilities, and low-income children; discuss how the "Student Success Act" addresses the needs of these children; and provide a broad framework for moving forward with ESEA.

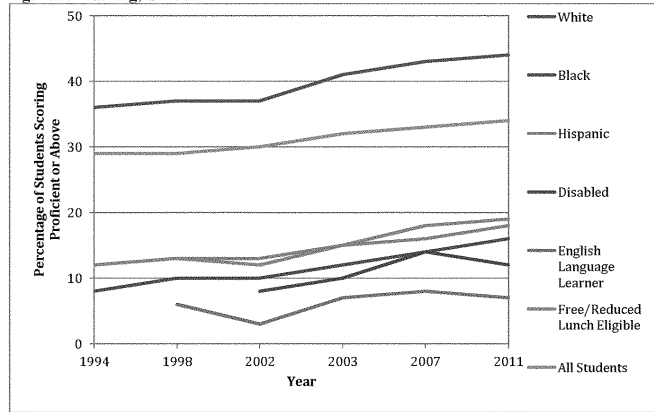
**Status of Public Education**

Today's public school student population is diverse. In 2009, students of color represented 41.3% of all public school students (22.3% Hispanic, 15.3% Black, 3.7% Asian).<sup>1</sup> The share of

Latino students in public school doubled between 1989 and 2009 from 11% to 22%.<sup>2</sup> That year, in the 65 largest urban school districts, Latinos accounted for 37% of all students, the highest proportion among all groups. Taken together, students of color represent 80% of all students in the 65 largest urban school districts (37% Latino, 35% Black, 7% Asian, 1% American Indian/Alaskan Native).<sup>3</sup> However, students of color are attending suburban schools in growing numbers. Suburban schools have added 3.4 million students between 1993 and 2006, with nearly all of this increase due to an increase in the enrollment of children of color.<sup>4</sup>

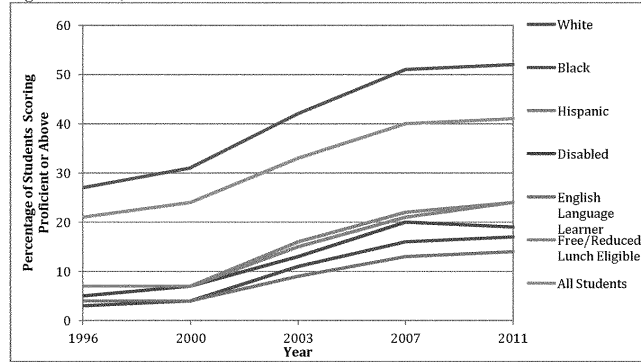
As the charts below show, student achievement, as measured by the National Assessment of Educational Progress, has improved slowly over the past decade and a half. Hispanic, Black, and economically disadvantaged students have made steady progress, while ELLs and students with disabilities have lost ground after years of improvement. Gaps between these students and White students have not sufficiently closed.

**Figure 1. Reading, Grade 4**



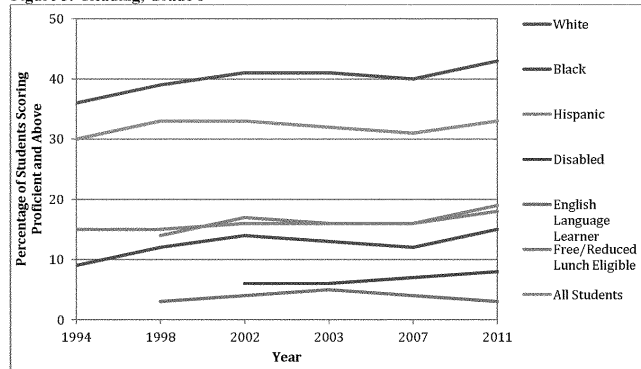
Source: U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics, National Assessment of Educational Progress (NAEP), 1994, 1998, 2000, 2003, 2007, and 2011 Reading Assessments.

**Figure 2. Math, Grade 4**

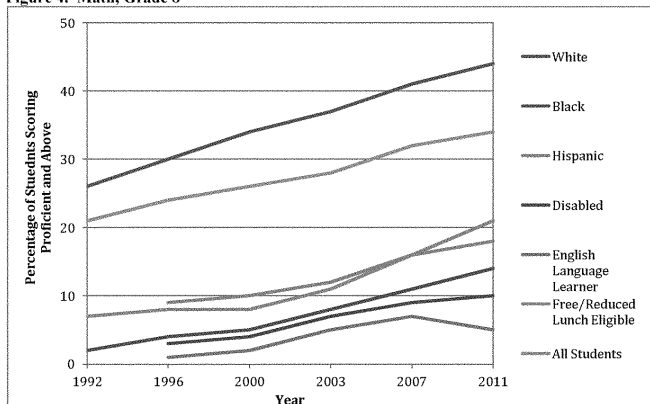


Source: U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics, National Assessment of Educational Progress (NAEP), 1996, 2000, 2003, 2007, and 2011 Mathematics Assessments.

**Figure 3. Reading, Grade 8**



Source: U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics, National Assessment of Educational Progress (NAEP), 1994, 1998, 2002, 2003, 2007, and 2011 Reading Assessments.

**Figure 4. Math, Grade 8**

Source: U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics, National Assessment of Educational Progress (NAEP), 1992, 1996, 2000, 2003, 2007, and 2011 Mathematics Assessments.

Spending gaps between schools within districts may have impeded greater progress among children of color and those from low-income communities. For example, one study found that a school in New York City received about \$2,000 less per student than another school in the same district serving fewer students who were from low-income families.<sup>9</sup>

While there has been some progress in improving student achievement, it is clear that the children from low-income and minority backgrounds lag behind their peers. Addressing this challenge requires federal policy interventions grounded in the origins of ESEA.

#### Importance of ESEA

The Elementary and Secondary Education Act of 1965 is a civil rights law, enacted along with the Civil Rights Act of 1964 and Voting Rights Act of 1965. Similar to those laws, ESEA was designed to break down legal and social barriers to equal opportunity. Since then, our nation has made enormous progress in many areas of American life, including the elimination of Jim Crow laws, greater access to the ballot box, as well as the end of legal school segregation. However, challenges remain. Even today, states are enacting laws that would make voting more difficult for people of color, as well as immigration laws that would effectively close the schoolhouse door to U.S. citizen children. Just as in the civil rights era, a strong, smart federal role is needed in public education. ESEA remains the main vehicle for expanding opportunities for children of



color, ELLs, students with disabilities, and children from low-income households. Reauthorization of ESEA must be designed to meet this goal.

Early versions of ESEA relied almost exclusively on providing additional resources to schools serving poor students. Without real performance standards, however, these schools simply provided students at the low end of the achievement gap with remedial instruction. As a result, an environment of low expectations and poor results pervaded many schools attended by Latino, Black, and other economically disadvantaged students, and children with disabilities were seldom expected to complete high school with a regular diploma.

As a response to the need for public school reform, Congress passed the Goals 2000: Educate America Act (Goals 2000, P.L. 103-277) and the Improving America's Schools Act (IASA, P.L. 103-382) in 1994 to encourage states to set higher academic standards. Passage of these laws was possible in part because of the belief that under the "old Title I," schools focused too much on providing basic services to disadvantaged students and that this strategy failed to close the achievement gap between these students and their more affluent peers.<sup>6</sup>

The "new Title I," contained in the IASA, was designed to encourage states to raise academic standards for all students, including ELLs and children with disabilities. Specifically, the IASA required states to show that they have developed or adopted challenging standards and high-quality assessments. Furthermore, schools and school districts were to be held accountable for demonstrating that students in schools receiving Title I funds made progress as measured by the new assessments. For example, school districts and schools that did not make "adequate yearly progress" were subject to "corrective action" under that law. However, these provisions had little impact on the education of children because the accountability system under the IASA was based on a foundation of "continuous and substantial improvement," a provision too vague to generate the serious raising of academic standards among states. Advocates have identified that under the IASA:

"Many [states] set their goals far too low: 'improve mean performance level across grades by an average of .05;' and as nonsensical as 'decrease the percentage of students scoring in the lowest quarter of state assessments.' Others set un-ambitious goals such as 'progress means not sliding backward.' Moreover, only two states, Texas and New Mexico, included subgroup performance as part of federal accountability determinations."<sup>7</sup>

The IASA's failure to shift how the public schools used federal taxpayer dollars to educate students created momentum for enactment of changes under the No Child Left Behind (NCLB) law. Though designed to accelerate school reform, NCLB contains loopholes that have undermined student achievement and attainment.

<sup>6</sup> As contained in the IASA, adequate yearly progress (AYP) meant "continuous and substantial" school and district improvement as measured by student scores on performance assessments. Corrective action included withholding of funds and reconstitution of school and school district personnel. In NCLB, these definitions are largely unchanged. However, the corrective action provisions in NCLB focus on improving specific areas of weakness related to a school's failure to improve outcomes for students.

### No Child Left Behind: Key Provisions and Challenges

In 2002, President George W. Bush enacted NCLB. This bipartisan legislation reauthorized ESEA and encouraged states and school districts not only to “stay the course” with standards-based school reforms, but to strengthen them through ambitious new requirements designed to close the achievement gap that exists between low-income, minority, and ELL students and their more affluent, White, and English-proficient peers. NCLB also required states to ensure that the vast majority of students with disabilities are afforded the same opportunity to earn a meaningful diploma similar to other children. As such, NCLB sought to bring attention to the needs of ELLs and students with disabilities, groups of students whose educational achievement had been largely ignored before NCLB’s enactment.

Under NCLB, achievement is measured primarily by reading and mathematics assessments in grades three through eight. States and school districts are required to increase test score results for all students in these grades, but particularly for students at the low end of the achievement gap. Furthermore, NCLB places particular emphasis on improving the academic achievement and English proficiency of ELLs.

An important element of NCLB is the flexibility granted to state departments of education in determining how to implement the legislation, particularly the testing and accountability provisions. While this was seen as an opportunity for states to demonstrate that they can drive school improvement, research has shown that in many states, proficiency standards are lower than those which would prepare students for success on the NAEP tests.<sup>8</sup>

NCLB also includes provisions requiring states to hold high schools accountable for both improving performance on state assessments and increasing graduation rates for all students. However, implementation of these provisions has been hampered by a flaw in the law and by the U.S. Department of Education’s regulations on NCLB. Under current law, states may use their own graduation rate calculations and may disguise low graduation rates by counting students who drop out of school as “transfers.” In addition, the Department’s regulations allowed states to use graduation rates in the aggregate, which can mask low graduation rates of subgroups of students, including ELLs and students with disabilities.

Additionally, states and school districts were also encouraged to end the practice of placing the least qualified teachers in classrooms with students who need the best teachers. However, children attending schools in low-income neighborhoods continue to be taught by teachers who are less qualified than students from more affluent communities.<sup>9</sup>

NCLB was also intended to close equity gaps between schools by requiring districts to provide services to students attending schools in low-income communities on par with students in more affluent communities. However, districts have been able to mask funding gaps between schools by excluding teacher salaries in their budgeting. Because teachers working in low-income schools tend to be less experienced, their salaries are lower than more experienced teachers in the

same school district. Thus, low-income communities are being denied resources that are equitable to those flowing to more affluent communities.<sup>10</sup>

While NCLB has highlighted key areas for improving schools, it is clear that it has not met its promise. However, the civil rights community believes the law must be improved, not discarded. Changes to ESEA must be undertaken with great care, with an eye toward the law's initial purpose to provide equitable opportunities for children whose education has been undermined by ineffective practices at best, and aggressive neglect at worst. In particular, the reauthorization should consider the educational experiences and prospects of students with disabilities and ELLs, which I discuss briefly in the next section.

#### **Addressing the Needs of Special Populations of Students**

There are currently 5.9 million students with disabilities, and 2.5 million public school students are eligible to receive special education.<sup>11</sup> The disparities between these children and youth and those without disabilities are stark. On average, students with learning disabilities test more than three grades below in math and reading than those who are not learning disabled.<sup>12</sup> About one-fourth (24%) of students with disabilities live in poverty, compared with 16% in the general population.<sup>13</sup> Only 56% of students with disabilities graduate with a regular diploma compared to 70% of students in the general population.<sup>14</sup> Lacking a diploma has negative consequences on the employment and earnings of people with disabilities. People with disabilities are more likely to be unemployed (13.8%) than are people without a disability (9.5%).<sup>15</sup> The average annual income for people with disabilities (\$36,300) is far below that of people without a disability (\$65,400).<sup>16</sup>

The number of ELLs in public schools reached 5.3 million in the 2008–2009 school year, a 51% increase in enrollment since the 1997–1998 school year.<sup>17</sup> More than one in ten (10.8%) U.S. public schools students are ELLs. As noted above, ELLs have shown steady improvement in math on the National Assessment of Educational Progress, but achievement in reading has been inconsistent.

In the next section, I provide a brief analysis of the “Student Success Act,” applying a civil rights lens.

#### **Analysis of the “Student Success Act” from a Civil Rights Perspective**

The “Student Success Act” is designed to provide more control over the education system to state and local authorities. While NCLR understands the need to address shortfalls in NCLB, we believe that reforms to the law do not necessitate a major shift away from the purpose of the original ESEA legislation, which was focused on providing educationally and economically disadvantaged children with opportunities for success in school and life. As such, we believe that the “Student Success Act” must be improved in several areas:

- **Setting high academic standards.** One of NCLB's flaws is that it requires states to set standards, but provides no guidelines for how high those standards should be set. The “Student Success Act” would effectively continue this approach. The bill would only require

that states align their content and achievement standards and apply them to all schools and students in the state. Without a high bar, it is unclear that states would set academic standards at a level that would prepare students for college and the workplace.

- **Improving NCLB's accountability system.** NCLB's accountability system is based on an unnecessarily complicated Adequate Yearly Progress (AYP) system that paints a static picture of student achievement and does not clearly show what's truly happening in schools. The "Student Success Act" does not address this. Instead, it effectively shifts away from real accountability altogether. The legislation requires states to set their own accountability systems with no framework leading to improved outcomes for children. Specifically, the accountability provisions of the "Student Success Act":
  - *Lacks achievement goals.* This means that even if students show academic improvement, they could still lag behind students in other states or internationally, placing students at risk of not being competitive for 21st century jobs.
  - *Does not set student performance targets.* States may hold schools accountable for meeting very unambitious performance targets, such as the low goals set under the IASA.
  - *Does not include graduation rate accountability.* Currently, only 69% of America's students graduate with a diploma. The statistics are worse for children of color, with only 56% of Hispanic, 54% of Black, and 51% of Native American youth graduating from high school.<sup>18</sup> As noted, students with disabilities are also less likely to finish high school with a regular diploma. It is clear that our nation has a graduation crisis, but the "Student Success Act" does not address it. In fact, it would reverse current policy. Under NCLB, states are required to include graduation rates in their accountability systems. The "Student Success Act" strikes those provisions.
- **Supporting school improvement.** Under NCLB, districts must identify failing schools (those failing to meet AYP requirements) and implement a set of sanctions and improvement strategies to help them achieve better academic outcomes for students. As noted, the current AYP is imperfect and in need of retooling. However, replacing AYP with no real parameters for improving schools is an insufficient response. It is certainly true that educators know how best to improve schools, but they also need to know how best to identify schools in need of improvement, a clear set of improvement targets to strive for, and a timeframe for achieving desired results. In addition, parents, taxpayers, and other stakeholders need to understand that there will be consequences for schools that do not improve. The "Student Success Act" provides none of these.
- **Encouraging transparency.** NCLB includes several provisions to provide information to parents, taxpayers, and other stakeholders about how schools are performing for all students, as well as for subgroups of students. Those provisions are critical, and recall the original purpose of the ESEA, which was to make sure that all students receive a quality education, especially economically disadvantaged and minority children. NCLB requires states and school districts to report on student achievement and to disaggregate those data by race,

ethnicity, disability status, language status, income status, migrant status, and gender. The “Student Success Act” removes gender and migrant status from this requirement.

- **Encouraging resource and teacher equity.** Section 1120A of NCLB requires districts to provide comparable services to all schools within their district. As mentioned above, districts have been circumventing this provision by excluding teacher salaries in their budgeting processes. The “Student Success Act” does not address this “comparability loophole.”

In addition, as currently drafted, the “Student Success Act” would fail to address the specific needs of students with disabilities and ELLs. While the Individuals with Disabilities Education Act (IDEA) mandates the provision of a free appropriate public education (FAPE) for students with disabilities, it contains no provisions that set high expectations and hold schools accountable for student progress. It is NCLB that has provided the long-needed requirement of school accountability and emphasis on doing what works to improve results for students with disabilities. For ELLs, NCLB’s Title III and case law, such as *Castaneda v. Pickard*, set standards for program quality. However, without a robust system of high standards and accountability, these policies are insufficient mechanisms for improving schooling for ELLs. In addition to the issues outlined above, the “Student Success Act” must be improved for these students by:

- **Ensuring the inclusion of students with disabilities in assessment and accountability systems.** The “Student Success Act” would eliminate the current cap (often referred to as the 1% regulation) that restricts, for accountability purposes, the use of the scores on less challenging assessments being given to students with disabilities. Such assessments—known as the alternate assessment on alternate achievement standards—are intended for only a small number of students with the most significant cognitive disabilities.
- **Ensuring English proficiency and achievement for ELLs.** Titles I and III of current law are designed to work together to encourage schools to help students learn English while providing access to the full curriculum, particularly reading and math. While the “Student Success Act” requires states to develop English language proficiency (ELP) standards, it does not require states to set high ELP standards, nor does it set a timeframe for when students should attain full English proficiency.

#### Recommendations

NCLR appreciates the effort of the Committee and the commitment of its members to improving our public schools. We are concerned, however, that the changes to NCLB contained in the “Student Success Act” are designed to address the challenges that school administrators face in implementing current law. We ask that Committee members, in reforming NCLB, place a stronger emphasis on what children need in order to compete in a 21st century, global workforce; what parents hope for their children and need from local public schools; and what taxpayers would expect the school system to achieve with its taxpayer dollars. We believe this can be achieved by improving the “Student Success Act” by, among other provisions:

- **Requiring states to develop and implement college- and career-ready standards, including English language proficiency standards.**
- **Including state, district, and school accountability for improving education for all students, including students with disabilities and ELLs, using a system based on progress targets and a timeframe in which to produce results, and leading to robust school improvement.**
- **Including graduation rate accountability that is disaggregated by race, ethnicity, disability status, language status, income status, migrant status, and gender, and includes graduation rate targets, as well as a timeframe in which to produce results.**
- **Closing the “comparability loophole.”**
- **Strengthening transparency by restoring gender and migrant status as part of state and school district report cards.**
- **Restoring the cap on alternate assessment and alternate achievement standards for students with disabilities.**
- **Restoring a set of English proficiency and achievement targets for ELLs.**

#### **Conclusion**

Children today face barriers to excellent public schools. Some say that family poverty predetermines the academic prospects of millions of children, and that poverty must be eradicated before schools can be held accountable for helping children learn. We reject this notion. We believe that you cannot eradicate poverty unless you educate these children. Children of color represent 41.3% of today’s public school students. Their numbers are more likely to grow than to decrease. If we do not educate these children, then we do not have a functioning public education system. Our policies should ensure that all children must have the opportunity to obtain an excellent education, irrespective of the neighborhoods in which they live, their parents’ education level, and their family’s income. We believe that a smart and robust federal role is necessary to achieve this.

<sup>1</sup> Susan Aud et al., *The Condition of Education 2011* (Washington, DC: National Center for Education Statistics, 2011), Table A-5-1.

<sup>2</sup> Susan Aud et al., *The Condition of Education 2011*.

<sup>3</sup> Candace Simon et al., *Today's Promise, Tomorrow's Future: The Social and Education Factors Contributing to the Outcomes of Hispanics in Urban Schools* (Washington, DC: The Council of Great City Schools, 2011).

<sup>4</sup> Richard Fry, *Sharp Growth in Suburban Minority Enrollment Yields Modest Gains in School Diversity* (Washington, DC: Pew Research Center, 2009), <http://www.pewhispanic.org/2009/03/31/sharp-growth-in-suburban-minority-enrollment-yields-modest-gains-in-school-diversity> (accessed February 13, 2012).

<sup>5</sup> Daria Hall and Natasha Ushomirsky, *Close the Hidden Funding Gaps in Our Schools* (Washington, DC: Education Trust, 2010) <http://www.edtrust.org/dc/press-room/press-release/close-the-hidden-funding-gaps-in-america%20%80%99s-public-schools> (accessed February 13, 2012).

<sup>6</sup> *Title I in Midstream: The Fight to Improve Schools for Poor Kids* (Washington, DC: The Citizens' Commission on Civil Rights, 1998).

<sup>7</sup> See letter to Senators Tom Harkin and Mike Enzi on Reauthorization of the Elementary and Secondary Education Act, October 11, 2011, [www.nclr.org/images/uploads/pages/Harkin\\_Enzi\\_ESEA\\_GoalsLTR.pdf](http://www.nclr.org/images/uploads/pages/Harkin_Enzi_ESEA_GoalsLTR.pdf) (accessed February 13, 2012).

<sup>8</sup> Victor Bandeira de Mello, *Mapping State Proficiency Standards Onto NAEP Scales: Variation and Change in State Standards for Reading and Mathematics, 2005-2009*. National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education. Washington, DC, 2011.

<sup>9</sup> <http://nces.ed.gov/nationsreportcard/pubs/studies/2011458.asp> (accessed February 13, 2012).

<sup>10</sup> Sarah Almy and Christin A. Theokas, *Not Prepared for Class: High-Poverty Schools Continue to Have Fewer In-Field Teachers* (Washington, DC: Education Trust, 2010).

<sup>11</sup> [www.edtrust.org/sites/edtrust.org/files/publications/files/Not%20Prepared%20for%20Class.pdf](http://www.edtrust.org/sites/edtrust.org/files/publications/files/Not%20Prepared%20for%20Class.pdf) (accessed February 13, 2012).

<sup>12</sup> U.S. Government Accountability Office, *Elementary and Secondary Education Act: Potential Effects of Changing Comparability Requirements*. Washington, DC, 2011, <http://www.gao.gov/new.items/d11258.pdf> (accessed February 13, 2012).

<sup>13</sup> Candace Cortiella, *The State of Learning Disabilities: Facts, Trends and Indicators* (New York: National Center for Learning Disabilities, 2011), <http://www.ncl.org/stateofld> (accessed February 13, 2012).

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*

<sup>17</sup> *The Growing Numbers of English Learner Students 1998/99-2008/09* (Washington, DC: National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs, 2011), [http://www.nclae.gwu.edu/files/uploads/9/growingLEP\\_0809.pdf](http://www.nclae.gwu.edu/files/uploads/9/growingLEP_0809.pdf) (accessed February 13, 2012).

<sup>18</sup> "About the Crisis," Alliance for Excellent Education, [http://www.all4ed.org/about\\_the\\_crisis](http://www.all4ed.org/about_the_crisis) (accessed February 13, 2012).



Chairman KLINE. Thank you very much.  
Mr. Schaffer, you are recognized.

**STATEMENT OF HON. BOB SCHAFFER, CHAIRMAN, COLORADO STATE BOARD OF EDUCATION; FORMER REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO**

Mr. SCHAFFER. Thank you, Mr. Chairman, and Mr. Miller. Thank you very much for your kind invitation to be here today and to comment on the proposed legislation as it relates to reauthorizing the Elementary and Secondary Education Act.

Throughout the 6 years that I represented Colorado's fourth district in the U.S. House I considered it a privilege to serve on this very committee and I really enjoyed the chance to discuss and act on issues similar to the ones you are considering today and I regard it as the most important work in public policy.

Just a couple of years ago I left the private sector and became principal of Liberty Common High School, a public charter school in Fort Collins and a junior high school in my home town of Fort Collins. My wife and I were founding parents that helped start Liberty Common 16 years ago and all of our children have attended it—two of them are students there today—and I am proud to say the school continues to grow and has consistently been one of the state's top-performing schools, with over 900 students attending and about 1,300 more on our waiting list.

And with that background I have become deeply convinced of the value of parental involvement in education, of the marketplace-driven benefits of school choice, of the value of local control in education and streamlined systems to get more dollars to classrooms where they are most needed. These beliefs are among the chief reasons I am here today. These broad strategies enjoy general bipartisan consensus among the seven members of the Colorado State Board of Education, and as chairman I can assure you that Colorado's board also shares an ambitious vision for the future of Colorado's education system.

And we have led the country in transforming our teacher corps. First, let me say, Coloradans agree it is the fundamental right and obligation of parents to direct the education and upbringing of their children. Parents play the most important role in determining the academic success of a student. After that it is curriculum, and that influences the children tremendously.

In exercising their rights and fulfilling their greatest responsibilities, parents most often look to and rely upon proficient teachers to assist in shaping the academic success of their children. And Colorado is leading the way and legitimately leaving behind the concept of teacher tenure.

My colleagues and I recently passed, unanimously on a bipartisan basis, a new system to evaluate public school teachers on the basis of performance. These performance measures are tied 50 percent to student performance scores. The other half is comprised of a combination of objective and subjective evaluations and observations. Those teachers who are able to meet the performance expectations of the new system will receive—sorry—those teachers who are unable to meet the performance expectations of the new system will receive focused professional support for a period of time, and if that proves insufficient they will be replaced.

For the vast majority of Colorado's teachers who will thrive under the new system they will begin, finally, to be treated like real professionals with compensation, recognition, and advancement being directly associated with performance, and most importantly, with useful and constructive feedback on their professional practice and student results. To be sure, Colorado still has a long way to go, but we have cleared the highest hurdle in this regard. We have managed to pass the underlying legislation and begun overhauling the necessary administrative structure in the state



with support from a Republican-led board of education, two Democratic governors, and a split state legislature.

In fact, last week our board received a report from the State Department—our education licensing unit. The question is, once we have an ongoing, objective teacher evaluation system in place, what would be the purpose of a teacher's license? Think about it: At a time when our schools are pressed for cash why do we continue to require teachers to shell out thousands of dollars or more per year to maintain a piece of paper that essentially tells us nothing about that teacher's suitability to teach?

Now, when I asked our licensing staff that question they indicated we probably have to keep issuing meaningless and expensive state licenses to teachers who can barely afford to buy them. They told the board that we have to do this because the federal government would cut off a few hundred million dollars in funding to our state that is predicated on the old-fashioned idea of a teacher's license. And frankly, we would like to move on quickly to a better measure, a results-based indicator of teacher quality and performance-based assessments to identify truly outstanding teachers in the classroom.

Whether it is through waivers or through a restored regulatory relief that is a function of H.R. 3989 and H.R. 3990, granting more freedom from federal mandates of—federal mandates of NCLB—does not mean lowering the bar for any child. Quite to the contrary, Colorado's proposal actually holds more schools and districts accountable to higher academic standards and for more students in historically disadvantaged subgroups than NCLB ever did.

And we are proud of the state leadership that we have exerted in pushing accountability even further in a freer post-NCLB world. Our systems are built upon disaggregated data. Our accountability systems track all of this and are oriented toward closing achievement gaps.

We are turning underperforming schools upside down. We are creating more charter school options all the time in neighborhoods where choice creates pressure for immediate improvement and where customized education services are needed most. We did this all on our own without the federal government telling us we had to.

Mr. Chairman, I appreciate the opportunity to share with you the perspective from the Rocky Mountain West. It is a perspective that favors choice, local control, a professional transformation of the teaching craft, transparency, accountability, competitiveness, and marketplace entrepreneurship. It is a perspective that to me seems more possible and likely with the introduction of the two bills you are considering today.

And that concludes my remarks.

[The statement of Mr. Schaffer follows:]

**Prepared Statement of Hon. Bob Schaffer, Chairman of the Colorado State Board of Education; Former Member, U.S. House of Representatives**

Mr. Chairman and Members of the Committee, thank you very much for your kind invitation to be here today and to comment on proposed legislation as it relates to reauthorizing the Elementary and Secondary Education Act.

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I really enjoyed the chance to discuss and act on issues similar to the ones you're considering today and I regard it as the most important work in public policy.

Though time has passed and a few of the faces have changed, I know the object of your interest is still the same—the wellbeing of America's schoolchildren. As a parent of five public-school educated children, my interest in this topic is personal. It's also central to my overall civic-leadership interest in helping build a stronger America for every school-aged citizen.

The experiences of being a parent active in my kids' schools, serving on this Committee, and before that nine years of involvement in education issues as a Member of the Colorado State Senate makes for some habits that I've found impossible to break. A couple years after leaving Congress in 2003, I became an elected member of the Colorado State Board of Education where I now serve as Chairman.

Just a couple years ago, I left the private sector and became the principal of Liberty Common High School, a public, charter high-school and junior-high school in my hometown of Fort Collins, Colorado. My wife and I were founding parents and helped start the Liberty Common system over 16 years ago and all of our children have attended it. Two of them are students there today and I'm proud to say, the school continues to grow, it has consistently been one of the state's top-performing schools with over 900 students attending and about 1,300 more on our waiting list.

With that background, I have become deeply convinced of the value of parental involvement in education, of the marketplace-driven benefits of school choice, of the value of local control in education and streamlined systems to get more dollars to classrooms where they're needed most.

These beliefs are among the chief reasons I am here today. These broad strategies enjoy general bipartisan consensus among the seven Members of the Colorado State Board of Education. As chairman, I can assure you that Colorado's board also shares an ambitious vision for the future of Colorado's education system.

We've led the country in transforming our teaching corps. First, let me say that Coloradans agree it is the fundamental right and obligation of parents to direct the education and upbringing of their children. Parents play the most important role in determining the academic success of a student. After that, it is curriculum that influences the success of a student.

In exercising their rights and fulfilling their great responsibilities, parents most often look to and rely upon proficient teachers to assist in shaping the academic success of their children. Colorado is leading the way in legitimately leaving behind the concept of teacher tenure. My colleagues and I recently passed—unanimously on a bi-partisan basis—a new system to evaluate public-school teachers on the basis of performance.

These performance measures are tied fifty percent to student performance scores. The other half is comprised of a combination of objective and subjective observations. Those teachers, who are unable to meet the performance expectations of the new system, will receive focused professional support for a period of time, and if that proves insufficient, they'll be replaced.

For the vast majority of Colorado's teachers who will thrive under the new system, they will finally begin to be treated like real professionals with compensation, recognition and advancement being directly associated with performance, and most importantly with useful and constructive feedback on their professional practice and student results. To be sure, Colorado still has a long way to go, but we've cleared the highest hurdles in this regard. We managed to pass the underlying legislation and begun overhauling the necessary administrative structure in the state with support from a Republican-led State Board of Education, two Democratic governors and a split state legislature.

In fact, just last week, our Board received a report from our State Department of Education's licensing staff. The question is, once we have an ongoing, objective teacher evaluation system in place, what would be the purpose of a teachers' license? Think about it, at a time when our schools are pressed for cash, why do we continue to require teachers to shell out a thousand dollars or more a year to maintain a piece of paper that essentially tells us nothing about a teacher's suitability to teach?

When I asked our licensing staff that question, they indicated we probably have to keep issuing meaningless and expensive state licenses to teachers who can barely afford to buy them. They told the Board we have to do this because the federal government would cut off a few hundred million in funding to our state that is predicated on the old-fashioned idea of a teacher license. We'd frankly like to move on—quickly—to a better measure, a results-based indicator of teacher quality and a performance-based assessment to identify truly outstanding classroom instructors.

H.R. 3990, the Encouraging Innovation and Effective Teachers Act, encourages more of this kind of reform by relying more on local teacher-evaluation systems and

by allowing state and local leaders more flexibility in the use of federal education funding.

Colorado has also been rather aggressive about updating our academic standards and modernizing our assessment system to meet the expectations of our state's higher-education system. In adopting new standards and developing new assessments, it would be our preference to make decisions based upon our values as a Western state that competes well in an international economy.

While Colorado is certainly free to be at the table in developing, for example, the Common Core State Standards and assessments developed through consortia efforts with other states—which we do—we strongly object to and resent federal efforts to use federal funds or cash awards to push our state, or any state, in a direction it might not be inclined to go on its own volition.

Moreover, I am concerned whether the Common Core State Standards, the corresponding assessments developed through the two consortia, and the NCLB Conditional Waivers are effectively pushing states toward a national curriculum. I direct your attention to the recent study published by the Pioneer Institute entitled, *The Road to a National Curriculum: The Legal Aspects of the Common Core Standards, Race to the Top, and Conditional Wavers* for additional information on this issue.

This is why the Student Success Act (H.R. 3989) and the Encouraging Innovation and Effective Teachers Act (H.R. 3990) are big steps in the right direction, and why the Committee should pass them. The combined effect of these bills is to rely on state-designed accountability systems, state-designed academic standards and state-designed assessments. The bills would allow us to move forward with teacher assessments predicated upon verifiable success rather than the current federal definition which is predicated upon credentials, tenure and meaningless, expensive certificates from state bureaucracies.

As you all probably know, Colorado was one of the states to receive one of these new NCLB waivers last week. Of course we applied for regulatory relief from the federal government. But the more fundamental question is, why should we have to go through all that effort, time and expense just to be able to act like an actual state and exercise the authority the U.S. Constitution suggests we already have?

I have to tell you, the U.S. Department of Education was actually quite helpful in Colorado's application. The Department even seemed to want to help us to go further than your law allows us to go with respect to Title I portability. You see, in Colorado, we have some Title I schools where the students take online courses from districts a county or two away. Why can't the Title I funds associated with that child be used to assist the child at the school that can actually help him?

We've done extensive analysis, consulted lawyers, agency experts and others and we've actually identified a way we could do this in Colorado. The U.S. Department of Education has given us every encouragement. But, the current federal law is the only thing left that stands in the way preventing us from helping the children of Denver to get the better education that their parents have chosen and that they deserve. I hope you'll consider these kinds of freedoms, which are very consistent with H.R. 3989 and H.R. 3990, as you go into markup.

Incidentally, whether through waivers or through the restored regulatory relief of H.R. 3989 and H.R. 3990, granting more freedom from the federal mandates of NCLB does not mean lowering the bar for any child. Quite to the contrary, Colorado's proposal actually holds more schools and districts accountable to higher academic standards, and for more students in historically disadvantaged subgroups than NCLB ever did. We are proud of state leadership in pushing accountability even further in a freer, post-NCLB world.

Our systems are built upon disaggregated data. Our accountability systems track all of this and are oriented toward closing achievement gaps. We're turning underperforming schools upside down. We're creating more charter-school options all the time in neighborhoods where choice creates pressure for immediate improvement and where customized education services are needed most. We did all of this on our own without the feds telling us we had to.

In Colorado, as in every state, parents deserve to be treated like real customers, teachers deserve to be treated like real professionals, and children—all children—deserve to be treated like real Americans. H.R. 3989 and H.R. 3990 are promising proposals because they recognize that schools should enjoy the freedom to teach, and students should be given the liberty to learn.

Again, I appreciate the opportunity to share with you a perspective from the Rocky Mountain West. It's a perspective that favors choice, local control, a professional transformation of the teaching craft, transparency, accountability, competitiveness and marketplace entrepreneurship. It's a perspective that, to me, seems more possible and likely with the introduction of the two bills you're considering today.

Mr. Chairman, this concludes my remarks. Thank you.

Chairman KLINE. Thank you very much.  
Dr. Balfanz?

**STATEMENT OF DR. ROBERT BALFANZ, CO-DIRECTOR, EVERY-ONE GRADUATES CENTER, SCHOOL OF EDUCATION, JOHNS HOPKINS UNIVERSITY**

Mr. BALFANZ. Chairman Kline, Ranking Member Miller, members of the committee, thank you for letting me testify today. My remarks today are based on 15 years of experience working as a researcher and practitioner with high-poverty middle and high schools. And what this experience tells me is that the nation is at a crossroads.

Right now there is no work in the 21st century to support a family if you don't have a high school diploma and some post-secondary schooling or training. Yet every year we continually produce 1 million young adults—we are propelling them into young adulthood without a high school diploma, for which there is really little future. And we are also—about 25 percent of our graduates from high school are not prepared for post-secondary success.

No business can survive when it only works half the time. No nation can be economically competitive under the same conditions.

The good news is some progress is being made. Graduation rates are actually up, achievement is up, and low graduation rate high schools—those high schools that produce half our nation's dropouts, called dropout factories—have actually declined from 2,000 to 1,500. The number of students passing A.P. exams has doubled.

We have also learned a lot more about what works, and we have also learned the early warning signs of dropping out, so now it is much more—we are much more able to intervene early and effectively. But this progress has not been fast enough, deep enough, or wide enough, and that is why today's hearing is so important.

We have to get this right. We have to figure out how we can combine local energy and initiative and choice with federal guideposts, guardrails, and catalysts so we can have—so we can step on the gas. We have got to step on the gas. We have got to have much higher outcomes at the end of this decade than we do now.

So there is an important federal role here that I just want to give three ideas on from my work in the field. First, we do need federal guideposts. We have had a great natural experiment in the past decade on what happens when we leave the states alone to set targets and goals.

NCLB let all states figure out how they wanted to measure graduation rates, set their own goals, set their own targets, and what happened? About a dozen states stepped forward, put forward comprehensive plans, and saw double-digit gains in their graduation rates. New York and Tennessee were the leaders.

Another dozen states, quite frankly, took a pass. They used inflated graduation rates. They said any progress matters, even if we go from 50 to 50.5 percent. And actually, 10 states now have lower graduation rates than they did in 2001.

So we have got to find a way to build upon the work done by the National Governors Association with a grad rate compact and the

Department of Ed 2008 regulations, which means that this year we finally have grad rate accountability in the nation. And the reauthorization can't go backward. It needs to build on that and add college readiness.

A second area where we need a federal role is with guardrails. Put yourself in a place of a principal of a high-poverty middle or high school. You have 1,000 to 2,000 students; you have 100 adults to manage. Most of your students enter the building below grade level, most have waning motivations, many are chronically absent.

Add several years of budget cuts, now. Enter Title I dollars. This is a lifeline. It is the only discretionary dollars you have and you are now under tremendous pressure from all quarters to spend that money all kinds of different ways.

Giving some guardrails will give principals the cover and the support they need to do what they know is right, and that is why we need at least some separate, protected funding streams for principals doing comprehensive, evidence-based reform and bringing in external partners with proven track records of success to help build capacity. And in these regards the bills put forward today have good guidance. The final area we need the federal role is to be a catalyst. We need to basically soup-up the engine, right? We have got to go faster to get where we need to go.

And that is about R&D, it is about innovation, but it is also about better dissemination. Because when I am in schools I admit I always see at least one great local innovation that is really powerful and really strong, and they almost all have very short shelf lives. They last as long as the developer of that innovation is in the school, in the district, in the state. So there is very little cumulative learning and we have very low educational productivity because of that.

So we have to rethink how we disseminate good, local ideas by building learning networks and having some funding to support local and state dissemination efforts so we can really spread evidence-based and practice-validated educational improvements.

In closing, we need to combine local energy, innovation, and wisdom with federal guideposts, guardrails, and catalysts to accelerate our educational outcomes and graduate all our students prepared for adult success. If at the end of this decade we are still debating how to do this and some nations have built more universities than we have fixed failing schools we will be on the wrong track.

It is only by learning from the past decade's successes and struggles that we can effectively build a partnership between the federal government, states, and local schools and teachers to provide all our students with a pathway to high school graduation, college, and career ready. Thank you.

[The statement of Mr. Balfanz follows:]

**Prepared Statement of Robert Balfanz, Research Scientist, and Co-Director of the Everyone Graduates Center, Center for Social Organization of Schools, School of Education, Johns Hopkins University**

Chairmen Kline, Ranking Minority Member Miller, members of the Education Committee thank you for inviting me to testify today. My remarks are shaped by my experience over the past decade and half, as both a researcher and practitioner, working to improve educational outcomes for high-poverty middle and high schools at the federal, state, district, and school levels. Most recently, this has involved working with 12 school districts including Philadelphia, East Baton Rouge, Boston,

Los Angeles, and San Antonio on a school reform effort called Diplomas Now, an Investing in Innovation I3 winner, designed for the highest needs middle and high schools that drive the nation's dropout crisis. It combines evidence-based whole school reform, with enhanced student supports provided by non-profit partners, guided by an early warning system

What our research and this experience tell me is that our nation stands at a crossroads.

The recent economic challenges have brought into stark relief that in order to prosper in the 21st century, our nation needs to graduate all its students from high school prepared for post-secondary success, be it through college, job training or the military. Simply put, there is little work for young adults who do not have a high school diploma. Currently, nearly three out of four high school dropouts in their 20s are not employed full time. If you are 25 years old, without a high school diploma, and no work history, are you ever going to find sustained work? Moreover, there is little work that will support a family, unless you have not only a high school diploma but also some post-secondary schooling or training. At its core our nation is based on work and family. Yet we are turning out more than a million students a year, who lack the education needed to work and support a family. Only three out of four students in each high school class are earning their high school diplomas, and at least another 25% graduate from high school but are unprepared for additional schooling or training. No business can survive when it succeeds only half the time, nor can any country remain economically competitive. The economic cost of the dropout crisis is enormous in terms of lost wages, revenues, and productivity. Moreover, my work on the dropout crisis, I have found no more passionate advocates for the need to end the crisis, than the leaders of the U.S. Army Ascension command. Not only because of its ramifications for a strong military, but because they can see, that left unchecked, this crisis threatens our nation's fabric.

The good news is progress has been made over the past decade and our knowledge of what needs to be done and how has increased. Graduation rates and achievement are up. The number of high schools where graduation is at best a 50/50 proposition (the nation's "dropout factories," which produce half the nation's dropouts) has declined from about 2,000 to 1,500. The number and percent of students taking and passing AP tests, indicating that they are doing college level work in high school, has doubled.

