

SUMMARY OF H.R. 5 AS PASSED BY THE HOUSE

ESEA, currently known as the *No Child Left Behind Act* (NCLB), is in need of significant reform. When it was enacted more than 13 years ago, NCLB was heralded as groundbreaking, and in some ways it was. The expanded use of data helped superintendents, school leaders, and teachers identify students most in need of additional instruction and offered parents access to important information about the quality of their schools.

However, weaknesses in the law have been clearly identified. One-size-fits-all accountability metrics restrict the ability of states and school districts to appropriately gauge student learning and tailor curriculum to enable students to graduate high school prepared for postsecondary education or the workforce. Federally-prescribed interventions and turnaround strategies have not worked as intended and are not producing the desired results in low-performing schools. More than 80 programs tied to K-12 schools, which impose tremendous paperwork and regulatory burdens on states and school districts, have had limited success in improving student achievement and offer states and communities little flexibility in how they use federal dollars to meet their own unique needs.

House and Senate inaction to reauthorize the law for over eight years has allowed the Obama administration to circumvent Congress and impose its own vision of education reform on the nation, subjecting America's classrooms to unprecedented oversight by the U.S. Department of Education.

The *Student Success Act* offers a better way forward for the nation's classrooms by:

- Returning responsibility for student achievement to states, school districts, and parents, while maintaining high expectations;
- Eliminating ineffective federal programs and investing limited taxpayer dollars wisely;
- Strengthening programs for schools and targeted populations;
- Supporting local efforts to measure teacher effectiveness;
- Engaging parents in their child's education;
- Supporting Impact Aid;
- Maintaining and strengthening long-standing protections for state and local autonomy; and
- Providing services for homeless students.

Returning Responsibility for Student Achievement to States, School Districts, and Parents, While Maintaining High Expectations

The *Student Success Act* dramatically reduces the federal role in education by returning authority for measuring student performance and turning around low-performing schools to states and local officials. Across the country, states and school districts are leading efforts to reform the nation's troubled education system. As these bold reformers step up, the federal government can step back, limiting its role to ensuring parents have the information they need to judge the quality

of their children's schools. The bill includes a number of key revisions to the current Title I program to increase state and local flexibility and restore local control of education.

- Academic Standards: Consistent with current law, the bill requires states to establish academic standards that apply to all students and schools in the state in reading, math, and science, while allowing states to develop standards for other subjects at their discretion. Achievement standards used for judging student and school performance must align with content standards, but the bill removes federal requirements mandating basic, proficient, and advanced levels of achievement. States also are allowed to establish alternate achievement standards aligned to content standards for students with the most significant cognitive disabilities. Finally, the bill incorporates the requirements for English proficiency standards from Title III into the main Title I program.
- Academic Assessments: Consistent with current law, the bill requires states to develop and implement a set of assessments for all students in the state in reading and math in each of grades three through eight and once in high school, and in science once in each of the grade spans for grades three through five, six through nine, and 10 through 12. However, the bill also allows states to approve local assessments developed by school districts in place of the state assessment. States retain the option to develop assessments in other subjects at their discretion and have the flexibility to use multiple measures of student achievement. States must ensure their assessments include reasonable accommodations for students with disabilities and are allowed to adopt alternate assessments for students with the most significant cognitive disabilities and computer adaptive assessments. The bill maintains requirements on disaggregating subgroup data, assessing the English proficiency of English learners and ensuring 95 percent participation rates for all students and each subgroup. However, the bill requires states to allow parents to opt their students out of the federally required assessments, and ensures those students would not count against the state's participation rates.
- Accountability: The bill eliminates the federal "Adequate Yearly Progress" (AYP) metric and the requirement that all students reach proficiency by an arbitrary date. In their place, states are allowed to develop their own accountability systems that must comply with three broad parameters:
 - Annually measure the academic achievement of all public school students against the state's academic standards (including, at the state's discretion, growth toward the standards) using the statewide assessments in reading and math and other academic indicators;
 - Annually evaluate and identify the academic performance of each public school in the state based on student academic achievement, including the achievement of all students and achievement gaps between student subgroups, and other measures of school success; and
 - Include a school improvement system implemented by school districts that includes interventions in poor performing Title I schools.