Over the past decade, we have also learned the early warning signs that indicate students are on the path to dropping out, years before this will occur. This means we can now be much more effective and efficient in getting the right intervention to the right student at the right time, and in so doing, keep many more students on the path to high school graduation. The last decade has also seen significant advances in building the evidence base needed to improve educational practice. As importantly, thanks to NCLB, the idea that schools must be accountable for all students, rich and poor, majority and minority, English language learner and special education students, learning at sufficient levels for success in the 21st century has become firmly engrained in our education system.

The progress though has not been fast enough, deep enough or wide enough. While NCLB focused schools attention on the pressing need to improve the achievement of all students, it did not provide for tailored enough interventions. That is why today's hearing and the re-authorization of the Elementary and Secondary Education Act is so timely, and so important. We have to get this right. Our nation's future depends on figuring out how we can step on the gas, and not tap on the brakes. Central to this will be figuring out the most beneficial federal role.

Here I would like to offer three suggestions.

First, my experience and research suggests we need federal guideposts. Over the past ten years, we have had a great natural experiment about what happens when we let states lead without federal guideposts. NCLB left it to the states to set their own high school graduation rate goals, select their own means of measuring graduation rates, and allowed any improvement to satisfy accountability requirements. What was the result? Some states led the way and put forth comprehensive and sustained efforts to raise their graduation rates, and saw large gains. Tennessee, for example, increased its graduation rate by 18 percentage points, New York by 13, and overall nine states had average gains of at least one percentage point per year. On the other hand, almost an equal number of states used inaccurate graduation rate measures and either lulled themselves into a false sense of complacency or did not give raising graduation rates high priority. Today, 10 states have lower graduation rates than they did in 2002, in an economic era when every dropout means lost revenue and increased social cost. When the states that moved ahead on their own are combined with the states that did not, the nation as a whole witnessed only a modest 3 percentage-point increase in high school graduation rates. Recognizing

that this was not a prescription for national prosperity, the Bush administration in 2008 put forth regulations that required all states to measure graduation rates in the same accurate manner, set forth more aggressive graduation rate goals, and established substantial and continuous rates of improvement. To give states time to make this shift, it established this year, 2011-12, as the first year that federal graduation rate accountability would take hold. The re-authorization of ESEA needs to codify these graduation rate improvement guideposts that all states have agreed to, and in so doing, keep all states focused on graduating all their students prepared for college, career, and civic life.

Second, there is a need for federal guardrails. As we work together to increase the nation's rate of educational progress, there is a federal role in making sure that all kids and all schools are included, that critical performance measures are being used, and that taxpayers get a good return on their investment. As I have worked with state department of education officials, school district leadership, and principals across the nation, I have never seen anything but good intentions. I am continually amazed by the level of insight and wisdom brought to the day-to-day work of educating students. But we are all human, and as such, struggle to make good decisions when faced with too many competing needs, too little time, or not enough good information. Accordingly, I have also too often seen whole groups of students, or whole categories of schools, being put aside, as either not the priority of the moment, too challenging to address, or beyond the capacity at hand. In particular, I have seen this happen with high schools. Districts sometimes view them as too hard to reform, and instead focus on improving earlier grades, with the hope that over time, these improvements will trickle up and make high schools more successful. But in the meantime, thousands of students each year continue to drop out of school, but stay in the community, at high economic and social costs.

As a nation, we cannot afford to have whole groups of kids, or sets of schools not able to perform at the level needed for success in the 21st century. Thus, it is important for the re-authorization of ESEA to continue to stress that all means all kids and all schools. Over the past two years, the number of high schools with low graduation rates, the nation's "dropout factories," have declined at an accelerated pace. This is good news but we cannot ease up, as 1,500 remain. That is why in its re-authorization ESEA needs to maintain a focus on transforming the lowest-performing schools, including high schools with graduation rates below 60%. It is not enough just to identify these schools. Within their communities it is well known that they have not been successful, often for decades. In many cases, it was only when NCLB, most recently through school improvement grants, finally said they must be transformed or replaced that significant and urgent efforts to improve the schools commenced. But the re-authorization also needs to go beyond current efforts and build up the capacity of state educational agencies, school districts, and school leadership teams to make good decisions and implement evidence-based reforms so all kids and all schools can improve. This is especially essential in high-poverty rural areas and smaller, formerly industrial cities, where often the only high school in the district has as many dropouts as graduates, and the school district fundamentally lacks the capacity to transform it.

There is also a need for federal guardrails with regard to performance measures. Take the case of chronic absenteeism. There is perhaps no more basic performance measure than how often students attend school. Even the greatest teachers and the strongest curriculum will not produce learning gains, if students are not regularly in class. You have to be there. Yet, while nearly every parent receives an accounting with each report card of how many days of school their child missed, it is very rare, for schools, districts, and states to report to the public how many students in each school are chronically absent or have missed a month or more of school. The reason is simple, no one has asked them to do it. As a result, left unmeasured, chronic absenteeism and its detrimental effects remain unrecognized, and much like bacteria in a hospital, chronic absenteeism silently creates educational and social havoc. Consider just one statistic. In a report we will release in a few months, we found a major state, where 20,000 students per class of sixth-graders cumulatively missed 6 months or more of school between 6th and 8th grades. Ultimately, only 3% of students from this group recovered sufficiently to enroll in higher education. The irony is that, once identified, chronic absenteeism is something communities can do something about. Recently a number of mayors, most prominently Mayor Bloomberg of New York, recognizing the connection between absenteeism, school achievement and advancement, and crime, unemployment, and social costs have led the charge to address it. In addition to achievement test scores, graduation and college readiness rates, the re-authorization of ESEA should include expanded measures of attendance, so all parents, communities, and taxpayers can know how many students at the schools they support are missing a month or more and a week or less of school.

The final area where there is a need for federal guardrails is how federal funds (in particular Title 1 dollars) get spent at the school and district levels. When you spend time in schools (in particular, high-poverty middle and high schools) one thing you quickly learn is that their principals have some of the most complex and challenging jobs in America. Imagine having to organize often 100 or more adults, to teach and support, 700 to 2,000 students, the majority of whom enter the 6th or 9th grade behind grade level, often with waning motivations, impacted by concentrated and often inter-generational poverty, and as we have just heard high rates of chronic absenteeism. Add to this, now several years of budget cuts. Into this environment comes federal Title 1 money, which in reality is viewed by principals and school districts as often the only discretionary funding they have. As such, this funding is very important to enable different high-poverty schools, with different needs, to implement the reforms they need to improve. But we also need to take into account that in this environment, principals are not that different from mayors. They seek to use federal funds to strategically bring in high value-added resources, but they also feel pressure to use money to engender support, buy peace, and reward loyalty. Inertia can also play a limiting role, in particular, when Title 1 funds have been used for years to cover the salaries of employees who are valued by the community, but may not necessarily represent the most effective way to off-set the impact of poverty and propel student achievement. Hence, it is important to put some guardrails on how Title 1 funds are used by districts and states. To avoid micro-regulation, perhaps this can best be achieved through incentives—by having a base level of discretionary Title 1 funding, but then reserving some portions of it, for schools that a) implement evidence-based comprehensive reforms, informed by a needs and capacity assessment, and b) bring in external partners with track records of success in similar schools to enhance school and district capacity. On this later point, Chairman Kline's Encouraging Innovation and Effective Teacher Act provides some excellent guidance.

The last area, where there is a clear need for a federal role, is as a catalyst. To accelerate educational improvement fast enough to keep the nation competitive, not only do we need federal guidepost and guardrails, but we need to soup up the engine. Part of this is enhanced research, development, and evaluation, as well as incentives to encourage innovation. Here, strategic federal investments to further build the knowledge base are essential. But what I want to end my testimony with is a brief discussion of the importance of dissemination, in particular of evidence- and practice-validated educational improvements.

Much of this nation's wealth can be traced to large improvements in agricultural productivity. In many states, this generated the wealth that let them invest heavily in education during the first half of the 20th century, which in turn positioned the nation to be at the forefront of the human capital driven technology revolutions that powered economic growth in the latter part of the century. One key driver of agricultural productivity, in turn, was the federally funded agricultural extension agency that spread scientific farming techniques throughout the nation, but also worked to customize and adapt them to local conditions, while also spreading local innovations more broadly. What is the relevance of this history lesson to improving educational outcomes today? In my work with states, school districts, and schools, I almost always see one or more really powerful practices wherever I go. But over time I have realized that many have very short shelf-lives and only exist as long as their developer or proponent is in the school, or working for the district or state department of education. I also often see examples of uninformed practice or efforts that have been shown by solid research to be typically ineffective. As a result, we are constantly re-inventing things, already proven and established elsewhere, but not sustained or spread, while at the same time unknowingly implementing a practice that has been shown broadly not to work. Consequently, educational productivity is often quite low. This tells me we need to re-think how we disseminate evidence-based and practice-validated educational improvements, in part, by funding dissemination efforts at the local and state levels and creating more efficient means to spread what works with a means to customize it to local conditions. This translation function is not unique to education; it is increasingly being practiced in medicine and public health.

In closing, in my work with schools over the past decade and a half, I have seen impressive efforts that have led to large improvements in educational outcomes in our highest-poverty schools. This has occurred when the adults in the building have been guided by ambitious improvement goals and a sense of shared urgency; when they have had access to good data to guide diagnosis and performance; when they have applied evidence-based strategies that enabled them to provide strong and coherent instructional programs school-wide; when point professional development enables teachers to organize the school around teacher teams led by strong leaders,



and when these teams partner with their parents and non-profits with track records of providing the range of student support to propel all students to attend, behave, and try hard. These are the efforts we need to bring to scale, for our nation to meet the economic and social challenges of the 21st century. The federal government has a key checks-and-balances role to play in providing the guideposts, guardrails, and catalysts needed. If at the end of this decade, we are still debating how to do this, while other nations have built more universities than we have fixed failing schools, we as nation will be on the wrong track.

Chairman KLINE. Thank you.  
Ms. Kazmier?

**STATEMENT OF FELICIA KAZMIER, ART TEACHER,  
OTERO ELEMENTARY SCHOOL**

Ms. KAZMIER. Good morning, everyone. My name is Felicia Kazmier and I am an art teacher at Otero Elementary School in Harrison School District 2 in Colorado Springs, Colorado.

I would sincerely like to thank Chairman Kline, Ranking Member Miller, and other members of the committee for allowing me the opportunity today to address the committee and the bills they have put forward to reauthorize the Elementary and Secondary Education Act. It is both an honor and a privilege as an ordinary citizen to have the opportunity to possibly encourage innovation in the way our students will be educated.

Let me state for the record that I love my job. Teaching is not for everyone, and especially when you are working for a district like Harrison School District 2, which holds you accountable. Our district has implemented an evaluation system that not only evaluates our effectiveness as teachers but expects us to produce results in regard to student learning while compensating us for our hard work.

In the last 5 years Harrison has stepped up to the challenge that now faces many Americans in this room today: Should teacher evaluation be linked to student achievement results? At Harrison School District 2 teacher effectiveness is measured by formal and information observations, written summative and ongoing spot observations. Our administrators provide feedback, coaching, and professional development to improve teacher effectiveness.

The teacher's results are divided into eight weights per content area. Another teacher, depending on the grade and content, will have assessments that reflect achievement in their content area.

The district did not have to compensate teachers but chooses to do so. The more effective I am the more students achieve and the more money I can potentially earn. If a teacher is deemed ineffective than the administrator has decisions to make about training, remediation, and removal.

I believe that what makes our district's system work is that all teachers have been given an opportunity to help in creating our evaluation system. I was asked by our superintendent to sit down with him and other art teachers, as non-core subject teachers, to create a system by which we could be effectively evaluated. How can I take issue with a system that I, myself, have been asked to help create? I have been given a voice and for that I am grateful.

I am a supporter of the Encouraging Innovation and Effective Teachers Act and the direction that the act is going because it re-

quires districts to design teacher evaluation systems around broad parameters while giving the districts the flexibility they need to create a system that works for their needs and their students and staff. When districts make student achievement data a significant part of their teacher evaluation process they help teachers to better understand the power of and utilize the information gleaned from data.

Our district, our administrators, and all of our teachers are daily collecting data because knowing what your students are able to do should drive effective instruction. When districts use multiple measures of evaluation in assessing teacher performance teachers are responsible for two things: their effectiveness in the classroom and the results their students produce. Multiple measures gives us as teachers more than one way to evaluate what our students know and are able to do. Shouldn't administrators evaluate their teachers in much the same way?

When districts have more than two rating categories for the performance of teachers it gives teachers a way not only to increase their effectiveness but also the effectiveness of those around them. When working with novice teachers this year I looked to our performance evaluation scale as a guideline as to how best help them achieve success for their students and for themselves. If teachers believe that they can move up the scale through improving the quality of their classroom performance achievement scores will improve as well.

When districts make personnel decisions based on evaluations they do so to ensure that students will receive the best teaching possible provided by the most effective teachers available. In our district, if you are a Proficient II teacher or above you can be asked to change schools so as to provide effective instruction where it is most needed.

When districts seek input from parents, teachers, school leaders, and other staff in the school in the development of the evaluation system everyone has a stake in the outcome. Our district holds accountability meetings, focus group meetings, and shareholder meetings to provide opportunities for everyone's voice to be heard.

When creating a system such as Harrison School District 2 has it is vital to reach out and invite in those who will be most impacted by the system. When so much is at stake it is imperative that the district reach both inward and outward in order to ensure that everyone has a reason to buy in.

I support and am excited about the Encouraging Innovation and Effective Teachers Act because responsibility for student achievement should belong to the districts. I know that before I started working for this district I believed I was a good teacher. I thought I had been teaching for some time and I knew my content area so that must make me a good teacher.

The quality of the instruction I currently present to my students is so far ahead of any teaching that I have ever done. Understanding the difference between good teaching and great teaching is what inspires me to support the Encouraging Innovation and Effective Teachers Act.

Like any other parent, I would want nothing less for my own three children than I would give to any of my students, and that

is effective instruction provided to them by a teacher who has proven to get the results while at the same time creating a positive learning environment.

[The statement of Ms. Kazmier follows:]

**Prepared Statement of Felicia Kazmier, Art Teacher,  
Otero Elementary School, Colorado Springs, CO**

Good morning everyone. My name is Felicia Kazmier and I am the Art teacher at Otero Elementary School in Harrison School District 2 in Colorado Springs, CO. I would sincerely like to thank Chairman Kline, Ranking Member Miller and other members of the Committee for allowing me the opportunity today to address the Committee and the bills they have put forward to reauthorize the Elementary and Secondary Education Act. It is both an honor and a privilege as an ordinary citizen to have the opportunity to possibly encourage innovation in the way our students will be educated. Let me state for the record that I love my job. Teaching is not for everyone and especially when you are working for a district like Harrison School District 2 which holds you accountable. Our district has implemented an evaluation system that not only evaluates our effectiveness as teachers, but expects us to produce results in regard to student learning while compensating us for our hard work.

In the last five years, Harrison has stepped up to the challenge that now faces many Americans today in this room; should teacher evaluation be linked to student achievement results? Harrison School District 2 has established a pay for performance system that measures teachers on effectiveness and results (50/50). Teacher effectiveness is measured by formal and informal observations, written summative and ongoing spot observations: at least 8 for probationary teachers and 4 for non-probationary teachers. Our administrators provide feedback, coaching, and professional development to improve teacher effectiveness. The teacher's results are divided into 8 weights-for example for me a District Art Project, a District CBM which is a curriculum based measurement, a District Art Assessment set, a Mid-semester Performance task, my school's individual state test results and lastly my individual achievement goal. Another teacher, depending on the grade and content, will have assessments that reflect achievement in their content area. Within this process collaboration is necessary because all teachers own building scores based on our state assessments. I look to my colleagues to assist me in how to best teach writing so that my students can not only write about Art but then also use these writing skills to improve their state writing scores. In order to be Exemplary on individual goals and student achievement, I have to impact other students outside of my own building. This year while mentoring several first year teachers I focused on one teacher and wrote an Exemplary goal with her that would impact how effective she would be in her instruction. We not only met her goal but her data exceeded our expectations. This type of collaboration cannot be overlooked when it comes to impacting the quality of effective teachers we employ.

The district did not have to compensate teachers, but chooses to do so. The more effective I am, the more students achieve and the more money I can potentially earn. I am currently a Proficient II teacher, which is one of nine effectiveness levels. If a teacher is deemed ineffective, then the administrator has decisions to make about training, remediation, or removal. I believe that what makes our District's system work is that all teachers have been given the opportunity to help in creating our evaluation system. While I am not a classroom teacher, as an Art teacher, I teach the entire school. So when it came time to have a say into what my evaluation process would look like, I chose the leadership role and stepped up to the challenge. I was asked by our Superintendent to sit down with him and other Art teachers to create a system by which we could be effectively evaluated. How can I take issue with a system that I myself have been asked to help create? I have been given a voice and for that I am grateful. We took small steps to get to where we are today. First, our district had to create an environment where teachers and administrators were prepared to recognize and then provide amazing instruction. Our principals started coming into our rooms and taking notes. We sat down together and started discussing what good instruction looks like. We were trained and given instructional feedback. I wanted to get better not just for me, but for my students. Side by side we have designed a system that allows my students to create amazing art to show what they know. Quarterly and semester testing provides me feedback on what my students are learning. Day to day assessment occurs and I see growth. How can I say that I am a good teacher without having data to justify that statement?

I am a supporter of the Encouraging Innovation and Effective Teachers Act and the direction that the act is going because it requires districts to design teacher evaluation systems around broad parameters while giving the districts the flexibility they need to create a system that works for their needs and the needs of their students and staff. When districts make student achievement data a significant part of their teacher evaluation process they help teachers to better understand the power of and utilize the information gleaned from data itself. Our district, our administrators and all of our teachers are daily collecting data because knowing what your students know and are able to do should drive effective instruction. When districts use multiple measures of evaluation in assessing teacher performance, teachers are responsible for two things, their effectiveness in the classroom and the results their students produce. Multiple measures gives us as teachers more than one way to evaluate what our students know and are able to do, shouldn't administrators evaluate their teachers in much the same way? When districts have more than two rating categories for the performance of teachers, it gives the teachers a way to not only increase their effectiveness, but also the effectiveness of those around them. When working with novice teachers this year, I looked to our performance evaluation scale as a guideline as to how best help them achieve success for their students and for themselves. If teachers believe that they can move up the scale through improving the quality of their performance in the classroom, achievement scores will improve as well. When districts make personnel decisions based on evaluations, they are doing so to ensure that students receive the best teaching possible provided by the most effective teacher available. In our district, if you are a Proficient II teacher or above, you can be asked to change schools so as to provide effective instruction where it is most needed. When districts seek input from parents, teachers, school leaders, and other staff in the school in the development of the evaluation system, everyone has a stake in the outcome. Our district holds accountability meetings, FOCUS groups and shareholders meetings to provide opportunities for everyone's voice to be heard. When creating a system such as Harrison School District 2 has, it is vital to reach out and invite in those who will be most impacted by the system. When so much is at stake, it is imperative that a district reach both inward and outward in order to ensure that everyone has reason to buy in.

I support and am excited about the Encouraging Innovation and Effective Teachers Act because responsibility for student achievement should belong to the districts. I know that before I started working for this district, I believed I was a good teacher. I thought that I had been teaching for some time and I knew my content area so that must make me a good teacher. The quality of the instruction I currently present to my students is so far ahead of any teaching I have ever done. Understanding the difference between good teaching and great teaching is what inspires me to support the Encouraging Innovation and Effective Teachers Act. Like any other parent, I want nothing less for my own three children than I would give to any of my students and that is effective instruction provided to them by a teacher who has been proven to get results while at the same time creating a positive learning environment.

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Chairman KLINE. Thank you.  
Mr. Cunningham, you are recognized.

**STATEMENT OF JIMMY CUNNINGHAM, SUPERINTENDENT OF  
SCHOOLS, HAMPTON SCHOOL DISTRICT**

Mr. CUNNINGHAM. Chairman Kline, Ranking Member Miller, and members of the committee, it is my honor to testify today and I appreciate your invitation to hear my concerns as I report from a public school administrator's perspective.

My name is Jimmy Cunningham and I serve as superintendent of the Hampton School District in Hampton, Arkansas. We are a small, rural community serving 550 students.

Let me begin by highlighting the improvement of Arkansas' performance as measured in the recently released Education Week Quality Counts. Arkansas has improved from average in policy and performance to a current ranking of fifth in the nation. This is due to the hard work of dedicated teachers, administrators, and the

State Department of Education that remains committed to improving instruction, and a governor that always has an open door.

I am here to provide testimony about recently released—introduced legislation to reauthorize ESEA, currently known as No Child Left Behind. The sincere, ongoing efforts of this committee to reauthorize ESEA and improve America's schools over the last 4 years are recognized across this nation. Reauthorization is crucial to providing the nation's schools with relief from current law, which is both broken and lacking in flexibility states and local school districts need to support student learning and achievement.

The recently introduced Student Success Act and Encouraging Innovation and Effective Teachers Act represent a strong step in the right direction in large part because they re-center the balance of federal involvement in education, returning leadership to education stakeholders at the state and local level. The Hampton School District receives \$153,922 in Title I funding, which represents a mere 1.7 percent of our \$8.8 million operating budget. For this reason we strongly support the efforts of these bills to balance the proper role of the federal government in education, including returning ownership of the accountability and assessment system to the state and local levels.

Accountability measures must be transparent, fair, and use multiple measures of evidence of growth. We believe in the requirements for annual assessment, but under state direction. The assessment measures should measure proficiency and growth while also allowing the IEP team to ensure that children under IDEA receive alternative assessments.

I am pleased to see Chairman Kline's proposal allows students with the most significant cognitive abilities to be assessed alternatively. The bill makes significant improvements in the federal role in accountability, standards, and assessments.

As an example of these improvements I found the proposed legislation maintains student disaggregation by subgroup; eliminates the utopian 100 percent proficiency requirement; eliminates SES/Choice; returns ownership of the accountability system to the state and local level; maintains school improvement by low-performing schools under state direction; maintains the requirement of annual assessments under state direction; requires that assessments measure proficiency and growth; removes caps on alternative assessments by allowing the IEP team to ensure that children are assessed in a meaningful, fair, and accurate manner; maintains current law related to comparability calculations; maintains supplement/supplant language; reduces federal overreach in school improvement/turnaround strategies; puts states and districts in charge of designing teacher evaluation system; includes student performance in teacher evaluation; provides funding flexibility between certain programs within Title I; eliminates the requirements of highly qualified teacher provisions while allowing the states the flexibility to maintain appropriate qualifications; consolidates 21st century funds and allows school districts to use these funds to expand learning time; and reauthorizes the Rural Education Achievement Program.

Delving deeper into an issue I am personally vested, I want to talk about the concerns of Title I formula. A major flaw in the Title

I formula is the current weighting system, which in theory is designed to drive Title I funding to districts with the highest concentrations of Title I-eligible students.

I, along with AASA and NREA, am strongly committed to this intent. Regrettably, current law sometimes does the exact opposite. Current law uses two weighting systems, one based on percent of a district's students who are Title I-eligible, percentage weighting, and the other based on sheer number of Title I-eligible students, number weighting.

Every LEA in the nation runs a poverty indicator through both the number and percentage weighting brackets and whichever one yields the highest per-pupil allocation is the one used in final allocation of funds. Unfortunately, the number weighting bracket is mathematically far more powerful than the percentage weighting bracket, meaning that money diverted away from smaller, poorer districts to larger, less poor districts. This adversely affects small districts, both rural and urban, and inflate benefits to low-poverty districts.

Fortunately, there is a legislative fix introduced by Congressmen Glenn Thompson, House Resolution 2485, that has the ACE Act as a part of the Formula Fairness Campaign, both of which are championed by a broad range of national organizations, including the Rural School and Community Trust, American Association of School Administrators, National Rural Education Advocacy Coalition, American Farm Bureau, Save the Children, and National Alliance of Black School Educators.

Our job is far from complete. I commend this committee's ongoing efforts to reauthorize ESEA and look forward to the continued leadership committed to the current improvement in and support of our nation's public schools. After all is said and done, it is still about our kids.

[The statement of Mr. Cunningham follows:]

**Prepared Statement of Jimmy Cunningham, Superintendent,  
Hampton School District**

CHAIRMAN KLINE, RANKING MEMBER MILLER AND MEMBERS OF THE COMMITTEE: It is my honor to testify today, and I appreciate your invitation to hear my concerns, as I report from a public school administrator's perspective.

My name is Jimmy Cunningham and I currently serve as the superintendent of Hampton School District in Hampton, Arkansas. We are a small, rural community, serving 550 students. I speak to you from my 35 years as an educator, including 24 years as an administrator, as well as a member of the American Association of School Administrator's (AASA) Governing Board and President-Elect of the National Rural Education Association (NREA).

Let me begin by highlighting the improvement of Arkansas' performance as measured in the recently released Education Week Quality Counts. Arkansas has improved from 'average' in policy and performance to a current ranking of fifth in the nation. This is due to the hard work of dedicated teachers, administrators and the State Department of Education that remains committed to improving instruction, and a governor that always has an open door.

I am here to provide testimony about recently introduced legislation to reauthorize the Elementary and Secondary Education Act (ESEA), currently known as No Child Left Behind (NCLB). The sincere, ongoing efforts of this committee to reauthorize ESEA and improve America's schools over the last four years are recognized across this nation. Reauthorization is crucial to providing the nation's schools with relief from current law, which is both broken and lacking in the flexibility states and local school districts need to support student learning and achievement.

The recently introduced Student Success Act and Encouraging Innovation and Effective Teachers Act represent a strong step in the right direction in large part be-

cause they re-center the balance of federal involvement in education, returning leadership to education stakeholders at the state and local level. The Hampton School District receives \$153,922 in Title I funding, which represents a mere 1.74 percent of our \$8,840,245.00 operating budget. For this reason, we strongly support the efforts of these bills to balance the proper role of the federal government in education, including returning ownership of the accountability and assessment systems to the state and local levels.

Accountability measures must be transparent, fair and use multiple measures of evidence of growth. We also believe in the requirements for annual assessment, but under state direction. The assessment measures should measure proficiency and growth while also allowing the IEP team to ensure that children under IDEA receive alternative assessments. I was pleased to see Chairman Kline's proposal allows students with the most significant cognitive abilities to be assessed alternatively. The bills make significant improvements in the federal role in accountability, standards and assessments. As an example of the improvements I found in the proposed legislation, the bills:

- Maintain student disaggregation by subgroup
- Eliminate the utopian 100 percent proficiency requirement
- Eliminate SES/Choice
- Return ownership of the accountability system to the state/local level
- Maintain school improvement for low performing schools, under state direction
- Maintain the requirement for annual assessments under state direction
- Require that assessments measure proficiency and measure growth
- Remove caps on alternate assessments, allowing the IEP team to ensure that children are assessed in a meaningful, fair and accurate manner
- Maintain current law related to comparability calculations
- Maintain supplement/supplant language
- Reduce federal overreach into school improvement/turnaround strategies
- Put states and districts in charge of designing a teacher evaluation system
- Include student performance in teacher evaluation
- Require multiple measures for teacher evaluation
- Provide for funding flexibility between certain programs within Title I
- Eliminate requirements related to Highly Qualified Teacher provisions while allowing states the flexibility to maintain appropriate qualifications
- Consolidate 21st Century funds and allows school districts to use the funds for expanded learning time
- Reauthorize the Rural Education Achievement Program

Delving deeper into an issue I am personally vested in, I want to talk about concerns within the Title I formula. A major flaw with the current Title I formula is the current weighting system, which in theory is designed to drive Title I funding to districts with the highest concentrations of Title I-eligible students. I, along with AASA and NREA, am strongly committed to this intent. Regrettably, current law sometimes does the exact opposite. Current law uses two weighting systems, one based on the percentage of a district's students who are Title I eligible (percentage weighting) and the other based on the sheer number of Title I-eligible students (number weighting).

Every LEA in the nation runs their poverty indicator through both the number and percentage weighting brackets, and whichever one yields the highest per-pupil allocation is the one used in the final allocation of funds. Unfortunately, the number weighting bracket is mathematically far more powerful than the percentage weighting bracket, meaning that money is diverted away from smaller, poorer districts to larger, less poor districts. This adversely affects small districts, both rural and urban, and inflates benefits to low-poverty districts.

Fortunately, there is a legislative fix that has been introduced to this Committee and will hopefully be included as the bill moves through the rest of the reauthorization process. The All Children Are Equal (ACE) Act (HR 2485) was introduced by Congressman Glenn Thompson and garnered broad, bipartisan support from 17 House colleagues. ACE addresses the issue of number-vs-percentage weighting by gradually phasing out number weighting so that after four years, virtually all of the nation's schools will receive Title I allocations based on the percentage of students in poverty, in line with the original intent of Title I dollars being targeted to concentrations of poverty.

The ACE Act is part of the Formula Fairness Campaign, both of which are championed by a broad range of national organizations, including the Rural School and Community Trust, American Association of School Administrators, National Rural Education Advocacy Coalition, American Farm Bureau Federation, Save the Children, National Alliance of Black School Educators and more. I, along with the above

listed organizations, strongly urge the Committee to include the ACE Act in the ESEA bills as they move through the reauthorization process.

It is imperative that federal education policy makers, while continuing to work to improve the currently flawed law, recognize the success our nation's public schools have had while placing an emphasis on our standards and accountability measures. Our schools continue to improve even with limited resources, resources that have been increasingly limited—at the federal, state and local level—as the recession wears on. We realize these are tough economic times for our nation and states. That said, now is the time for this Committee and Congress to create and support education policy that best serves our students. There is a direct correlation between the strength of the nation's education system and long-term economic prosperity.

Our job is far from complete. I commend this Committee's ongoing efforts to reauthorize ESEA and look forward to continued leadership committed to the continued improvement in and support of our nation's public schools. After all is said and done, it is still all about the kids.

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Chairman KLINE. Thank you very much, Mr. Cunningham.

Thank you very much to all the witnesses. As we thought when I was introducing you, it is an excellent panel—great experience. I appreciate all of your testimony.

Mr. Luna, let me start with you if I could. We have heard some criticism, including today and over the days, that the Student Success Act is a—roll back of accountability for student achievement, particularly for our most vulnerable student populations. Do you believe that is what this bill does?

Mr. LUNA. I don't believe that is accurate, Mr. Chairman, and I—the reason is because I think states have demonstrated that without being compelled by the federal government they have adopted higher academic standards than they have had in the past—standards that are equal to any other academic standard in the world, recognizing that our children will compete in a global environment. States are now working together to develop the next generation of assessments so that we can assess all students at higher levels. And also, states have worked together to develop the next generation of accountability systems.

And as I mentioned in my comments, without any compulsion from the federal government there is a renaissance going on across the country in education reform, and without waiting for reauthorization states have taken the lead, and I think they will continue to do so. So I don't think the fact that the federal government doesn't specifically address the issue does not mean that states will not raise the standards because we have already demonstrated not only that we will but that we have.

Chairman KLINE. Thank you.

Ms. Kazmier, in your testimony you talk about the teacher evaluation system that if teachers were deemed ineffective through this system that they could be subject to additional training, remediation, or removal. What does that process look like?

Ms. KAZMIER. Well, Chairman, having absolutely no experience with that personally, which is—

Chairman KLINE. Congratulations.

Ms. KAZMIER. Thank you very much—I do know that my district has set up a system that allows for teacher success. We prepare our teachers for that. This was not a system that was thrust upon us, as I have stated, that we all had a stake in it, we all had a say.



However, when teachers are failing to provide the quality of instruction that our district deems necessary for our students what we end up doing as a team—and this happens in each building—we work together with the teacher. The administrators, of course, are in the classrooms every day. We are having spot observations, formal evaluations, and so what happens is, is when that teacher is not getting what they need we give them opportunity for continued professional development. We mentor them up.

Currently, I work with teachers who have been teaching for several years who, in fact, need help on designing good objectives for our students, proper assessment for understanding what they have learned and are able to do. So it starts, actually, in the building level.

Once our teachers are given what they need at the building level the district also provides them with opportunities to continue to improve and be able to give the students the quality of instruction that they deserve to have. So it is a building first and then a district-level decision that is made. If the teacher is ineffective then there is a process for reevaluation, and eventually the administrators within the building can decide to have the teachers replaced or moved.

Chairman KLINE. Okay. Thank you very much.

Ms. KAZMIER. Thank you.

Chairman KLINE. Mr. Schaffer, again, welcome back to these halls. In your testimony you discussed the value of choice in the education system, your words, a couple of times, and the importance of allowing parents to choose other educational providers, such as tutoring services and so forth. Can you talk about the importance of that and why you think that is important?

Mr. SCHAFFER. Sure. The example in my hometown is a perfect one. I have seen it replicated 200 times across the state.

Just the introduction of one charter school in my community—there is more than that now, but the introduction of one charter school in my community changed the entire environment. Just the fact that parents had the ability to move their kids from one school to another across town not only improved the opportunity for parents to move their kids to that school, but it transformed all of the other elementary schools because there was a waiting list right away. Every principal in town realized that they had a certain number of families in their schools that actually wanted to leave. And those principals immediately became more responsive to the community, holding town meetings, and so on, and engaging those parents in defining the future of not just the new charter school—the one choice—but improving the quality of education in all of the schools.

Just giving parents the opportunity to choose empowers them in a way that is helpful.

Chairman KLINE. Thank you.

I see my time is expired.

Mr. Miller?

Mr. MILLER. Thank you very much.

I am really impressed with all of the changes that have been made in states and all of the progress that has been allowed under this one-size-fits-all law. Seems to me you can't quite have it both

ways. You can't have all of this change that has been developed in the states or all of the reluctance to change that has been developed in other states and say that this is somehow one-size-fits-all.

What we asked was whether or not children in the fourth grade from all the social strata and economic strata of this country—were they reading at fourth grade level, and were they reading at eighth grade level? And the resounding answer early on was no—horribly so. That was the tough criteria.

Mr. Schaffer, you would be surprised to find out that you are not required to have a teacher's license in Colorado under federal law and I have the bruises to show it, because we said you could certify teachers a number of different ways, at which time the states attacked the federal government for tampering with the license law. So do however you would like under the law.

And it is interesting because what as Mr. Luna strikes out of what he thinks is necessary in terms of college and career ready standards, accountability systems, and school improvement system, and goals, and meaningful targets, and the rest of that, and Mr. Balfanz, what you point out, your testimonies are essentially the same, that we need to move in this direction, and we need some incentives, and we need some sideboards, if you will, to make sure that the states do it.

Because, Mr. Balfanz, as you pointed out, 10 states increased their graduation rates and 10 states seemed to go in the other direction. My own state increased the standards, reduced the cut scores. My own state is dumping huge numbers of children into the alternative assessments way beyond the students who cannot take advantage of the regular assessment program, be it with disabilities or other factors, they have decided to avoid it to make the test scores go up. These games have historically been played.

The question is now, when we see all of the reform that is taking place, before you didn't know where your qualified teachers were, you wouldn't say where the distribution was, your graduation rate—any improvement made you AYP. We had this great example of where the dropout factories were making AYP but they were graduating less than 40 percent of their students, and that is why we put in the federal regulation to start asking these questions.

So schools and states have had it sort of both ways along the way, but we see this remarkable—and I agree with Mr. Luna. This is the greatest environment for school reform I have seen in my career in here, in 38 years on this committee, and we should be taking advantage of it.

We just went through this process where now 11 states have been approved for the waiver program. Those states had to make submissions on how they would deal with the common core standards, with how they would deal with assessments, how they would deal with graduation rates. And apparently another 28 are waiting in the wings, or maybe 30 states are waiting in the wings of starting to make application again, and New Mexico, of course, was approved yesterday.

Mr. Balfanz, you were on the peer review and I have looked at some of the comments of the various peer reviewers as a negotiation for going back and forth on the waiver process. Could you enlighten us to sort of what you saw there, in terms of proposals for

accountability, for targets for performance for these systems under the waiver system?

Mr. BALFANZ. Right, sure. Yes. I think it is a good example of, actually, of good federal check and balance on state initiative. So if you read across the public peer review comments you can see a very common theme across all applications that there was concerns about insufficient subgroup accountability, insufficient grad rate accountability, and potentially not enough attention to capacity-building to actually turn around the lowest-performing schools. And essentially all the states were asked to revise and resubmit and they all got stronger accountability at the end of the day because of that—that sort of check and balance.

And the grad rate accountability—it was often unintentional, and that is why we just need to have these checks and balance. People aren't always intending to try to game the system; they are complicated things.

So many states have created performance indexes, they have added important college and career readiness measures which are really good, but then they almost inadvertently weighted graduation rates as only 10 percent of the index, which means you could actually—there is an incentive to push out kids because you only get a small penalty for that and a very big achievement gain by having fewer kids with lower abilities taking those tests. And as soon as that was pointed out to the states the states were more than willing to sort of up the accountability but they needed that check and balance for that to happen uniformly.

Mr. MILLER. Thank you.

Time is running out here, but I just want to say, Ms. Kazmier, thank you for your testimony. It would be hard for me to believe that a bill would leave this Congress to go to the president's desk without an evaluation system. But as you know, as you describe your own evaluation system, your ability to participate and to have design, to have feedback is critical on how those evaluation systems are—are—are dealt. You know, I don't—I am one of those who don't believe the federal government should impose a single evaluation system on it but we ought to have a system to make sure that we are—we are sorting through the best talent available for the greatest number of students.

Ms. KAZMIER. Absolutely. I—

Mr. MILLER. Thank you.

Ms. KAZMIER [continuing]. Completely agree.

Chairman KLINE. Thank the gentleman.

Mr. Petri, you are recognized.

Mr. PETRI. Thank you very much, Mr. Chairman.

Thank the panel for your testimony and prepared statements, and particularly my former colleague, Bob Schaffer. I think there is an image of Congress out there that everyone comes here and then becomes a lobbyist in Washington, and you are living proof that that is not true, that an awful lot of people engage in public service in a variety of ways throughout their lives, whether it is in Congress, or you and Hank Brown have both been very active in education in the state of Colorado, and as you are here today at the national level, as well. So thank you for your service.

One or two other observations: Wisconsin is number one or number two in manufacturing in the country in percentage of people working in manufacturing. The president was out there yesterday visiting a company.

In my district there is a lot of unemployment and there are a lot of employers seeking employees. Thousands of jobs are going unfilled—good, high-paying, middle class jobs—because unfortunately there is a mismatch between the preparation that students are getting and the changing job market that we now live ourselves—live in. And we need to address that or we are going to be in a world of trouble down the road.

There are alliances trying to do that in the business community and in the education community—21st Century Skills is one example in my state, along with 16 other states participating in such an alliance, and there are a variety of other efforts out there that are good, well-meaning efforts from the public to improve it but are also self-serving in the sense that these companies desperately need, in order to grow and compete, a skilled workforce. And my question is whether this legislation advances this effort that is going on at the states and in partnership with others in the community and the private sector or whether it will put up barriers to those collaborative efforts that are going forward to prepare young people for the modern world of work more effectively?

I don't know if any of you have any comments on that but I would be interested if you did.

Mr. LUNA. Mr. Chairman and Congressman, I think the proper balance is—and what I mentioned in my comments is the proper role of the federal government in determining what is best for any state, whether it is Wisconsin, or Idaho, or California. And so I think it is incumbent that this law hold states to a certain level of accountability, but the flexibility has to be there because what you described in Wisconsin is similar to what we experience in Idaho but the solutions are not the same.

And so I think when you look at what we have done with the common core, where it doesn't focus just on college ready but also career ready, we recognize that many of our students are graduating from high school not ready for college or career ready, and so the standards we have adopted, the curriculums—aligned to those assessments that will measure students against those standards are not only college but career ready, also. I think we recognize that there is an inseparable link between a high-quality education system and a growing, robust economy. You cannot have one without the other.

Mr. PETRI. I have spent a lot of time visiting with principals and teachers in—of the superintendents and principals told me they used to be able to educate 20 percent of the kids to a fairly high level of literacy and so on, and if we could get the rest to show up on time, work as a group, and follow instructions they could all get pretty good jobs. Now we have got to educate 80 percent to high levels of cognitive and the ability to work together with people of different skill levels because in the modern world the old blue-collar, white-collar, officer, enlisted model that we have in the military has broken down and it is a collaborative effort at the—in factories all across our country and throughout our society. And edu-

cation needs to adapt to that more effectively or we are going to be in a world of trouble. I hope this legislation furthers that effort.

Ms. POMPA. Could I take this opportunity to agree with you and to point out the fact that as you—have changed tremendously, and what is required to be successful in many careers—most careers these days—is a high level of ability in both math and English. My concern and the concern of the civil rights community is when you look at NAEP scores—and I just pulled out from my testimony math scores at grade eight—there is a 20-point difference between the achievement of white students and Hispanic students, 30 points between white students and African American students, and I won't even talk about the other gaps.

I believe that your—the interest that you and many others, including NCLR, have in making sure that we have a productive workforce in the coming years depends on making sure we educate all children. As I look around at how states have fared with all students I believe that there is a necessary role for building the capacity of states to understand the needs of all children, to respond to those needs with appropriate targets, and a bit of a push from the community and the federal government.

Chairman KLINE. Thank you.

The gentleman's time is expired.

Mr. Andrews?

Mr. ANDREWS. Thank you, Mr. Chairman. I want to thank you for making such a good faith effort to raise an issue we really need to raise. I appreciate the effort you are making and I hope we can work together and achieve it.

I want to talk about 9-year-olds and math tests. And, Mr. Luna, I want to ask you some questions about 9-year-olds and math tests.

Looking at the NAEP test, the National Achievement test, in 1973 for African American 9-year-olds scored 35 points lower in math than white children. In 1999 African American children scored 35 points lower than white children. So 26 years, no progress.

In 2008 9-year-old African American children scored 25 points lower than white children. The intervening development—at least one of the intervening developments—was the passage and enactment of No Child Left Behind in 2001, implementation in 2002.

Given your premise, which is that states operating without a federal accountability system is a preferable option to states operating within one, how can you explain the lack of progress from 1973 to 1999 and the rather considerable progress from 1999 on?

Mr. LUNA. Mr. Chairman, Representative, just to be clear, my testimony was that the federal government should have a role and I actually stated that No Child Left Behind, the good, the bad, and the ugly—the good was that it focused every state to be responsible and accountable for—

Mr. ANDREWS. Well, let's talk about how it focused every state. Do you favor a federal accountability system like adequate yearly progress—in other words, should there be a law that says if a state doesn't meet certain standards that are established at a federal level something happens to the state? Do you favor that or not?

Mr. LUNA. As long as the federal government continues to spend tax dollars on education there has to be accountability for how

those dollars are spent, and so I do think that there is a proper role.

Mr. ANDREWS. Well, under the bill that is in front of us, if a state failed to meet whatever accountability standards it adopted under this new system what would happen to that state under the bill that is in front of us? Do you know?

Mr. LUNA. Mr. Chairman and Congressman, part of the testimony that you will have in the record that I didn't have time to get to stated that CCSSO and—and myself, we think there should be an expectation of focusing on a certain number of schools, if you will, or a gap that is not—

Mr. ANDREWS. If I may, because my time is limited, when you focus on a limited number of schools and some number of them fail to meet the standard that is established what should the federal law say should happen to those schools?

Mr. LUNA. I think states should have the ability to withhold federal funds if schools are not meeting the goals and expectations that have been set for them.

Mr. ANDREWS. Which they sort of do under No Child Left Behind because that would be the provision that lets the state school officer go in and reorganize the district, right?

Mr. LUNA. Well, that is the nuclear bomb option. Before that there—

Mr. ANDREWS. But should that option stay in the law or not?

Mr. LUNA. Yes. I think there should be an expectation and a level of accountability for how those dollars are spent.

Mr. ANDREWS. Well, that is the same as existing law. What other—it is not the same as existing law. How does it differ?

Mr. LUNA. Well, because the law that we currently have is putting us on track for 100 percent of our schools to be under federal sanctions—

Mr. ANDREWS. With all due respect, that is a different question. That is a different question. That is what the standard should be.

I understood your testimony as meaning that the accountability mechanisms in federal law we have now are somehow undesirable. You just testified that the nuclear accountability standard is okay with you. Is that what you said?

Mr. LUNA. No. Mr. Chairman, and just let me finish a sentence and I will give you my answer.

Mr. ANDREWS. But what is your answer, because we have had a hard time getting it out—

Mr. LUNA. As long as the federal government spends tax dollars on education there must be accountability for those dollars. That accountability needs to focus on student achievement. And how states get schools and students to meet those academic goals should be determined at the state level, not the federal level.

Mr. ANDREWS. How is that standard different than adequate yearly progress that is in the present law? How does that differ?

Mr. LUNA. Well, adequate yearly progress focuses on proficiency, and what states want to focus on is recognizing multiple measures of school and student success, meaning academic growth.

Mr. ANDREWS. I don't disagree with that. I think that is not quite what your testimony says.

Chairman KLINE. The gentleman's time has expired.

Mrs. Biggert, you are recognized.

Mrs. BIGGERT. Thank you, Mr. Chairman. And I have several questions, which I hope I can get in as many as possible, but—

Ms. Kazmier, one of the—you have described the need for student achievement to be significant, which is what this legislation also says, but the achievement to be a significant part of teacher evaluations. And my problem is I don't think—what do you mean by significant? And it is not defined in—in this bill. Are you concerned that the—the student achievement data, such as standardized testing, could compromise a disproportionate share of your evaluation?

Ms. KAZMIER. No, I am not. And in actuality—and just to state this for the record, obviously, on our school district Web site the entire program is laid out. So instead of going into a great deal and specifics I would ask that you go to the Harrison School District Web site to look at more of that information.

When it comes to teacher evaluations, the state scores that our buildings receive are only one part of eight weights for our evaluation process. So we all, as a building, own the scores that our students have achieved, and that is just one part of our evaluation process.

Mrs. BIGGERT. Do you think that if this bill is passed then that that could be different, because it seems to be that is the lead criteria, and then the others, but significant could be—is that 50 percent plus one, or is it just all the same?

Ms. KAZMIER. Speaking at what I am currently looking at when it comes to my own evaluation, I believe it to remain the same. And the biggest reason is because that is just one small snapshot of what our students are capable of doing.

Mrs. BIGGERT. Thank you.

Then does anyone else have some concern about the significant definition, which is not defined?

Okay.

Then, Ms. Kazmier, one of the provisions of H.R. 3990 would make the details of individual teacher's evaluations available to parents. In one of my former lives, as a school board member and president, I can see—and now with the Internet, particularly, that if a parent can go in and see the evaluations—I have no problems with, you know, what the teacher's education was, what—and things like that, but to have them see the evaluations, and parents can go in and then would really get all of the teachers' evaluations in the school. And I think that that is—do you have any problems with that?

Ms. KAZMIER. No. Why would I? Thinking about how responsible I am for the learning of my students, I owe it to their parents in order to have complete transparency into the type of quality of teaching that I am providing for their students. I would want that as a parent. I would want to know that my children had the best possible teacher.

Mrs. BIGGERT. And if they don't then they arrive at the school board to say that they want the best teacher.

Ms. KAZMIER. Yes. And if they don't then I think it is up to the district and the building itself to rectify that situation and to create

a learning environment that is going to be conducive to progress for their students.

Mrs. BIGGERT. How do you think giving parents access to the evaluations will enhance parental participation?

Ms. KAZMIER. Any time that our parents have an opportunity—and I hope that this is the case—our parents are invited to our schools. That doesn't happen in every school in every state, but I think if parents who are truly concerned about what their students are learning have the opportunity to—to seek that information it will probably not only increase the amount of time that they get into the buildings but it will give them a better understanding of what their students are learning.

Mrs. BIGGERT. And what other ways would you encourage parental involvement?

Ms. KAZMIER. I am sorry. Could you repeat the question?

Mrs. BIGGERT. What other ways would you encourage parental involvement and communication in your classroom and in your—

Ms. KAZMIER. Oh, for my classroom clearly that is going to be daily phone calls home. And within my building there are team letters that go home from each of the grade level teams. There is a newsletter that goes home within our buildings. Our district holds meetings as well as our building administrators.

So there are probably countless ways that I can encourage it, but it has to happen on their part.

Mrs. BIGGERT. Is anyone else here concerned about the lack of privacy?

Mr. Luna, do you—

Mr. LUNA. Congresswoman, there—we are confident that the state and federal laws that protect privacy of students and educators are adequate and I agree with the good teacher here that—

Mrs. BIGGERT. But this bill would say that—that you could go in and get those evaluations. This doesn't happen in any other area, for firefighters or, you know, public—police or anything. I just think it goes too far.

Ms. KAZMIER. Can I ask why you think it goes too far?

Mr. LUNA. Yes. I guess that would be my question, also.

Mrs. BIGGERT. Because I think that it is that there won't be a really true evaluation if every—if the administration knows that it is going to be put out to the public.

Ms. KAZMIER. Okay.

Mrs. BIGGERT. And I think that is going to really—and rather than having the—being able to make sure that the teachers have high quality that they won't be able to give a fair and really real evaluation.

Ms. KAZMIER. So would you suggest that maybe we would leave it to the teachers to put that information forward? Because as a high-achieving teacher I want my parents to know what their students are getting and I would be the first to step up and say, "These are the scores. This is what I am providing to your students, and this is how well I have done." However, there are going to be teachers, as you said, who don't want that information out there. However, those are the teachers who I try to work with in



order to improve their scores so that that type of transparency can happen for the students and the parents.

Chairman KLINE. The gentlelady's time has expired.

Ms. Woolsey?

Ms. WOOLSEY. Thank you, Mr. Chairman.

Thank you to this panel. You have got a broad consensus of what is going on here.

Dr. Balfanz, you stress in your testimony, and your major emphasis is reducing the dropout rate—

Mr. BALFANZ. Right.

Ms. WOOLSEY [continuing]. Which I certainly credit you for. And if this country is going to have a workforce that is something we have to do immediately.

And so you also underscore that without a strong federal commitment to the—our nation's education system there actually will be an achievement disparity—

Mr. BALFANZ. Right.

Ms. WOOLSEY [continuing]. With—between states—those that have successful programs versus those without. One of the things that concerns me greatly about the bill that is put forward is that it would not include—in fact, it would eliminate essential wrap-around services that I believe help disadvantaged families bridge the gap—

Mr. BALFANZ. Right.

Ms. WOOLSEY [continuing]. And help the teacher who has this new student or a student that comes from a disadvantaged family that is either not prepared, not well, not nourished. Tell me what you think wraparound services bring to the school site.

Mr. BALFANZ. Yes. They are really essential because what has happened is we have concentrated our neediest students in a subset of schools that weren't really designed for that high level of need. So in many schools, just take the simple thing of attending school, right? You can have the best teacher in the world, the best curriculum; if kids don't come every day it is not going to work.

Ms. WOOLSEY. Right.

Mr. BALFANZ. At our highest-need schools chronic absenteeism is 15 percent of the elementary school, 30 percent in the middle school, up to 50 percent in the high school, which means—and chronic absenteeism is kids who miss a month or more of school. That is a lot of school; it is not a little school. And it means teachers have different kids in their classroom every day, which slows instruction down for everyone.

You need other adults to help get those kids to school. When it is identified absenteeism is a thing communities can do a lot about, but one thing is we don't measure it. So we have to start measuring it. And then secondly, we have to have the other adults to help make sure that kids can come to school ready to learn and then teachers can do their high-quality job will have much better results.

And that is especially important both to have wraparound services and have a dedicated funding stream for it because—

Ms. WOOLSEY. Well, yes. And tell us, just to amplify, what you mean by not ready to learn. What are some of the reasons that a young person would walk in the classroom not ready to learn?

Mr. BALFANZ. Well, I mean, the thing is that in high-poverty environments kids face a lot of different stressors. In many cases they have to take on care-giving responsibilities themselves—get younger siblings to schools, do elder care for elderly relatives even when they are just young, teenage girls. And other times there are, you know, the neighborhood is unsafe, there is a lot of crime and violence, which puts kids under enormous stress. You know, there are problems of alcohol and substance abuse at home sometimes.

And without some other adults helping to guide them, shepherd them, get them ready for school, it doesn't happen for enough kids. And we really need to have that level of supports to really be able to have the high levels of achievement we need.

Ms. WOOLSEY. Thank you very much. So what do you think about cutting those services?

Mr. BALFANZ. I think they are essential and I think we need to continue to fund and have ways to make sure that we get enough skilled adults to help kids come to school ready to learn so teachers can teach.

Ms. WOOLSEY. And that is quite unfair, I believe, to the teacher that we evaluate on that student's achievement—

Mr. BALFANZ. Yes.

Ms. WOOLSEY [continuing]. When some kids are ready to learn and some aren't and depends on where your zip code makes a difference quite often. Thank you.

Ms. Pompa?

Ms. POMPA. Yes?

Ms. WOOLSEY. In fact, Congressman Petri talked about this, about the future of our workforce and how important it is that we educate all children, and there is—it is very important that—I believe—that we educate all kids in the STEM fields—science, technology, engineering, and math. The chairman's bill would remove the requirement included in No Child Left Behind that all schools adopt science standards and assessments.

I can't imagine what that means to the—our nation, nationwide. I mean, I know we—some of you want each school to decide how they are going to do, you know, the—make the decision, whether they want science or whatever, but how are we going to compete in worldwide if our kids aren't technically ready—at least have the choice to go into these fields? And would you speak to that and include the need for young women and underserved students?

Chairman KLINE. The gentlelady's time has expired. If we could have the answer for the record, please?

Dr. Heck, you are recognized.

Mr. HECK. Thank you, Mr. Chairman.

I want to thank all the members of the panel for being here today and for your commitment to educating our future leaders. As someone who spent 23 years in the classroom and as somebody with a degree in education who decided after doing his student teaching that I wasn't meant to be a teacher, I really appreciate all that you do for our kids.

You know, much of the criticism we have heard on the Student Success Act centers around the idea that states can't be trusted with education of our students. Yet, the administration must trust the states, as evidenced by the waivers to ESEA to, and I quote

from the Department of Education's Web site, "provide educators and state and local leaders the flexibility regarding specific requirements of NCLB in exchange for rigorous and comprehensive state-developed plans designed to improve incomes for all students, close achievement gaps, increase equity, and improve the quality of instruction."

And we have seen 45 states voluntarily adopt the common core standards, which have specific applications for ELL and students with disabilities. We see many districts starting to adopt and move to a growth model to better measure achievement by proficiency.

So, Mr. Luna and Mr. Schaffer, I would ask you, in your opinion, what would be an appropriate federal accountability standard or measurement to ensure that states can be trusted to move forward with that flexibility to develop their own accountability standards?

Mr. LUNA. Mr. Chairman and Congressman, I think requiring states to identify a certain number of persistently low-performing schools, those schools that struggle to eliminate achievement gaps, and then requiring states to report information on student progress in—down to the individual student level as well as subgroups, I think those are minimum requirements that should be part of a federal law.

Mr. SCHAFFER. I am sorry. Congressman, your question is what is an appropriate level of—

Mr. HECK [continuing]. That we talk about, as Mr. Luna stated, as long as tax dollars are going to fund education there needs to be some accountability standard at the federal level. In your opinion, what would be a federal accountability standard or measurement standard that would be appropriate?

Mr. SCHAFFER. Well, within the context of whether states should be trusted, yes, states ought to be trusted completely. That is kind of what the premise of the country is, I had always believed. And, I mean, these are our kids that are—we operate an education system in our state predicated on the notion that as parents, as community leaders of those, in my case, who was elected to serve on the state board, that we are held accountable to our communities and to our—the parents who vote for us. Those are the ones who ought to be holding states most accountable in my state, and I think in most states they do.

And my belief is that from our perspective in Colorado—I can't speak for all—but that the expectation level of accountability and the immediacy of a response is far quicker, and greater, and more precise, and more meaningful when we move authority actually away from Washington and back to the neighborhood. And so in my opinion, the greatest way to achieve accountability is in that direction.

The federal government certainly spends an awful lot of money. That is a decision you have made. And when you spend that kind of cash, if I were you—and I was—I want to make sure those dollars are spent effectively.

But there are some practical realities. I mean, you are 2,000 miles away from where it is being spent, in many cases. You are not going to get efficiency in those cases. The only individuals who can guarantee that these dollars are being spent efficiently are the ones who are closest to the children who are affected. The further

away you get from that the more waste you are going to have. It is unavoidable.

Mr. HECK. Thank you.

Thank you, Mr. Chair. I yield back.

Chairman KLINE. Thank the gentleman.

Mr. Grijalva?

Mr. GRIJALVA. Thank you, Mr. Chairman, and I—we ought to trust the states, but I think our role here today and with this legislation is to also verify. I don't believe in blind trust. The children that we are talking about in this reauthorization—we are here for a reason, and let's not forget that history.

Elementary and Secondary Education Act was built on dealing with inequities at the state level, dealing with discrimination at the state level, and dealing with the lack of access at the state level. So I have to say that, you know, we have this—Mr. Luna said, had a renaissance in the last few decades, but the fact remains that those children that we are talking about are still behind and the accountability portion of it is really important.

Ms. Pompa, the different titles—you know, they get all collapsed into one pot and the states will decide how that pot gets distributed, but with regard to that I want to ask, it has been suggested—let's—Title III—that maybe a school district would be—school district would be better off instead of using that for acquisition of English it would be better off with those—but we just bought computers for the school. Your comment on that?

Ms. POMPA. Certainly. As you point out, there is a history of a need for a federal role in education, which is why we have the Elementary and Secondary Education Act. English language learners are one of the populations that has needed the most protection because states and local districts have not responded to their needs over the years. To this day we see failure at the state and district level to respond to the needs of these kids.

Turning the ability over to states and districts to move money around, and in this case move Title III funds around so that they can spend the money on purposes other than which were designated for Title III just adds to the ability of states to put aside the needs of these children. And I have great concerns—the civil rights community has great concerns about that.

Mr. GRIJALVA. Thank you.

Mr. Balfanz, if I may, Doctor, let me—what do you see the effects of removing so many reporting requirements under the legislation? Under this bill states will not have to report their standards, what their standards are tied to, what alternative assessments are being used or what they mean. You think states will do that on their own.

For example, prior to 2008 the great state of Idaho and the great state of Arkansas didn't have any accountability for subgroups in that state. So, if you don't mind?

Mr. BALFANZ. Yes. No, I think—and again, this is—the point I make is that there just needs to be checks and balances. So there is always good intention at the state level. They all want to have all their kids succeed. But there is often limited time, and energy, and focus, and you sort of—you pick a way to go and you go that way and you don't always recognize the tradeoffs you are making.

So, for example, a movement now is to sort of lump all low-performing kids together and say we want to improve the bottom 25 percent of low-performing students as a group. But the truth is, is that you can still have progress in that group but have identified subgroups making no progress or going backwards and being averaged in—

Mr. GRIJALVA. Okay, for example, what does this legislation do in terms of the initiatives to deal with—the need to deal with dropout factories in this country, the kind of—the lingering in the middle school that we are not really addressing that?

Mr. BALFANZ. Right.

Mr. GRIJALVA. What does this legislation do for that?

Mr. BALFANZ. It sort of takes the foot off the gas, basically. It has only been most recently, actually with the school improvement grants, which there is a lot of room to improve the how, but basically those grants are the ones that have set up—if you are a high school with a grad rate below 60 percent you must reform yourself; you have no choice.

And the truth is, is there is—in 25 percent of the dropout factories are in single high school towns. It is the only high school in that town and graduation is not the norm. And it has been that way for decades, and everybody knows it. It is well-known. It is not like it is a—just showing a spotlight will make a difference.

And it is only when there was ultimately federal compulsion saying, “This school has got to be reformed. You can have some latitude in how, but we can’t have another decade where half the kids aren’t graduating when there is absolutely no work for them.”

And related to that is also their feeder middle schools, because we know from the early warning indicators that it is actually in middle schools that kids start on the pathway to dropping out. And if we don’t have focused attention to those schools the problem will continue.

Mr. GRIJALVA. Thank you.

Ms. Kazmier, just a question: On the 2011 Colorado Student Assessment Program the 398 kids at Otero School, pre-K-5, the mathematics and writing for students with disability, they didn’t make AYP in that particular exam. My question is relative to educators. So the educator responsible for that subgroup of kids—or maybe it is shared educators—does their evaluation reflect that—the fact they didn’t make AYP? And if so, what are the consequences there?

Ms. KAZMIER. Well, let me start by saying that I am a non-core teacher, and as an art teacher my evaluations look different than that of a core teacher or a special—

Mr. GRIJALVA. Okay, this teacher is responsible for disability students. They should—then they are not eligible for the merit pay and their evaluation based on the assessment would be lower than everybody else—

Ms. KAZMIER. They—

Chairman KLINE. I am sorry. The gentleman’s time—

Mr. GRIJALVA. Thank you.

Chairman KLINE [continuing]. Has expired.

Dr. Roe?

Mr. ROE. I thank the chairman for holding this hearing, and I also want to thank this committee for bringing up the—we have

huge challenges in this country, and obviously there are a lot of different opinions about education, and it is tough. And having spent 24 years in the public education system, never in the private system, I am absolutely committed so that every young person in this country gets a quality education and can enjoy the fruits of their education, as I have.

But let me just point out—and, Mr. Schaffer, you brought out, when I moved my young family to Johnson City, Tennessee I looked for a home near a good school, where my kids could go to school. A lot of kids in poorer areas can't do that, and they shouldn't be held hostage in poor-performing schools forever because they only have one chance to get that education. Doing it again when you are in your 20s and 30s is really tough.

Let me point out a good friend of mine, Jan Lindsay, second grade teacher and patient for 30 years, invited me down to her second grade class last year, and I read to the class. And as she got ready to leave she pointed out one young student and said, "Well, he will be with me again next year." And I said, "What is the problem, Jan? Has he been ill, or what"—you know, like a doctor I am thinking, has he been sick? No. His dad is in jail, his mother won't get him up to get him out the door; he has missed 60 days of school.

So I said, "Well, let me make sure I understand this. This child's mother won't get him up to get him out the front door to get to the school, so he doesn't make AYP, so you are a bad teacher and this is a failing school." And that is the system that is bad. I think we have to look at that and say to those teachers—and it is frustrating our teachers. If you want to see a—go talk to a frustrated bunch of people—and I knew this hearing was coming up so Monday I went to two schools, a middle school and an elementary school, and I can assure you, we are putting a burden on our teachers and a standard they cannot reach.

So you are absolutely right—all of you on this panel. By 2014 every school will be failing and every teacher will be failing. It is the same as me, as a physician, if I got any patient in any condition, that they came in with cancer, whatever it may be, and said, "You have got to cure them all by 2014," I will be a failing doctor. So that is, I think, some of the frustration I see.

The other frustration—and I would like to hear you talk about this—any of you that would like to—I hear it all the time, is, "I have to teach to the test." And is that real, or is that perceived by our teachers? And any of you can jump on that if you would like.

Ms. POMPA. Let me jump on it. Teaching to the test is a phrase that people have tossed around and—to criticize the implementation of high standards and good assessments. Teachers—

Mr. ROE. Just to interrupt you, I have never heard any of my teachers that I have talked to at home complain about transparency, accountability. They all want to be—and I think you make a great point that it is—you want—people want to know who a good teacher is, and basically they do understand.

I knew who the good teachers in high school were. The kids knew. But we didn't have an—but we put a system together that made them failing teachers because of something totally out of their control.

I think the control needs to be back at the local level. I think the arrogance of Washington to be able to go down and tell—because I was a mayor of the city that had control of the school board, and I trust my school board and I trust the teachers in my community. And we will set the—they will reach those. But we are frustrating them to death—our teachers.

Ms. KAZMIER. How do we get rid of the misconception of teaching to the test? I think the transparency has a lot to do with that.

Mr. ROE. Okay.

Ms. KAZMIER. As a teacher in the classroom every day, if I spent all of my energy teaching to a test my students would not be able to make art. They make art because they understand art—

Mr. ROE. You wouldn't be any fun.

Ms. KAZMIER [continuing]. Because they have learned about it. Well, and it wouldn't be any fun.

So teaching to the test in my school district is not an option. There are going to be tests; there are going to be assessments; we are held accountable. However, the transparency of this type of system will allow parents—I mean, education shouldn't be a mystery. We should know exactly what our kids are doing and what they are learning, and when my child comes home from school I should be able to have a discussion with her and then go to the teacher and have that same discussion.

Mr. ROE. And the parents would love to do that.

Before my time expires I want to go out to one local private-public partnership. We had a man, Scott Nicewander, who lives in the first congressional district of Tennessee, recognize that we have a lot of rural schools Mr. Cunningham deals with. And what he did was he set up distance learning.

There were some small, rural schools that had 50 students, and they didn't have access to a calculus teacher, or an algebra—good algebra teacher, maybe. So he set a distance learning through the Internet, and the—and I have been on his class and been in classrooms in multiple schools at the same time. We have seen low-performing schools without any federal dollars doing this now.

He did get a grant for his foundation to improve this and expand it. It has been fantastic. And it hasn't been a top-down approach; this was a bottom-up approach, where innovative people at the local level figured out how to get to these rural areas.

And I know in Arkansas you are dealing with the same issues in rural areas. And rural and urban areas are different.

And I realize my time is expired.

Chairman KLINE. Thank you.

The gentleman's time has expired.

Mrs. Davis?

Mrs. DAVIS. Thank you, Mr. Chairman.

And I wanted to turn for a minute to special education, because we haven't really focused on that too much and I know that there certainly have been concerns with No Child Left Behind in that area. But I think that one of my constituents, actually, who is a special education teacher, wrote and said that she hopes that these discussions are moving well for special ed kids because she feels we have to look 30 or 50 years, really, ahead, and build for the future where young people, of course, can joyfully learn and grow.

And there are concerns that the Republican bill that is before us would allow any number of students with disabilities to be tested using alternate achievement standards and that perhaps parents wouldn't understand the full consequences of these assessments, including a decision that might be made in third grade, for example, that would prevent their child from achieving a regular diploma as they move down their educational path.

The other concern is that it doesn't require separate reporting on alternate assessments, and it would mean that schools could report 100 percent of students are proficient but without any indication of whether those students were held to lower standards and tested using alternative tests. So I wonder if you could respond, you know, to at least the information that we have about these provisions, whether you think these are acceptable or not.

Ms. Pompa, do you want to respond, or others? What do you think we are going to see in 30 or 50 years if these provisions were passed into law?

Ms. POMPA. We are going to see great backsliding on all the progress we have made on behalf of students with disabilities. Over the last several years the disability community has worked very hard to ensure that these children have a free and appropriate education and the least restrictive environment, and through many re-authorizations of IDEA we have made great progress, and now we are able to connect the progress there to the progress that was—the targets that were laid out in the No Child Left Behind Act.

I don't see how raising the cap on alternate assessments is going to allow us to continue to make that sort of progress. Most students in special education do not have cognitive disabilities. Most students in special education are able to be taught and are able to meet the same standards as all students, and taking—and following through on this proposal would set us back several years.

Mrs. DAVIS. Thank you.

Because I want to try and use my time well, I have been very interested—and I am going to move to evaluations for a second—in teacher evaluations and, along with my colleague, have put forth a piece of legislation in that regard. And some of the issues that you are talking about resonate and certainly are incorporated into that.

But I also was concerned, and particularly with Colorado—it is my understanding—and certainly correct me if I am wrong—that Colorado doesn't report federally required data on the distribution of inexperienced, unqualified, or out-of-field teachers in high-and low-minority schools in its equity plans so that, in fact, you really—the public certainly doesn't have an opportunity to look at those issues.

And so I am wondering—I mean, Ms. Kazmier, does your school report that?

Ms. KAZMIER. Does my—repeat the question—my school report—

Mrs. DAVIS. The number of teachers who are either inexperienced, unqualified, or working out of their field.

Ms. KAZMIER. It is my understanding that currently we don't report that. I know that the qualifications that get you to, in my



case, Proficient II or above are, yes, published. Whether that is going to change or not, I couldn't speak to that.

Mrs. DAVIS. Because I am wondering how, then—I mean, I think, actually, there is a level of transparency that is important, and I think trying to figure out where exactly that is in terms of full disclosure, you know, may be something that we need to talk about, but—

Ms. KAZMIER. I agree.

Mrs. DAVIS [continuing]. But I am interested in knowing that how—it sounded as if the—how teachers fare on evaluations has some role to play in whether or not they are encouraged to move to a school in which perhaps their talents can be better used.

Ms. KAZMIER. Yes.

Mrs. DAVIS. And so—

Ms. KAZMIER. If you are a Proficient II teacher or above and there is a need at another school for the quality of teaching that you can provide the district will place you in a position where you can do the most good for the students. That is correct.

Mrs. DAVIS. Do you think that it should be very, very clear on any bill that goes forward that professional development and how it is used is going to be part of any evaluation process?

Ms. KAZMIER. I think in the case of a teacher who is in need of professional development—and I hope I am explaining this well—if a teacher does, in fact, need professional development in order to become a better teacher it should be very clear, and that is what our system has set up. We weren't just thrown into this system. This was 5 years in the making.

And what our administrators did is explain to us, teach us, and show us, and provide feedback how to become the best possible teacher you can become. So it is available to those teachers who are not performing to get the help through the district and through their own buildings to become that proficient teacher.

Chairman KLINE. The gentlelady's time has expired.

Dr. Bucshon?

Mr. BUCSHON. Thank you, Mr. Chairman. I am just going to make a few comments. I don't really have any specific questions.

Excellent panel, and thanks for your input.

For 40 or 50 years we have been doing things in a very similar way. We have made some progress. But any time, I think, that you see change being made like is being made in the state of Indiana, where I am from, with Governor Daniels and Tony Bennett, that there is going to be a lot of discussion and a lot of disagreement, and ultimately, I think as long as we keep the focus on the end product, which is the success of our students, we are going to come out in the end and be more competitive globally.

So I thank the chairman for this hearing and I think the committee on both sides of the aisle wants to work together to improve the product, which is our students. And I have four children; that is what I want and I think that is what we all want.

But this type of discussion is very healthy and we know we cannot continue to do the same things we have been doing literally for decades without definitive success, and in addition to that, let the—let the rest of the world continue to outpace us, especially in science and engineering and other areas, we have to grab the bull

by the horns and make some changes, and that is what we are trying to do.

So thank you, Mr. Chairman. I yield back.

Chairman KLINE. Thank the gentleman.

Mrs. McCarthy?

Mrs. MCCARTHY. Thank you, Mr. Chairman. I appreciate—and I appreciate all the testimony that we have heard today.

Two of the areas that I have special interest in: children with disabilities—learning disabilities—because my son grew up with them, I grew up with them; the second part is the high dropout rate. And going through the legislation, you know, and there are many things in this particular bill that I, you know, I agree with. But I still see a shortchange on dealing with the issue of dropouts, which makes me a little upset, and certainly with children with disabilities.

We have fought for a long, long time. I go back to the years when a child with—was born with Down syndrome, they basically were put into an institution. Today we see them in our society working out in the stores being part of society.

And I think that we have come such a long way, and as you had said, Ms. Pompa, that these young people can learn, and they can learn, but they do take extra resources, they do take extra time, and to be very honest with you, take special teachers to have the patience with it.

What I would like to see is both of you, Ms. Pompa and Dr. Balfanz, explain what is in this legislation that is going to make lives for those children that are going to drop out—how do we reach them? How do we keep them in school?

And also, I know that you talked about it a little bit, but children with special needs that are in our community—many of us feel enough is still not being done for them to get them into society. And if you could address those issues, both of you.

Ms. POMPA. Thank you. I will begin.

I think the notion of high expectations is missing from this piece of legislation. And when I say that I mean that we have not set targets in this legislation that would say, “All kids can reach this standard, and states, we expect you to get there.” And if we do not set these expectations I think we have seen a lot of evidence that all children don’t get the same treatment and aren’t held to the same standard. So that is one thing that is missing from this for both children with disabilities and children who, unfortunately, too often become dropouts.

Setting the targets for these children is something that has become very important. We have seen too many years where the performance for these groups of children was shoved under the rug, and we have got to change that.

In addition to the high expectations you mentioned that it takes a special teacher. It is going to take teachers who have the capacity to work not only with children with disabilities but with children who have many of the challenges they bring to school and then become dropouts.

Moving the funding around, doing away with some of the expectations of what teachers—how teachers—how states would hold

teachers accountable I believe undermines the capacity we would have to serve these children well.

Mr. BALFANZ. And all I would quickly add is that we really have to have graduation rate goals, and all children have got to be expected to graduate regardless of how they walked into the school because there is no work if they don't graduate, and we have to say that is an expectation, not something nice that happens.

Chairman KLINE. The gentlelady's time has expired.

Mr. Thompson?

Mr. THOMPSON. Thank you, Chairman.

Thanks to all the panelists for bringing your passion and your expertise. Very important topic.

Mr. Cunningham, I want to greatly appreciate your prepared remarks and include the mention of the current inequity in the Title I formulas. At the core of this issue is a misallocation of funds because of two separate weighting systems, one that focuses on percentages or concentrations of poverty, and the second which incorporates sheer number of students. You referred to that in your testimony.

While well-intended, number weighting has the perverse effect of diverting funding from higher-poverty school districts to lower-poverty school districts. As you know, these formulas are complicated, yet I believe H.R. 2485, the ACE Act and the language of that will be an eloquent correction to eliminate the effect that numbering weighting has upon formula without sending any one school district off a cliff or costing additional funds.

Now, the bill has received bipartisan support from many of the committee's members and we look forward to continuing the debate on how best to address this current injustice and move forward so that there is fairness in Title I formulas.

Mr. Cunningham, my question is, could you briefly describe how number weighting affects schools in Arkansas? This is a somewhat nuisance issue and I believe that members of the committee are certainly going to benefit from your state—

Mr. CUNNINGHAM. Yes. Thank you for that question.

I believe, Congressman Thompson's House Resolution 2485 corrects that problem because we have a system that benefits large numbers of poverty. We don't recognize—I think the general intent is to recognize percent of kids in poverty and that—I think that bill corrects that situation over a 4-year period by reallocating those funds on a consistent basis, which was in the intent of the law.

Mr. THOMPSON. Thank you.

Mr. Chairman, I ask unanimous consent—I have a letter from the American Farm Bureau Federation on this issue I would like to submit for the record.

[The information follows:]

#### **Prepared Statement of the American Farm Bureau Federation**

The American Farm Bureau Federation believes strong rural schools are vital to enhancing the lives of rural Americans and will lead to building strong and prosperous rural communities.

Farm Bureau represents more than 6 million families who rely on a strong school system to provide their children with a world-class education. As hearings begin on H.R. 3989, the Student Success Act, Farm Bureau asks the committee to change the current Title I funding formula used by the federal government to determine the

amount of money state and local school districts receive, as it puts rural and small town school districts at a disadvantage.

Title I of the Elementary and Secondary Education Act provides \$14.5 billion in federal funding to school districts to help them meet the educational needs of financially disadvantaged students. Title I funding was intended to send funds to school districts with high concentrations of poverty. Instead, the current formula systematically discriminates against the school districts it was intended to benefit: rural, small town and moderate-sized urban school districts with a high concentration of poverty.

Farm Bureau supports H.R. 2485, the All Children are Equal (ACE) Act. The ACE Act corrects a major flaw related to number weighting in the current formula used to allocate Title I funds for the education of disadvantaged students under the Elementary and Secondary Education Act.

Number weighting redirects funds from smaller districts, both rural and urban, no matter how high the poverty rate, to a handful of the largest districts, regardless of poverty rate. The ACE Act corrects the Title I formula and secures funding for school districts with the highest concentrations of poverty.

The ACE Act corrects the number weighting problem by gradually reducing the weighting factors used in the number weighting system. The weighting factors would be reduced by 10 percent each year for four years, gradually reducing the influence of number weighting on the distribution of funds.

Title I should function as Congress intended, which the current formula fails to accomplish. Including the ACE Act makes the Title I formula more effective and the distribution of Title I funding more fair by treating all children equally.

Farm Bureau supports the inclusion of the ACE Act in H.R. 3989, the Student Success Act.

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Chairman KLINE. Without objection.

Mr. THOMPSON. Thank you.

Ms. Kazmier, you know, we have had a lot of discussion about student-teacher evaluation, different questions going back and forth. Now, the Encouraging Innovation and Effective Teacher Act requires that evaluation systems be developed in consultation with teachers and other stakeholders in the process.

In your testimony you discuss how that happened in your district. Could you talk more about the importance of that consultation in creating trust among teachers in the new evaluation?

Ms. KAZMIER. Absolutely. Let's go back to the idea that education shouldn't be a mystery, and to have open discussion with everyone who is involved is the only way to open up the mystery that we have all been, I guess, hiding behind as educators.

In order to have a full understanding and a full buy-in at the district level, at the community level, and at the building level it is important, as our district did, to invite all stakeholders, all shareholders. Anyone who could be possibly involved in the way that the children are going to be educated should be there.

Our conversations started, as I said a few minutes ago, 5 years ago. What does our district need? In the state of Colorado our district, in particular, was on watch, and on watch essentially means you are not getting the job done. Our district is no longer on watch.

We have had an administration that has come in and our superintendent has stepped up to the challenge. Opening up these conversations means that we all understand what we are trying to achieve. We have to work for the common goal.

Clearly, the bottom line is it is about the students. So if parents understand what direction we are trying to take their students, if teachers understand what their role is in getting the students to that goal, if the administrators help us as teachers to give those students what they need to get to that goal then we have all

bought in, and if we all buy in then there is no smoke and mirrors, there is no mystery.

That is why I think the transparency should be there, because teachers not only should be accountable, but as a good teacher, what have you got to fear? If you are doing your job, and you are getting it done, and your students are achieving, why wouldn't you be proud of that? Why wouldn't you want that for your students?

So that transparency will be there if everyone who is involved has a buy-in and an understanding of what the decisions are going to be when they get made.

Mr. THOMPSON. Thank you.

Chairman, I see my time is about to expire so I will yield back.

Chairman KLINE. I thank the gentleman.

Mr. Tierney?

Mr. TIERNEY. Thank you, Mr. Chairman.

Ms. Pompa, let me start with you if I can. You seem to have a historical perspective in your written remarks and I want to follow up on that.

Mr. Schaffer, in his remarks, indicated that some—and I am assume he is talking about Colorado in that—“strongly object to and resent federal efforts to use federal funds or cash awards to push any state in a direction it might not be inclined to go on its own volition.” So I want to talk a little bit about own volition of states on this. And stop me if I am wrong in the—I think it is useful to go back in the historical perspective.

At the outset there was no federal money and no federal law regarding elementary and secondary education. Am I right?

Ms. POMPA. That is right.

Mr. TIERNEY. And then all of a sudden the courts had some hearings and determined that states were not meeting their obligations. In your words, I think you said they were either not inclined or not able to provide enough resources to educate low-income students. And I think it is clear that it was the states that had the obligation and it was a constitutional—a judicial mandate that they do so.

The law still doesn't require states to participate in any federal legislation. I think you will agree with me that it starts off for any state desiring to receive a grant under this part—so states have to affirmatively opt in on this situation.

So we have gotten to a point where the states, obviously left to their own devices and their own volition, were not even meeting the basic standards of educating children that were low-income, and then, subsequently, children with disabilities. So the federal law made an offer to them: Here is the Elementary and Secondary Education Act; here is the money. But as Mr. Schaffer said, if you were us you would make sure there is some accountability attached to it, and that is really, I guess, what this long trail of laws over the years has been trying to do—find the right balance between accountability and flexibility. Is that a fair statement?

Ms. POMPA. That is fair.

Mr. TIERNEY. So first we had the original law, and that seemed to sort of give resources to schools for poor students and just hoping things got better. And I think you indicated you don't think the performance got better; you thought there were low expectations and poor results.

So then we went to the Improving America's Schools Act in 1994 where we encouraged states to set higher academic standards, rather—and they failed to close the achievement gap between those poor students and their better-off peers at that point, you think because using the term “substantial improvement” or “continuing substantial improvement” wasn't definitive enough, was too vague.

So now we have gone to the next iteration, which is so-called No Child Left Behind, where there are loopholes on that. But this is the struggle we keep going back and forth.

So with respect to the legislation in front of us today, let me ask you, it doesn't set any goals—overall goals for achievement. Do you think that is a good idea?

Ms. POMPA. No, I don't think that is a good idea. And before I go on, I want to acknowledge the efforts of Colorado and many other states who have made tremendous progress. Adoption of high standards, working on new assessments is very, very important and it is a step that continues the work that we have been doing. However—

Mr. TIERNEY [continuing]. Right to do that. I just take issue with Mr. Schaffer's indication that they might have done it all on their own. I mean, before No Child Left Behind Colorado didn't even have goals for subgroups. And after No Child Left Behind, of course, they did not even federally report the required data for distribution of inexperienced or unqualified or out-of-field teachers.

And I agree with Ms. Kazmier, parents have a right to know, you know, who is teaching in their classroom, but Colorado didn't do that without having some prompting. They didn't initially even set a graduation rate that was 80 percent; they had it below 60 percent, and all you had to do to show progress was go from 50 percent to 50.1 percent. So they didn't do it on their own; they were prompted with some of the accountability standards on that. So I am sorry to interrupt.

Ms. POMPA. No, yes, absolutely. The great standards, the great assessments do not work if you don't set goals for children and if you don't set goals and targets for all subgroups and a timeframe in which this is going to happen. We have seen states set goals that show extremely slow growth expected, and in that case some children would be in school 12 years and never reach the high standards, so that is a great concern.

Mr. TIERNEY. So you would agree that a law that doesn't have any overall goal for achievement, that doesn't set performance targets, that doesn't set—use graduation rates included in those, and doesn't set parameters for students achievement really isn't going to be a law that is going to move us in the right direction?

Ms. POMPA. I do agree.

Mr. TIERNEY. Thank you.

I yield back, Mr. Chairman.

Chairman KLINE. I thank the gentleman.

Mr. Platts?

Mr. PLATTS. Thank you, Mr. Chairman. I certainly appreciate you and the ranking member and staff on both sides and great work getting to this day and this hearing, and as we move forward with this legislation.

I want to thank all of our witnesses.

Bob, great to see you again. Glad to welcome you back to the House.

And to you and to all the witnesses, we certainly appreciate your expertise.

Ms. Kazmier, as a co-chair of the Republican—co-chair of the Congressional Arts Caucus I appreciate your work in the classroom, and as a parent of a 15-year-old and 12-year-old boys I see the great impact that arts has on them across the spectrum of their learning, not just in art class. And their art talent they got from their mom because unfortunately I don't have any, so—

Ms. KAZMIER. Thank you very much.

Mr. PLATTS [continuing]. My office upstairs is a collection of their artwork, so—

Ms. KAZMIER. As is my classroom.

Mr. PLATTS. I want to try to focus on a couple issues here.

Mr. Cunningham, certainly your testimony—and I apologize coming from another hearing and being late, but in your written testimony you talk about Title I, and Mr. Thompson is leading the charge on that and I appreciate your insights. But I want to address a different issue.

I am very concerned about—while there are a lot of great things in this legislation, I think, in trying to reform No Child Left Behind, one of my concerns is flexibility—not that we don't want to give more flexibility to state and local, but specifically in the bill that flexibility that would allow public funds to be used to fund private school vouchers.

As a product of public education and a parent of public school students I think our commitment needs to be to public education. I believe in choice within the public school system, but we are the land of opportunity because of access to a quality education for every child, and while I have got great private schools in my district, you know, they are private schools and the public dollars should be used for the public school system.