- School Improvement: The bill requires states to include, as part of their statewide accountability structure, a system of school improvement interventions to be implemented at the local level for Title I schools the state determines to be poorly performing. The bill repeals the federally mandated school improvement, corrective action, and restructuring labels and interventions included in current law, giving states and districts maximum flexibility to develop appropriate turnaround strategies and rewards for their schools. The bill increases the state set-aside for school improvement to 7 percent (up from 4 percent) and eliminates existing local set-asides, meaning more Title I money will flow directly to school districts. Finally, the bill eliminates the School Improvement Grants (SIG) program the Secretary of Education used to create unworkable turnaround models, instead dedicating those funds for the Title I program.
- Parent Information: The bill maintains the current requirement for school districts and states to produce annual report cards outlining academic achievement but streamlines data reporting to ensure meaningful information is easily available to parents and communities. States and districts must report disaggregated student achievement data on the state assessment and other academic indicators used in the statewide accountability system, participation rates on those assessments, the adjusted cohort graduation rate, each school's evaluation under the statewide accountability system, English language proficiency, and National Assessment of Educational Progress results on fourth and eighth grade reading and mathematics. The bill maintains parents' right to know their students' achievement levels, ensures schools will inform parents of the mandated tests their students will participate in, and moves the right to know teacher qualifications from Title I to Title II of ESEA.
- State Laws on Parent Authority: The bill includes a provision stating that nothing in the law should be interpreted to impact state laws on parent exercise of authority over low-performing schools.
- Funding Flexibility: The bill allows states and school districts to use federal funds for certain special population programs for any activity authorized under those programs. Instead of having to comply with a host of federal program requirements each dictating exactly how funds may be spent, state and local officials will be able to use federal funds to meet their own unique needs. While school districts will not be allowed to use Title I funds outside of those schools, they can move additional funding to low-income schools. The bill maintains separate funding streams for the Migratory Education, Neglected and Delinquent, and English Language Acquisition programs but merges them into Title I.
- Schoolwide Programs. The bill eliminates the 40 percent poverty threshold for schoolwide programs, allowing all Title I schools to operate whole school reform efforts. This change will allow low-income schools greater flexibility to consolidate programs and focus their efforts on raising the achievement of all students.

Eliminating Ineffective Federal Programs and Investing Limited Taxpayer Dollars Wisely

The *Student Success Act* restores fiscal discipline and allows taxpayer dollars to be put toward more effective uses such as funding programs with a proven track record of putting the needs of students first. This will streamline and simplify the federal role in public education, so states, school districts, teachers, and parents are empowered to pursue innovative reforms that meet the needs of their students and children. The federal government operates more than 80 separate programs under current elementary and secondary education law. Despite the tripling of overall per pupil funding since 1964, national academic performance has not improved. The bill includes a number of important reforms across various titles to ensure every taxpayer dollar is spent effectively and efficiently.

- Authorization Levels: The bill updates overall authorization levels for each of the fiscal years 2016-2019 to reflect the funding amounts provided by Congress for ESEA programs in FY 2015, while maintaining Title I Aid for the Disadvantaged and targeted population programs (Migrant Education, Neglected & Delinquent, English Language Acquisition, Rural Education, Indian Education, Alaska Native Education, and Native Hawaiian Education) at or above the FY 2012 levels. The amount authorized for all ESEA programs under the bill is **lower** than the Title I authorization for the last year it was authorized under current law.
- Spending Reduction Reports: H.R. 5 requires the Secretary of Education, through the Institute of Education Sciences, to contract with an economist with expertise in workforce and government efficiency issues to produce an annual report examining the reduced need for federal spending commensurate with the reduced mandates in the *Student Success Act*. The report would include recommendations for those spending reductions and would be submitted to the House and Senate Budget and Appropriations Committees, the House Education and the Workforce Committee, and the Senate Health, Education, Labor, and Pensions Committee.
- Eliminated Programs: The bill eliminates more than 65 existing elementary and secondary education programs, many of which have been deemed ineffective by the federal government, are too small to meaningfully improve student achievement, or have never been funded. This promotes a more focused, streamlined, transparent, and appropriate federal role in the nation's education system.
- State and Local Innovation: The bill creates a new Local Academic Flexible Grant to provide funds to states and school districts to support initiatives based on their unique priorities. While ensuring federal funds are spent to increase student achievement and engagement as part of in-school or after-school activities, states and school districts will have maximum flexibility to spend their resources on activities authorized under state law, including efforts to protect student safety. Instead of federal bureaucrats making funding decisions for superintendents, school leaders, and teachers, local officials will be able to make these decisions based on what they know will help improve student learning.