If the bill is adopted as currently written and your state would then adopt, in Arkansas, a voucher plan so that federal dollars could be used for private school vouchers, what impact do you think that would have on schools in your state, and especially rural schools such as your—excuse me—such as your own?

Mr. CUNNINGHAM. Well, I truly believe the limited funding that we have available should be focused on public school districts and—and districts that face public accountability.

Mr. PLATTS. It is fair to say, I imagine, in Arkansas, similar to Pennsylvania, that the private schools in your state are free from the mandates and the requirements that you have to comply with to—

Mr. CUNNINGHAM. Yes, sir.

Mr. PLATTS [continuing]. Receive state or federal funding—

Mr. CUNNINGHAM. Absolutely.

Mr. PLATTS. And if they are going to accept those public dollars they should accept the same requirements that you have to accept to receive them.

Mr. CUNNINGHAM. Yes, sir.

Mr. PLATTS. Is that a fair statement?

And I would agree, you know, when we are not used as a special ed IDEA funding, you know, we promised 40 percent; we are at about 18 percent or so. If we have got additional dollars we should keep our commitments that already exist to our public schools before we start funding private—

Mr. CUNNINGHAM. Well, federal dollars should not be funded for private schools. That is my position and our state's position, the National Rural Education—

Mr. PLATTS. Yes.

And I am going to try to run through here quick.

Dr. Luna, I also am very engaged with parents' involvement and the importance of parents to that success of any school is having engaged parents. And the Chairman, in the legislation put forth, has tried to raise a focus on parent engagement. Can you talk about, in your state, what initiatives—or how you are approaching ideas to strengthen parental engagement, especially, maybe, in low-performing schools where I see is one of the challenges is one of the challenges for low-performing schools is the socioeconomics of the community maybe drive less parental engagement, which then makes it harder to have that partnership between everybody to be successful.

Mr. LUNA. I think, Mr. Chairman and Congressman, we recognize how critical it is to—for parental involvement in education, and I think the things that you will see that we do in Idaho to engage more and more parents number one is to offer them more choice in public education. By giving parents more choice it definitely raises their engagement in their child's education.

One of the laws that we passed last year now requires school districts to collect parental input, and that is part of a teacher's performance evaluation. The district decides how much weight to give it and how to collect it, but allowing parents to have some say in teacher performance evaluation, again, helps engage parents.

Through our pay-for-performance plan local districts can choose a number of different measures to—that have an impact on student achievement. We recognize that parental involvement is one of those and so there is actually some local school districts that a small portion of the pay-for-performance for teachers is based on parental involvement. And so those—you asked about things we are doing at the state level?

Mr. PLATTS. Yes. And that is not mandated; that is a local decision?

Mr. LUNA. It is not mandated, and so back to your earlier comment about the flexibility of federal dollars, whether they could be used for private schools or what have you, I think allowing those decisions to be made at the state level, again, would give us the flexibility to tailor all resources, whether they are federal, state, or local, to meet the best needs of our state, which may be different from your state, or Colorado. But the flexibility is necessary if we are going to get maximum from those dollars.

Mr. PLATTS. If I—

Chairman KLINE. Gentleman's time has—

Mr. PLATTS. Okay.

Chairman KLINE [continuing]. Expired.

Mr. PLATTS. Thank you.



Chairman KLINE. Mr. Holt?

Mr. HOLT. Thank you.

I thank the witnesses for good testimony. But it really highlights what we are facing here with the legislation in front of us and this whole debate this year and last.

I look to make decisions on the basis of evidence rather than ideology. I realize that in education the evidence is noisy, but it doesn't mean we should ignore it. And as Mr. Miller said, you can't have it both ways and say that the successes are the result of the states using their flexibility independent of federal standards and federal compulsion but the failures are a direct result of federal compulsion, and standards, and accountability. You can't have it both ways.

We should actually look at the evidence. And there has, since 1965, as Mr. Tierney points out—there have been improvements. Mr. Andrews talked about the NAEP math tests that, you know, for—it was static in the educational gap between African American 9-year-olds and others for 3 decades, until the last decade. So there are data that we should be going on and not just falling back on our ideology and saying let's not—you know, let's do away with standards and accountability.

Because I like evidence so much I wish that everyone in this room had had a better education in science to be able to recognize and interpret evidence.

Now, Mr. Balfanz, you talk about needing a spotlight, guardrails, and catalysts. I have looked through the legislation in front of us here and in this important subject area of science I find no spotlight, I find no guardrails, I find no catalysts. There is no agricultural extension service that is bringing best practices to light. There is hardly even the word "science."

Mr. BALFANZ. Right.

Mr. HOLT. Let me ask, first starting with Dr. Balfanz, since you used that, and then I will turn to the other witnesses, can you tell me what is in this legislation that would actually lead, based on our evaluation of past evidence—that would lead to students' growth and understanding in science?

Mr. BALFANZ. I don't see it. I mean, and if we think about it right the—what we have come to realize in these most recent economic times is that the future of the nation depends on our human capital, and the future of our nation depends on innovation and knowledge. And that is what science is. It is bedrock of innovation and knowledge. We are not going to innovate off of, you know, something that is not science, right?

And science is also—

Mr. HOLT. So do you find science standards in here?

Mr. BALFANZ. I do not.

Mr. HOLT. Do you find accountability holding schools, teachers, school systems accountable—

Mr. BALFANZ. It is given as an option but not a requirement.

Mr. HOLT. And, you know, I am a little concerned that in some of these areas where you have—in Title II, the—you know, the—I am afraid that although it is an option the money will go into certification reform, performance pay, differential and bonus pay long

before it ever gets to evidence-based, effective, research-based teaching.

Mr. BALFANZ. Right.

Mr. HOLT. Ms. Pompa? And then let me turn to Mr. Luna as time allows.

Ms. POMPA. There are no requirements. And unfortunately, we have a lot of evidence that states find other ways to spend their money.

There are efforts by the scientific foundation to work with schools and we have a lot of excellent programs but they are islands of excellence. We do not have a systematic approach to teaching science or a systematic expectation that all students will reach high levels of achievement in science.

Mr. HOLT. Mr. Luna?

Mr. LUNA. Congressman, I am seeing 30 seconds here. I don't think we will be able to give the reason that science is more difficult to measure than math or reading because it is not sequential like math and reading is. And giving a science test at the end of the high school career like we do in math and science does not work when you want—if you want that to be a test that includes physical science, chemistry, and biology because those are taught in—they are not sequential. So it is very, very difficult to measure.

Mr. HOLT [continuing]. This bill anything that addresses those points that we were—

Mr. LUNA. No. What I think this bill recognizes is that the federal government does not have to compel the states to do everything. If it is not found in this bill the assumption shouldn't be it is not going to happen.

Mr. HOLT. So for all those decades before we were—all these states were just doing wonderful things in science—

Chairman KLINE. The gentleman's time has expired.

Mr. LUNA. I never said that, but—

Mr. HOLT. Okay. All right.

Mr. LUNA [continuing]. It is hard—

Chairman KLINE. Mr. Kildee?

Mr. KILDEE. Pardon me, Mr. Chairman.

While there are many problems with No Child Left Behind, and George and I and—worked hard on this many years ago—we never have written a perfect bill here on Capitol Hill. This is not Mt. Sinai, but we should always—each reauthorization makes it better.

And it did bring attention to the needs of students with disabilities who were largely neglected prior to the passage of this legislation. Prior to that they were more than neglected; they were very often closeted. It was terrible.

We still, I don't believe, have really reached out to take care of the needs of those who are special ed students.

Dr. Balfanz, do you think that this Student Success Act would help, hurt, or do a little more relative to those students who we have always had to recognize have special needs, and there are, of course, some special ways to reach them so they can progress?

Mr. BALFANZ. Right. Yes. I mean, this work is hard, right? It is really hard to educate all students to the standards they need to achieve, and we are all human, and if we are told that, "Yes, you can if you want but you don't really have to," in our busy lives

some kids are going to get left behind. And that is why it is really important to say all kids have to succeed at high levels and we have to find a way for all kids to succeed.

And there actually is the evidence base growing we can do that. That is the hard work we have to do is keep building that evidence base and then finding ways to spread it. Because there is a lot of good stuff going on at the local level and there is no way to spread it.

And that is an important federal role, too, is to take a topic like special education, take all that great local innovation and find a means to spread it, but then have some accountability to use it.

Mr. KILDEE. Do you think the changes in the way we test those students in this new bill—what effect would that have?

Mr. BALFANZ. Yes. Because again, it does give an easier out, saying these kids need a special accommodation, a special test, a test that is not quite as hard, and therefore we don't have to quite do the same work to lift them up to the level they need to be.

Mr. KILDEE. And my problem is, is that through the years—I mean, I have been in—I started teaching over 50 years, and very often we look for an easier out—

Mr. BALFANZ. Right.

Mr. KILDEE [continuing]. For the special ed student.

Mr. BALFANZ. Right.

Mr. KILDEE. And I think it is not—you know, it costs some dollars, it takes some special training, very often, of the teachers—most often. But to look for another special out, which I think you find in this bill, another special out is a step backwards in trying to make progress for those students who really need some special attentions in order to progress. And it can be done. I mean, it is—you know, it is more difficult, but we do many difficult things around here and some jobs around here are easier than others. Some committees are easier to serve on than others.

But we have to address the needs of those students. We have, I think, a legal obligation—the courts have ruled we have a legal obligation but I think we also have a moral obligation to address properly the needs of special ed students. And I would like to see progress there rather than regression as we approach this. And you would think that the changing number of those who get special measurement would be regression.

Mr. BALFANZ. Yes.

Mr. KILDEE. Well, I certainly find that one of the reasons that I myself would want it, as this bill is going to move, amended in this area, to take care of those needs of the special ed—

And I thank you.

Chairman KLINE. The gentleman yields back.

Mr. Scott?

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. Balfanz, let me just—let me follow through on that. One of the challenges that we have in special ed is to make sure that for those that need the flexibility they get it but we don't give people an incentive to over-identify—

Mr. BALFANZ. Right.

Mr. SCOTT [continuing]. Because you find all your poorly performing students you just label them special ed and they don't have to produce.

Mr. BALFANZ. Right.

Mr. SCOTT. How do you balance the two?

Mr. BALFANZ. Sorry?

Mr. SCOTT. How do you balance the two? How do you eliminate the incentive to over-identify if you allow too much flexibility?

Mr. BALFANZ. Absolutely. And there have actually been a lot of advances in things like response intervention, early warning systems, that say we can identify kids struggling early, give them the help they need rapidly, and therefore, there is no need for them to be identified as special ed students. So one thing is we have to put more into sort of early intervention to keep kids on track so there is no need for the special education services.

And also, oftentimes over-identification for special education is done for behavioral issues, not cognitive issues. And so I think we have to be very careful to separate kids that truly need additional cognitive supports and special assistance from kids that we just haven't found a way to help them sort of succeed in school and we are trying to actually move them out of the classroom because we find them hard to teach.

So balancing how we identify kids on more of the cognitive, not the behavioral—

Mr. SCOTT. Now, one way to do this is to put a limited 1 percent—you can't—

Mr. BALFANZ. Absolutely.

Mr. SCOTT. Is that one way to—

Mr. BALFANZ. Yes.

Mr. SCOTT [continuing]. Eliminate the incentive to over-identify?

Mr. BALFANZ. Yes.

Mr. SCOTT. You talked about dropouts and the importance of dealing with dropouts. One of the problems we tried to deal with when this thing started was the incentive—the perverse incentive to push kids out because as a dropout they are dropping out from the bottom. The more people drop out the higher your average goes.

Mr. BALFANZ. Yes.

Mr. SCOTT. If the graduation rate is not part of AYP how else can we get it?

Mr. BALFANZ. Absolutely. I mean, if we do not—I mean, basically, schools, especially high schools, have got to do two things: they have to educate kids to high standards and they have to graduate them. Neither one by itself works. If you graduate kids and they don't know anything you are not being successful; if you make sure some of your kids know lots but a lot of your kids drop out you are not successful either. So we have to have equal accountabilities for those twin goals—high success, high learning, and high graduation rates.

Mr. SCOTT. And the idea that a—one of these dropout factories can actually achieve AYP because those that were left in school—

Mr. BALFANZ. Right.

Mr. SCOTT [continuing]. Performed—

Mr. BALFANZ. Yes.

Mr. SCOTT [continuing]. With a 50 percent dropout rate ought to be disallowed. Do you agree with that?

Mr. BALFANZ. Absolutely. And there is actually a danger that unintentionally—and this came out in the waivers, is that as we push for college readiness, which is very important, and we add things—hold schools accountable for things like A.P. tests and ACT scores and SAT scores, that further creates the implicit push-out effect because if you don't have your lowest-achieving students you will have a high rate of students passing an A.P. exam.

Mr. SCOTT. One of the drawbacks that has been mentioned is the fact that after you have identified a failing school we don't have resources to help them improve. Should we work on that?

Mr. BALFANZ. Yes, absolutely. We have to target resources to the highest-need school because they just face a much greater educational challenge. Schools were designed with the premise that 15 percent of kids need extra help, 15 percent acceleration; the rest of the kids will show up, you have a good teacher you are good. In the highest need schools it is 60, 70, 80 percent of kids need a good lesson every day in something else, and if we can't provide it that school won't succeed.

Mr. SCOTT. I guess final question, could some of our witnesses talk about the need for education in the arts? And how do you make sure it gets taught if you are not testing it?

Ms. KAZMIER. We are testing. How do I make sure it gets taught if we are not testing? I suppose I would leave that to schools that aren't being held accountable. And our district is and my school is.

And in order for students to get an appropriate education in the arts clearly we need funding. We need to make sure that the funding isn't cut.

In our district we have made sure that the arts—let me back up. Part of the reason that I decided to take on the leadership role of helping to design a template to make sure that the art teachers and that the specials teachers are reaching their goal and being accountable was because I wanted the arts to be looked at as just as vitally important as the core classes—very important to me. So I expected to be held accountable.

So testing is going to happen, whether it be a curriculum-based measurement, a state assessment, which we don't have in art, or a classroom assessment. It gets taught but we are not teaching to the test. Honestly, the test is almost like practice because my students are creating every day. So when the test comes along it is their opportunity to practice what they know. That is how I treat the tests themselves.

It is getting taught on a daily basis when my students are there. When I am a Proficient II teacher and I am creating objectives—learning objectives, demonstrations of learning at the end of the classroom day, all of those things are in place because my district holds me accountable to that standard.

Chairman KLINE. The gentleman's time has expired.

Mr. Hinojosa?

Mr. HINOJOSA. Thank you, Chairman Kline. And I want to thank you and Ranking Member George Miller for having this congressional hearing.

In my view, H.R. 3989 and H.R. 3990 would take us back decades and be a great disservice to our nation's most disadvantaged students. They are the ones who have the fewest people fighting for them here in Congress.

These last 15 years that I have been in Congress I have seen that those minority students that have been mentioned here in this discussion today this morning need an army of lobbyists to get Congress to increase their funding and do some of the things that we have learned from professors and superintendents who have come here in the last 10 years telling us about the successful roles—the successful schools that they operate.

Good example of that was just 2 years ago when superintendent from Pharr-San Juan-Alamo, Dr. Daniel King, came—taken over what was known as a dropout factory with 50 percent graduation rate. In less than 4 years—I was there last week and saw how they have turned that around and they are graduating at over 75 percent. That is a school district with 30,000 students.

Then you take Dr. Marla Guerra, superintendent from the South Texas ISD, magnet schools modeled after Houston's magnet schools, that they are graduating 97 percent. Yes, it is a smaller school district of only 3,500, but gee, they have been in the top 100 best high schools in the whole country now for about 12 years—75 percent Hispanic.

So the myth that children of minority families cannot learn is, indeed, a myth. What they need is some of the things that they have told us that this—that, in my opinion, these documents do not have. What they are doing to turn things around, to help these disadvantaged students, are not—is not here.

Ms. Pompa, I am going to thank you for coming to speak to us today, and I have followed your distinguished career for decades. In a change to current law, H.R. 3989 would cap the funding levels at fiscal year 2011 appropriations levels and cap annual increases based on the inflation rate. How would this funding cap impact English language learners?

Ms. POMPA. Well, as you know, it takes a lot of resources to serve students with special needs. English language learners' appropriation has been frozen for many, many years or has grown only a little while the number of children who are English language learners in this country has grown exponentially and continues to grow. We see that happening for many years to come.

Cutting back on funding for English language learners hurts these children in two ways: One, most states do not provide sufficient, and in some cases any, money for English language learners, and that is why the federal role in providing these funds is so important.

Two, it hurts them because states rely on this money for capacity-building for their teachers. Unfortunately, there is a great reliance on the federal role. We have not had teacher training programs. I can think of very few cases where a university set up a teacher training program without Title III, Title VII dollars.

Mr. HINOJOSA. I agree with you. Time is running out. I want to ask you another question. Why are college and career standards vitally important to our nation's global competitiveness?

Ms. POMPA. Well, that question is kind of a softball. I think all of us have talked today about how the economy is changing, how the world is changing, and how jobs are changing. And if all our students are not prepared at the highest level to compete with students all around the world this country is going to lose.

Mr. HINOJOSA. I want to ask the—Dr. Felicia Kazmier, as an art teacher you must believe that art education is an essential component of a well-rounded education, and I strongly agree with you.

Ms. KAZMIER. Thank you.

Mr. HINOJOSA. Do you support the use of federal funds to bolster the performing arts and programs like yours?

Ms. KAZMIER. Oh, I don't even know where to begin. Any support of the arts in any capacity, I would agree that that is quite important, yes. I support that.

Chairman KLINE. The gentleman's time has expired.

We have gone through all members. I certainly want to thank the panel for being here, for great testimony, and for being so responsive to our questions. And I will turn to Mr. Miller for any closing remarks that he might have.

Mr. MILLER. First, Mr. Chairman, if I might, thank you, some housekeeping: I would like to submit for the record the testimony of the National PTA president raising serious concerns about the legislation and letters in opposition to the legislation that have been sent to the committee; also, the report, "Moving Your Numbers," a report on how districts are using tests and accountability to increase student performance for students with disabilities. And I would also like to recognize many of the parents who are in the audience today who are the parents of students with disabilities who have serious concerns about this legislation.

[The information follows:]

**Prepared Statement of Betsy Landers, President,  
National Parent Teacher Association**

The National PTA submits this testimony to the United States House of Representatives Committee on Education and the Workforce for the committee hearing on The Student Success Act of 2012 (H.R. 3989) and The Encouraging Innovation and Effective Teachers Act of 2012 (H.R. 3990). The purpose of this testimony is to outline top areas of support and concern for PTA within both acts.

National PTA comprises millions of families, students, teachers, administrators, and business and community leaders devoted to the educational success of children. As the nation's oldest and largest child advocacy organization, PTA is a powerful voice for all children, a relevant resource for families, schools, and communities, and a strong advocate for public education.

*Promoting Family Engagement in Education*

Research shows that family engagement in education is a leading contributor to student academic success and whole school turnaround. PTA applauds the Chairman's recognition of the important role parents and families play in educational achievement, as evidenced through the retention of section 1118 and the inclusion of the Statewide Family Engagement Center competitive grant program. Both provisions are necessary steps toward ensuring that all State and local educational agencies, especially those serving disadvantaged students, are equipped with the tools to partner with parents to improve student learning.

Access to statewide support and technical assistance for local implementation of research-based, proven effective policies and programs to improve communication between schools and families, improve parent understanding of school accountability and data, inform families of public school choice options, and enable parents to support learning at home and in the community is necessary to maintain momentum and ensure sustainability of education reforms.

Additionally, PTA is pleased with the inclusion of provisions to ensure parent and family access to data on state, district, school, teacher, and student performance. However, PTA does caution that access to performance information is only valuable if the available data is high quality, understandable and actionable for parents and families. If parents are not equipped with meaningful information, transparency achieves limited results.

*Ensuring Educational Equity While Allowing Increased Local and State Flexibility*

PTA applauds efforts to return the bulk of responsibility for education to state and local educational agencies; however, we recognize the need for a well-defined and appropriate federal role in holding states and districts accountable for improvements in student achievement and expenditure of funds. We are concerned that both acts allow federal formula dollars to flow, yet require little to nothing in return—which is bad for parents and families, both as our children’s first educators and as taxpayers. This is important not only to ensure effective implementation of scarce federal resources, but also to maintain and improve educational equity and opportunity for all children, especially historically disadvantaged groups of students: minority, low-income, English language learners, and students with disabilities.

*Performance Targets within State-Developed Accountability Systems*

While the current system of Adequate Yearly Progress is outdated and too prescriptive, PTA believes federal education dollars must come with the expectation of and demand for higher student achievement and graduation rates and marked progress in narrowing achievement gaps. PTA feels strongly that any reauthorization of the Elementary and Secondary Education Act (ESEA) must include a requirement for states to self-determine and set ambitious, yet attainable performance targets for all students.

States and districts are leading innovative education reform efforts. The federal government should not hinder the progress that is underway, yet we must not forget history. In decades when accountability for educating all children was the sole responsibility of individual states, our children suffered the consequences, even if unintended. Accountability provisions enacted in No Child Left Behind (NCLB) sought to remedy gross inequities, and while PTA believes the law’s current accountability provisions are deeply flawed, we are confident that there is a happy medium to be met between rigid and unattainable federal mandates and the return to an era in which disadvantaged students suffer the consequences of low academic standards and lack of access to quality education.

*Cap on Alternate Assessment on Alternate Achievement Standards*

In addition to the omission of performance targets, PTA fears H.R. 3989’s codification of the elimination of the current cap on alternate assessment on alternate achievement standards will further exacerbate educational inequity. The current “1% regulation” restricts the use of scores on less challenging assessments being given to students with disabilities. Alternate assessment on alternate achievement standards are intended only for a very small portion of the student population with the most severe cognitive disabilities. Research consistently shows the incidence of such students in the public school system to be far less than even one percent.

Students who are placed in the alternate assessment on alternate achievement standards experience limitations on access to general curriculum and impediments to on-time matriculation and graduation—it is intended only for a very narrow student population. Thus, there is inherent risk in broadening the alternate assessment to apply to students not truly deserving of the classification. To remove this regulatory cap would mean not only the discontinuation of support to students with disabilities in achieving on-time graduation, but also lower expectations placed on students deemed special need; whether deserving of the classification or not.

*Removal of State Maintenance of Effort*

PTA strongly opposes H.R. 3839’s provision to eliminate Maintenance of Effort (MoE). MoE is vital to ensuring the continuity of services through state and local funding efforts. Especially in austere budget times, removal of the MoE requirement would likely trigger a rapid decline in government support for public education at a time when public school enrollment is continually rising. The current MoE provisions provide the greatest protection to low-wealth/higher poverty school districts that suffer from dwindling sources of local revenue and receive the majority of their education funding from the state. Low-income districts serve low-income and disadvantaged student populations. If the state is allowed, through removal of MoE provisions, to cut funding, the vulnerable districts and students within those districts will suffer disproportionately.



Additionally, removal of MoE stands to undermine the driving principle of Title I, as federal dollars would inevitably be used to plug large holes in state and local support for public education, leaving less federal dollars available to expend on meaningful academic achievement and reform efforts to graduate college- and career-ready students.

*Ensuring Federal Funds Serve and Improve Public Schools*

America's public schools enroll more than 90 percent of our nation's students. Public schools are the only schools bound by law to best serve and meet the needs of all students; including those with physical and cognitive disabilities, behavioral challenges, and students of all socioeconomic backgrounds. PTA feels strongly that all stakeholders must foster a supportive environment for our public school system while assisting it to adjust and respond to changing demographics and needs, and reforming appropriately. Reauthorization of ESEA should carry with it no provisions intended to divert public funds from public schools. H.R. 3990 expands private school authority over the allocation and implementation of public education funds.

*Federal Funds Used for Private Scholarships*

Part B of this act includes explicit reference to the ability of states and districts to use federal dollars for non-public use, including scholarships, or vouchers, for private school tuition. PTA is opposed to the allowable expenditure of federal funds on private school vouchers. Voucher programs fail to promulgate the statutory intent of ESEA—to provide equal access to quality education for all students. Instead, voucher programs place a select few students into qualifying private schools, leaving students who are most challenging to educate behind in the public schools, and creating a barrier to success for those students not enrolled in the program.

Additionally, research of ongoing voucher programs in cities across the country consistently shows a lack of effectiveness in improving student academic achievement, especially for low-income students. For example, a recent five-year longitudinal study released by the Wisconsin Legislative Audit Bureau concluded that Milwaukee students receiving vouchers to attend private and religious schools perform no better on summative assessments than do their peers enrolled in the Milwaukee public school system.

PTA believes federal funds should go toward research-based, effective programs, instruction, and curriculum support to improve academic achievement and close achievement gaps. The need for efficiently utilized federal education resources is profound, as our schools and districts struggle to keep pace with demand in a stalled economy. The committee should amend H.R. 3989 to explicitly deny the use of federal education funds for private school supports and voucher programs.

*Expansion of Equitable Services*

Provisions in H.R. 3990 regarding provision of services to eligible students not enrolled in public schools will result in a higher cost burden shouldered by public school districts, and will likely decrease the availability and quality of base services without at all improving student outcomes. The proposed requirement that services be provided to private school students on an equitable and individual basis represents a significant expansion from current statute. Again, PTA strongly supports public funds in support of public schools and the students they serve.

PTA is thankful to Chairman Kline for his efforts to reauthorize and improve ESEA this Congress. PTA remains committed to a true bipartisan reauthorization and is hopeful that both majority and minority committee members and leadership will be afforded the opportunity to meaningfully contribute to the reauthorization process, and that the resulting legislative vehicle(s), either the acts under consideration in today's proceedings or acts yet-to-be introduced, move forward from the Committee with strong consensus among all stakeholders. ESEA is in desperate need of serious revisions. PTA recognizes that sound policy solutions for improvements to our nation's education delivery system are not held exclusively by either side of the aisle.

National PTA looks forward to close collaboration with majority and minority leadership and committee members on improvements to H.R. 3989 and H.R. 3990 and completion of ESEA reauthorization. Parents, students, teachers, and administrators need and deserve a fully-functioning federal education law that encourages and rewards innovation while safeguarding access to quality education for all children.

**Prepared Statement of James H. Wendorf, Executive Director,  
National Center for Learning Disabilities**

The draft Elementary and Secondary Education Act bills released by Chairman Kline represent a full retreat from accountability for students with disabilities and other disadvantaged children. While NCLD commends the Committee for signaling its interest in bringing much needed change to No Child Left Behind, these bills jeopardize the academic progress made by students with disabilities over the past decade. Due to these shortcomings, NCLD strongly opposes passage of this legislation in Committee and the U.S. House of Representatives.

Chief among NCLD's concerns is that the bills fail to focus on closing the destructive achievement gaps that impact students with disabilities and other disadvantaged students. Even with its imperfections, NCLB has compelled schools to focus on whether students with disabilities were learning and achieving. Rather than require schools to address these issues, the bills retreat from setting performance goals for students and do not require any meaningful instructional interventions and supports for struggling students. The Student Success Act would turn all accountability over to the States, turning back the clock to a time when students with disabilities were not expected to graduate high school or attend college.

The Student Success Act would radically reduce high expectations for students with disabilities. The bill would eliminate the current cap (often referred to as the 1% regulation) which restricts, for accountability purposes, the use of the scores on less challenging assessments being given to students with disabilities. Such assessments take students off track for a regular diploma. Rather than continuing to support students with disabilities in achieving a high school diploma and pursuing employment and postsecondary education, the bill virtually encourages schools to expect less from students with disabilities. This will jeopardize their true potential to learn and achieve.

Both bills also consolidate numerous critical Federal education initiatives, extinguishing literacy and other key focuses designed to help struggling students. Worse yet, the Encouraging Innovation and Effective Teachers Act, through a block grant authority, would allow Federal education funds to be used for an unproven and risky private school voucher scheme. Vouchers would squander scarce Federal resources while terminating the right of students with disabilities to a free appropriate public education.

Lastly, while the Encouraging Innovation and Effective Teachers Act has a much needed focus on evaluation of teachers, it fails to include principals. Principals are key to the success of the students in their school. In order to improve instruction in our schools and increase learning, both teachers and principals need to be evaluated using multiple measures and evidence of student achievement. Unfortunately, like other aspects of this legislation, the bill falls short in this area.

As the process continues, NCLD urges the Committee to rethink the major components of this legislation. Just as school accountability has begun to make the difference for students with disabilities, now is not the time to turn back the clock on our children.

NCLD's mission is to ensure success for all individuals with learning disabilities in school, at work and in life. We:

- Connect parents and others with resources, guidance and support so they can advocate effectively for their children.
- Deliver evidence-based tools, resources and professional development to educators to improve student outcomes.
- Develop policies and engage advocates to strengthen educational rights and opportunities.

January 17, 2012.

Hon. JOHN KLINE, *Chairman*; Hon. GEORGE MILLER, *Ranking Member*,  
*Committee on Education and the Workforce, 2181 Rayburn House Office Building,*  
*Washington, DC 20515.*

RE: The Student Success and Encouraging Innovation and Effective Teachers Acts

DEAR CHAIRMAN KLINE AND RANKING MEMBER MILLER: On behalf of the National Association of School Psychologists (NASP) we would like to thank you for your hard work and efforts in reauthorizing the Elementary and Secondary Education Act of 1965 (ESEA). NASP represents more than 26,000 school psychologists who work with students, educators, and families to support the academic achievement, positive behavior, and mental wellness of all students, especially those who struggle with barriers to learning. School psychologists work with parents and educators to

help shape individual and system wide supports that provide the necessary prevention and intervention services to ensure that students all have access to the mental health, social-emotional, behavioral, and academic supports they need to be successful at school. We recognize your hard work and dedication to alleviate some of the unintended consequences of No Child Left Behind, while continuing to ensure that all students receive a high quality public education. We believe there are many valuable and important components included in these bills that will help us reach that goal. We appreciate the inclusion of legislative language regarding the following:

- Inclusion of the term “specialized instructional support personnel.”
- Encouragement of the use of growth models and formative assessments in determining student achievement.
- Encouragement for increased parental involvement at the state, district, local, and school building level.

Despite these positive steps, we have concerns regarding the guidance this bill gives in regard to the availability of behavioral, emotional, social, and academic supports to all students in regard to the following areas.

Availability of social and mental health services for students as part of school improvement plans

NASP believes that the coordination of services to address students’ social, emotional, and health needs is necessary at every school. These are necessary prevention and intervention services that will ensure that all students achieve to their highest potential. Given the research that supports the positive academic outcomes associated with schools that provide access to mental health services, we ask that you provide further guidance to State and Local Education Agencies about the importance of these services in school improvement plans. In the current draft legislation, there is little to no mention of prevention services that are imperative to student success. The absence of language surrounding school based mental health services sends the unsupported message that effective teachers, high quality curriculum, and effective school leaders are the only necessary components to ensure student success. Comprehensive and coordinated learning supports directly contribute to increased student outcomes and increased achievement. Services provided by specialized instructional support personnel, who can provide the learning and mental health services, supports, and leadership to ensure that student needs are identified and met, must be explicitly referenced.

We understand that the intent of these two bills is to reduce federal mandates and regulation as to allow for maximum state and local flexibility; however, the absence of statutory language regarding these supports could lead to the unintended consequence of reduced or eliminated social, emotional, behavioral, and health supports for students, which would be detrimental to student success. We believe that the statutory language is the most appropriate place to reference these supports; however, we ask that at a minimum, further guidance for ways in which schools can most effectively address the social, emotional, behavioral, and health needs of all students be provided in report language.

The continued explicit authorization of the Elementary and Secondary School Counseling Program (ESSCP) priorities and continued funding for this program including increases in appropriations

NASP appreciates the Department of Education’s and the Committee’s intention to improve administrative efficiency and foster innovation through changes in funding structures; however, we are very concerned about the proposed consolidation or elimination of funding for small to medium size programs such as ESSCP. ESSCP is the only federal grant program that allows states to implement or expand counseling services, including the hiring of specialized instructional support personnel (e.g., school counselors, school social workers, and school psychologists). We were pleased that funding for the ESSCP was restored in the FY 12 appropriations bill; however, the current proposed legislation removed the language that focuses on the importance of social, emotional, and mental health for students.

Counseling services are provided to all children when their social, emotional, or mental health difficulties interfere with their ability to learn and reach their academic potential. Research highlights the importance of educating the whole child that includes meeting their physical, emotional, social, behavioral, and academic needs. There is empirical evidence that interventions to enhance students’ social, emotional, and decision making skills positively impact academic achievement. School psychologists, school counselors, and school social workers are specifically trained to deliver these types of interventions. NASP urges the Congress to maintain the absolute priorities of this program and to maintain or increase the level of funding for this program. As indicated in current law, Title IV, Part D Subpart 2, Section 5421(c)(2) Each program funded under this section shall

“(A) be comprehensive in addressing the counseling and educational needs of all students;

“(B) use a developmental, preventive approach to counseling;

“(C) increase the range, availability, quantity, and quality of counseling services in the elementary schools and secondary schools of the local educational agency;

“(D) expand counseling services through qualified school counselors, school social workers, school psychologists, other qualified psychologists, or child and adolescent psychiatrists;

“(E) use innovative approaches to increase children’s understanding of peer and family relationships, work and self, decision making, or academic and career planning, or to improve peer interaction;

“(F) provide counseling services in settings that meet the range of student needs;

“(G) include in-service training appropriate to the activities funded under this Act for teachers, instructional staff, and appropriate identification and early intervention techniques by school counselors, school social workers, school psychologists, other qualified psychologists, and child and adolescent psychiatrists;

“(H) involve parents of participating students in the design, implementation, and evaluation of the counseling program;

“(I) involve community groups, social service agencies or other public or private entities in collaborative efforts to enhance the program and promote school-linked integration of services;

“(J) evaluate annually the effectiveness and outcomes of the counseling services and activities assisted under this section;

“(K) ensure a team approach to school counseling in the schools served by the local education agency by working toward ratios recommended by the American School Health Association of one school counselor to 250 students, one school social worker to 800 students, and one school psychologist to 100 students; and

“(L) ensure that school counselors, school psychologists, other qualified psychologists, school social workers, or child and adolescent psychiatrists paid from funds made available under this section spend a majority of their time counseling students or in other activities directly related to the counseling process.

This program helps improve school safety and increase student academic achievement. It is imperative that this program continue to be explicitly recognized and that the programs goals are prioritized for schools. At a minimum it is our expectation that the priorities of ESSCP be outlined in legislative language.

In the current draft, a definition of “specialized instructional support personnel” is included. We believe that all of the professionals included in that definition should be defined and we encourage the definition of “school psychologist.”

The term “school psychologist” means an individual who is licensed or certified to provide school psychological services by the State in which the individual is employed.

It is imperative to acknowledge that we have a specific set of skills needed to work in a school setting. Our training is consistent with the mission of education, and techniques we use in the school setting are designed to enhance and support student learning. School psychologists and school counselors possess a unique set of skills that set us apart from community psychologists and community counselors and it is important that schools and parents understand that distinction. NASP recently (March 6, 2010) adopted a “Model for Comprehensive Integrate School Psychological Services” that outlines how we collaborate with school staff to support student learning and student success. A copy of this model is attached to this letter.

Incorporation of Multi-Tier Systems of Support and Universal Design for Learning (UDL) principles

We urge you to include the use of Multi-Tier Systems of Support (MTSS), including positive behavioral interventions and supports and response to intervention, as an allowable use of funds in the proposed legislation. This will encourage the systemic use of best practices that include early identification and intervention of both behavioral and academic difficulties that will help students achieve their best at school. The specific permission for use of funds to assist schools in implementing MTSS, as well as providing professional development for educators, will ensure that resources are targeted to serve struggling learners as soon as possible and equip teachers with the skills needed to identify and intervene with students as early as possible. We understand the intent of removing prescriptive programmatic mandates from the statute; however, MTSS can encompass a wide range of curriculum and programs that are tailored to meet the specific needs of individual schools. We would like to urge the Committee to include a definition of MTSS. According to the federally funded National Center on Response to Intervention, there are four essential components to multi-tiered systems of supports. We suggest the following definition:

**MULTI-TIERED SYSTEMS OF SUPPORTS.** The term ‘multi-tiered system of supports’ means a comprehensive system of differentiated supports that includes these four essential components:

- A. a school-wide, multi-level instructional and behavioral system for preventing school failure;
- B. screening;
- C. progress monitoring; and
- D. data-based decision making for instruction, movement within the multi-level system, and disability identification (in accordance with state law).

The most effective MTSS efforts involve this comprehensive and inclusive approach to helping students who are struggling in meeting academic standards. A specific definition would ensure that schools are using their funds most effectively, using their resources to maximize the impact MTSS can have on student success. Additionally, we recommend that these components be defined so that there is clear alignment between statute and the Department of Education’s federally funded national technical assistance center guiding this evidence-based work.

We also urge the Committee to include language on Universal Design for Learning (UDL) as it relates to school wide improvement strategies, design of assessments, and professional development instruction. Assessments that incorporate these principles can provide educators with more accurate reflections of student achievement. In addition, we ask that you include specific language regarding high quality professional development in the use of UDL strategies and practices for all teachers. This will ensure that all teachers will be able to gain skills to incorporate these strategies into their teaching methods.

*Challenging Academic Standards for All Students*

NASP acknowledges and appreciates the desire to remove some of the prescriptive Federal mandates to allow States flexibility in designing a curriculum that meets the needs of their population. However, we urge the Committee to re-instate the word ‘challenging’ when referencing state standards. In addition, we urge the Committee to reinstate language that requires States to set meaningful performance targets for students. Research demonstrates that high expectations correlate with high academic achievement. Academic standards should be challenging for all students, while at the same time meeting their individual academic needs. In addition, NASP believes that challenging curriculum combined with high expectations must extend beyond reading and math, as is currently indicated in the proposed legislation. NASP understands the hesitancy in prescribing which subjects States must include in the curriculum; however, we ask that at a minimum, report language provide guidance regarding the expansion of curriculum beyond reading and math to include the sciences, social sciences, foreign language, fine arts, physical and mental health, and work readiness skills.

*Appropriate Instruction and Assessment of Students with Disabilities*

The proposed legislation lifts the cap on the percentage of students that can be assessed using alternate or modified achievement standard. This would inappropriately take many students off the track to receive a regular high school diploma. This bill does not require States to set any meaningful performance goals and does not require any meaningful instructional interventions or supports for struggling students. This combination of low expectations and reduced accountability essentially encourages schools to expect less from students who have disabilities. It is a significant retreat from current law, which was instrumental in ensuring that students with disabilities were learning and achieving based on the same academic standards as their non-disabled peers. We urge the Committee to re-think the statutory language regarding accountability and assessment of all students, particularly those with disabilities.

We appreciate your dedication to students and your hard work on the reauthorization of the Elementary and Secondary Education Act and we thank you for your consideration of these recommendations. NASP welcomes the opportunity to work with you and other Committee members in assisting with revision of this most important piece of legislation. For further information, please contact Kelly Vaillancourt, Director of Government Relations, at [kvallancourt@naspweb.org](mailto:kvallancourt@naspweb.org).

Sincerely,

SUSAN GORIN, CAE,  
*Executive Director.*

### **School-Based Mental Health Services: Essential to Learning and Achievement**

The National Association of School Psychologists (NASP) believes that achieving excellence in education requires that every student is ready to learn and every teacher is empowered to teach. To reach this goal, educators, stakeholders, and policy makers must make providing comprehensive school-based mental health services and supports for all students a priority. These services and supports include prevention and early intervention programs to promote school safety, prevent negative behaviors (e.g., bullying, violence, gang involvement, substance abuse, dropout, and truancy), foster increased student engagement, and support students' social—emotional wellness, mental health, and positive behavior, all of which directly affect teaching, learning, and student achievement.

#### *History of School Based Mental Health Services*

The potential consideration of reducing or eliminating access to school-based mental health services in the reauthorization of ESEA marks a retreat from the long-standing, bipartisan recognition of the importance of providing these vital comprehensive services to help ensure that all children meet their full potential.

The passage of Public Law 94-142, the Education for All Handicapped Children Act of 1975 (now known as the Individuals with Disabilities Education Act) began the era of formally providing comprehensive support services in schools. The following three and a half decades marked considerable improvements and gains in the level, breadth, and quality of these services provided to students through the 1997 and 2004 reauthorizations of IDEA and the passage of the No Child Left Behind Act in 2002. These landmark bipartisan pieces of legislation addressed the emotional well-being of all students and outlined a number of initiatives designed to ensure that schools were meeting the needs of the whole child as well promoting school safety and violence prevention (e.g., Safe and Drug Free Schools, Elementary and Secondary School Counseling Program [ESSCP]). The delivery model promoted by these recent legislative efforts has become more aligned with what we know works related to improving student learning and achievement, moving from a reactionary perspective to one that involves prevention and early intervention, and intensive interventions for those students who need it most.

Alarming, recent decisions have begun the unraveling of these important programs and the progress made over the last four decades. In the last year, many of the programs managed by the Office of Safe and Drug Free Schools were eliminated, the office itself was closed, and the ESSCP was proposed for elimination or consolidation. Current legislation in the House seeks to further consolidate programs (many targeted at behavioral, social, and emotional health), and the Student Success Act and the Encouraging Innovation and Effective Teachers Act, designed to address the reauthorization of ESEA, fails to mention school-based mental health services at all. The loss of clear articulation in federal law regarding the importance of these services to children's school and life outcomes will severely diminish or eliminate the priorities of these programs and negatively affect the delivery of these much needed services to students. At a time when devoting resources to proven practices is paramount, failure to recognize the wealth of research that documents the need for and outcomes associated with school-based mental health services would constitute a giant leap away from ensuring that all children will succeed in school.