- Private Sector Initiatives: The bill requires states to reserve 10 percent of their Local Academic Flexible Grant to support state and local programs that operate outside of traditional public school systems. This infusion of private sector innovation will support states and districts in improving student achievement.
- State and Local Spending Decisions: The bill removes all “Maintenance of Effort” (MOE) requirements, allowing states and school districts to set their own funding levels for elementary and secondary education. The requirements are removed for four reasons:
 - Dictating how states and school districts spend **their** tax revenues as a condition of receiving federal funds is not an appropriate federal role;
 - MOE requirements assume increased education spending improves educational outcomes. Decades of data prove this argument false;
 - MOE requirements provide disincentives for states and school districts to innovate and deliver better educational services more efficiently; and
 - Data from the U.S. Department of Education show that since enactment of NCLB more than 70 percent of MOE waiver requests have been granted. This bill acknowledges this reality and eliminates the burden up front for school districts.

At the same time, the legislation maintains the existing “supplement, not supplant” requirements, which ensure federal dollars are used on top of state and local resources, protecting the traditional federal role in education.

- Department Bureaucracy: The bill requires the Secretary of Education to identify the number of full time equivalent employee positions associated with the eliminated programs under the bill and to reduce the department’s workforce by that number within approximately a year of the bill’s enactment.
- Program Evaluations: The bill directs the Secretary of Education to work through the Institute of Education Sciences (IES), the department’s main research arm, if the Secretary chooses to exercise existing authority to reserve program funds for program evaluations. The bill requires the Secretary to engage IES and relevant officials from the U.S. Department of Education in the development of a multi-year, comprehensive plan for carrying out evaluations and submit that plan to Congress and the public for review and comment. This will help ensure program evaluations are coordinated, objective, and provide useful information regarding the effectiveness of federal education initiatives.
- Prohibition on Funding for Abortion: Prohibits states and school districts from receiving funds under the Act if such agencies contract with a school-based health center, unless the center certifies that it will not perform abortions or provide abortion-related materials, referrals, or directions for abortion services to any student.
- Earmarks: The bill eliminates all of the current programs targeted to specific national organizations to comply with the House earmark ban.

Strengthening Programs for Schools and Targeted Populations

The *Student Success Act* maintains separate funding streams for the Migratory Education, Neglected and Delinquent, English Language Acquisition, and Rural Education programs and strengthens each targeted population program to improve its performance. The bill also reauthorizes the American Indian, Alaska Native Education, and Native Hawaiian Education programs under a separate title.

- Education of Migratory Children: The bill provides a reservation of funds to continue the current program, which assists states in supporting high-quality educational programs and services to address the unique educational needs of migratory children, including during summer or intersession time periods. The legislation strengthens how migrant student counts are determined in each state, basing state allocations on the average number of eligible migratory children from the previous three years and a count of the number of migratory children who receive services under summer or intersession programs. The bill also allows states, school districts, and other public and private entities to improve intrastate and interstate coordination and information exchanges regarding migratory children.
- Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk: The bill provides a reservation of funds to continue the current program, which improves educational services for students in state and local correctional institutions or for those children who are transferring out of institutionalization. The legislation emphasizes receipt of a regular high school diploma to the extent feasible and makes minor technical and clarifying changes to improve operation of the program.
- English Language Acquisition, Language Enhancement, and Academic Achievement: The bill includes a reservation of funds to continue the current program, which provides services to help non-English speaking students learn English and meet state academic standards. The legislation incorporates accountability and reporting requirements for English learners into the Title I program to encourage greater alignment, while maintaining student achievement expectations for these students and public reporting of progress. The bill changes how the Secretary of Education determines immigrant student and English learner counts, to ensure states and school districts receive accurate and reliable data and stable funding. The bill eliminates the Improving Language Instruction Educational Programs, which have never been funded and are duplicative of the main program.
- Rural Education: The bill reserves funds for rural school districts and schools in both the Small Rural School Achievement (SRSA) program and the Rural and Low-Income School (RLIS) program. The legislation updates current locale codes that determine eligibility of rural districts and schools under both programs and includes a sliding scale hold-harmless formula for districts that become ineligible under the SRSA program because of the new codes. The bill allows school districts eligible for both the SRSA and RLIS programs to apply for funding under the program of their choice. The bill also