#### *The Critical Need for School-Based Mental Health Services*

A student's mental health, social, emotional, familial, or academic problems (e.g., anxiety, depression, bullying, alcohol and substance abuse, stress), can create barriers to learning. Such barriers exist for an increasingly large number of students, a trend which shows no sign of abating. An estimated one in five school-age students will experience a significant mental health problem during their school years (Kutash, Duchnowski, & Freidman, 2005; U.S. Department of Health and Human Services, 1999). Negative, antisocial, or violent behaviors such as bullying, gang involvement, substance abuse, and truancy undermine physical and psychological safety for students and staff and can affect a student's ability to be fully engaged and available for learning. Students who frequently deal with internalized (e.g., anxiety, depression) and externalized (e.g., anger, fear, frustration) feelings of distress demonstrated diminished academic functioning and declining test scores (e.g., Roeser, Eccles, & Strobel, 1998; Hanson, Austin, & Lee-Bayha, 2004). Further, some research suggests that up to 71% of youth experience at least one victimization event each year (e.g., assault, theft, criminal victimization, child maltreatment), with many exposed to multiple victimizations (Finkelhor, Ormrod, Turner, & Hamby, 2005).

Despite these figures, many children and youth do not receive the help they need. For example, among the 2.2 million adolescents ages 12 to 17 who reported a major depressive episode in the past year, nearly 60% did not receive any treatment (Foster et al., 2005). Failure to adequately address students' mental health needs in school increases the risk of disengagement, academic failure, and school dropout (Reschly & Christenson, 2006). Student achievement and learning are clearly linked to mental health—ignoring this connection is not a risk that our schools, or the country, can afford.

#### *School-Based Mental Health Services Improve Outcomes*

The research clearly documents the positive outcomes associated with having access to school-based mental health services. Research conducted by Jennings, Pearson, and Harris (2000) concluded that school mental health programs improve educational outcomes by decreasing absences and discipline referrals and improving test scores. Comprehensive, school-based mental health services can prevent and address a number of problems that have become quite common in our schools and that impede students' ability to learn. Having access to these services results in improved behavior, improved academics, and ultimately prepares our students to be productive citizens. Students who have access to and receive social, emotional, and behavioral health support achieve better academically in school in terms of both grades and standardized test scores (e.g., Fleming et al., 2005; Greenberg et al., 2003; Welsh, Parke, Widaman, & O'Neil, 2001; Zins, Bloodworth, Weissberg, & Walberg, 2004). These services are needed across the educational life span, as children of all ages can experience difficulties. Wood (2006) found that among children 6–13 years old, interventions to reduce anxiety improved not only school performance but also social functioning, which has been shown to predict students' grades both concurrently and over time (Wentzel & Caldwell, 1997). Indeed, well planned and well implemented social and emotional programming results in positive academic gains for all students pre-K–12, from diverse backgrounds and in rural, suburban, and urban settings (e.g., Greenberg et al., 2003).

#### *Promoting Wellness*

It is important to recognize that mental health is not simply the absence of mental illness; it also means having the skills necessary to cope with life's challenges. Students, families, schools, and society at large benefit when schools meet the needs of the whole child by fostering social–emotional skills and identifying and preventing mental health problems early. Schools are also ideally positioned to promote mental and behavioral wellness, both by teaching new skills and by reinforcing the efforts of families and communities. Initiatives such as positive behavioral interventions and supports, and other multi-tiered service delivery systems, benefit the entire school population and serve as the foundation for more intensive interventions and supports for students with greater needs. In an era of education reform focused on evidence-based practices, it is imperative (and cost effective) to include services designed to support the behavioral, social, emotional, and mental health needs of students in ESEA. Preventing and addressing student difficulties reduces the need for more intensive, and more expensive, interventions for students.

#### *Impact on Teachers*

Access to school based mental health services benefits not only students, but also the teachers tasked with instructing them. Teachers frequently cite student behavior, lack of student motivation, and lack of adequate support as among the top reasons for leaving the profession. School-based mental health providers (e.g., school psychologists) are able to coordinate prevention and intervention services, both within the school and in the community, that address barriers to learning before they escalate. These professionals have the expertise needed to provide effective consultation to teachers and administrators to ensure that the school environment is meeting the needs of students and staff, and is ultimately conducive to learning. When students enter the classroom feeling supported and available for learning, it allows the teacher to focus attention on curriculum and delivering high quality instruction geared to meet the needs of every student in the classroom. Value-added assessments are becoming more common, and student test scores are increasingly tied to salary and personnel decisions. It is unreasonable and inappropriate to assume poor student test scores are the result of an ineffective teacher if the students in the classroom are not receiving the supports they need to be available for instruction and learning.

#### *A Policy Framework*

Current federal policy is focused on two important components of education reform: instruction and curriculum, and school organization. However, recent research

out of the National Center for Mental Health in Schools at UCLA helps articulate a third essential component: learning supports that address barriers to learning, which broadly encompass school-based mental health services. Having effective teachers and principals who attend to the instructional, curricular, and organizational needs of a school are essential but alone are not sufficient for maximizing student success. Effective instruction is the linchpin of successful schooling, but it is counterproductive to expect teachers to lower all barriers to learning themselves. Schools must also prioritize implementing comprehensive learning supports that include: identifying and responding to the social, emotional, behavioral, and mental health needs of students and providing access to qualified school mental health professionals like school psychologists, school social workers, and school counselors. These school-employed mental health professionals help teachers and support students in school and connect them and their families to additional community resources as needed. An overview of the model can be downloaded from <http://www.nasponline.org/advocacy/UCLA-NASP-Brief-FINAL.pdf>

*A Cost-Effective Investment in Our Nation's Children and Future*

In a time of lean budgets, schools have very limited monetary resources. Every dollar must be invested efficiently to ensure that quality of education is not compromised and that all students graduate high school ready for college and career. Failure to support students' mental health has serious negative consequences, including increased risk for school failure, social isolation, unsafe sexual behavior, drug and alcohol abuse, and suicide, while exacerbating long-term social problems such as incarceration, unemployment, and poor health. All are costly societal problems both in terms of personal and economic consequences. For example, the Seattle Social Development Project (focused on Grades 1 through 6) has been estimated to save \$9,837 per student in averted long-term social problems (Aos et al., 2004). Additionally, it is estimated that the United States loses \$192 billion (1.6% of the Gross Domestic Product) in combined income and tax-revenue losses with each cohort of 18-year-olds that never completes high school. Increasing the educational attainment of that cohort by one year would recoup nearly half of those losses (Teachers College, Columbia University, 2005).

Failure to address mental health needs of students in schools will ultimately result in fewer high school graduates, fewer college graduates, increased social costs, and the declining ability for the United States to remain competitive in an increasingly global economy. Preserving programs such as the Elementary and Secondary School Counseling Program, School Improvement Grants, Safe and Drug Free Schools and Communities National Programs will further ensure that schools are able to provide these needed services in schools. We know the positive contribution of school-based mental health services to effective schooling and must continue to ensure that the necessary supports to address the social, emotional, behavioral, and mental health needs of the child are available.

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*January 19, 2012.*

Hon. JOHN KLINE, *Chairman*; Hon. GEORGE MILLER, *Ranking Member*,  
*Committee on Education and the Workforce, 2181 Rayburn House Office Building,*  
*Washington, DC 20515.*

RE: Reauthorization of the Elementary and Secondary Education Act (ESEA)

DEAR CHAIRMAN KLINE AND RANKING MEMBER MILLER: The National School Boards Association (NSBA), representing over 14, 500 local school boards across the nation would like to thank you for your continuing leadership and support to public education and to reaffirm the urgency in reauthorizing the Elementary and Secondary Education Act (ESEA) during the Second Session of the 112th Congress.

Since the time NCLB was enacted ten years ago, both Congress and the Administration have acknowledged that law's accountability framework has proven to be seriously flawed and the mandated sanctions on schools and school districts have been costly with very limited impact in improving student or school performance. Further, the operational challenges facing States and local school districts in implementing the current law have re-affirmed the need for greater authority and flexibility to be delegated to States and local school districts to address the unique circumstances and conditions in improving student achievement and in closing the achievement gap between various segments within the school population.

NSBA developed comprehensive recommendations and priorities for the ESEA reauthorization that would:

- Ensure states and local school districts have greater overall flexibility to make educationally sound decisions, and be free of mandates that unnecessarily or counterproductively hinder school districts from achieving their goals.
- Ensure high quality, valid and reliable assessments for all students, including English language learners and student with disabilities.
- Support the use of multiple measures of academic achievement that would more accurately determine students' knowledge and performance that reflect the kind of well-rounded education necessary to be successful in the 21st Century economy, as opposed to judging success on their performance on a single assessment.
- Permit the use of growth models and other measures of student achievement that more accurately reflect student and school performance.
- Facilitate strategic interventions that are designed at the local or state level and are targeted to students and schools most in need, rather than impose ineffective and costly sanctions.
- Provide states and school districts support and ensure flexibility to establish programs to enhance teacher/principal quality focusing on preparation, recruitment, retention and evaluation.

- Support efforts by school districts through a separate funding stream to develop, expand, coordinate and enhance the quality and availability of voluntary pre-school programs for all 3- and 4-year old children.

- Fully fund the law, along with other federal assistance programs that are critical to successfully achieving the goals of the new law, and limit expansion of competitive grants where such expansion would result in level funding or formula-based grants so critical to students in poverty.

In reviewing the House discussion drafts released on January 6, 2012, the general approach of the legislation is closely aligned with the priorities and recommendations of local school boards that would:

- Establish a new accountability system that delegates authority and flexibility to the States and local school districts and provides for adequate time to design, develop and implement strategies over a 6-year time frame.

- Increase the focus on academic achievement to be addressed by individual student progress and the elimination of achievement gaps between subgroups.

- Increase the State role in standards and assessments to support local school districts in improving academic achievement.

- Eliminate the unworkable provisions related to Highly Qualified Teacher requirements and increases the emphasis on teacher and school leader effectiveness, including support for effective performance evaluation systems.

- Increase focus on assessment measures to address higher-order thinking skills in addition to mathematics and reading/language arts (and the State discretion to add additional subjects)

- Continue the use of disaggregated data collection and reporting.

- Strengthen the focus on valid and reliable assessments for all students, including English language learners and students with disabilities.

- Support the use of multiple measures of student achievement and growth models.

- Increase the focus on States to modify or eliminate State fiscal and accountings barriers so funds from the federal, state and local levels could be consolidated.

- Provide authority to local school districts to transfer funds from federal programs (except Title I)

However, the bill also contains several key provisions that would adversely impact local school district operations and would require substantial modifications:

1. Authorizations of Appropriations and CPI. The House bill includes language that would restrict future federal funding to the FY2012 base and a percentage of the CPI. Such an approach could ultimately eliminate any future increased priority for public education funding, fail to give any recognition for enrollment growth in general as well as with respect to subgroups that may require additional support. With significant increases in enrollment, the actual result in this approach could reduce per pupil expenses since the cost of living increases in school systems rises faster than the CPI considerations. Overtime the maximum levels that could be provided would be reduced. Rather than using the CPI, the cost of living (COL) index would be much fairer.

NSBA recommends that future K-12 education authorizations of appropriations should not be tied to a percentage of the CPI.

2. Maintenance of Effort Provisions. The House bill includes language to eliminate maintenance of effort (MOE) requirements. While local school boards recognize the severe economic challenges facing their communities in adjusting budgets to reduced revenue streams, we believe the elimination of MOE requirements would over time significantly lower the incentive for other government investments in education at a time when the nation's public schools must become even more rigorous and aggressive in the design, development and implementation of educational services if we are to successfully compete in the global market. NSBA recommends that MOE requirements not be completely eliminated. Rather, NSBA recommends that a waiver application process based on fiscal need be utilized that would at least require the same percentage be allocated to K-12 programs in a given year compared to previous budget percentages.

3. Local School District Capacity Building. The House bill fails to adequately address how States would support local school districts in building their capacity to assume expanded responsibilities. As a result of this legislation, local school districts could expect additional challenges in implementing new standards, new assessments, new curricula, requirements for additional instructional materials and a restructured accountability system. A review of the operational impediments and barriers to local school districts would suggest that States must assist local school districts to build or strengthen their own capacity to ensure their success. Therefore, NSBA recommends that state plans specify how state will support local school dis-

tricts to build local school district capacity to successfully carry out their accountability responsibilities.

4. Charter Schools. The House bill continues strong support for charter schools, including a focus on funding for planning, facilities construction and renovation. Local school boards generally support the concept of charter schools provided the local school board is the chartering authority. In fact roughly 52% of all charters are authorized by local school boards.

However, what concerns local school boards is the increased emphasis to significantly expand both the number of charter schools as well as the entities that could authorize new charter schools when there is no evidence that charter schools are significantly better than traditional schools. In fact, the CREDO study reports that only 17% of the charter schools performed better than traditional public schools. Further, research has shown that students with disabilities and English language learners are under-represented in charter schools, while traditional public schools are increasingly serving students who require special services. NSBA recommends that in using these federal funds the local school district should be designated as the sole authorizing entity; and if restricted by State law, local school districts should have, as a minimum, the first right of refusal. This would ensure that the charter schools develop and sustain supportive relationship with the local school district regarding funding, other operational requirements that could be shared such as food services or transportation, and accountability for student performance and teacher and school personnel performance. Federal policy should not create a situation that pits one segment in the community against the other.

Local school boards remain strongly committed to our priorities and recommendations and urge that they will be fully addressed in the final House bill. We believe that our recommendations will ensure a much more effective framework to ensure progress in both improving student achievement and in closing the achievement gap.

Additionally, as you prepare to draft final legislative language, we urge you to continue to communicate with and fully engage local school board members in your congressional district. Such interactions will ensure that the provisions within the final House bill will have the greatest likelihood of significantly improving student, school and school district success.

NSBA appreciates the opportunity to re-affirm our commitment to our ESEA priorities as well as to the urgency to complete the reauthorization before the Second Session for the 112th Congress adjourns. We look forward to working with you and the members of your staff in finalizing key policies affecting our public schools and to discuss additional issues that we believe require clarification or modification to the legislative language. Questions regarding our concerns may be directed to Reginald M. Felton, assistant executive director for Congressional Relations at 703-838-6782, or by e-mail, [rfelton@nsba.org](mailto:rfelton@nsba.org).

Sincerely,

MICHAEL A. RESNICK,  
*Associate Executive Director.*

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Hon. JOHN KLINE, *Chairman,*  
*Committee on Education and the Workforce, 2181 Rayburn House Office Building,*  
*Washington, DC 20515.*

DEAR CHAIRMAN KLINE: AASA's Executive Committee met on January 12, 13 and 14 to develop its 2012 legislative agenda. During that process they met with House and Senate staff, as well as the administration, to talk about the progress on ESEA reauthorization and other federal education policy issues. AASA's Executive Committee applauds your efforts and the efforts of the House Education and the Workforce Committee to reauthorize ESEA and strongly believes that reauthorization is crucial to providing the nation's schools with relief from current law, which is both broken and lacking in the flexibility states and local school districts need to support student learning and achievement. We also applaud your openness to the views of education leaders and stakeholders—including administrators—which has resulted in an excellent first step in the reauthorization process.

AASA believes that The Student Success Act and Encouraging Innovation and Effective Teachers Act represent a step in the right direction in large part because they balance the proper role of the federal government in education. We welcome the opportunity to work with you, the Committee, the administration and stakeholders to address our concerns and finally conclude the ESEA reauthorization process.

The Student Success Act and the Encouraging Innovation and Effective Teachers Act make significant improvements in the federal role in accountability, standards and assessments that AASA supports. For example, AASA supports much of the Student Success Act and Teacher Encouragement Acts that:

- Maintain student disaggregation by subgroup
- Eliminate the utopian 100 percent proficiency
- Eliminate SES/Choice
- Return ownership of the accountability system to the state/local level
- Maintain school improvement for low performing schools, under state direction
- Maintain the requirement for annual assessment under state direction
- Require that assessments measure proficiency and growth models
- Remove caps on alternate assessments, allowing the IEP team to ensure that children are assessed in a meaningful, fair and accurate manner
- Maintain current law related to comparability calculations
- Maintain supplement/supplant language
- Reduce federal overreach into school improvement/turnaround strategies
- Put states in charge of designing a teacher evaluation system
- Include student performance in teacher evaluation
- Require multiple measures for teacher evaluation
- Provide for funding flexibility between certain programs within Title I
- Eliminate requirements related to Highly Qualified Teacher provisions
- Provide that 21st Century funds to school districts to be used for expanded learning time.

For all that is good within both the Student Success Act and the Encouraging Innovation and Effective Teachers Act, both contain provisions that greatly concern AASA. We strongly urge the Committee to make improvements as both bills move to mark up and the floor. Further, we emphasize the importance of ensuring that the reauthorization process remains both transparent and open, allowing stakeholders ample opportunity to weigh in and participate.

- Maintenance of Effort: AASA supports current maintenance of effort language to ensure continuity of state and local efforts. We support maintaining a lever to maintain state and local spending. The current MOE provisions provide the greatest protection to those low-wealth districts that generally educate more low-income children. Low-wealth districts generally get the greatest share of their funding from the state and if states are allowed to cut funding the most vulnerable districts and the most vulnerable children will be hurt disproportionately.

- Eliminating maintenance of effort language completely could compound fiscal pressures at the local level as LEAs would have to cover state reductions with local dollars. MOE provisions do need to be modified, however, because under current MOE local school districts are held responsible for state reductions in spending and forced to make up state reductions. MOE should not force local school districts, particularly low-wealth districts, to compensate for reductions in state effort.

- Rural Education: AASA supports a REAP reauthorization that maintains the current program, which has proven effective in its goal of driving formula, flexible dollars to the nation's rural schools to support improved student achievement. AASA prefers the Senate REAP language, which more closely mirrors our legislative priorities. We strongly urge the poverty indicator for the REAP program be changed in both bills to free and reduced lunch from census poverty.

- Funding: The Senate bill codifies Race to the Top and Investing in Innovation. AASA prefers the House language that eliminates the programs and allows a focus on formula, flexible programs such as Title I and IDEA. AASA is opposed to the House proposal to cap Title I increases to inflation.

- Charter Schools: AASA supports public school choice and charter schools that operate under the governance of local public school boards. Both bills include charter school language that lacks accountability by allowing independent charter sponsorship and poses a fiscal burden in the current fiscal environment. Further, we believe charter and traditional public schools should face the same environmental, labor, due process and fiscal laws, which is neither clear nor directed in the current ESEA proposals.

- Vouchers: AASA believes public dollars are for public schools and opposes a House measure that would allow education spending for non-public use, including scholarships for private-school tuition. Some provisions of the Encouraging Teachers Act clearly allow federal funds to flow to private religious schools, which encourages rationing of education to schools not open to all children and employees. While private schools can discriminate on the basis of religion when it comes to accepting students and hiring staff, such discrimination should not be supported or facilitated by public taxpayer dollars.

- **Equitable Participation:** The House provisions regarding services to eligible students in private schools have been made more costly, cumbersome and bureaucratic, which will cut into services.

The AASA Executive Committee's greatest concerns with the Student Success Act and Encouraging Innovation and Effective Teachers Act in order of importance are:

- **Education Technology:** AASA is concerned by the disconnect between a federal focus on requiring schools to prepare students to be college-and career-ready in the 21st century but then failing to recognize the importance of continued support for education technology and the related professional development. AASA supports the Senate education technology amendment (ATTAIN Act) and urges the House to provide similar language or similar flexibility within its proposal.

AASA looks forward to working with you and the other members of the Education and Work Force Committee to move ESEA through Committee mark up and the House floor. If you have questions or need further information, please contact Bruce Hunter (bhunter@aasa.org), the head of our advocacy and communications team, or Noelle Ellerson (nellerson@aasa.org) from our Advocacy and Policy team.

DANIEL DOMENECH, *Executive Director,*  
*American Association of School Administrators.*

January 24, 2012.

Hon. JOHN KLINE, *Chairman,*  
*Committee on Education and the Workforce, 2181 Rayburn House Office Building,*  
*Washington, DC 20515.*

DEAR CHAIRMAN KLINE: The 38 undersigned organizations—representing a broad cross section of civil rights, disability, business and education organizations—write to firmly oppose the recently released draft of the Student Success Act, which would amend and reauthorize Title I and other parts of the Elementary and Secondary Education Act (ESEA). Together we represent parents, educators, employers, and millions of students with disabilities, low-income students, students of color, English language learners (ELLs), and the children of migrant workers—all boys and girls who, through education, are working to build bright futures.

All agree that ESEA must be updated. However, the draft bill is not an update; it is a rollback. It undermines the core American value of equal opportunity in education embodied in *Brown v. Board of Education*. Specifically, it abandons accountability for the achievement and learning gains of subgroups of disadvantaged students who for generations have been harmed by low academic expectations. The draft also eliminates performance targets, removes parameters regarding the use of federal funds to help improve struggling schools, does not address key disparities in opportunity such as access to high-quality college preparatory curricula, restricts the federal government from protecting underprivileged students, and fails to advance the current movement toward college-and career-ready standards. As a result, the draft would thrust us back to an earlier time when states could choose to ignore disparities for children of color, low-income students, ELLs, and students with disabilities. The results, for these groups of students and for our nation as a whole, were devastating.

The last time the federal government left accountability completely to the states, two-thirds decided to do nothing; only two states included the performance of individual groups of students in their systems. The rest took action in name only, setting targets too low or too vague to meaningfully drive student improvement. The students we represent cannot withstand the risk of Congress allowing states to return to old habits—aiming low and abandoning children deemed too difficult or in-sequential to educate. The draft, as written, would invite such a result.

This draft bill also would allow federal dollars to flow but require virtually nothing in return. This is bad for students and bad for taxpayers. Federal funding must be attached to firm, ambitious, and unequivocal demands for higher achievement, improved high school graduation rates, and progress in closing both achievement and opportunity gaps. Any reauthorization of ESEA must, at minimum, require states to set clear goals and provide instructional support so that all students receive an education that prepares them for success in college and careers.

We also believe ESEA should respect the important contributions and roles of all those responsible for providing public education: states, districts, schools, and teachers. This includes holding all responsible parties accountable, something the draft does not accomplish. And while the ESEA must continue to balance federal oversight and decisionmaking at the state level, it must ensure that the federal government retains its long-standing and crucial role in safeguarding equal educational opportunity.

We hope to work with you and the committee to address our concerns if this proposed legislation is introduced and moves forward. For additional information please contact Dianne Piche at Piche@civilrights.org or Kate Tromble at KTromble@edtrust.org.

Sincerely,

50CAN: THE 50-STATE CAMPAIGN FOR ACHIEVEMENT NOW;  
 THE ADVOCACY INSTITUTE;  
 AMERICAN ASSOCIATION OF PEOPLE WITH DISABILITIES;  
 THE AMERICAN ASSOCIATION OF UNIVERSITY WOMEN;  
 AMERICAN CIVIL LIBERTIES UNION;  
 AMERICAN FEDERATION OF TEACHERS;  
 THE ARC;  
 AUTISM NATIONAL COMMITTEE;  
 BAZELON CENTER FOR MENTAL HEALTH LAW;  
 BUSINESS COALITION FOR STUDENT ACHIEVEMENT;  
 THE CENTER FOR AMERICAN PROGRESS ACTION FUND;  
 THE CENTER FOR LAW AND EDUCATION;  
 CHILDREN'S DEFENSE FUND;  
 COUNCIL OF PARENT ATTORNEYS AND ADVOCATES, INC.;  
 DEMOCRATS FOR EDUCATION REFORM;  
 DISABILITY RIGHTS EDUCATION AND DEFENSE FUND;  
 THE EDUCATION TRUST;  
 LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW;  
 THE LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS;  
 LEAGUE OF UNITED LATIN AMERICAN CITIZENS;  
 MALDEF (THE MEXICAN AMERICAN LEAGUE DEFENSE AND EDUCATION FUND);  
 MENTAL HEALTH AMERICA;  
 NAACP;  
 NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC.;  
 NATIONAL CENTER FOR LEARNING DISABILITIES;  
 NATIONAL COUNCIL ON INDEPENDENT LIVING;  
 NATIONAL COUNCIL OF LA RAZA;  
 NATIONAL DISABILITY RIGHTS NETWORK;  
 NATIONAL DOWN SYNDROME CONGRESS;  
 NATIONAL DOWN SYNDROME SOCIETY;  
 NATIONAL URBAN LEAGUE;  
 NATIONAL WOMEN'S LAW CENTER;  
 THE NEW TEACHER PROJECT;  
 POVERTY & RACE RESEARCH ACTION COUNCIL;  
 PUBLIC ADVOCATES;  
 SOUTHEAST ASIA RESEARCH ACTION CENTER;  
 STAND FOR CHILDREN;  
 U.S. CHAMBER OF COMMERCE.

February 13, 2012.

Hon. JOHN KLINE, *Chairman,*  
*Committee on Education and the Workforce, 2181 Rayburn House Office Building,*  
*Washington, DC 20515.*

DEAR CHAIRMAN KLINE: The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses and organizations of every size, sector, and region, is pleased to have the opportunity to respond to your recently released draft legislation to reauthorize key aspects of the Elementary and Secondary Education Act (ESEA).

The Chamber applauds your commitment to reauthorize ESEA. There is broad consensus that the last reauthorization, which brought about the No Child Left Behind Act (NCLB), needs to be updated to reflect what we have learned over the past decade. The comments below align with the Chamber's ESEA reauthorization statement that was released on May 4, 2011.

There are many provisions of the draft legislation that improve upon the current law. In particular, the Chamber supports the focus on "effective" teachers based significantly upon how well they improve the academic achievement of their students, the consolidation of education programs, expanding competition for education funds, and allowing for greater private sector innovation. Should you move forward in introducing legislation, we urge you to include these provisions.

However, the Chamber is deeply concerned with several other key provisions of the draft legislation.

Accountability: NCLB set an ambitious goal of having all students in America reach grade level proficiency in reading and math in twelve years. While that goal is far from being accomplished, having both the overall target of proficiency, as well as assistance and interventions attached to annual targets has driven improvements in student academic achievement. In this program, millions of additional students have received the attention needed to be successful in school. This includes the option for students to leave a low-performing school and choose to attend a higher performing school. This has also resulted in millions of parents having the option to direct a portion of federal funds to choose a tutor based upon the needs of their child.

Unfortunately, the draft legislation lacks a clear goal for student achievement. Additionally, states would not be required to set annual goals and hold all schools accountable for reaching those goals. Without annual goals, states and school districts could effectively identify no or few schools for school improvement, and schools that have continually failed year after year would not be subject to rigorous, targeted interventions. By repealing Section 1116 of current law, the draft legislation would eliminate any options for students stuck in low-performing schools to receive immediate assistance through public school choice and free tutoring.

Some have suggested that because the current accountability system has identified so many schools as “failing”—nearly half of Title I schools—the problem is with the accountability system. While there may be faults with the current accountability system, the real problem is too few schools are preparing too few students to succeed in today’s economy. The easy and expedient route may be to sweep this issue under the rug along with millions of students in underperforming schools, but the Chamber believes the long-term consequences of such action would be devastating.

While recognizing that federal law should move away from the pass/fail accountability approach, the Chamber urges you to retain the concept of state accountability systems with clear academic goals and targets that require states, districts, and schools to be held accountable for meeting such goals for all students and subgroups of students. Furthermore, states must design accountability systems that hold all schools accountable for progress with assistance and interventions for schools not meeting their annual targets. Finally, there needs to be more, not less, involvement and choice for parents who have a child stuck in a school that simply does not work.

Academic Standards and Assessments: The draft legislation would continue to require states to adopt academic content standards, and assessments aligned to those standards in mathematics and reading or language arts. While the Chamber has supported the recent efforts of states to join together in the development of Common Core Standards, we have not advocated any requirement that states adopt such standards. However, the Chamber has supported the concept of requiring states to be serious about their standards and ensure they truly represent what it means for all students to be “college and career ready” when they graduate from high school.

The Chamber urges you to support college and career ready standards and assessments as well as reinforce the need for all states to develop a partnership with the business and higher education communities in the development of such standards.

Science Standards and Assessments: NCLB currently requires states to adopt science standards and assessments, but the draft legislation leaves out these important provisions. While many states would presumably continue to update and refine their current science standards—and continue assessing students in this subject—removing these provisions from current law sends a message that this country no longer needs to focus on the critical area of science. There is no shortage of examples of how important science and technology is to the future competitiveness of this nation. At the same time the U.S. continues to lose ground in this area relative to the rest of the world. As such, America must make science education a national priority and commitment. The Chamber urges you to retain the current law requiring states to adopt science standards and continue to assess students in this area, as well as use the results for accountability purposes.

While there are other aspects of the draft which merit more detailed comments, the issues raised above are critically important. The Chamber hopes to have the opportunity to meet with you and your staff in the coming days and weeks to discuss your draft in more detail.

Again, thank you for this opportunity to respond to the draft legislation.

Center for American Progress



## Cut and Run

### House Republicans' Education Plan Would Shortchange Disadvantaged Students and Schools

Jeremy Ayers and Raegen Miller

February 2012

In January Rep. John Kline (R-MN), chairman of the House Committee on Education and the Workforce, released two draft discussion bills to reauthorize the Elementary and Secondary Education Act, or ESEA. The Student Success Act and the Encouraging Innovation and Effective Teachers Act would increase state and local control over education. In the process, however, the proposals would weaken equity provisions in the law designed to ensure historically disadvantaged students get a fair shot at a good education.

ESEA, currently titled the No Child Left Behind Act, is the nation's largest public education law, and its reauthorization is far past due. The decade-old law needs immediate repair:

- It identifies schools as “in need of improvement” whether they missed achievement targets by a little or a lot.
- It prescribes interventions for those schools, but the interventions are not showing results.
- It ensures teachers have credentials to enter the profession but does not ensure they are effective with students in the classroom.

The next version of ESEA should look markedly different from the current one, and such significant change will require bipartisan efforts. Rep. Kline's highly partisan proposals would so weaken equity provisions, however, that bipartisan negotiations broke down.

This brief outlines specific ways the Kline bills would undermine how historically disadvantaged students are treated and how schools with low-income students are funded. The brief concludes with a progressive vision for how ESEA could be reauthorized in ways that do promote equity.

Specifically we recommend that ESEA should:

- Hold all schools accountable for getting results with all students
- Invest in teachers and principals so they become more skilled and effective



- Make funding practices more fair and efficient so every student gets a fair shot at adequate resources
- Target support to low-performing schools

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#### Lack of protections for historically disadvantaged students

Several aspects of the Student Success Act would diminish or dismantle equity provisions for historically disadvantaged students. In a press release Rep. Kline said his plan promotes education reform by “maintaining and strengthening long-standing protections for state and local autonomy.” Clearly the goal is to reduce federal involvement and protect local autonomy. But in the process it weakens protections for disadvantaged students. In fact the public debate about ESEA has focused far more on strengthening the hand of adults (local control) than that of students. In particular, the Student Success Act diminishes the following.

#### Responsibility for student learning

Current law requires states to set goals for gradually improving student achievement and graduation rates and to ensure districts take action to improve struggling schools that do not do well on those measures. But under the Student Success Act, states would not be required to set goals for student achievement or graduation rates, nor would they be required to intervene or support schools that are inadequately educating historically disadvantaged students. States would still have to measure the achievement of all students and subgroups of students named in current law—namely low-income students, students of color, disabled students, and English language learners. But states would come up with their own accountability and improvement system free of any federal parameters.

That means states would report how well students are learning, but they would not have to do anything about it. They would also continue to receive federal funding regardless of their success. This is a significant retreat from current law in an attempt to return greater control to states and districts. While many states act in good faith, history reminds us that prior to ESEA only two states included student subgroups in their accountability system. The federal government had to push states to identify and act on achievement gaps. To diminish that role is to weaken protections for historically vulnerable student groups.

#### Student access to effective teachers

Current law requires states to ensure that poor and minority students are not taught at higher rates by unqualified or inexperienced teachers or by teachers who lack knowledge of the subject they teach. But the Student Success Act would strip this requirement and

only ask states to “address the disparity” in the distribution of effective teachers. At first glance this may seem like a mild change. But “ensuring” means a state is on the hook for student access to good teachers, and “addressing” means no more than trying to fix problems irrespective of the outcome.

#### Public use of public money

Current law requires school districts to ensure students and teachers in private schools have equitable access to educational services such as computer equipment or professional development. The Student Success Act would maintain the parity and strengthen it by requiring every state to hire an ombudsman to monitor and enforce the provision. This is a new federal requirement placed on states and districts that would require greater federal oversight to ensure compliance. It is interesting that the Kline bill would diminish equity for disadvantaged students while strengthening equity for private school students.

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#### Low-income children left behind by design

The Kline proposal would also significantly change federal funding patterns. Some changes would clearly diminish the targeting of federal resources based on poverty levels in schools, districts, and states. Other changes would create incentives to divert education funding. Still more telling is the failure of the Kline proposal to close a loophole in federal law that allows school districts to shortchange schools with larger populations of low-income students.

#### Targeting federal funds based on poverty

Current law provides about \$3 billion for improving the skills of teachers and principals under Title II, Part A, or Title II-A. These funds are allocated to states and districts based on poverty levels and population, with the poverty factor given greater weight. This is consistent with the federal role in promoting equity. The Encouraging Innovation and Effective Teachers Act, however, would radically alter the way Title II-A funds are distributed, thereby diluting the targeting of funds to offset the effects of poverty.

Under current practice the accretion of various funding approaches makes it difficult to assess the extent to which Title II-A funds are driven by numbers of low-income children as opposed to populations of children served. For Title II-A funds in excess of the 2001 level—for combined Eisenhower and Class Size Reduction grants—the formula favors poverty (65 percent) over population (35 percent) in driving funds to states.<sup>1</sup> But Title II-A’s hold-harmless provision, which ensures that states continue to receive at least what they did in 2001 under the two predecessor programs, favors poverty with weights

higher than 65 percent.<sup>2</sup> Consequently, about 82 percent of Title II-A funds are apportioned to states based on children in poverty.<sup>3</sup>

The Kline teacher plan would substantially dilute this focus. The bill summary does not explain why. Formula changes always entail winners and losers, which we estimate in the table below. The clearest loser, however, is a federal focus on redressing poverty.

The winners of the Kline proposal, according to our estimates,<sup>4</sup> would be states with the greatest population growth over the past decade. We obtained our results by comparing estimated fiscal year 2012 allocations to those yielded by the Kline plan.<sup>5</sup> (see Table 1) States gaining funds tend to be the Western and Southern states that experienced high population growth from 2000 to 2010.<sup>6</sup> Losing states such as West Virginia and New York had low population growth. States enjoying the generous small-state minimum provisions would see no change in their allocations. These provisions, which the Kline proposal does not address, ensure that states receive at least 0.5 percent of funds appropriated for Title II-A.<sup>7</sup>

TABLE 1

**Changes to state Title II funding under the Kline proposal**

Fiscal year 2012 Title II-A estimated allocations to states compared to simulated allocations under the Encouraging Innovation and Effective Teachers Act

State	Percent change	FY2012 estimated awards	Simulated awards under Kline proposal	Gain or loss in dollar amounts
Nevada	57.5	\$12,427,753	\$19,570,377	\$7,142,624
Utah	38.0	\$16,113,222	\$22,236,699	\$6,123,477
Arizona	37.2	\$38,308,845	\$52,574,443	\$14,265,598
North Carolina	36.6	\$53,850,721	\$73,566,573	\$19,715,852
Georgia	26.4	\$64,186,657	\$81,101,970	\$16,915,313
Colorado	20.2	\$27,103,878	\$32,577,989	\$5,474,111
Tennessee	18.9	\$41,688,100	\$49,582,048	\$7,893,948
Florida	16.6	\$109,841,757	\$128,104,891	\$18,263,134
South Carolina	16.5	\$30,482,368	\$35,502,592	\$5,020,224
Indiana	16.1	\$41,592,368	\$48,297,893	\$6,705,525
Texas	14.6	\$200,024,716	\$229,312,432	\$29,287,716
Oregon	9.4	\$23,564,317	\$25,782,806	\$2,218,489
Washington	8.2	\$39,715,739	\$42,979,061	\$3,263,322
Virginia	8.0	\$43,057,731	\$46,486,238	\$3,428,507
California	7.0	\$270,258,575	\$289,131,730	\$18,873,155
Oklahoma	5.7	\$27,947,475	\$29,532,682	\$1,585,207
Arkansas	2.5	\$23,378,601	\$23,956,431	\$577,830
Nebraska	2.1	\$11,770,611	\$12,018,260	\$247,649
Alabama	2.0	\$38,661,680	\$39,450,239	\$788,559

Kansas	1.2	\$19,283,127	\$19,512,397	\$229,270
Alaska	0.0	\$11,493,668	\$11,493,668	\$0
Delaware	0.0	\$11,493,668	\$11,493,668	\$0
District of Columbia	0.0	\$11,493,668	\$11,493,668	\$0
Hawaii	0.0	\$11,493,668	\$11,493,668	\$0
Idaho	0.0	\$11,493,668	\$11,493,668	\$0
Maine	0.0	\$11,493,668	\$11,493,668	\$0
Montana	0.0	\$11,493,668	\$11,493,668	\$0
New Hampshire	0.0	\$11,493,668	\$11,493,668	\$0
North Dakota	0.0	\$11,493,668	\$11,493,668	\$0
Rhode Island	0.0	\$11,493,668	\$11,493,668	\$0
South Dakota	0.0	\$11,493,668	\$11,493,668	\$0
Vermont	0.0	\$11,493,668	\$11,493,668	\$0
Wyoming	0.0	\$11,493,668	\$11,493,668	\$0
Missouri	-0.6	\$41,657,561	\$41,399,596	-\$257,965
Iowa	-0.8	\$18,833,477	\$18,679,349	-\$154,128
Minnesota	-1.1	\$33,020,507	\$32,662,028	-\$358,479
New Jersey	-3.8	\$54,975,639	\$52,877,738	-\$2,097,901
New Mexico	-4.4	\$19,144,560	\$18,305,671	-\$838,889
Wisconsin	-5.7	\$39,896,142	\$37,634,157	-\$2,261,985
Ohio	-6.2	\$90,843,313	\$85,215,161	-\$5,628,152
Maryland	-6.3	\$34,869,860	\$32,684,644	-\$2,185,216
Illinois	-7.2	\$98,787,359	\$91,685,624	-\$7,101,735
Connecticut	-10.2	\$22,568,324	\$20,271,460	-\$2,296,864
Kentucky	-11.1	\$37,813,228	\$33,611,933	-\$4,201,295
Massachusetts	-17.4	\$43,692,394	\$36,073,856	-\$7,618,538
Pennsylvania	-17.9	\$98,179,404	\$80,597,087	-\$17,582,317
Mississippi	-20.4	\$35,699,046	\$28,399,453	-\$7,299,593
Michigan	-21.9	\$95,660,949	\$74,731,682	-\$20,929,267
Louisiana	-30.1	\$54,184,698	\$37,850,872	-\$16,333,826
New York	-32.2	\$195,579,274	\$132,524,285	-\$63,054,989
West Virginia	-38.3	\$20,419,296	\$12,600,928	-\$7,818,368

#### Maintenance of effort

Current law provides resources through Title I to schools with concentrations of low-income students to ameliorate the impact of poverty. The law requires states and districts receiving Title I funds to spend at least 90 percent of what they spent in the previous year from nonfederal sources. The goal is to prevent big decreases in education investment, whether driven by tough budget times or genuine desire to reduce education funding for whatever reason.

The Student Success Act would scrap this so-called maintenance of effort provision, or MOE. Supporters of the Kline plan claim striking MOE would reduce federal overreach into state and local decisions, and allow states and districts to spend money more efficiently. These arguments do not hold water, and striking MOE is a poor move for the following reasons:

- **MOE is not overreach.** Federal law makes demands about the levels of state and local spending, but it says nothing about *how* money should be spent. Additionally, current law already allows temporary waivers of MOE in the event of sudden and serious financial hardship. This is hardly micromanagement, though the rhetoric used by opponents of MOE is certainly consistent with the political agenda of shrinking the federal role in education.<sup>8</sup>
- **MOE does not penalize efficiency.** States and districts face no penalty for improving efficiency so long as their savings don't involve cutting state and local spending by more than 10 percent from the previous year—generous leeway considering likely rates of efficiency gains in even the most aggressive districts.
- **MOE safeguards federal investment in education.** The Kline proposal would allow states and districts to reduce their nonfederal education spending by any amount without incurring any penalty to their Title I allocation. This is a recipe for converting federal funds into state and local tax relief, or for converting funds meant for education into support of other government services. Seen in this light it's helpful to recall that President Ronald Reagan had an apt phrase for describing the role of MOE: “Trust, but verify.”

#### Federal loophole that masks inequity

One glaring omission from the Kline proposal is that it fails to close a federal loophole that allows districts to fund schools inequitably. The Senate passed a bipartisan ESEA bill in October 2011 that closed this loophole, which illustrates how partisan the Kline plan is since it fails to do so.

Current law requires that districts ensure schools receiving Title I funds and those not receiving Title I funds have comparable resources before federal funds are added, a requirement known as comparability. But districts may comply with the comparability requirement in ways that mask inequity, such as adopting a districtwide salary schedule, showing equivalent student/staff ratios, or reporting average (not actual) teacher salaries. These loopholes result in inequity.

Experienced teachers, who are paid more, for example, tend to transfer to low-poverty schools so the actual dollars going to high-poverty schools are far less than wealthier

schools. The solution is to close the loophole by requiring districts to report actual expenditures and to act to ensure resources are truly comparable across schools.

Reporting actual per-pupil expenditures would have two main benefits. First, it would allow for greater transparency and more rigorous financial oversight. Second, it would give district officials a clearer picture of spending and thus flexibility in making budget decisions.

.....  
A better way forward

Rep. Kline has charted a course for increasing state and district control, yet taking this path leads to less equity for students and schools. This is not the only way to reauthorize ESEA. The onerous aspects of NCLB can be fixed without dismantling the federal role in education.

Elsewhere we have explained how a smart, progressive [vision for revising ESEA](#) can ensure equity for disadvantaged students and schools. In short a new education law should do the following:

- **Hold all schools accountable for getting results with all students.** A new ESEA should set a high bar for students and schools, requiring annual performance goals and action to improve low-performing schools.
- **Invest in teachers and principals so they become more skilled and effective.** A new ESEA should require rigorous [evaluation systems](#) and then use that data to improve teachers' skills, to make hiring and dismissal decisions, and to ensure all students have a great teacher. Rep. Kline's teacher bill has a bright spot here. He deserves credit for requiring states and districts to implement comprehensive evaluation systems and to use results of those evaluations to inform personnel decisions. His bill would not, however, leverage evaluations to improve teaching skills, which is the main goal of engaging in evaluation reform.
- **Make funding practices more fair and efficient so every student gets a fair shot at adequate resources.** By [closing loopholes](#) and adjusting [funding formulas](#) in current law that allow districts to shortchange poor schools, a new ESEA should prioritize disadvantaged students. And by reporting actual spending and achievement data, inequities and inefficiencies can be fixed.
- **Target support to low-performing schools.** A new ESEA should help [restructure](#) chronically underperforming schools, [increase learning time](#) in the school day or year, and address the [nonacademic needs](#) of disadvantaged students so they are able to learn.

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## Conclusion

The points above illustrate how the Student Success Act and Encouraging Innovation and Effective Teachers Act would diminish or dismantle federal equity provisions in the process of giving states and school districts greater control over education decisions. We believe this is a poor course of action because it retreats, or cuts and runs, on the historic federal role of ensuring disadvantaged students receive the extra resources and attention they need. And it fails to ensure these students achieve the educational outcomes necessary to succeed in today's globally competitive workforce.

Reauthorizing ESEA requires serious bipartisan action. But these bills move congressional debate in the opposite direction toward partisanship and gridlock mostly because they weaken provisions for disadvantaged students and schools.

The American Dream rests on the idea that everyone has the chance to succeed if they work hard and play by the rules. We are an equal opportunity nation, after all. But when our nation's schools fail to adequately educate most students, particularly disadvantaged students, then the answer is not to retreat on equity but to bolster it. Our nation's students deserve better.

*Jeremy Ayers is a Senior Education Policy Analyst and Raegen Miller is the Associate Director for Education Research at the Center for American Progress.*

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## Endnotes

- 1 The 2001 funding level comprises both Eisenhower grants and Class Size Reduction grants, programs that were essentially rolled into Title II by the No Child Left Behind Act.
- 2 Class Size Reduction grants were driven to states based on their aggregated Title I allocations to districts. Basic and Concentration grants under Title I were driven in 2001 by populations of low-income children served by districts.
- 3 The 82 percent figure is a weighted average based on the share of fiscal year 2010 Title II-A appropriations driven by poverty in the underlying formulas for Eisenhower grants, Class Size Reduction grants, and the formula pertaining to funds in excess of the hold-harmless baselines established by these two programs. Calculations are available from the authors upon request.
- 4 We simulated the effects of changes in the Title II-A allocation procedures by computing the percent changes in states' allocations between the publicly available fiscal year 2012 estimates and what states could have expected for that year had the proposed formula been in place.
- 5 "FY 2010-FY 2012 President's Budget State Tables for the U.S. Department of Education," available at <http://www2.ed.gov/about/overview/budget/statetables/index.html> (last accessed January 24, 2012). Note: FY 2011 allocations are still only available as estimates, although FY 2012 estimates are also available. We used the latter. The results of this simulation, however, differ little when the 2011 estimates are used.
- 6 "United States Population Growth from 2000 to 2010," Grey's Blog, comment posted on unspecified date, available at <http://blog.cpggrey.com/united-states-population-growth-from-2000-to-2010/> (last accessed January 24, 2012).
- 7 Jennifer Cohen, "House Proposed Title II Formula Takes Emphasis Away from Poverty," Ed Money Watch, comment posted on January 17, 2012, available at [http://edmoney.newamerica.net/blogposts/2012/house\\_proposed\\_title\\_ii\\_formula\\_takes\\_emphasis\\_away\\_from\\_poverty-62494](http://edmoney.newamerica.net/blogposts/2012/house_proposed_title_ii_formula_takes_emphasis_away_from_poverty-62494) (last accessed January 24, 2012).
- 8 Frederick M. Hess, "6 reasons the House Republicans' education bill gets it right," The Enterprise Blog, comment posted on January 6, 2012, available at <http://blog.american.com/2012/01/6-reasons-the-house-republicans-education-bill-gets-it-right/>; Chris Tesone, "House GOP gets it right on ESEA funding flexibility," Stretching the School Dollar, available at <http://www.edexcellence.net/commentary/education-gadfly-daily/stretching-the-school-dollar/2012/what-the-gop-got-right-on.html> (last accessed January 24, 2012).



February 2, 2012.

Hon. JOHN KLINE, *Chairman,*  
*Committee on Education and the Workforce, 2181 Rayburn House Office Building,*  
*Washington, DC 20515.*

DEAR CHAIRMAN KLINE: I am writing on behalf of the nation's chief state school officers to provide input on the Student Success Act and the Encouraging Innovation and Effective Teachers Act, your draft legislation to fix and reauthorize the Elementary and Secondary Education Act (ESEA). At a time when states are seeking interim relief from dated ESEA requirements, we applaud your effort to advance the congressional reauthorization process in the interest of sustainable and viable federal policies that reconfigure the federal-state-local partnership in American education. The Council of Chief State School Officers (CCSSO) looks forward to working with you to secure ESEA reauthorization as soon as possible, ideally before the beginning of the next school year.

I applaud your legislation's recognition of the primacy of state and local leadership in education. CCSSO has long called for transforming ESEA into a law that reinforces state leadership and promotes deference to state and local judgment; we strongly believe that state and local leaders are best situated to make improvements that benefit students in our states. Our commitment to meaningful accountability on behalf of students is resolute. To an extent unprecedented in our recent history, state and local governments are answering the national call for education reform. We remain staunchly committed to raising the bar by developing college and career ready standards for all students and ensuring that federal policy supports the ultimate goal of ensuring that all students graduate ready for higher learning or entering the workforce. States are also working together to develop aligned high-quality assessments and corresponding data systems and educator evaluation systems. We are eager to build upon these foundational reforms and tackle the challenge of turning around low-performing schools, improving student achievement for all students, and closing achievement gaps.

In order for the federal-state-local partnership in education to succeed, state and local leaders must be provided greater authority to develop and implement education reforms that are designed primarily at the state and local levels and targeted to students' needs. We believe that federal law must promote greater state and local leadership in a manner consistent with CCSSO's Next Generation Accountability Principles, which states are currently using as a framework to govern the development of stronger accountability systems. CCSSO believes your bill reflects a shared vision of education reform driven by state and local leaders with limited federal supports:

- We applaud your bill's continued focus on accountability for all schools and recognizing the need to accurately measure student growth in addition to proficiency. We support eliminating the federally-defined 100% proficiency target (AYP), but requiring states to define, report, and act using authentic student growth.
- We strongly support your bill's continued call for annual determinations, disaggregation, and reporting on the performance of all schools by overall student performance and subgroup population performance.
- We commend your legislation for ensuring that states have a school improvement intervention strategy in place while granting states flexibility from the prescriptive federal turnaround models set forth in the School Improvement Grant program.
- We support your inclusion of policies that advance teacher and leader evaluation reforms, which are a top ESEA priority for CCSSO and our members.

While we support the overall direction of the bill and believe that it will allow states to continue to lead on behalf of their students, a few modifications could strengthen the ability of states to deliver on their commitments to stronger accountability systems rooted in the ultimate goal of college and career readiness for all students. These include:

- In the absence of a set requirement for the designation of low-performing schools, we are concerned that school districts will not identify and intervene in enough schools and that States will lack leverage to require such interventions where they are most needed.
- We believe that federal education law should ask states to establish an ambitious yet achievable goal for our students. We do not support a universal academic performance target set at the federal level, as AYP was in NCLB, but we do embrace state-established performance targets. The Secretary should defer to state judgments on these targets, not second-guess state determinations.
- Like you, we believe ESEA should empower states to drive meaningful interventions in the lowest-performing schools to ensure significant improvement. In order

for this to be realized, states should have the authority to withhold funding from districts that fail to implement their school improvement plans or strategies adequately or if those strategies fail to improve student achievement. We believe in a state and local partnership and trust our local school districts, but just as ESEA puts in place protections against inaction, we too ask for such protections.

As stated above, we applaud your call for a return to state leadership in K-12 education and to task us with additional responsibilities on behalf of our schools and students. In order for us to take on the addition of certain new state responsibilities, corresponding support is warranted. Otherwise it may lead to unfunded mandates that limit state and local flexibility:

- Your bill properly continues a call for annual testing in grades 3-8 and once in high school, but it simultaneously eliminates the authorization that states have depended on to fund such a requirement. We strongly urge you to restore the dedicated allocation of funds authorized in Sections 6111 and 6112 of current law and urge you to permit states to use these funds to acquire the necessary technologies to implement next generation assessments. In addition, your bill as currently written would seem to prohibit direct federal funding of the two existing state assessment consortia working to develop next-generation assessments capable of more accurately measuring student performance. Nearly every state is a member of one of these consortia and has a strong interest in maintaining a limited federal role in the support of these consortia. In the interest of voluntary state collaboration, efficiency in the use of federal funds, and quality assessment practices, we urge you to be silent on common standards and assessments in your legislation. In the alternative, please clarify that your bill intends only to restrict that the Secretary mandate participation in common standards or assessments consortia through the use of absolute or competitive requirements in formula or competitive grants.

- In keeping with your legislation's reliance upon increased state and local leadership in education, we urge you to ensure that it authorizes sufficient funding to support the capacity-building necessary to advance education reform at the state and local levels and avoid unfunded federal mandates.

In sum, I applaud your leadership in moving forward on ESEA reauthorization and appreciate and support the direction that your bill moves the ESEA debate in Congress. As you know, I've been out of the office for several weeks, but will be back in D.C. the week of Feb. 13th and would greatly appreciate the opportunity to discuss these matters with you in more detail. My staff will also connect with yours next week to follow up on this letter. We look forward to working collaboratively with you and your colleagues to pass a bill this year that supports state and local educators.

Sincerely,

GENE WILHOIT, *Executive Director,*  
*Council of Chief State School Officers (CCSSO).*

*February 13, 2012.*

*Committee on Education and the Workforce, 2181 Rayburn House Office Building,  
Washington, DC 20515.*

Thank you for the opportunity to submit comments on the upcoming reauthorization of the Elementary and Secondary Education Act (ESEA). I am writing on behalf of the First Focus Campaign for Children, a 501(c)(4) nonprofit organization affiliated with First Focus, a bipartisan children's advocacy organization dedicated to making children and families a priority in federal policy and budget decisions. In all of our work, we seek to raise awareness regarding public policies impacting children and families and to ensure that related programs have the resources necessary to help children grow up in a nurturing environment.

As you know, the future strength of this nation's democracy, as well as its economy, depends on the investments made in children and youth today. The reauthorization of the Elementary and Secondary Education Act (ESEA) presents a valuable opportunity to positively impact the lives of millions of children and families. We write to express severe concerns regarding the released drafts of the following reauthorization bills: The Student Success Act, which would amend and reauthorize Title I and other parts of the Elementary and Secondary Education Act (ESEA) and the Encouraging Innovation and Effective Teachers Act which engages parents in the education of their children.

Chief among our organization's priorities for K-12 education policy is reauthorization of the Elementary and Secondary Education Act (ESEA). However, we respectfully draw your attention to the following segments of the bill that we believe would

hurt our most deserving students and families if the draft language remained in its current form:

**Transferability & Flexibility in Using Funds:** While it is argued that this is needed to create greater local control over education decisions and encourage local innovation, funding flexibility could lead to some vital programs going unfunded at the expense of disadvantaged students. This would perpetrate inequity in funding for special populations. Rather, we need to sustain an appropriate federal role in public education by protecting the funding for federal programs that were created to level the playing field for populations vulnerable to the effect of educational disparities. Though they remain underfunded, Title I, Title III and Title VII, which address the needs of low income, ELL and Native American students respectively, have helped close achievement gaps for our most deserving students. Instead of pursuing flexibility in this sense, we should allow states and school districts the flexibility to target 75 percent of their non-Title I, III, or VII federal resources for flexibility to best serve the needs of their students. States should also be allowed to apply for waivers by the Department of Education to exempt them from certain statutory or regulatory requirements under law, consolidate federal education programs while being accountable for results, and use an alternative method for making allocations to school districts instead of the current formula if their new proposal targets funds more effectively to those areas with high concentrations of low-income families.

**Accountability Systems:** While we do believe there are benefits to be gained from letting go of the punitive restrictions of Adequate Yearly Progress (AYP), we oppose any policies that potentially abandon accountability for the achievement and learning gains of subgroups of disadvantaged students. The draft also eliminates performance targets (Annual Measurable Objectives), and removes parameters regarding the use of federal funds to help improve struggling schools. As the bills do not permit the Secretary of Education to establish any criteria that specifies or prescribes any aspect of a state's accountability system, nor does it provide a definition for low-performing schools, it restricts the federal government from protecting underserved students.

**Highly Qualified Teachers:** We are opposed to eliminating any requirements related to the definition of highly qualified teachers. The draft bill eliminates all baseline preparation standards for teachers, instead focusing solely on measuring teacher effectiveness once teachers are already in the classroom. We believe it is a grave mistake to eliminate NCLB's "highly qualified teacher" provisions, which required all teachers to be fully certified by their state and to demonstrate competency in their subject matter. A wealth of research shows that high need students are most likely to be taught by teachers who have not completed their training, have not demonstrated competency in their subject matter, and are inexperienced. These bills will do nothing to change this reality. While your proposals' focus on measuring teacher effectiveness is important, these bills fail to recognize that teacher effectiveness cannot be measured until a teacher has actually taught. All students—especially low-income students, students of color, students with disabilities, English language learners, and students from high-need rural communities—deserve teachers who are fully-prepared on their first day in the classroom and who prove themselves effective once there. Related to the issue of highly qualified teachers, we are also concerned with the lowering of Title II (Teacher Quality) funds for students who are in poverty, especially during a time when we should be enhancing our highly qualified teacher workforce.

**Comparability:** Your proposal does not address the issue of comparability of per pupil funding between schools within the same district. We have a key opportunity to amend part A of title I of ESEA to remedy the inequitable distribution of State and local funds within the areas served by local educational agencies by: (1) Reinforcing the supplementary intent of funds made available under Title I of ESEA, to ensure these funds serve their original purpose of subsidizing the increased costs associated with educating students in concentrated poverty; (2) Addressing the statutory, regulatory, and enforcement weaknesses that undermine the role of the comparability requirement in ensuring comparability within school districts; (3) Requiring the inclusion of real teacher salaries in calculations of per-pupil expenditures; and (4) Providing sufficient transparency, accountability, and disclosure to allow parents, communities, educators, and district officials to ensure students have access to the resources they need to achieve at high levels.

**English Learners:** We applaud the fact that the legislation continues support for primary language assessments for English Learners where appropriate, and supports programs and instruction based on evidence-based research and standards for English language proficiency. We are deeply concerned with folding Title III (language instruction for English Learners) into Title I and the loss of a national focus on English Learners.

**Class Size Reduction:** The proposed legislation limits class size reduction efforts to 10 percent of Title II (current use is about 38 percent). Research indicates that students benefiting the most from class size reduction efforts are disadvantaged students in the early grades. By capping this funding, we are concerned that school districts will not be able to find funding to continue paying the teacher salaries that were previously funded through federal class size reduction funds. This would lead to a direct decrease in services for our most deserving students. Rather, we recommend awarding formula grants to states for allocation to their local school districts to: (1) Reduce class size, particularly in the early elementary grades, by using highly qualified teachers; and (2) Create a continuum of small classes from kindergarten to third grade.

**Early Education:** The draft proposals currently lack a focus on early education or the creation of school improvement and professional development activities with early childhood development and education programs. We have a key opportunity to amend the school improvement program under part A of Title I of ESEA to require states to create or revise early learning guidelines for preschool age children and early learning standards for children in kindergarten through grade three. Improving the early years of the education continuum—beginning with pre-kindergarten and continuing through third grade—is essential to ensuring that every child is college and career ready. Research shows that high-quality classroom experiences throughout this period of a child's life can lead to significant gains in achievement. Research also shows that a child who is still struggling to read by the third grade may never catch up. Current policies in the draft language are simply not enough to address this problem.

As you work to finalize these ESEA reauthorization bills, we urge you to consider the following four priorities:

- Making Schools the Centers of Our Communities
- Increasing High School Graduation Rates and Reconnecting High School Drop-outs
- Strengthening Educational Opportunities for Children and Youth in Unstable Housing
- Expanding High Quality Early Learning Opportunities

We appreciate your leadership and initiative to help improve the current situation of public schools in America. We look forward in working with you to ensure that our most disadvantaged students and communities are given the resources and support needed to provide an equitable education.

Sincerely,

BRUCE LESLEY, *President,*  
*First Focus Campaign for Children.*

February 3, 2012.

Hon. JOHN KLINE, *Chairman,*  
*Committee on Education and the Workforce, 2181 Rayburn House Office Building,*  
*Washington, DC 20515.*

DEAR CHAIRMAN KLINE: On behalf of over 65,000 of our nation's elementary, middle level and high school principals, the National Association of Elementary Schools (NAESP) and the National Association of Secondary School Principals (NASSP) are writing to comment on the provisions contained in the proposed Student Success Act and the Encouraging Innovation and Effective Teachers Act. We appreciate any steps taken by the committee to reauthorize the Elementary and Secondary Education Act (ESEA) as the law is long overdue for renewal, and many of the ill-fated provisions of No Child Left Behind (NCLB) continue to pose unnecessary barriers to student success.

Collectively, principals applaud many of the provisions contained in the draft legislation, specifically the elimination of Adequate Yearly Progress (AYP); removal of the arbitrary 100% proficiency requirements; requiring disaggregation of subgroup data; and allowing states ample time (six years) to adopt and implement new standards, assessments, and accountability systems.

NAESP and NASSP also applaud the removal of the overly prescriptive federal models of school improvement that all require the principal's removal without an evaluation of the principal's performance. Recent studies find that the effects of implementation substantiate the ineffectiveness that continue to be the basis of the ill-informed policies of the School Improvement Grant program, which are perpetuated by misguided regulation. The program and the illogical policy upon which it is based does nothing short of creating chaos and disruption in school communities,

and perpetuates the hallmark of underperforming schools—high teacher and principal turnover rates.

While the proposals make several notable and positive changes that are critically important to improving our nation's education system, the proposals will continue to encourage the NCLB-era overreliance on standardized tests for accountability and teacher evaluation purposes. Principals believe it is imperative to move to accountability systems that rely on multiple measures to better gauge student academic performance and higher-order thinking skills.

The appropriate federal role in education is to promote equity and target resources to assist states and local districts. Federal policies must provide support for principals and their role in fostering high-quality instruction and learning. The emphasis on school-level outcomes and student achievement places the school leader at the center of all school reform efforts. Today's principals and assistant principals are expected to be visionary leaders, instructional experts, building managers, assessment specialists, disciplinarians, community builders, and more. The impact of principals is second only to that of effective teachers in classrooms.

The proposals inadvertently diminish the role of the principal as an instructional leader, and provide no direction for states and local districts to build their capacity to improve student learning and support teachers. Foremost, NAESP and NASSP believes that the term "school leader" must be defined to include principals and assistant principals so as not to confuse the complexity of the roles and responsibilities various educators have in the school building.

To clarify and strengthen the draft proposals, NAESP and NASSP recommend the following:

1. Reinstate and clarify the term school leader by including a definition (language suggested below);
2. Increase capacity-building measures for principals in both proposals, and include the "core competencies of effective school leadership" (language suggested below).

Excellent teachers can and do create high-performing classrooms, but only an excellent principal can create and sustain a high-performing school. Given the role of principals in our nation's schools, federal policy must support greater emphasis on and recognition of their responsibilities, and set the guidance for states and local districts to provide professional development that will build capacity as instructional leaders. Professional development for principals and assistant principals has been largely overlooked by states and local districts, and the proposal blatantly excludes these school leaders as a key ingredient in our nation's schools.

NAESP and NASSP represent instructional leaders from grade levels spanning Pre-K to 12. As such, collectively we support strengthening and coordinating services from early childhood to the early elementary grades (P3 alignment), and joint professional development between early childhood educators and early elementary educators. The bill also calls for greater support for secondary schools and their role in the education continuum.

Again, NAESP and NASSP thank you for your efforts to reauthorize ESEA and work to better support principals to lead learning communities. We share your commitment to providing every student with a high quality education and the opportunity to succeed. As the committee moves forward with consideration of the bills, we look forward to continuing to work with you to better support principals.

Sincerely,

GAIL CONNELLY,  
*Executive Director, NAESP.*

JOANN BARTOLETTI,  
*Executive Director, NASSP.*

ATTACHMENT: SUGGESTED LANGUAGE SUBMITTED BY NAESP AND NASSP

*Student Success Act and Encouraging Innovation and Effective Teachers Act*

To clarify and strengthen the draft proposals, NAESP and NASSP recommend the following:

1. Reinstate and clarify the term school leader by including a definition.  
SEC. 1221. Definitions  
Insert:  
(11) SCHOOL LEADER—The term 'school leader' means a principal, assistant principal or individual who—  
(A) is an employee or officer of a school; and  
(B) is responsible for—  
(i) the daily instructional leadership and managerial operations of the school; and  
(ii) creating the optimum conditions for student learning.

2. Increase capacity-building measures for principals in both proposals, and include the “core competencies of effective school leadership”.

In the Student Success Act:

- SEC. 1112. Local Educational Agency Plans.

Insert:

“(b)(8) how the local educational agency will align professional development programs for school leaders as described in section 1221 (11) “

In the Innovation for Effective Teachers Act:

- SEC. 2122. Local Applications.

(pg. 17, Line 15)

(1)(B) insert after school leader effectiveness “based on the core competencies of effective school leadership described in section 2123 (2)(B)(v) \* \* \*”

- SEC. 2123. Local Use of Funds.

(pg. 19, Line 14)

Strike “may”, insert “shall”

- SEC. 2123. Local Use of Funds.

(pg. 20, Line 12)

(2)(B)(v) insert after mentorship programs for such leaders “aligned to the core competencies of effective school leadership that include—

- (i) understanding how to use student data to make instructional decisions;
- (ii) creating a learning culture within the school that provides a climate conducive to the development of all members of the school community;
- (iii) engaging in continuous professional development by utilizing a combination of academic study, developmental simulation exercises, self-reflection, mentorship and internship;
- (iv) understanding youth development appropriate to the age level served by the school, including the state standards for the academic, social, emotional and physical development of all students; and
- (v) engaging the community to create shared responsibility for student academic performance and successful development.

February 6, 2012.

Hon. JOHN KLINE, *Chairman,*  
*Committee on Education and the Workforce, 2181 Rayburn House Office Building,*  
*Washington, DC 20515.*

DEAR CHAIRMAN KLINE: We write on behalf of the Education Task Force of the Consortium for Citizens with Disabilities (CCD) to oppose both draft Elementary and Secondary Education Act (ESEA) bills you released. While we have many concerns with the draft bills, we are writing today with regard to three fundamental issues that seriously undermine the progress and academic achievement of students with disabilities. They are:

- The lack of subgroup accountability
- The lifting of the cap on the Alternate Assessment on Alternate Achievement Standards (AA-AAS)
- The rollback on teacher quality

*Subgroup Accountability*

As you know, students with disabilities have made considerable gains thanks to the current focus of the ESEA on all schools and all subgroups. These improvements have come in participation rates, academic achievement on grade level reading and math assessments and more generally in having increased access to the general curriculum and higher expectations for student achievement. We believe these gains are due largely to the requirement that the participation and proficiency of all subgroups be measured, reported, and used for the planning of interventions needed for improvement.

Students with disabilities may be most at risk if revisions to the law do not ensure all schools are accountable for student achievement at the subgroup level and receive extra resources and attention when they fail to produce progress. While the reauthorization of ESEA should explore ways to grant appropriate flexibility to ensure schools can best meet local needs and design instructional needs and interventions at the local level, this flexibility should not eliminate the current focus of ESEA’s accountability framework on all schools and all subgroups or eliminate targeted help to schools that need it. To do so ignores the real challenge facing our education systems—that too many schools are not providing an educational experience that enables all students with disabilities to make academic gains.

Furthermore, we still believe that states and school districts must intervene in all schools in which subgroups of students, including students with disabilities, are not meeting state standards.

*Elimination of the Cap on Alternate Assessment on Alternate Achievement Standards*

The Student Success Act would radically reduce high expectations for all students with disabilities. The bill would eliminate the current cap (often referred to as the 1% regulation) which restricts, for accountability purposes, the use of the scores on less challenging assessments being given to students with disabilities. Such assessments—known as the alternate assessment on alternate achievement standards—are intended for only a small number of students with the most significant cognitive disabilities. The incidence of students with the most significant cognitive disabilities is known to be far less than 1%. To ignore this data by raising or eliminating the cap would violate the legal rights of students who do not have the most significant cognitive disabilities and who should not be assessed on alternate academic achievement standards.

As data and student/family experience show, the decision to place a student in the alternate assessment on alternate achievement standards can limit or impede access to the general curriculum and take students off track for a regular diploma as early as elementary school. These limitations raise concerns for many students who are currently placed in these assessments. The problem would grow if the cap were eliminated. The alternate assessments were not designed or intended to be applied to a broader population of students. Rather than continuing to support students with disabilities in achieving a high school diploma and pursuing employment and postsecondary education, the lack of a cap on the use of the assessment virtually encourages schools to expect less from students with disabilities. This will jeopardize their true potential to learn and achieve.

*Teacher Quality*

Your bills eliminate all baseline preparation standards for teachers, instead focusing solely on measuring teacher effectiveness once teachers are already in the classroom. We believe it is a grave mistake to eliminate requirements that all teachers should be fully certified by their state and have demonstrated competency in their subject matter. All students deserve teachers who are fully-prepared on their first day in the classroom and who prove themselves effective once there.

Additionally, your bills lack any significant equity protections, particularly with respect to ensuring equal access to fully-prepared and effective teachers for our nation's most vulnerable students. The proposals eliminate the current requirement that low-income and minority students not be disproportionately taught by teachers who are unqualified, inexperienced, or teaching out of field. More generally, by failing to address comparability requirements, the proposals fail to ensure that resources—including fully-prepared and effective teachers—are equitably distributed within school districts.

Finally, these bills represent a significant step backwards in the area of transparency, particularly with respect to providing parents with information about their child's teachers. Where current law requires districts to inform parents when their child was taught for four or more weeks by a teacher who lacked full certification and/or subject matter competency, your proposal eliminates this required disclosure. In so doing, it eliminates parents' access to information that is critical to allowing them to hold their schools accountable for providing students with the resources they need to learn.

We urge you to revise your bill to unequivocally support high achievement for all students, especially students with disabilities. We would be happy to discuss this further as you prepare to introduce your bills and the process moves forward.

Sincerely,

AMERICAN ASSOCIATION OF PEOPLE WITH DISABILITIES;  
 AMERICAN DANCE THERAPY ASSOCIATION;  
 AMERICAN FOUNDATION FOR THE BLIND;  
 ASSOCIATION OF ASSISTIVE TECHNOLOGY ACT PROGRAMS;  
 ASSOCIATION OF UNIVERSITY CENTERS ON DISABILITIES;  
 AUTISM NATIONAL COMMITTEE;  
 BAZELON CENTER FOR MENTAL HEALTH LAW;  
 COUNCIL OF PARENT ATTORNEYS AND ADVOCATES;  
 COUNCIL FOR EXCEPTIONAL CHILDREN;  
 COUNCIL FOR LEARNING DISABILITIES;  
 DISABILITY RIGHTS EDUCATION AND DEFENSE FUND;  
 EASTER SEALS;  
 HIGHER EDUCATION CONSORTIUM FOR SPECIAL EDUCATION;  
 LEARNING DISABILITIES ASSOCIATION OF AMERICA;  
 MENTAL HEALTH AMERICA;  
 NATIONAL ASSOCIATION OF COUNCILS ON DEVELOPMENTAL DISABILITIES;  
 NATIONAL ASSOCIATION OF SCHOOL PSYCHOLOGISTS;  
 NATIONAL ASSOCIATION OF STATE DIRECTORS OF SPECIAL EDUCATION;  
 NATIONAL CENTER FOR LEARNING DISABILITIES;  
 NATIONAL COUNCIL ON INDEPENDENT LIVING;  
 NATIONAL DISABILITY RIGHTS NETWORK;  
 NATIONAL DOWN SYNDROME CONGRESS;  
 NATIONAL DOWN SYNDROME SOCIETY;  
 SCHOOL SOCIAL WORK ASSOCIATION OF AMERICA;  
 TEACHER EDUCATION DIVISION OF THE COUNCIL FOR EXCEPTIONAL CHILDREN;  
 THE ADVOCACY INSTITUTE;  
 THE ARC OF THE UNITED STATES;  
 THE NATIONAL ALLIANCE ON MENTAL ILLNESS.

*February 13, 2012.*

Hon. JOHN KLINE, *Chairman,*  
*Committee on Education and the Workforce, 2181 Rayburn House Office Building,*  
*Washington, DC 20515.*

RE: Student Success Act and Encouraging Innovation and Effective Teachers Act

DEAR CHAIRMAN KLINE: On behalf of the nation's 50 million elementary and secondary students, the Coalition for Teaching Quality would like to voice our concerns with provisions regarding teacher quality and equitable distribution of teachers in the 'Student Success Act' and the 'Encouraging Innovation and Effective Teachers Act.' As a coalition of 86 organizations concerned with promoting educational quality and equity, particularly for students who have traditionally been least well served by our public education system, we are deeply committed to the development of well-prepared and effective teachers for all communities, and to the equitable distribution of these teachers to all students. Unfortunately, the Student Success Act and the Encouraging Innovation and Effective Teachers Act represent a significant step backward from these goals.

First, these bills eliminate all baseline preparation standards for teachers, instead focusing solely on measuring teacher effectiveness once teachers are already in the classroom. We believe policy must enhance and improve current "highly qualified teacher" provisions requiring all teachers to be fully certified by their state and have demonstrated competency in their subject matter, not eliminate this requirement altogether. A wealth of research shows that high need students are most likely to be taught by teachers who have not completed their training, have not demonstrated competency in their subject matter, and are inexperienced. These bills will do nothing to change this reality. Even if well-proven strategies to evaluate teacher effectiveness were widely available, which is not now the case, these bills fail to recognize that teacher effectiveness cannot be measured until a teacher has actually taught. All students—especially low-income students, students of color, students with disabilities, English language learners, and students from high-need rural communities—deserve teachers who are fully-prepared on their first day in the classroom and who prove themselves effective once there.

Second, these bills lack any significant equity protections, particularly with respect to ensuring equal access to fully-prepared and effective teachers for our na-



tion's most vulnerable students. The proposals eliminate existing requirements that low-income and minority students not be disproportionately taught by teachers who are unqualified, inexperienced, or teaching out of field. More generally, by failing to address comparability requirements, the proposals fail to ensure that resources—including fully-prepared and effective teachers—are equitably distributed within school districts.

Finally, these bills move away from a focus on transparency, particularly with respect to providing parents with information about the background qualifications and training of their child's teachers. Whereas current law requires districts to inform parents when their child is taught for four or more weeks by a teacher who is not "highly qualified," your proposal eliminates this required disclosure. In so doing, it eliminates parents' access to one piece of information that is critical to allowing them to hold their schools accountable for providing students with the resources they need to learn.

Like you, we continue to support the ESEA reauthorization process and hope that ESEA will be reauthorized before the end of this year. In our ongoing meetings regarding reauthorization with Congressional offices, we continue to advocate for the inclusion of the attached principles on fully-prepared, well-supported, and effective teachers for all students in any reauthorization bill.

We also continue to support other legislation that reflects our coalition's principles, such as H.R. 2902 by Representative Judy Chu (D-CA), which strengthens high-quality pathways into teaching, increases the supply of fully-prepared teachers who have made a long-term commitment to serving in high-need communities, and supports induction and retention programs in order to promote a stable learning environment for educators and students. As another mechanism to improve teacher quality and increase access to effective teachers, we also support S. 1716 by Senator Bernard Sanders (I-VT). S. 1716 not only defines a "highly qualified teacher" as someone who has fully completed a State-approved traditional or alternative teacher preparation program, but also changes state plans to include a strategy for recruitment, support, retention, and equitable distribution of highly qualified and effective teachers.

The nation's growth and the strength of our democracy are dependent on the educational success of our students. The Coalition for Teaching Quality remains committed to working in partnership with the House Committee on Education and the Workforce to ensure students in all communities have access to fully-prepared, well-supported, and effective teachers.

Sincerely,

MEMBERS OF THE COALITION FOR TEACHING QUALITY (*list attached*):

Coalition for Teaching Quality (86 members)  
 National Organizations  
 Alliance for Multilingual Multicultural Education  
 American Council on Education  
 American Association of Colleges for Teacher Education  
 American Association of People with Disabilities  
 American Association of State Colleges and Universities  
 American Council for School Social Work  
 Association of University Centers on Disabilities  
 ASPIRA Association  
 Autistic Self Advocacy Network  
 Autism National Committee  
 Center for Teaching Quality  
 Citizens for Effective Schools  
 Communities for Excellent Public Schools  
 Council for Exceptional Children  
 Council of Parent Attorneys and Advocates  
 Disability Policy Collaboration, A Partnership of The Arc and UCP  
 Disability Rights Education and Defense Fund Inc  
 Easter Seals  
 Education Law Center  
 FairTest, The National Center for Fair & Open Testing  
 First Focus Campaign for Children  
 Gamaliel Foundation  
 Helen Keller National Center  
 Higher Education Consortium for Special Education  
 Knowledge Alliance  
 Latino Elected and Appointed Officials National Taskforce on Education  
 Lawyers' Committee for Civil Rights Under Law

League of United Latin American Citizens  
 Learning Disabilities Association of America  
 Movement Strategy Center  
 NAACP  
 NAACP Legal Defense and Educational Fund, Inc.  
 National Alliance of Black School Educators  
 National Association of School Psychologists  
 National Association of State Directors of Special Education  
 National Center for Learning Disabilities  
 National Consortium on Deaf-Blindness  
 National Council for Educating Black Children  
 National Council of Teachers of English  
 National Council of Teachers of Mathematics  
 National Disability Rights Network  
 National Down Syndrome Congress  
 National Down Syndrome Society  
 National Education Association  
 National Indian Education Association  
 National Latino Education Research & Policy Project  
 National PTA  
 National Urban League  
 League of United Latin American Citizens  
 Parents Across America  
 Partnership for 21st Century Skills  
 Public Advocates Inc.  
 Public Education Network  
 Rural School and Community Trust  
 School Social Work Association of America  
 South East Asia Resource Action Center  
 TASH—Equity, Opportunity, and Inclusion for People with Disabilities  
 Teacher Education Division of the Council for Exceptional Children  
 Teachers of English to Speakers of Other Languages International, Inc.  
 United Church of Christ Justice & Witness Ministries  
 State and Local Organizations  
 Action Now—Illinois  
 Action Now—North Carolina  
 ACTION United  
 Alliance of Californians for Community Empowerment (ACCE)  
 Arkansas Community Organizations  
 Bay Area Parent Leadership Action Network  
 Brighton Park Neighborhood Council—Chicago  
 California Association for Bilingual Education  
 Californians for Justice  
 Californians Together  
 California Latino School Boards Association  
 Campaign for Quality Education  
 Center for the Future of Teaching and Learning Coalition for Educational Justice  
 Delawareans for Social and Economic Justice  
 Grow Your Own Illinois  
 Inner City Struggle  
 Justice Matters  
 Legal Advocates for Children and Youth  
 Parent-U-Turn  
 Parents for Unity  
 RYSE Center  
 San Francisco Teacher Residency  
 Texas Association of Chicanos in Higher Education  
 Youth On Board—Somerville, MA  
 Youth Together

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*February 9, 2012.*

Hon. JOHN KLINE, *Chairman,*  
*Committee on Education and the Workforce, 2181 Rayburn House Office Building,*  
*Washington, DC 20515.*

DEAR CHAIRMAN KLINE: The Business Coalition for Student Achievement (BCSA), a coalition of leading chief executive officers, is pleased to see the U.S. House of

Representatives moving forward with the long overdue reauthorization of the Elementary and Secondary Education Act (ESEA). BCSA appreciates the transparent nature of the process that you have used to solicit input on the Student Success Act and the Encouraging Innovation and Effective Teachers Act, and looks forward to working with the committee as it finalizes these bills through the legislative process.

The nation must strengthen the education provided to its students. The U.S. Department of Labor reports that millions of jobs are going unfilled despite an historically high unemployment rate, and business leaders know why: too few American's are prepared for the jobs of today. What is worse, too little is being done to prepare students for the jobs of tomorrow.

Federal education policy must support the success of all students by advancing key education principles, including:

- college- and career-ready standards;
- accountability for all students;
- required action for all low-performing schools;
- effective teachers and leaders;
- choices for students attending low-performing schools; and
- clear and transparent data for parents, businesses, and the community.

The proposed bills represent progress in the area of teacher evaluation. However, overall, the legislation proposes a striking retreat from the principles of education reform that will position students to maintain America's competitive edge in the global economy. The Student Success Act, for example, virtually eliminates federal requirements for the improvement of low performing schools, takes away the ability currently given to students attending low performing schools to choose higher performing schools and access free tutoring, and asks virtually nothing in return for the billions of taxpayer dollars invested in the nation's schools.

The nation's education system is failing to adequately prepare students for the workforce. This is demonstrated by data from the U.S. Department of Labor stating that 3.2 million jobs were unfilled in November 2011 despite an historically high unemployment rate. Similarly, McKinsey & Company reports that 40 percent of the 2,000 businesses they surveyed had at least one position vacant for six months. The fact that positions go unfilled because applicants lack the skills necessary to fill them is an indictment on the education currently being provided to children, and a clear call for reform.

BCSA calls specific attention to the failure of the Student Success Act to support the state-led effort that is currently underway to provide all students with a college- and career-ready education. While this legislation includes a requirement for standards—an important and appropriate provision to be included in federal law—the bill does not call for college- and career-ready standards. Further, it removes the requirement within current law for assessments in science. The nation needs more—not fewer—engineers, scientists, and experts in technology. At a time when other countries are growing their capacity for innovation by deepening their focus on education, the United States cannot afford to stifle its own potential by allowing anything less than college- and career-ready standards to drive K—12 education.

The business community believes that there is a vital Federal role in ensuring accountability for academic performance and for safeguarding parents' and students' interests, which are too often lost in a maze of education bureaucracies. As the reauthorization process for ESEA continues, these proposals must be strengthened to ensure that all students have the opportunity to succeed. Additionally, it is critical that this reauthorization move forward in a bipartisan fashion. Education has historically been a bipartisan issue, and the best way to move forward is through substantive negotiations including both democrats and republicans. BCSA hopes that such bipartisan deliberations will produce a bill that can earn the support of the business community.

Mr. Chairman, as you well know, education is at the core of the nation's economy. BCSA is eager to assist in any way possible to ensure the education system adequately prepares today's students for tomorrow's workforce.

Sincerely,

CRAIG BARRETT,  
*Retired Chairman and CEO Intel Corporation; Cochair, BCSA.*

WILLIAM D. GREEN,  
*Chairman, Accenture; Cochair, BCSA.*

EDWARD B. RUST JR.,  
*Chairman and Chief Executive Officer, State Farm Mutual; Cochair, BCSA.*

February 10, 2012.

Hon. JOHN KLINE, *Chairman,*  
*Committee on Education and the Workforce, 2181 Rayburn House Office Building,*  
*Washington, DC 20515.*

DEAR CHAIRMAN KLINE: On behalf of the 33,000 special education teachers, special education administrators, higher education faculty, related service personnel and other professionals who are members of the Council for Exceptional Children (CEC), we are writing to express our concerns with the final two bills the Student Success Act and the Encouraging Innovation and Effective Teachers Act that you introduced on the Elementary and Secondary Education Act reauthorization.

We appreciate your efforts and those of your staff, in addressing the pressing issue of the reauthorization of the Elementary and Secondary Education Act. States and local school districts need additional resources and flexibility to provide a quality education to all students, including students with disabilities. We are pleased that your legislation will eliminate the arbitrary deadline of 2014 and along with it Annual Yearly Progress. We are also pleased that your legislation will maintain the requirement to disaggregate data by subgroup and publically report on that data. But, we are troubled by the overall lack of accountability and great weakening of the federal role this legislation would represent. In particular we oppose the following:

- **Elimination of Highly Qualified Teacher Provisions:** All requirements that entering teachers meet any minimum qualifications are eliminated. This lifts a protection for our most vulnerable students, including many students with disabilities, who are often placed in classrooms with new entering teachers. Under your bill, these students fall into an unprotected loophole and simply not guaranteed a qualified teacher.

- **Lack of Focus on Professional Development:** Nothing in this legislation requires ongoing professional development, despite evidence that this is needed by the field and leads to gains in student achievement and student growth. Although Title II funds may be used to support professional development, this bill backs away from the federal government's long-standing commitment to support education professionals. This support is needed now, more than ever.

- **Increased Privatization:** CEC opposes language in the Local Academic Flexible Grant section that would allow public dollars to be invested in private schools. CEC opposes vouchers for children and youth and those with disabilities because they contradict and undermine the central purposes of civil rights laws including these measures. Vouchers deprive students of rights and protections they have while in public schools. This is especially critical for students with disabilities who lose all protections under the Individuals with Disabilities Education Act when they leave public schools and attend a private school.

- **Reduced, Capped and Eliminated Funding:** This legislation would mean less resources for students and schools. CEC opposes setting caps on Title I funding and eliminating Maintenance of Effort Provisions. Eliminating safeguards will not ensure accountability and achievement. States and districts need more resources in this environment and are working under ever decreasing budget measures. Ignoring the real need will not help us address the real concerns about achievement.

- **Elimination of the 1% Cap:** This legislation eliminates the current 1% cap on the use of scores for accountability purposes for students with significant cognitive disabilities. It is important to point out that placing a student on an alternate assessment removes them from the general accountability system. It also takes away their ability to receive a regular diploma. Experts across the field recognize that the 1% amount is important, widely accepted and well addresses the proportion of students who may need to take an alternate assessment. Yet, removing this cap might create an incentive to exclude students from the general assessment and place them on an alternate simply to increase the statistical view of achievement in a district. It is not a needed change and as such, we cannot support it.

- **Reduction of Accountability for Students with Disabilities:** NCLB brought students with disabilities and the educators who serve them to the table in new and important ways. Due to this increased focus and inclusion in the accountability system, students with disabilities increased participation rates, academic achievement on grade level reading and math assessments and more generally in having increased access to the general curriculum and higher expectations for student achievement. We believe these gains are due largely to the requirement that the participation and proficiency of all subgroups be measured, reported, and used for the planning of interventions needed for improvement. We are concerned with the lack of focus on this area in your bill and, if enacted, what impact it may have students.

CEC looks forward to continuing to work with you to ensure that our education system raises expectations for students with disabilities and ensures that all educators are prepared to meet their needs.

Sincerely,

DEBORAH A. ZIEGLER, ED.D.,  
Associate Executive Director, Policy and Advocacy Services.

February 10, 2012.

Hon. JOHN KLINE, *Chairman,*  
*Committee on Education and the Workforce, 2181 Rayburn House Office Building,*  
*Washington, DC 20515.*

DEAR CHAIRMAN KLINE: As members of the Science, Technology, Engineering, and Mathematics (STEM) Education Coalition, we are writing in response to the two bills you recently introduced that would reauthorize major portions of the Elementary and Secondary Education Act (ESEA), otherwise known as the No Child Left Behind Act. We appreciate this opportunity to offer our feedback in response to the Student Success Act and the Encouraging Innovation and Effective Teachers Act.

An extensive array of economic data has continued to point to the close connections between a strong STEM education and a student's future success in competing for the best jobs of today and the future. The Georgetown University's Center on Education and the Workforce recently concluded that:

The STEM workforce will remain central to our economic vitality well into the future, contributing to innovation, technological growth, and economic development. Capable STEM students, from K-12 all the way through the postgraduate level, will be needed in the pipeline for careers that utilize STEM competencies and increase our innovative capacities. We cannot win the future without recognizing the growing need for STEM competencies across the economy.

In short, education reforms that are strongly focused on the STEM subjects are reforms that are strongly focused on jobs and economic recovery. Our specific recommendations:

*Retain Science Testing, Alongside Math and Reading*

We respectfully disagree with the Student Success Act's removal of the requirement for states to test students in science. Removing the existing requirement for testing in science while maintaining testing in math and reading sends a powerful, negative, and unambiguous signal to U.S. schools and the public that science—along with all of its related subdisciplines—is no longer a national priority. If the requirement for science testing is eliminated, schools will shift their limited resources away from science classes, less time will be devoted to science, and professional development for science educators will suffer.

While we appreciate your interest in providing more flexibility to states, if a future version of the ESEA will continue to establish national priorities—as the Student Success Act clearly does for reading and math—it is critical that science testing be retained.

*A Strong Federal Focus on STEM Education is Essential to a Strong U.S. Workforce, Economy*

The Encouraging Innovation and Effective Teachers Act would eliminate the U.S. Department of Education's only existing dedicated STEM education-focused program—the Math and Science Partnerships program (Title II, Part B). While we recognize the bill's goal of streamlining a myriad of education programs, we disagree with the absence of any strong STEM education focus for Title II grants or any significant linkage between Title II activities and workforce needs.

We support a provision in the bipartisan Harkin-Enzi Senate ESEA draft bill that addresses STEM-specific education needs through a single competitive grant program (Sec. 4103) that would require state applicants to demonstrate that their proposals had robust input from the business community and other workforce stakeholders. Our Coalition also strongly supports the underlying stand-alone bill (S. 1675) introduced by Sen. Merkley upon which Sec. 4013 is based as a balanced approach of competitive and formula-based funding dedicated to meet the STEM-specific needs of U.S. schools.

The STEM Education Coalition also aggressively supports comprehensive efforts to coordinate, evaluate, and review all federal STEM programs on a regular basis to ensure that effective programs are scaled up and that underperforming programs are improved or eliminated.

*STEM and the Definition of Core Academic Subjects*

While we appreciate that math and science are included in the Student Success Act's definition of "core academic subjects," we feel that this definition is overly narrow and static, excluding many areas of study that are essential to the needs of the economy and workforce. Instead, the broader "STEM subjects" should be listed as a core subject area, with a provision for defining STEM education in a broad and inclusive manner that embraces each STEM discipline and its unique needs.

Given the strong connections between STEM skills and the job success of American workers, a strong focus on the STEM-specific needs of students, schools, and educators is essential to the practical success of education reforms.

In conclusion, while we agree with you that "we can't wait" for education reform, we also cannot "win the future" without maintaining STEM education as a national priority. We look forward to working closely with you and your colleagues in both parties on the Committee as you reauthorize this critical law. If we may offer any additional assistance, please contact us through James Brown, our Coalition's Executive Director at [jfbrown@stemedcoalition.org](mailto:jfbrown@stemedcoalition.org) or (202) 223-1187. Thank you.

Sincerely,

AMERICAN CHEMICAL SOCIETY;  
 AMERICAN SOCIETY FOR BIOCHEMISTRY AND MOLECULAR BIOLOGY;  
 AMERICAN SOCIETY OF AGRONOMY;  
 AMERICAN SOCIETY OF CIVIL ENGINEERS;  
 AMERICAN SOCIETY FOR ENGINEERING EDUCATION;  
 ASME;  
 ASSOCIATION FOR COMPUTING MACHINERY;  
 ASTRA, ALLIANCE FOR SCIENCE AND TECHNOLOGY RESEARCH IN AMERICA;  
 CAMPAIGN FOR ENVIRONMENTAL LITERACY;  
 CROP SCIENCE SOCIETY OF AMERICA;  
 EDUCATION DEVELOPMENT CENTER, INC.;  
 HANDS ON SCIENCE PARTNERSHIP;  
 IEEE-USA;  
 NATIONAL SCIENCE TEACHERS ASSOCIATION;  
 SOIL SCIENCE SOCIETY OF AMERICA;  
 AMERICAN GEOPHYSICAL UNION;  
 AMERICAN PHYSICAL SOCIETY;  
 AMERICAN STATISTICAL ASSOCIATION;  
 ARC CAPITAL DEVELOPMENT, LLC;  
 ASSOCIATION OF SCIENCE MATERIALS CENTERS;  
 BSCS;  
 CALIFORNIA STEM LEARNING NETWORK;  
 CHICAGO EDUCATIONAL PUBLISHING COMPANY, LLC;  
 CHICAGO SCIENCE GROUP, LLC;  
 COMPUTER SCIENCE TEACHERS ASSOCIATION;  
 EAST INITIATIVE;  
 ECOCAD DESIGN GROUP, LLP;  
 ECOLOGICAL SOCIETY OF AMERICA;  
 ENGINEERS WITHOUT BORDERS-USA;  
 FUNUTATION TEKADEMY LLC;  
 LEARNONLINE, INC.;  
 LYRA ENTERPRISES, LLC;  
 MAINE CENTER FOR RESEARCH IN STEM EDUCATION (RISE);  
 NATIONAL COUNCIL FOR ADVANCED MANUFACTURING (NACFAM);  
 NATIONAL COUNCIL OF STRUCTURAL ENGINEERS ASSOCIATIONS;  
 NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS;  
 NATIONAL INSTITUTE OF BUILDING SCIENCES;  
 PBS;  
 PICO TURBINE INTERNATIONAL;  
 SIX-TO-SIX INTERDISTRICT MAGNET SCHOOL, BRIDGEPORT, CT;  
 SOCIETY OF WOMEN ENGINEERS;  
 SOUTH CAROLINA'S COALITION FOR MATHEMATICS & SCIENCE;  
 SPARKFUN ELECTRONICS;  
 STEM EDUCATION CENTER, UNIVERSITY OF MINNESOTA;  
 TECHNOLOGY STUDENT ASSOCIATION;  
 VERNIER SOFTWARE & TECHNOLOGY.

February 13, 2012.

Hon. JOHN KLINE, *Chairman,*  
*Committee on Education and the Workforce, 2181 Rayburn House Office Building,*  
*Washington, DC 20515.*

DEAR CHAIRMAN KLINE: We, the undersigned providers and advocates for high quality after school, summer, and expanded learning programs in California, write to thank you for introducing the Encouraging Innovation and Effective Teachers Act as part of your continuing effort to reauthorize the Elementary and Secondary Education Act (ESEA). However, we have serious concerns about your legislation and must express our strong opposition to provisions in the Encouraging Innovation and Effective Teachers Act that would consolidate the 21st Century Community Learning Centers (CCLC) program as part of the proposed Local Academic Flexible Grant. In addition, we are disappointed that provisions to require community-based partners were not maintained from your previously released discussion draft.

The 21st CCLC program supports the creation of community learning centers that provide critical academic enrichment opportunities during non-school hours for children, particularly students who attend high-poverty and low-performing schools. The program helps students meet state and local student standards in core academic subjects, such as reading and math; offers students a broad array of enrichment activities that can complement their regular academic programs; and offers literacy and other educational services to the families of participating children. For example, a 2011 UCLA study found that students who participated in LA's BEST after school programs in their elementary school years demonstrated gains in both math GPA and standardized test scores in 8th grade. Additionally, higher levels of participation in LA's BEST led to higher science and history GPA in 8th grade.

In light of the demonstrated impact of our programs on student engagement and achievement, we are concerned that the Local Academic Flexible Grant (Part B, of Title III of the Encouraging Innovation and Effective Teachers Act) consolidates this successful program that currently serves over a million students and is the only federal education funding stream that is solely dedicated to supporting before school, after school, and summer learning programs.

Therefore, we strongly recommend that the Encouraging Innovation and Effective Teachers Act maintain a separate funding stream for the 21st CCLC program under the same structure as current law of ESEA.

In addition to maintaining a separate 21st CCLC program under the Encouraging Innovation and Effective Teachers Act, we believe that efforts to broaden the scope of the program through expanded learning during the school day can have a positive impact if such activities are done in close collaboration with community partners and with local investment.

Accordingly, we recommend that the 21st CCLC program be reauthorized so that it better supports the highest-quality learning and enrichment programs to promote full day or year learning strategies. In order to achieve that goal, we believe the program should be updated to:

- Ensure that local communities have full authority without state or federal preference or direction to make their own decisions about whether to use 21st CCLC funds for (1) after-school, (2) summer learning programs, (3) before school, and/or (4) expanded learning programs;
- Require partnerships between school districts and community-based partners, in which either the community-based partner or the school district can be the lead fiscal agent;
- Ensure providers integrate academics, enrichment, and skill development through hands-on experiences that make learning relevant and engaging;
- Allow programs to serve all students or focus on groups of students to best meet the needs of the school and community;
- Fund programs that offer a range of activities that capture student interest and strengthen student engagement in learning, which promotes higher class attendance, reduces risk for retention or drop out, and increases chance for graduation; and
- Support programs that actively address the specific learning needs and interests of all types of students, especially those who may benefit from approaches and experiences not offered in the traditional classroom setting.

Unfortunately, too many children across the country do not have access to high quality expanded learning opportunities. That is why dedicated, federal funding for the 21st CCLC program is necessary if we truly want to improve academic achievement, reduce the dropout crisis, and turn around our nation's low-achieving schools.

Thank you for your consideration of our recommendations. Please contact Jennifer Peck at [Jennifer@partnerforchildren.org](mailto:Jennifer@partnerforchildren.org) or call (510) 830-4200 x1601, if you would like further information or have any questions regarding our recommendations.

Sincerely,

BEN PAUL, *President & CEO,*  
*After-School All-Stars;*  
ANA CAMPOS, *Executive Director,*  
*After-School All-Stars, Los Angeles;*  
MARIO VARGAS, *Executive Director,*  
*Bay Area After-School All-Stars;*  
K.J. LAVOIE, *State Director,*  
*California Alliance of Boys and Girls Clubs;*  
RUTH OBEL-JORGENSEN, *Executive Director,*  
*California School-Age Consortium;*  
CATHERINE BARANKIN, *Director,*  
*California State Alliance of YMCAs;*  
CHRIS ROE, *CEO,*  
*California STEM Learning Network;*  
KIM BOYER, *Executive Director,*  
*Central Valley Afterschool Foundation;*  
TED LEMPERT, *President,*  
*Children Now, California;*  
CARLA SANGER, *President and CEO,*  
*L.A.'s BEST;*  
JENNIFER PECK, *Executive Director,*  
*Partnership for Children and Youth;*  
VERNON BROWN, *CEO,*  
*Sunset Neighborhood Beacon Center;*  
SARAH MOSTOFI, *Director,*  
*The Children's Initiative;*  
RANDY BARTH, *Founder and CEO,*  
*THINK Together, L.A., Orange, Riverside Counties;*  
CHRIS JOHNSON, *Interim CEO,*  
*Woodcraft Rangers, Los Angeles.*

February 13, 2012.

Hon. JOHN KLINE, *Chairman,*  
*Committee on Education and the Workforce, 2181 Rayburn House Office Building,*  
*Washington, DC 20515.*

RE: NCAI and USET Comments on the Student Success Act (H.R. 3989) and the Encouraging Innovation and Effective Teachers Act (H.R. 3990)

DEAR CHAIRMAN KLINE: On behalf of the National Congress of American Indians (NCAI) and the United South and Eastern Tribes (USET), we would like to congratulate the US House of Representatives Committee on Education and the Workforce for taking an important step in reauthorizing the Elementary and Secondary Education Act (ESEA) with the recent release of its two new bills, the Student Success Act (H.R. 3989) and the Encouraging Innovation and Effective Teachers Act (H.R. 3990). While Indian Country is excited about certain aspects of the bills, we have serious concerns about the legislation as it is currently written.

NCAI and USET represent tribal governments and education systems serving the children of more than five million Native people throughout the country. Tribes have an enormous stake in the education of our Native children, and we agree with the Committee that the No Child Left Behind Act (NCLB) is in need of dramatic reform. The NCLB has done little to address the longstanding challenges facing American Indian and Alaska Native education, as is clearly demonstrated by the fact that over the past ten years, our Native students have been the only population to have not improved in reading or math (grades four and eight).<sup>i</sup> Nationwide, our students face some of the lowest high school graduation rates, and even fewer enroll

<sup>i</sup>U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics, National Assessment of Educational Progress (NAEP), 2005, 2007, and 2009 National Indian Education Studies.



in and graduate from college.<sup>11</sup> Indian education is in nothing less than a state of emergency, and tribes have long awaited the opportunity to partner with Congress to take bold action that will significantly improve our education systems.

Indian Country applauds the Committee's focus on promoting flexibility, streamlining programs, and reducing regulatory burdens. In fact, I highlighted these very topics as critical tribal priorities in my 2012 State of Indian Nations Address at the end of January. I called upon Congress and the Administration to empower tribes with the resource flexibility to concentrate on program development and outcomes, rather than on the administrative burdens often inherent in utilizing federal programs. This flexibility can be accomplished by streamlining tribal programs and, in many cases, by making tribes eligible for existing funding streams. The Student Success Act takes an important step forward in this regard by making the Bureau of Indian Education eligible for competitive grant programs—a top priority for tribes in the ESEA reauthorization. Ensuring governmental flexibility for tribes will yield more efficient programs and spending because decisions will be made by those in the best position to respond to community needs.

In the same vein, we welcome the Committee's emphasis on local control over education. Strengthening local, tribal control over the education of our Native students has been a tribal priority for decades and is currently one of our top priorities for the ESEA reauthorization. Tribal governments are in the best position to address the educational needs of our Native students for a simple but intuitive reason: we know our children and communities the best. We know where the needs are, and we know what works for our students. In this area in particular, we appreciate that the Student Success Act contains new provisions directing local educational agencies to collaborate with tribes in the development of comprehensive Indian education programs and to share data about Native students' academic progress with tribes.

Despite these important strides forward, Indian Country has serious concerns about the Student Success and Encouraging Innovation and Effective Teachers Acts. The two bills, as they are currently written, could potentially abrogate the federal trust responsibility to American Indians and Alaska Natives, decrease crucial funding and programs for our Native students, and eliminate the accountability measures that help ensure our children have equitable educational opportunities.

The legislation potentially abrogates the federal trust responsibility: While we appreciate the Committee's intention to advance local control and flexibility in education, the Committee's new bills propose to accomplish these goals in a manner that potentially abrogates the federal trust responsibility. The federal government's trust responsibility to tribes—a sacred obligation codified in treaties, the U.S. Constitution, U.S. Supreme Court and federal cases, and statutes—includes a duty to educate our Native children. However, in striking Title VII—the Indian, Native Hawaiian and Alaska Native Education title—and merging the ESEA's Indian education programs into Title I, the Student Success Act would severely undercut this trust responsibility by enabling states to divert funds intended for Native students for other purposes.

Native nations have fought for decades to teach and learn in ways that respect our cultures, languages, values, histories, and traditions. Current data and research demonstrates that targeted funding for Indian education improves academic achievement, revitalizes our languages, and strengthens Native self-respect and identity. Federal funds dedicated to Indian education—largely through Title VII—are the primary source of support that specifically addresses the academic, cultural, social, and linguistic needs of Native students. Furthermore, programs like Title VII were established expressly because states and districts were not providing such services to Native students. Providing these services is not an option—it is part of the trust responsibility to give Native students the highest quality education possible. States cannot be allowed to break this obligation and re-direct funds away from Native children at their discretion.

The legislation potentially decreases crucial funding and programs for our Native students: As stated above, the bills potentially decrease the amount of resources flowing to our Native students by removing the guarantee that states spend the federal dollars specifically allocated for Indian education on Indian children. But the legislation also explicitly eliminates many other critical Indian education programs, including:

The Alaska Native Education and Native Hawaiian Education Equity Programs: These two programs support supplemental educational programs and services for Alaska Natives and Native Hawaiians by awarding competitive grants for a variety of vital activities, including curriculum development and implementation, teacher training, special education, gifted and talented education, family literacy services,

<sup>11</sup> US Census Bureau, American Community Survey 2005-2009 estimates.

and community-based learning centers. Because the need is so great in Alaska Native and Native Hawaiian communities, these two programs are not duplicative of other Title I services and are essential to closing the achievement gap for these Native groups. As such, the Alaska Native Education and Native Hawaiian Education Equity programs cannot be eliminated in the ESEA reauthorization.

**National Indian Education Study:** Administered as part of the National Assessment of Educational Progress, the National Indian Education Study examines the academic achievement and educational experiences of Native students in grades four and eight. As one of the only national studies that even includes data on Native students, the National Indian Education Study is imperative to assisting Native nations, states, and schools in making data driven decisions about the education of our Native children. It must be maintained in the ESEA reauthorization.

**Other "National Activities":** The Student Success Act eliminates every Indian program listed under "National Activities" in current law. The fact that these programs have not been recently funded is not an acceptable justification for eliminating their authority entirely within the ESEA reauthorization. Tribes fought for the authorization of these programs years ago and continue to argue that they should be funded as a part of the fulfillment of the trust responsibility.

The legislation potentially eliminates the accountability measures that help ensure our Native children have equitable educational opportunities: While the bills continue to require states to disaggregate subgroup data and assess all students, the legislation eliminates performance targets and leaves it up to states' discretion whether to hold schools accountable for the performance of low-income students, students of color, and other subgroups. Such provisions have a troublesome history that Native students cannot afford to repeat. The last time the federal government left accountability completely to the states, only two states included the performance of individual groups of students in their systems; two-thirds decided to do nothing. The rest took action in name only, setting targets too low or too vague to meaningfully drive improved student achievement.

Native children cannot withstand the risk of having states set low academic expectations and then allowing schools to do little or nothing to address their overwhelming academic disparities. Federal funding must be attached to firm, ambitious, and unequivocal demands for higher achievement, improved high school graduation rates, and progress in closing both achievement and opportunity gaps. The ESEA reauthorization must, at minimum, require states to set clear goals and provide adequate instructional support so that all students receive an education that prepares them for success in college and careers.

We are confident that with your support and by working together, our concerns can be remedied. Tribal governments stand ready to partner with you in moving ESEA reauthorization forward to improve the education of all of our nation's children.

Sincerely,

JEFFERSON KEEL, *President,*  
*National Congress of American Indians.*

BRIAN PATTERSON, *President,*  
*United South and Eastern Tribes.*

### **Reauthorization of the ESEA: Indian Country Key Recommendations**

Indian nations have the largest stake in improving the education of their citizens. We must prepare them for active and equal participation in the global market. We must prepare them to be citizens in the 21st century. We must prepare them to be positive, involved members of our communities. And, most importantly, we must prepare them to be the future leaders of our governments. There is no more vital resource to the continued existence and integrity of Indian tribes than their children.

Education policies over the last few decades have supported tribes exercising sovereignty over education programs serving American Indian and Alaska Native children. We are looking forward to this trend continuing during this reauthorization and strongly support the current efforts of Congress and the Administration in ensuring that the needs of Indian students are considered from the beginning of the drafting process. To that end, we offer the following key recommendations.

#### *Key recommendations*

##### *1. Strengthen Tribal Control of Education*

- Require States to enter into collaborative agreements with tribes.

In order for tribes and their tribal education agencies (TEA) to build capacity and better serve their citizens, States must recognize tribal authority over the education

of their students. Upon request, States should negotiate with tribal governments to transfer education programs, funding, services, and administrative responsibilities to the tribes. The Department of Education would both facilitate and foster the cooperation of the State and the tribes in these agreements through financial penalties of Title 1 funding. For example, TEAs should be empowered to implement their own school improvement plan via the accreditation process. Additionally, tribes should be given funds to build capacity for their education departments in the same ways as States and districts.

- Statutory collaboration between local education agencies and tribes.

92% of Indian students attend public schools, making collaboration between the local education agency (LEAs) and the tribe essential in developing a comprehensive plan for Indian student achievement. LEAs should develop, in consultation with the local tribe, a plan to improve the coordination of activities, specifically relating to Title I.

- Improve data collection and sharing of data with tribes.

Data for Indian students is often incomplete. There are a number of reasons for this—including our incredible diversity which necessitates oversampling to achieve generalizability, our remote locations, and language barriers. A first step should be to build upon the already existing Migrant Student Information Exchange (MSIX) system. This system will allow for proper enrollment and placement of Indian students, while providing an opportunity for the development of a complete data collection system to track complete Indian student records.

- Restore Director of Indian Education to Assistant Secretary for Indian Education.

The current position for the Director is underutilized and functions almost exclusively as a grant manager. This position and office must be elevated so that there is authority to engage in all titles of the ESEA that impact Indian student education. The Assistant Secretary of Indian Education should also be authorized to facilitate interagency collaboration and to implement the role of the TEAs in various titles.

### *2. Invest in Cultural and Language Revitalization*

- Use of culturally-based education as a promising practice in public schools.

Culturally-Based Education (CBE) is a teaching model that encourages quality instructional practices rooted in cultural and linguistically relevant context. We recognize, however, that there is little quantitative data to point to, so tribes are calling for CBE to be identified as a promising practice in Indian education and for programs to be funded longitudinally so we can effectively build an evidence base that conclusively distinguishes what works for which populations and under what circumstances.

- Formula grant program for immersion schools, culturally based charter schools, and early childhood centers. It is largely recognized that the best way to learn a language is to fully immerse oneself. While we have limited statistical data showing that Native language instruction directly improves academic success, there is a large body of qualitative data that shows correlation of Native language instruction to factors that do improve academic success. Therefore it is critically important to have sustainable funding for research that will demonstrate this statistical correlation.

### *3. Focus on Native Teachers, Administrators, and Leaders*

- Pay programs for teachers in Indian Country.

Indian Country faces some of the highest teacher turnover rates in the Nation—tough working conditions, few amenities, and a lack of job opportunities for spouses are but some of the challenges our teachers face. A pay program for teachers is needed to provide higher salaries for those that work in Indian Country. This should include a scaled program to incentivize long term employment in Indian schools.

- Strengthen and Expand Native Teachers and Administrators Preparation Program.

Reauthorize and increase annual funding for the Department of Education's Professional Development for Teachers and Administrators program [20 U.S.C. 7442] and the In-service Training for Teachers of Indian Children program [20 U.S.C. 7452], which provide vitally needed support for programs that prepare, train, and provide ongoing professional training for teachers and administrators currently working in or planning to working at tribal schools or schools with a high concentration of Indian students. Tribal colleges and universities, which are chartered by sovereign Indian nations, and consortia led by or including tribal colleges, should be recognized as the primary awardees. Specific authority and funding should be provided for special education teacher preparation and training; and the existing au-

thorities should be amended to include specific credentialing program for classroom aids and a requirement for fieldwork in Indian schools.

#### 4. *Promote Intra-Agency Coordination and Collaboration*

- Statutory collaboration between the Department of the Interior and the Department of Education.

Increased collaboration should include training and technical assistance for Bureau of Indian Education (BIE) staff, use of alternative assessments for tribal schools, assistance in curriculum selection, and instructional practices.

- Include express statutory language to make funding available for the BIE schools (either overarching the Act or within each ESEA program).

Without express statutory language, our BIE school system will be unable to participate or receive much-needed funding. The most recent example of this lies in the ineligibility of BIE for “Race to the Top” grants.

#### 5. *Consultation*

- Establish a tribal advisory committee to advise the Secretary of the Interior on policy issues and budget development for the BIE school system.

There has never been a formal, established mechanism for tribally-operated schools to raise issues and provide substantive advice to the Secretary on an ongoing basis—especially on development of the budget request for programs serving BIE schools. Since the schools in the BIE system are the sole responsibility of the Federal Government, the Secretary of the Interior should be consulting closely and regularly with representatives selected by the tribes and the tribal school boards who operate those schools to learn directly from them about their needs and hear ideas about how to fill those needs.

- Increase on-the-ground resources and provisions from the BIE for the schools.

Schools in the BIE system struggle on a daily basis to provide a quality education to Indian students with insufficient funding to accomplish their mission. Specific direction should be given to the Secretary of the Interior to fund BIE schools on the amount of need, as regulated at 25 CFR Part 39, Subpart H.

For additional information, please contact: Ahniwake Rose, Policy Director, NCAI at 202.466.7767 or Colin Kippen, Executive Director, NIEA at 202.544.7290.

### **Equity in Education for All Students: How the House Bills Fall Short**

The National Education Association, representing more than three million educators across the nation, has a long and proud history of fighting for educational equity—to ensure every student, regardless of poverty, disability, or other challenges, access to a quality education. NEA believes that all students have the human and civil right to a quality public education and a great public school that develops their potential, independence, and character. But, more than 50 years after the historic *Brown v. Board of Education* ruling, too many students are still banished to unequal schools and a lifetime of lost opportunities. The federal government must be engaged in these issues, to hold states accountable for remedying these untenable inequities.

We must remember the days before ESEA when generations of children were denied the basic educational opportunities they deserved. We must judge proposals on whether they will strengthen our educational system, or whether they will move us backward. We must find an appropriate balance of federal and state roles by refocusing on strong state accountability systems while continuing to maintain a sharp federal focus on equity across state and district lines.

The House draft bills fail to address equity issues adequately. The House proposals do not push states enough to narrow achievement gaps; provide equal access to quality education; and ensure that state standards and assessment and accountability systems work for students. The proposals also lack a comprehensive plan to address existing inequities in public education that harm students and communities, particularly students and communities of color. In particular, NEA is very concerned about gaps affecting equity, access, and opportunity in the following areas:

- Vouchers and privatization. The proposals inappropriately and dramatically expand private school authority over allocation and use of public funds. There is a push to privatize education by shifting control to private schools, private for-profit entities, and business.

- Maintenance of effort. The proposals would eliminate Maintenance of Effort. This will trigger a race to the bottom in state and local support for public education, often under the guise of fiscal distress. The driving principle behind Title I would be upended, as federal dollars would be reduced to backfilling holes in state and

local support for economically disadvantaged children and those academically behind rather than augmenting those dollars to ameliorate the effects of poverty and other factors.

- **Funding.** The proposals provide significant new flexibility for districts and states to transfer money aimed at special populations—such as English Language Learners, American Indians/Alaska Natives, or neglected students—for other uses. This could undermine the historical federal role of ensuring equal opportunity for all children in these special populations. In addition, the bills offer states and local districts a trade-off—fewer programs and greater flexibility in exchange for less money. Simply put, there would not be enough funding for the supports and resources necessary to close achievement and opportunity gaps and ensure equity for all. Programs proven to help close these gaps would remain significantly underfunded and not able to provide full services to all students who need them.

- **Annual tests.** The language continues NCLB's focus on measuring schools and students through annual standardized testing in grades 3-8, rather than focusing on the broad supports schools and students need to improve the achievement of the disadvantaged. Grade span testing would provide more time for learning, more flexibility, and more useful data to help students achieve.

- **Teacher quality.** The proposals eliminate all focus on quality of teachers coming into the profession. In addition, they diminish targeting of Title II (teacher quality) funds to students who are in poverty, despite the fact that teacher quality should be enhanced and supported even more vigorously in schools in low-income communities. A focus on teacher quality is particularly important in high poverty communities, as too often these schools are filled with the most inexperienced and least skilled teachers.

- **School improvement.** While the proposals wisely increase the school improvement set-aside at the state level to 10 percent and eliminate the four turnaround models; they go too far in re-balancing the federal role. The language includes no federal program specifically designed to support and help improve low-performing schools, and lacks enforcement provisions to ensure that school improvement plans are strong, robust, comprehensive, and are implemented with fidelity.

- **English Language Learners.** The proposals merge Title III (English Language Learners) into Title I, which could lead to a loss of national focus on English Language Learners.

- **Charter schools.** The proposals reflect a weak and inadequate approach to transparency and accountability in charter school operations. Charter schools must be held to the same accountability standards as other public schools, and should have to answer to parents and taxpayers for all of their funding sources.

- **Class size.** The proposals limit class size reduction efforts to 10 percent of Title II (current use is about 38 percent). Research indicates that those students benefiting the most from class size reduction efforts are disadvantaged students in the early grades. If this funding is capped, local districts may not continue paying educators previously funded through federal class size reduction funds, leading to a direct decrease in services provided to students most in need.

- **Early education.** The proposals lack a focus on early education, a proven component of closing achievement gaps and ensuring a quality education for children.

- **Comprehensive quality education.** The proposals continue the current curricular focus on English and mathematics, and do not address concerns regarding the narrowing of the curriculum.

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*New America Foundation*

### **House ESEA Bill Would Lift Title I Spending Requirements**

Jennifer Cohen • Published January 24, 2012

*Issues: Title I, Low-Income Students, Education*

The recently-released House ESEA draft reauthorization bill makes substantial changes to the federal role in public education. Among other changes, the proposal significantly loosens requirements on how states and local school districts can spend education dollars. While more state and local control is a popular mantra, we would like to offer a few words of caution on a few provisions in the House bill. Mainly, these changes to existing law would essentially allow states and school districts to use federal funds previously intended to benefit specific, high-need populations however they see fit without requiring consistent state and local support.

1. First, the bill would move several existing programs to Title I, Part A of the law. These programs, which provide specific funding streams to local school districts for services for migrant students, neglected and delinquent students, English lan-

guage learners, rural students, and Indian education, would be moved to the same section that funds grants for low-income students. Currently, these programs are authorized and funded under various titles and subparts of NCLB separate from Title I, Part A. This change would enable Congress to provide a single appropriation for all Title I, Part A programs, blurring the lines between funding for the programs. Under the bill these five programs would total 9.0 percent of the annual Title I Part A allocation, which would be set at \$16.7 billion for 2013.

At the same time, the bill includes a “flexibility” provision that would allow states and school districts to merge funds from these five programs, as well as set-asides for state administration and school improvement, and use them for any purposes covered by those programs or Title I, Part A Education for the disadvantaged. Under current law, states and districts are only allowed to transfer up to 50 percent of funds allocated under the Education Technology program (which is not funded in current law), the Safe and Drug-Free Schools program, and the school choice program into their Title I, Part A accounts. The five programs listed in the proposed flexibility provision are not included in any current flexibility provisions. Under the House proposal, states would have to notify the U.S. Department of Education and school districts would have to notify their state agencies if they intend to use any of the funding streams for alternative purposes. However, the proposal does not explicitly require states or districts to report how they repurposed the funds, what they were used for, or what programs or services were eliminated due to the flexibility.

By allowing states and districts to merge funds from several funding streams targeted for specific high-need populations, the House bill would give them license to overlook the needs of some students in exchange for others. While giving state and district leaders more autonomy and control over federal funds to tailor services to their students’ needs is important, these specialized federal programs exist to serve students that are typically ignored.

2. Next, the House bill would allow any school that receives Title I, Part A funds to provide school-wide services, regardless of the percentage of students living below the poverty line, at that school. Currently, the No Child Left Behind Act only allows schools with poverty rates over 40 percent to use their Title I funds to provide school-wide services. This program is based on the assumption that all students at schools with such high poverty rates would benefit from additional services. In contrast, schools with poverty rates below 40 percent can use their Title I funds to implement interventions and services targeted just to eligible low-income students. Although the proposal would maintain the separate Targeted program, it seems unlikely that schools would opt to continue targeted programs when they could spread the funds among their whole population.

By eliminating the poverty threshold for school-wide programs, the bill would allow schools with relatively small low-income populations to use their Title I, Part A funds to provide services to their entire student population, the majority of which would not otherwise be eligible for interventions or additional services. Those schools would no longer have to provide targeted services to just their high-need students, meaning these students could get lost or overlooked in the shift.

3. Finally, as we’ve written before, the House bill would eliminate the maintenance of effort provision of Title I, allowing state and local governments to cut per pupil or overall funding for education for districts but remain eligible for Title I funding. Current law allows a local school district to receive Title I Part A funds in an upcoming year only if state and local governments provided the district with at least 90 percent of the funding (per pupil or overall) that they provided in the preceding year. In other words, a district that received \$8,000 per pupil in 2010 in state and local funds, must have received at least \$7,200 per pupil (90 percent of \$8,000) in 2011 to receive Title I funds in 2012.

Assuming that states and local governments would take advantage of this change and cut their education funding, federal funds could begin to account for a much higher percentage of per pupil education funding (currently around 10 percent). It is somewhat ironic that lawmakers that typically support limiting the federal role in education would support a bill that has the potential to increase the percentage of education spending the federal government supplies while allowing state and local governments to cut their own spending.

Each of these changes would have a great impact on how states and school districts are held accountable for the use of federal Title I funds. But all together they would allow states and school districts to dramatically change how they use federal funds for education, practically turning Title I into an all-purpose block grant. These changes, in the name of local control, could make the nation’s highest-need students more vulnerable than ever.

*Back to this item*

**Denying Poor Children an Equitable Education**  
*Conservatives' Student Success Act Guarantees Anything but Success*

By RAEGEN MILLER, February 15, 2012

Conservatives in the House of Representatives are at it again, trying to gut spending for those children in our nation who need extra help getting the education they need to succeed in the 21st century. Rep. John Kline (R-MN), chairman of the House Committee on Education and the Workforce, introduced the thoroughly misnamed Student Success Act earlier this month—the latest partisan attempt to repurpose the Elementary and Secondary Education Act that has done so much to ensure federal education funds go to the high-poverty schools that need the most help.

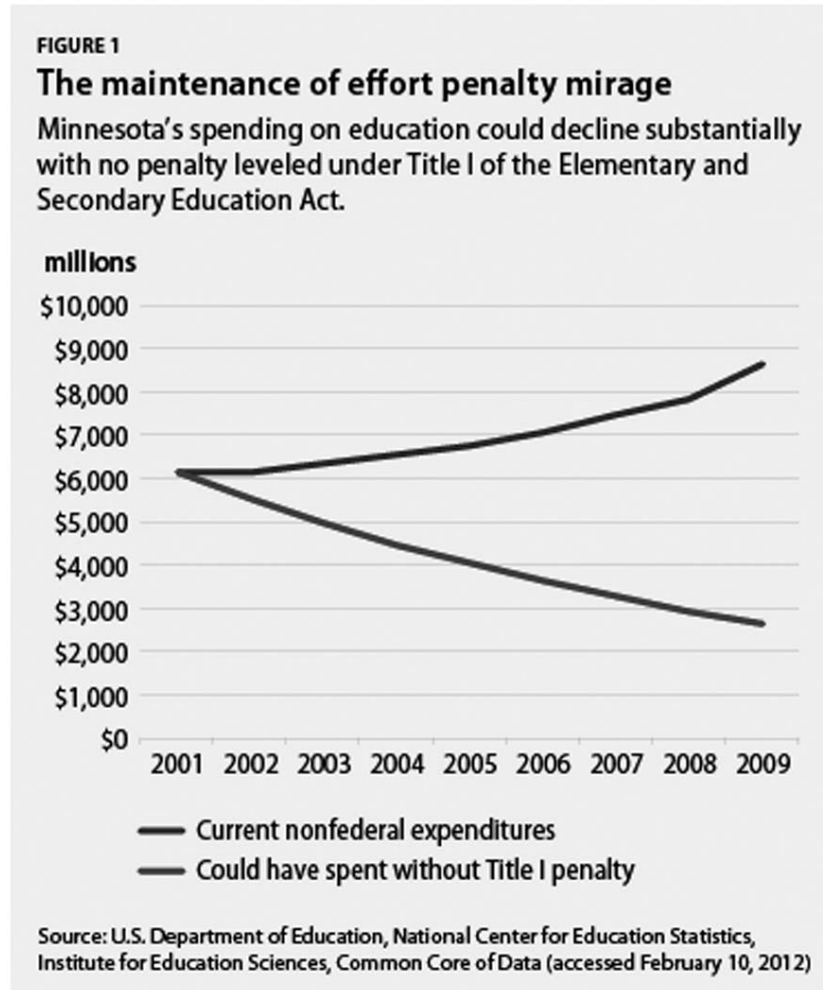
Rep. Kline's bill would go a long way toward turning the law's largest program, Title I—which provides federal funding for high-poverty elementary and secondary schools—into a block-grant program by dispensing with Title I's "maintenance-of-effort" provision. Title I maintenance of effort requires that in a given year states and districts receiving Title I funds spend 90 percent of what they spent from nonfederal sources in the previous year. This ensures that states and school districts do not shortchange high-poverty schools by shifting federal funds toward other purposes.

Rep. Kline's Student Success Act has other shortcomings, too, but the idea of dropping the maintenance-of-effort provision is particularly ill advised. It would be one more step advocated by House Republicans toward dismantling longstanding federal provisions that ensure equitable education for all of our children. House Republicans claim they are taking this action to help states cope with budget shortfalls and to restore states' rights over education spending. But the results would harm our poorest children and squander federal taxpayer dollars to boot.

*Tough times*

The first argument put forth by proponents of dropping maintenance of effort puts this danger in full relief. Conservatives inaccurately contend that states and districts need this kind of assistance in "struggling with budget shortfalls." This argument would be stronger if maintenance of effort was not already fully equipped to offer temporary relief to states and districts receiving Title I funds. The requirement can be waived in the event that states and districts suffer sudden and severe drops in revenue, and this safety valve rides on top of an existing and extraordinary 10 percent cushion for agencies facing tough times.

Take Minnesota. The economic shock absorber inherent in the 90 percent maintenance-of-effort threshold is hard to miss. Below we show how Minnesota, home state of Rep. Kline, already has room to cope with economic woes without enduring penalties to its Title I allocation. Figure 1 shows Minnesota's current expenditures on education from nonfederal sources, in blue, and a cascade of hypothetically reduced expenditures from the 2000-01 school year to the 2008-09 school year. The important point here is that despite unimaginable reductions in education spending, Minnesota would have suffered no penalty at the hands of the maintenance-of-effort provision. (see Figure 1)



#### *Invisible barrier*

The second misplaced argument for dropping the maintenance-of-effort requirement is that it discourages states from constructively reducing education spending, for example by finding savings or improving efficiency. Yet the 90 percent spending threshold is blind to whether spending reductions are driven by revenue shortfalls or efficiency gains. Adherents of the argument are especially worried that states and districts, fearing maintenance-of-effort penalties, will fail to embrace technologies such as virtual schooling with some promise of radically reducing the cost of providing educational services with the same potency as the current mix of services.

Optimism about schools' abilities to adopt cost-saving technology is a good thing, and the potential for radical cost savings is great. Moore's law—the number of transistors on a microchip doubles every two years—and the ever-falling cost of computing have had enormous impact on many industries. Yet there are many obstacles to implementing cost-saving technologies—what economists call substituting capital for labor—in public education. Listing the Title I maintenance-of-effort requirement high among them borders on the credulous.



*Straightjacket*

The third misconceived argument for dropping maintenance of effort, repeated by Rep. Kline at an American Enterprise Institute event celebrating the introduction of his Student Success Act, is that the requirement is tainted by a faulty premise—that more spending translates to better results. This argument has merit only as an example of the straw man fallacy.

The relationship between inputs and outputs in education is notoriously fuzzy, and reasonable people can disagree about what the relevant body of evidence says on the matter. But this dispute has nothing to do with the purpose of the maintenance-of-effort requirement. The purpose of this provision is to prevent grantees from using Title I funds to support spending on public services other than education, or to offer tax relief.

The relationship between the receipt of Title I funds and results in schools does, however, have a lot to do with the accountability provisions of the Elementary and Secondary Education Act. The Student Success Act would roll back accountability for academic results to the 20th century, requiring few results from states in exchange for Title I funds.

*Don't tread on me*

The final argument for stripping Title I of its maintenance-of-effort provision is basically an ideological principle: “The federal government should not dictate state and local spending decisions as a condition of receiving federal funds.” By this rationale, no federal program should have a matching requirement, or condition for the receipt of federal funds in any way. Rep. Kline and supporters of the Student Success Act apparently believe that states and districts should be able to do as they please with their share of the \$14.5 billion or so in annual appropriations for Title I.

What would this mean in practice? Well, if a state wants to reduce its investment in elementary and secondary education in order to build a new prison, or provide tax relief, that's its business, or so the reasoning goes. Clearly the federal government has a role to play in safeguarding the interests of low-income students by creating some parameters around the receipt of federal funds targeting services to them.

*The bottom line*

Pushing for block-grant distributions of federal funds to the states has gained substantial momentum in the House of Representatives in recent years. It seems sadly out of place next to rhetoric about fiscal responsibility, and it's certainly incompatible in the context of education spending with the original and current purpose of Title I funds—to enhance the educational experiences of children raised in concentrated poverty. A lot has changed since the Elementary and Secondary Education Act was passed in 1965, but poverty and achievement gaps remain serious problems.

Stripping Title I of a requirement that ensures federal funds address educational inequity is dangerous because our nation's economic competitiveness and its democratic institutions need, more than ever, a well-educated citizenry. We should expect more from Congress in the reauthorization process.

*Raegen Miller is Associate Director of Education Research at the Center for American Progress.*

February 9, 2012.

Hon. JOHN KLINE, *Chairman,*  
*Committee on Education and the Workforce, 2181 Rayburn House Office Building,*  
*Washington, DC 20515.*

DEAR CHAIRMAN KLINE: The Business Coalition for Student Achievement (BCSA), a coalition of leading chief executive officers, is pleased to see the U.S. House of Representatives moving forward with the long overdue reauthorization of the Elementary and Secondary Education Act (ESEA). BCSA appreciates the transparent nature of the process that you have used to solicit input on the Student Success Act and the Encouraging Innovation and Effective Teachers Act, and looks forward to working with the committee as it finalizes these bills through the legislative process.

The nation must strengthen the education provided to its students. The U.S. Department of Labor reports that millions of jobs are going unfilled despite an historically high unemployment rate, and business leaders know why: too few American's are prepared for the jobs of today. What is worse, too little is being done to prepare students for the jobs of tomorrow.

Federal education policy must support the success of all students by advancing key education principles, including:

- college- and career-ready standards;
- accountability for all students;
- required action for all low-performing schools;
- effective teachers and leaders;
- choices for students attending low-performing schools; and
- clear and transparent data for parents, businesses, and the community.

The proposed bills represent progress in the area of teacher evaluation. However, overall, the legislation proposes a striking retreat from the principles of education reform that will position students to maintain America's competitive edge in the global economy. The Student Success Act, for example, virtually eliminates federal requirements for the improvement of low performing schools, takes away the ability currently given to students attending low performing schools to choose higher performing schools and access free tutoring, and asks virtually nothing in return for the billions of taxpayer dollars invested in the nation's schools.

The nation's education system is failing to adequately prepare students for the workforce. This is demonstrated by data from the U.S. Department of Labor stating that 3.2 million jobs were unfilled in November 2011 despite an historically high unemployment rate. Similarly, McKinsey & Company reports that 40 percent of the 2,000 businesses they surveyed had at least one position vacant for six months. The fact that positions go unfilled because applicants lack the skills necessary to fill them is an indictment on the education currently being provided to children, and a clear call for reform.

BCSA calls specific attention to the failure of the Student Success Act to support the state-led effort that is currently underway to provide all students with a college- and career-ready education. While this legislation includes a requirement for standards—an important and appropriate provision to be included in federal law—the bill does not call for college- and career-ready standards. Further, it removes the requirement within current law for assessments in science. The nation needs more—not fewer—engineers, scientists, and experts in technology. At a time when other countries are growing their capacity for innovation by deepening their focus on education, the United States cannot afford to stifle its own potential by allowing anything less than college- and career-ready standards to drive K—12 education.

The business community believes that there is a vital Federal role in ensuring accountability for academic performance and for safeguarding parents' and students' interests, which are too often lost in a maze of education bureaucracies. As the reauthorization process for ESEA continues, these proposals must be strengthened to ensure that all students have the opportunity to succeed. Additionally, it is critical that this reauthorization move forward in a bipartisan fashion. Education has historically been a bipartisan issue, and the best way to move forward is through substantive negotiations including both democrats and republicans. BCSA hopes that such bipartisan deliberations will produce a bill that can earn the support of the business community.

Mr. Chairman, as you well know, education is at the core of the nation's economy. BCSA is eager to assist in any way possible to ensure the education system adequately prepares today's students for tomorrow's workforce.

Sincerely,

CRAIG BARRETT,

*Retired Chairman and CEO Intel Corporation; Cochair, BCSA.*

WILLIAM D. GREEN,

*Chairman, Accenture; Cochair, BCSA.*

EDWARD B. RUST JR.,

*Chairman and Chief Executive Officer, State Farm Mutual; Cochair, BCSA.*

Chairman KLINE. Of course, without objection, all those—

Mr. MILLER. Thank you.

Mr. Kildee's comments reminded me, when we were writing *No Child Left Behind* we inserted the idea that 95 percent of the students would have to take the test, and geez, people went crazy. They went haywire. States, districts, everybody went haywire.

But the fact of the matter was that we know at that time that students were counseled—parents were counseled that you might want—if you need a doctor's appointment we are only testing today

so take your son or daughter to the doctor. Field trips were organized to take selected groups of students off campus during testing.

Parents with students with disabilities were told, "You are only going to embarrass your student. This is terrible. He or she cannot do this work. You are going to embarrass them in the class. Why don't you keep them home or feel free to take them, what have you."

And that is why we have some of these guideposts. They seem onerous or what have you, but the fact of the matter is this is about every child in our system. And when I came to Congress if you were in a wheelchair you could not get into the classrooms. You were prohibited. It is not that you couldn't physically get into the classrooms; you were prohibited from going into those classrooms.

The report of children out of school—if you were Hispanic in this country your chances of suspension, I don't know how many times. You were, in fact, in many instances, if you were an English learner and you—a Hispanic English learner—you weren't allowed in the school.

I mean, these are where we come from. It is not that way today. Everybody here sitting here today will say, "I don't recognize what you are talking about," but the fact is today—and we know that tests were manipulated, governors who wanted to show—you know, were afraid about that third year of progress, or a superintendent wanted to change the exam so they could get a reset and start over.

And we know that we whipped the top 25 percent of the students in this nation harder and harder and harder so we could say that average school had improved. We never asked the question about what happened to the students below average. And hence, No Child Left Behind.

Now as we reconstruct it and now as we see this, if you will, education spring about the understanding of accountability, about the understanding of real assessments and what they can tell, the in-depth, get rid of these check a box and check a bubble here. That all has to go by the wayside. It is yesterday, as the kids would say.

And you see states and you see districts embracing it and they are doing it under current law. But they shouldn't be the exception. And we struggle, as Mr. Balfanz says—how do we replicate this? How do we transmit this? How do we translate this to other districts?

People tell us, "You can't test art," and yet you are saying your students are tested. People say, "I only teach to the test." That was the easy way out. I visited schools all over this country—schools that are 100 percent—almost 100 percent English learning. The test, as you say, is incidental. It is like, that is what it is. We teach. We teach and they learn.

But somehow that is considered a freak show because everybody else says, "We can only teach to the test." Somehow you can't cross over in some schools. I have been on Indian reservations where English is taught and it is taught about the history of the tribe, the culture of the tribe, the biology of the tribe is incorporated, the reservation—the assets are all integrated. I see that in schools all over my district, but not in every school.

“No, no. This is the time to learn to read. You can’t read this in history.” Now again, this sounds foreign if you are out there on the horizon, right? Nobody would embrace this.

But there is a lot of evidence that unless there are some sideboards, as you say, on this that this happens. It happens.

You know, the suggestion is, well let’s just leave it to an IEP. Let’s not have a standard. Let’s not require them to participate in the assessments for students with disabilities.

We know the tension that exists inside a school when a student is recommended for additional education opportunities, recommended that he or she needs to be able to take the exam. And we see it in my state playing out where we used to pool them all at the—what is it, the N-size? Now it is the 1 percent assessment and a dramatic rise in the number of students who are sent into those alternative assessments.

We know it goes on out there and we want to encourage and get out of the way—now, I think that is what the secretary tried to say with waivers: Get out of the way of the states and the systems that want to ride out on the horizon, want to go to the future, don’t want to be held back by a bubble test or that static measure of how this district is doing. But if we are going to have growth it has got to be growth somewhere.

We tried it in my state and first of all it was—became growth to nowhere. And you could end up worse off at the end of the year and yet you could meet these standards. Got rid of that; we are now getting on track.

So this is what this contest is about. It is not about federal or state; it is about making sure that that federal investment is, in fact, yielding a return for the entire society.

And, you know, we see dramatic changes in the participation and the improvement and the—of students of disabilities in these exams. They are growing, in some cases, faster than the general population in terms of their improvements, in terms of the size of the improvements that are being made.

That doesn’t mean every child will be able to do that. That doesn’t mean every child—the classroom will be an appropriate place.

But we do see what early intervention means, so do we withhold early intervention when it reduces the number of children in special education, when it provides them an educational opportunity that would not otherwise be there? But a lot of parts of the country are not interested. A lot of districts aren’t interested in that early intervention. They don’t see how they can do it. They don’t see how it can be done. And yet we see it—the return on that investment.

This is really about maximizing the return on the investment of that federal dollar, and to go to places where you have made this decision ahead of us that this district has to be different, this state has to be different, we have now got to move. I remember when Colorado suggested for the first time that they were going to—they were going to monitor and keep track of where the migrant children were moving in the state, we went, “Oh, geez, don’t do that.” Well, they realized that those students were showing up in schools and if you didn’t know where they came from and you didn’t know what they had accomplished how did you deal with them when

they walked through your front door because their parents moved to a new locality?

Now we consider that to be quite proper, except in this bill we kind of go back about what are we doing for migrants. And yet they are a very important part of your economy, and certainly our economy, and the Southeast's economy, and the Northeast's economy.

So this is really about that reevaluation, that real assessment of what we should be doing. But it is not about giving up on those sideboards to keep it moving forward and because we saw what happened when we didn't address graduation rates. We saw what happened.

Those children have paid a price. We now see those children borrowing money for remedial education at community colleges and state college systems. How can we justify a system where a graduate of high school has to borrow money to learn how to read at the 12th grade level?

You know, we have got to have a conversation with that family. We have got to have a conversation with that school district. And we have got to enable people to do that.

I mean, this just makes no sense in this day and age when families are under this kind of struggle and the opportunities for those young people when they complete their high school education—I mean, we give a high school exam in California, an exit exam from high school. Because there used to be a lot of patter in this town about, "We have students graduating from high school who can't read their diploma," so we put in—you know, the people put in an exit exam.

In California when you graduate from 12th grade we demand to know whether or not you can do eighth grade math and 10th grade reading. I want to know what the hell you did in your junior and senior year if that is the test. We could have saved taxpayers money by giving it in 10th grade and letting you go.

See what is going on in these systems? Exit exam. Exit exam. This is the measure. It just doesn't measure the right thing. And that is not in the interest of our economy; it is not in the interest of the state school board; it is not in the interest of the governor.

That is why we have—one of the greatest things about No Child Left Behind: it turned on the lights. And now if you think you want to run for a higher office you better be concerned about your local school district if you are a mayor, if you are a governor, if you are a superintendent, because I don't agree with the characterizations of these school systems under No Child Left Behind and that is a big driving force for what we are trying to change here, but that is the reality for those families. And I think they want to know how you are—how you are looking at this.

I really appreciate this testimony today. I think it has been very, very important.

I also believe that it also makes the case for substantial changes in the legislation that is before us. I hope we can accomplish them.

Thank you very much.

Chairman KLINE. I thank the gentleman.

We have been trying in this legislation, I believe, to achieve the balance that some of you have talked about today. I think that Mr. Miller is correct that No Child Left Behind had the very, very best

of intentions. When President Bush was pushing it, when Mr. Miller was working on it, and Mr. Boehner, and Senator Kennedy, and others, they were—had the best of intentions and they put some very good things in the law.

One of those good things was to shine light into corners where there had been no light—turn the lights on, as Mr. Miller said. And so in this legislation, for example, we retain that. We want disaggregated data. We want to see how the English language learners are doing, and the minority kids are doing, and the children with special needs. We are insisting that that be reported.

I agree with what Mr. Miller just said. Now, today, with the light on, if you are in local government—if you are on the city council or on the school board or on the state board—you better know what is going on and be taking action because parents and teachers and others are going to hold you accountable.

I take note of, I think Dr. Balfanz said that sometimes you have unintended consequences. So you could, for example, say, well this is all about graduation rates. Well heck, everybody graduates and nobody can read. So it is important that we watch for those unintended consequences, and many of us believe that that watch is better performed by people like Mr. Luna and Mr. Schaffer and Ms. Kazmier and Mr. Cunningham, and so forth.

So we are trying to achieve balance here. There has been a lot of talk about sideboards and guardrails and so forth; I believe those are here. Defining what those are is part of the issue as we go forward.

I have been very interested in the conversation about special ed here. I was sadly disappointed the president's budget came out and once again there is no increase for special ed funding. That seems to be a bipartisan affliction that we have here. Both parties talk a lot about making sure that we meet the commitment that the federal government is supposed to have of 40 percent of the extra costs that come with special ed and yet nobody does it.

So I am hoping that my colleagues here on both sides of the aisle will join me in pressing the Congress and the president to address that shortfall because every single school board member, superintendent, principal, teacher, parent that I have talked to says that would be the most important thing, the biggest thing. If the federal government would just meet its commitment for special ed it would help us—every school. So we are going to continue to work towards that end.

Again, the bill has been introduced. It will be subject to a very open amendment process. It is not perfect, although in deference to my staff it is close, but there will be changes. There will be some changes to this, but I think that in the process that we are going to try to keep balance, keep focus on what is best for our kids, and frankly, reduce the imprint of the federal government, which I think is—gets in the way of some of the progress that is being made in dramatic and exciting ways around the country.

So again, I want to thank my colleagues, I want to thank the witnesses. And there being no further business, the committee stands adjourned.

[Additional submissions of Chairman Kline follow:]

### Prepared Statement of the National School Boards Association

Chairman Kline, Ranking Member Miller, and Members of the House Committee on Education and the Workforce, on behalf of the National School Boards Association (NSBA), representing over 90,000 local school board members across the nation, I am pleased to submit this Statement for the Record regarding the Student Success Act, H.R. 3989; and Encouraging Innovation and Effective Teachers Act, H.R. 3990.

In reviewing these specific bills, we acknowledge our support to the general approach of the legislation which is closely aligned with many of priorities of local school boards across the nation. Among the proposed improvements to the current law are provisions that would:

- Establish a new accountability system that supports flexibility to the states and local school districts to ensure that strategies are developed that can best meet local needs and conditions to raise student achievement.
- Increase the focus on academic achievement to be addressed through both individual student progress and the elimination of achievement gaps between subgroups.
- Support greater state flexibility in developing standards, assessments, and accountability systems to support local school districts in improving academic achievement.
- Eliminate the unworkable provisions related to Highly Qualified Teacher and paraprofessional requirements and increase the emphasis on teacher and school leader effectiveness, including support for effective performance evaluation systems.
- Require states in their plans to describe how they will assist each local school district and each public school to comply with accountability requirements, including how the state will work with local school districts to provide technical assistance.
- Increase focus on assessment measures to address higher-order thinking skills in addition to mathematics and reading/language arts (including the state discretion to add additional subjects), and expand authority to use adaptive assessments for children with cognitive disabilities.
- Continue the use of disaggregated data collection and reporting.
- Strengthen the focus on valid and reliable assessments for all students, including English language learners and students with disabilities.
- Support the use of multiple measures of student achievement and growth models.
- Encourage states to modify or eliminate state fiscal and accounting barriers so funds from the federal, state and local levels could be consolidated.
- Provide authority to local school districts to transfer funds among federal programs but not out of Title I.
- Maintain the current enrollment thresholds for targeted grants for small and rural schools.
- Clarify and limit the authority of the Executive Branch in program implementation of the law.

In addition to ensuring improvements in those areas identified above, we urge you to complete the reauthorization of ESEA during this second session of the 112th Congress. Since the enactment of the No Child Left Behind (NCLB) Act ten years ago, both Congress and the Administration have acknowledged that the law's accountability framework has proven to be seriously flawed and the mandated sanctions on schools and school districts have been costly—with very limited impact in improving student or school performance. As a result, the operational challenges facing states and local school districts in implementing the current law have caused the mislabeling of schools and a noticeable decline in the public's trust and view of the quality of educational services being delivered. Therefore, states and local school districts should not be forced to wait any longer for new legislation that would be fairer, responsive to the needs of local communities and meet the original objectives of the law to improve the academic achievement of all students.

We acknowledge the recent actions taken by U.S. Secretary of Education Arne Duncan to offer waivers to States from many of the NCLB requirements. However, these Department waivers should not be a substitute for the representative legislative process. School districts should not be placed in a position of implementing the Department of Education's Waiver Program this year only to be taken in what could be a markedly different policy direction by the reauthorization resulting in an unnecessary expenditure of limited staff time and funding if it does not occur until next year. Additionally, school districts should not be forced to continue to labor under the current flawed system if their State does not apply for or is granted a waiver. Therefore, we urge you to complete the reauthorization of ESEA now by moving this legislation forward.

Finally, in strengthening and finalizing the House reauthorization bill, we urge you to address the following areas:

1. Authorizations of Appropriations and CPI. The bill includes language that would restrict future federal funding to the FY2012 base and a percentage of the CPI. Such an approach could ultimately eliminate any future increased priority for public education funding, fail to give any recognition for enrollment growth in general as well as with respect to subgroups that may require additional support. With significant projected increases in enrollment, the result of this approach will reduce per pupil funding since the cost of living increases is on the bottom line. Further, using CPI exclusively may not be the best measure. Attachment (1) offers additional information for your consideration developed by the Center for Public Education. We recommend that you not tie future K-12 education authorizations of appropriations solely to a cost of living index, but rather that you also accommodate increases in student enrollment.

2. Maintenance of Effort Provisions. The bill includes language to eliminate state Maintenance of Effort (MOE) requirements. While states have endured serious revenue losses in recent years, their financial picture has largely bottomed out and revenue collections are outpacing projections in many states.

Especially, since states are subject to MOEs, matching fund requirements, and mandates in dozens of other federal programs, singling out education, in effect, creates an affirmative policy to encourage states to cut their education funding in order to leverage state funding for each of these other federal programs. Meanwhile, local school districts, as a result of this change in policy, will have to either raise local property taxes or cut programs in some areas—or perhaps risk losing their federal funds if they don't because they may still have to meet local federal funding requirements.

If education is to be valued as a national priority, the rationale for totally eliminating MOE rather than creating an exception for annual hardships cannot be justified. We recommend that you not eliminate MOE requirements completely. Rather, we recommend that you provide for an annual waiver application process based on fiscal need and request that states allocate not less than the same percentage of the state budget to K12 programs in a given year compared to the previous year.

3. Charter Schools. The House bill continues strong support for charter schools, including a focus on funding for planning, facilities construction and renovation. Local school boards generally support the concept of charter schools provided the local school board in the community where the charter school is located is the chartering authority. In fact roughly 52% of all charters are authorized by local school boards. Toward that end, we recommend that in using these federal funds that the local school district be designated as the sole authorizing entity; and if restricted by State law, that you establish the local school district to have the first right of refusal. This would ensure that the charter schools develop and sustain supportive relationship with the local school district regarding funding and other operational requirements that could be shared such as food services or transportation, and accountability for student performance and teacher and school personnel performance. Federal policy should not create a situation that pits one segment in the community against the other.

Additionally, local school boards are also concerned over the rush to significantly expand both the number of charter schools as well as the entities that could authorize new charter schools when there is no evidence that charter schools are significantly better than traditional schools. In fact, the CREDO study reports that only 17% of the charter schools performed better than traditional public schools. Further, research has shown that students with disabilities and English language learners are under-represented in charter schools, while traditional public schools are increasingly serving students who require special services. We believe that the push to create more charters is ahead of their development as a successful option.

Local school boards across the nation remain strongly committed to these priorities and recommendations and urge you to fully address these critical concerns in the final House bill. We believe that our recommendations will work toward a much more effective framework to ensure progress in both improving student achievement and in closing the achievement gap.

We appreciate the opportunity to re-affirm the urgency for completion of the ESEA reauthorization during this second session of the 112th Congress and to offer specific recommendations that would strengthen the federal law. We look forward to working with you and the members of your staff in finalizing key policies affecting our public schools and to discuss local school board concerns that we believe require clarification of or modification to the legislative language.



### Indexes to Adjust Costs of Education

The House of Representatives ESEA bill includes a provision to hold Title I authorized funding at FY 2012 levels then base all future increases on the Consumer Price Index (CPI). However, basing such increase on the CPI is problematic. Although other cost indexes may provide a more accurate measure of the true cost of providing an education, no current index is accurate enough to base changes in future Title I funding.

It is important to keep in mind the objective to determine how to best capture the change in costs associated with providing students the same education in future years that is currently provided. Specifically related to the House bill, the question would be: which index would best reflect changes in costs of providing the same education as is being provided in FY2012, in terms of both services provided and the quality of those services.

Unfortunately, there is no perfect index. Each has their own strengths and weaknesses which I will examine further below. Keep in mind, however, that for any of these indexes to accurately reflect the true cost of providing the same education they must be applied on a per pupil basis to account for any change in enrollment. Even then, the indexes would also have to fully account for any change in the demographics of the student population as research shows certain students are more expensive to educate than others. For example, an increase in the proportion of English Language Learners (ELL) or special education students would likely dramatically increase the costs of providing the same education to all students even if enrollments and the prices of the goods and services schools provided remained constant. Furthermore, requiring schools to provide new services (eg., healthier school lunches) or provide additional resources (eg., professional development) would also increase costs but would not be reflected in the indexes.

Determining which index best reflects the change in costs that will provide the same education to all students is a challenge. To use an index to base future Title I increases must take into account student enrollment, student demographics, employee compensation costs (including all benefits such as retirement plans and medical insurance), along with costs of all goods and services specifically related to education such as food, energy, technology, and textbooks to name a few. Although research has shown most cost indexes provide similar estimates, even small differences can make dramatic differences over time. For example, a half a percent difference between indexes compounded over 20 years amounts to a 10.5 percent difference in the costs of education according to researchers at the American Institutes of Research (AIR).

Here are common indexes used to make cost-of-living adjustments (COLA).

**Consumer Price Index (CPI)—Strengths:** It is one of the most common COLA indexes so it is transparent and easy to understand. Furthermore, many teacher pension programs use the CPI at least in part to provide COLA to retirees. So the CPI does capture some of the increase in the cost of providing pension benefits. The CPI also includes the costs of both food and energy which are both significant expenditures for schools. The CPI provides specific cost indexes for many goods and services schools provide which can be aggregated to calculate an education specific CPI.

**Weaknesses:** The CPI is a general index that reflects the cost of all consumer goods and services. It is designed to measure the difference in costs of an individual purchasing the same goods and services one year compared to the previous year. It is not designed to account for the change in costs of providing specific services, such as K-12 education. Since up to 90 percent of education expenditures are labor related it isn't likely to provide an accurate measure to the change of the true cost of providing a similar education from year to year.

#### TRENDS

1-year: 3 percent • 5-year: 12 percent • 10-year: 28 percent • 20-year: 64 percent

**Employment Cost Index (ECI)—Strengths:** Since up to 90 percent of education expenditures are labor related the ECI is an effective tool to calculate the true change in labor costs in education. As a matter of fact, the ECI already calculates the cost of public elementary and secondary school personnel. Not only does the ECI incorporate salaries but benefits as well. So it provides an accurate measure of labor costs in education.

**Weaknesses:** Since the ECI is based on employment costs it does not include other costs of goods and services schools provide such as transportation and food services among others. Although these goods and services are a small percent of the cost of educating students, they are significant expenditures that need to be accounted for.

## ALL WORKERS: TRENDS

1-year: 2 percent • 5-year: 12 percent • 10-year: 33 percent • 20-year: 87 percent

## PUBLIC ELEMENTARY AND SECONDARY PERSONNEL: TRENDS

1-year: 1 percent • 5-year: 12 percent • 10-year: 35 percent • 20-year: 78 percent

Gross Domestic Product Deflator (GDPD)—Strengths: Provides the price difference of all new goods and services produced domestically. A number of economists argue it is a more accurate measure of inflation because it is more adaptive by including the prices of new goods and services while the CPI is based on a set number of goods.

Weaknesses: Although it is an accurate measure of inflation it does not necessarily provide a more accurate measure of the change in prices for the resources needed to provide the students the same education they received the year before as it includes all goods and services not just those related to education.

## TRENDS

1-year: 2 percent • 5-year: 10 percent • 10-year: 25 percent • 20-year: 51 percent

AIR Study: The AIR study, which AASA references, compares each of these indexes to an index they developed called the Inflationary Cost-of-Education Index (ICEI). The ICEI measures the change in the prices of school inputs such as personnel and good and services purchased by schools. The study found in the short run there are very small differences between the indexes. However, such small differences would result in quite large differences over time. For example, a one-half percent difference between indexes would result in a 10.5 percent difference in costs over a 20-year period. A larger one-year difference between indexes such as a 2.5 percentage would lead to a 64 percent difference in costs 20 years later.

Furthermore, although the report found the CPI to provide a higher rate of costs on average, this differed depending on what time period was being studied. So the CPI did not consistently show higher costs than the other indicators. Also, keep in mind the AIR study is from 1997 and examined cost changes in the late 80's and 90's. Moreover, each of these indicators are adjusted annually and have comprehensive revisions every 5 to 10 years to more accurately reflect true changes in costs. If this study was conducted today the results could be quite different, especially considering the escalation of the cost of providing retirement and health benefits since the report was published.

## ANALYSIS

Although the AIR study found the CPI to provide a more favorable measure of cost increases in education, this may not be the case today or in the future. The CPI is not designed to specifically measure employment costs that include providing retirement and health benefits which have increased dramatically since AIR conducted their study nearly 15 years ago. It is quite likely the ECI would provide a more accurate measure of the change in costs of providing the same education from year to year since the majority of education costs are labor related. As a matter of fact, when comparing the CPI and ECI, the ECI found that employment costs have increased 78 percent for K-12 schools since 1991 while the CPI found that overall prices have increased just 64 percent over the same time period. Meaning, Title I schools would be receiving 20 percent fewer funds if Title I funding was tied to the CPI in 1991 instead of the ECI. Even then, the ECI does not include the cost of such items as food, energy, and text books which have increased at much higher rates than the overall CPI over this time period.

What is needed is an index similar to the ICEI (which was only calculated for the AIR study) that is specifically designed to measure the cost of providing the same education at the same quality to all students that also takes into account changes in enrollment—something none of the current indexes do. At the very least whichever index used should be applied on a per pupil basis just as the CPI is applied to Social Security benefits on a per person basis.

Putting it all together, attempting to restrict growth in Title I funds using an index is quite problematic. There is no index that accurately captures the true change in costs in providing the same education at the same quality level. Furthermore, no index can account for any change in enrollment whether in total number or proportion of higher needs students that cost more to educate. So any attempt to limit the change in Title I funds to any index is likely to have a negative impact on the education students will receive in the future.

## RECOMMENDATION

Due to the fact the CPI does not accurately reflect the change in the costs of the goods and services school districts provide their students nor does the CPI account for the expected increase in student enrollment the CPI should not be used to determine future year's Title I funding.

The reason is the CPI is based on prices of all goods and services which may not reflect the costs school districts face in providing their students an education. This is particularly true since education is a labor-driven industry where up to 90 percent of expenditures are labor related. So it is important an index accurately captures total labor costs which is not what the CPI is designed to measure. The ECI provides a measure of changes in labor costs but it does not included other expenditures such as food, utility, and transportation costs among other goods and services schools provide their students.

Furthermore, the CPI does not take into consideration the fact that over the next eight years schools are expected to enroll 3.2 million more students than in 2012. The CPI only provides a measure of providing the same goods and services to the same number of people. So the CPI would have to be applied on a per-pupil basis to account for the fact that schools will be providing the goods and services to more students every year.

It should also be noted, the CPI does not measure the change of future costs. The CPI tells us what the change in costs were in the previous year not what the costs will be in the coming year as the CPI is proposed to do for Title I funding. Yes, economists provide forecasts for future CPI but these are educated guesses where there have been large differences between what was forecasted and what the actual change in costs was.

The CPI is a fairly accurate COLA measure when applied to individual consumers but it has limited use in measuring the change in cost of providing a similar education from year to year. The CPI, nor any other index at this time, is capable of accurately measuring how much it costs to educate our public school children.

*Prepared by Jim Hull, senior policy analyst, Center for Public Education, National School Boards Association, February 2012.*

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[Questions submitted for the record and their responses follow:]

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13th District, Illinois  
  
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FINANCIAL SERVICES  
EDUCATION AND THE WORKFORCE  
SCIENCE, SPACE, AND TECHNOLOGY



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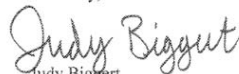
Dear Ms. Kazmier,

Thank you for appearing before the House Education and the Workforce Committee as expert witnesses during the recent hearing regarding H.R. 3989, the Student Success Act, and H.R. 3990, the Encouraging Innovation and Effective Teachers Act on February 14<sup>th</sup>, 2012. Your willingness to lend your expertise and perspective is critical to the legislative process. Unfortunately, time is often too short to accommodate the many questions Members have regarding complicated issues. As such, I'm transmitting the following questions for your response, where applicable:

- 1) **Maintenance of Effort (MOE):** Under current maintenance of effort provisions, districts have flexibility to reduce their funding commitment by up to 10 percent, while ensuring education remains a priority. However, one proposal within the House bill would eliminate language related to Maintenance of Effort.
  - a. Does the current Maintenance of Effort requirement help your schools?
  - b. Does MOE factor into your budgeting process? If so, how?
- 2) **STEM:** As you know, current law requires that Math, Reading, and albeit less frequently, Science are critical educational skills which must be tested. However, this new legislation drops the requirement to test Science. As a strong supporter of Science and STEM education, I am concerned that this change will signal to states, districts, parents and students that Science isn't important. I understand we got a lot wrong with NCLB, but we recognized the need to teach and test science 10 years ago, and the need for high-tech skills has only grown. Are we saying it was a mistake to support Science?

Please provide written responses no later than Thursday, March 15<sup>th</sup>, 2012. If you have any questions, please contact my Legislative Assistant, Brian Looser, at 202-225-3515.

Sincerely,

  
Judy Biggert  
Member of Congress

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### Ms. Kazmier's Response to Questions Submitted for the Record

I am responding to Representative Biggert's questions, which were posed to Felicia Kazmier in the attached.

#### 1. Maintenance of Effort

In regards to Maintenance of Effort for Special Education, during times of reduced funding, this requirement is very restrictive on the budgeting process. The requirement to maintain specific program level funding at prior year levels increases the burden on all other programs to absorb all of the reductions.

The Special Education MOE does factor into our budgeting process because it penalizes Districts that come up with more cost effective or innovative alternatives to provide the same level of services. The additional administrative tracking and com-

plying with MOE is an additional task that requires resources that could be directed elsewhere.

## 2. STEM

Harrison supports the assessment of science. With our pay-for-performance plan, we administer district common science assessments every quarter. If states have the resources, administering a common state science assessment would be useful in advancing STEM initiatives.

I hope this helps. Please let me know if you have any other questions.

MIKE MILES,  
*Superintendent.*

JUDY BIGGERT  
13th District, Illinois  
COMMITTEES:  
FINANCIAL SERVICES  
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Congress of the United States  
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Washington, DC 20515-1313

March 9, 2012

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<http://biggert.house.gov>

Mr. Tom Luna  
650 West State Street  
PO Box 83720  
Boise, ID 83720-0027

Dear Mr. Luna,

Thank you for appearing before the House Education and the Workforce Committee as expert witnesses during the recent hearing regarding H.R. 3989, the Student Success Act, and H.R. 3990, the Encouraging Innovation and Effective Teachers Act on February 14<sup>th</sup>, 2012. Your willingness to lend your expertise and perspective is critical to the legislative process. Unfortunately, time is often too short to accommodate the many questions Members have regarding complicated issues. As such, I'm transmitting the following questions for your response, where applicable:

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Sincerely,

  
Judy Biggert  
Member of Congress

**Mr. Luna's Response to Questions Submitted for the Record**

RE: Reauthorization of NCLB

1. Maintenance of Effort (MOE): Under current maintenance of effort provisions, districts have flexibility to reduce their funding commitment by up to 10 percent, while ensuring education remains a priority. However, one proposal within the House bill would eliminate language related to Maintenance of Effort.

a. Does the current Maintenance of Effort requirement help your schools?

I believe that the current Maintenance of Effort (MOE) requirement helps to protect schools from cuts both at the district and state level if and when those cuts become necessary, ensuring that the money allocated for education is being spent at the classroom level where it can have the greatest impact on student achievement. MOE also ensures that the federal funds being allocated to schools are targeted towards providing additional services and support rather than supplanting the services that should be provided through state funds. However, MOE can hamstring states and districts in their efforts to reform education as they work to prioritize how funds should be spent and at what level. Therefore, I believe that the states are in the best position to make these determinations. I believe that, through reauthorization, the MOE levels and restrictions should be set and determined by the state so that they can establish a system that meets the unique needs of their schools and districts. By shifting this responsibility to the states, it would allow states to establish a MOE system that works with, not against any reform efforts that the state may be undertaking.

b. Does MOE factor into your budgeting process? If so, how?

MOE does not typically play a role in our budgeting process as we always work to ensure that we are funding education in Idaho at a level that provides districts and schools with the resources to improve student achievement. Through Students Come First, Idaho has made unprecedented investments in Idaho schools to financially reward teachers, provide professional development statewide, and ensure every student has access to a highly effective teacher and the best educational opportunities every year they are in school. For example, next year, Idaho will be able to offset reductions in teacher pay to ensure teacher compensation will actually increase by 5 percent in the next school year.

2. STEM: As you know, current law requires that Math, Reading, and albeit less frequently, Science are critical educational skills which must be tested. However, this new legislation drops the requirement to test Science. As a strong supporter of Science and STEM education, I am concerned that this change will signal to states, districts, parents and students that Science isn't important. I understand we got a lot wrong with NCLB, but we recognized the need to teach and test science 10 years ago, and the need for high-tech skills has only grown. Are we saying it was a mistake to support Science?

Science is a critical subject area. This is true today and will be true in the future. This legislation does not change that. States have taken the lead in science and in other areas to ensure that students are mastering these skills and graduating from high schools prepared to go on and succeed in science. States will continue to do this and test science in the future. This legislation, however, will give states the flexibility they need to improve on science assessments. In Idaho, we recognize that science is difficult to test through an end-of-the-year standardized test because science courses, particularly in high school do not directly build on one another. A more effective approach to ensure students have a specific, discrete set of knowledge might be a series of end-of-course assessments or state-designed assessments tied to rigorous standards that ensure students have mastered the skills they need in each science course. This is the approach we are taking in Idaho to ensure greater success for our students. These end-of-course assessments in science will be more rigorous than the current assessments we are able to give at the end of the year and give teachers much more feedback and information on how students are learning specific concepts. If approved, this legislation to reauthorize No Child Left Behind will support the steps that states like Idaho have already taken to improve science assessments because this legislation gives states the flexibility they need to increase accountability.

JUDY BIGGERT  
13th District, Illinois  
  
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March 9, 2012

The Honorable Bob Schaffer  
2745 Minnesota Drive  
Room 106  
Fort Collins, CO 80525


Dear Mr. Schaffer,

Thank you for appearing before the House Education and the Workforce Committee as expert witnesses during the recent hearing regarding H.R. 3989, the Student Success Act, and H.R. 3990, the Encouraging Innovation and Effective Teachers Act on February 14<sup>th</sup>, 2012. Your willingness to lend your expertise and perspective is critical to the legislative process. Unfortunately, time is often too short to accommodate the many questions Members have regarding complicated issues. As such, I'm transmitting the following questions for your response, where applicable:

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Sincerely,

  
Judy Biggert  
Member of Congress

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### Mr. Schaffer's Response to Questions Submitted for the Record

Thank you for passing along Rep. Biggert's questions. Following is my reply:  
A1: The Maintenance of Effort provision in federal law has little practical meaning in my state. Colorado has generally increased year-to-year funding for K-12 education. Even with the state's "Taxpayer Bill of Rights," which caps overall state spending, we've managed to keep reductions from hitting Colorado classrooms. The only exception was the past two fiscal years where funding was actually reduced (slightly)—but nowhere near 10%. The pressure from Colorado's constituency tends to be toward higher levels of state spending on education, not less. The state-fund reductions were most often (depending on the district) compensated by local property-tax increases. The MOE does not help our schools because Colorado's funding levels are set by our state legislature at levels it establishes on its own volition, and

without regard to the MOE. The federal MOE does not factor into Colorado's budgeting process.

A2: With all due respect, the importance of science is not a function of the opinion of Congress or the U.S. Department of Education. I am confident the high priority Colorado places on science will not be diminished in any way by inclusion or exclusion of science-assessment requirements in an ESEA reauthorization bill. Our school districts get their "signals" from local constituents. Generally, Colorado's constituents place a high value on science instruction and assessment. Their values are aptly reflected in state-initiated policy and administration. In omitting science mandates in the current ESEA reauthorization strategy, the Congress would not be sending any overriding signal to the states or to the local communities. Federal support for science is a fine proposition, but doing so without additional federal mandates would be the least onerous way to proceed. I agree with you that Congress got a lot wrong with NCLB.



JUDY BIGGERT  
13th District, Illinois  
  
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Mr. Jimmy Cunningham  
Hampton School District  
P.O. Box 1176  
Hampton, AR 71744

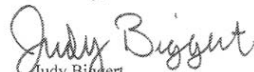
Dear Mr. Cunningham,

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Sincerely,

  
Judy Biggert  
Member of Congress

**HAMPTON PUBLIC SCHOOLS**

P.O. BOX 1176 – HAMPTON, AR 71744

JIMMY CUNNINGHAM, Superintendent  
 GLENN JOHNSTON, High School Principal  
 LILLIE RANDALL, Elementary Principal



President, FRED HARROD, JR.  
 Vice President, GUS McRAE  
 Secretary, JAMES RAWLS

Board Members  
 JOHN H. THOMPSON  
 BRANDON EVANS

Congresswoman Judy Biggert  
 13<sup>th</sup> District, Illinois  
 2113 Rayburn House Office Building  
 Washington, DC 20515

Dear Congresswoman Biggert,

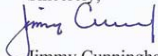
Thank you for all you do while serving on the Education and the Workforce Committee. Your questions concerning the reauthorization of ESEA are just a few of the complicated issues which concern all the Education Community and our supporters in DC.

My position on the maintenance of effort provision is to oppose the proposed change to eliminate MOE. That is, I would like us to maintain the current law. While I understand the interest in providing state and local budgets with increased control by eliminating the MOE requirements, the reality is that eliminating MOE, especially at the state level, compounds cuts and fiscal pressure at the local level, as school districts have to either absorb cuts in the state aid (eliminating programs/personnel) or use local dollars to cover the state cuts. Current law does provide states with a 10% window. This wiggle room provides enough flexibility to respond to changes in state fiscal reality. States and/or school districts may also apply for waivers. None of the states have applied for a waiver; however, only local agencies have applied for this relief. It seems to indicate that the current 10 % window is sufficient for states.

Science- I do have concerns regarding the elimination of the requirements to test science. While the flexibility pertaining to accountability, standards, and assessments is a good thing, it does leave it up to states to decide whether or not to test in science. I think we send the wrong message to our communities with the elimination of the science requirements especially now with the importance of Stem education.

I appreciate your concerns and work in Washington toward helping reauthorization of ESEA. If I can ever be of help please feel free to call me at 870-798-2229 (school) or 479-970-8814 (cell).

Sincerely,

  
 Jimmy Cunningham

JUDY BIGGERT  
13th District, Illinois  
COMMITTEES:  
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Dr. Robert Balfanz  
Center for the Social Organizations of Schools  
2710 N. Charles St. Suite 200  
Baltimore, MD 21218

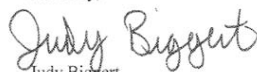
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**Mr. Balfanz's Response to Questions Submitted for the Record**

DEAR REPRESENTATIVE BIGGERT: I am not in a position to respond to question 1, but on question 2 on the importance of science, I fully agree that it is important to stress science education in the 21st century. Moreover, when done well it is an area students find engaging and thus helps to increase their attendance and attention in school. The reality is that schools pay attention to what they are held accountable for, and if they are no longer held accountable for science they will inevitably pay less attention to it. Given the advances that will be made with assessment from the state collaboratives working on assessments for the common core it seems

like this could be extended to science and in so doing , not make science accountability be burdensome to schools and students.

BOB BALFANZ,  
*Johns Hopkins University.*

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[Whereupon, at 12:41 p.m., the committee was adjourned.]