creates a grant program for rural schools to develop and implement digital learning programs.

- American Indian, Alaska Native, and Native Hawaiian Education: The bill reauthorizes the American Indian, Alaska Native, and Native Hawaiian education programs under a redesigned Title V of the law. The American Indian education program makes Indian and Alaska Native organizations and Indian and Alaska Native community-based organizations — under certain circumstances — eligible for grants. The program also includes a focus on Native American languages and allows tribes, tribal organizations, and Alaska Native organizations to apply for formula grants in consortia if an eligible local educational agency chooses not to apply. The American Indian special programs include new Tribal Education Agencies Cooperative Agreements. The American Indian national activities section includes a new Improvement of Academic Success for Students through Native American Language program and eliminates the In-Service Training for Teachers of Indian Children and the Gifted and Talented Indian Students programs. Under the Alaska Native Education program, the bill mandates grantees develop a strategy for improving the education of Alaska Native children and collect data to that effect, and it makes other, minor changes to the program. The Native Hawaiian program includes new allowable activities, including to support public charter schools serving high concentrations of Native Hawaiian students. The Native Hawaiian program also increases the role of the Native Hawaiian Education Council in providing technical assistance to grantees.

Supporting Local Efforts to Measure Teacher Effectiveness

The *Student Success Act* updates federal teacher policy to reflect current state and local efforts to emphasize an educator’s ability to effectively motivate students and improve their academic achievement. Parents know that the best teachers are those who keep their students motivated and challenged in the classroom. Instead of relying on bureaucratic and outdated provisions such as teacher credentials or tenure, states and school districts should have the tools to measure an educator’s ability to help students excel in the classroom. The bill makes a number of important changes to current law to improve teacher quality.

- Highly Qualified Teachers (HQT): The bill repeals the federal government’s onerous and meaningless “Highly Qualified Teachers” requirements, enabling federal, state, and local policies to move toward strategies that will reassure parents their students’ teachers are effective in the classroom. The bill maintains the current qualifications for school paraprofessionals.
- Teacher Evaluations: The main teacher quality program within the bill is amended to allow for the development and implementation of state or locally driven teacher evaluation systems. Unlike the U.S. Department of Education’s Race to the Top plan or waiver package, which mandate specific requirements for school districts to follow, the bill sets five broad parameters that states or school districts may include in any teacher evaluation system. This approach gives greater flexibility to school districts or states to

develop teacher evaluation systems that best meet the specific needs of their teachers and students. Those optional parameters include:

- Making student achievement data, derived from a variety of sources, a significant part of the evaluation;
 - Using multiple measures of evaluation in assessing teacher performance;
 - Having more than two rating categories for the performance of teachers;
 - Making personnel decisions based on the evaluations, as determined by the district; and
 - Seeking input from parents, teachers, school leaders, and other staff in the school in developing the evaluation system.
- Uses of Funds: The bill allows states that have already developed statewide teacher evaluation systems to use teacher quality funds to work with their school districts to implement the system. Funds may also be used to train school leaders in how to evaluate teachers under the system; develop and implement school leader evaluation systems; provide evidence-based, job-embedded, and continuous professional development for teachers, school leaders, and early childhood education providers focused on academic subjects or specific student populations; professional development for teachers to teach dual credit or dual enrollment courses; and provide support to teachers identified as in need of additional assistance. States can also utilize these funds for Pay for Success initiatives for teacher recruitment, development, and support. States and school districts can use teacher funds for class size reduction, but the bill caps this use at 10 percent. A substantial amount of teacher quality funds under current law are used to reduce class size, which evidence shows has little to no effect on student learning.
 - Teacher and School Leader Innovation: The bill eliminates the remaining teacher quality programs, including the Teacher Quality Partnership Grant program authorized under the *Higher Education Act*, and consolidates funding into a new Teacher and School Leader Flexible Grant. The program will award grants to states and school districts to increase student achievement through evidence-based innovative initiatives. School districts, solely or in partnership with institutions of higher education, can receive funding to:
 - Increase access to or develop alternative certification or licensure routes;
 - Recruit, hire, and retain effective teachers and school leaders;
 - Improve teacher preparation programs within the state;
 - Implement performance-based pay systems and differential incentive pay;
 - Create teacher or school leader advancement and multiple career paths;
 - Establish new teacher or school leader induction and residency programs; and
 - Provide additional professional development activities or other evidence-based initiatives likely to increase teacher and school leader effectiveness.
 - Teacher and School Leader Academies: The bill allows states to reserve up to 3 percent of their flexible grant to award funds to eligible entities for the establishment or expansion of teacher or school leader preparation academies.

- Teacher Liability: The bill maintains liability protections included in current law that protect school employees (including teachers, administrators, and school board members) acting to control, discipline, expel, or suspend a student as well as to maintain order in the classroom or school through reasonable actions.

Engaging Parents in their Child's Education

The *Student Success Act* recognizes that parents must play an active role in their child's education. The federal government currently supports a number of vital initiatives aimed at providing additional educational options for parents and students looking to escape low-performing schools and providing assistance to those students in need of extra instructional support to be able to excel academically. The legislation drives these federal reform efforts down to the state and local level and moves many of these programs from Title V of current law to a redesigned Title III.

- Title I Portability: The bill gives states the option of allowing Title I money to follow low-income students to the traditional public or charter school of the parent's choice. Under current law, school districts choose which schools receive Title I funds within some parameters. This legislation, however, ensures all low-income students receive their fair share of federal dollars, rather than allowing the bureaucracy to choose winners and losers.
- Charter Schools: The bill reauthorizes the Charter School Program, which supports the start-up, replication, and expansion of high-quality charter schools. The bill incorporates the provisions of H.R. 10, the *Success and Opportunity Through Quality Charter Schools Act*, which passed the House in the 113th Congress. The legislation expands the entities eligible for funding to include additional statewide entities (charter school boards, governors, and charter support organizations) to foster greater charter school growth; encourages greater expansion and replication of proven, high-quality charter school models; requires states to fund efforts to increase charter school authorizer quality; allows the use of weighted admission lotteries to better serve disadvantaged students; clarifies a student can continue in a charter school program at another school in the same network without returning to the lottery; and adds a set-aside in the national activities funding to support high-quality charter management organizations in opening and expanding high-quality charter schools.
- Direct Student Services: The bill requires states to set aside 3 percent of Title I money to provide competitive grants to school districts that wish to offer tutoring or public school choice to their students, including those in poor performing schools.
- Magnet Schools: The bill continues the current program, which provides funds to support the development and implementation of innovative education methods and practices that increase choices in public education. The legislation includes changes to improve program operation.

- Family Engagement Centers: The bill renames and makes improvements to the existing Parental Information and Resource Centers (PIRC) program, which helps implement family engagement policies, programs, and activities that lead to improvements in student academic achievement or adult literacy. The legislation strengthens partnerships among parents, teachers, school leaders, administrators, and other school personnel designed to meet the educational needs of children. The bill promotes the better sharing of effective strategies and increases coordination between states, family engagement centers, and parents.
- Background Checks: The bill requires states to have background check policies for employees and prospective employees who have direct unsupervised access to children. Parents entrust their children to schools during the day and should have the comfort of knowing that any adult working around their child at school has undergone a background check.

Supporting Impact Aid

The *Student Success Act* strengthens the five existing Impact Aid programs, which reimburse school districts located near, or serving students from, military bases, federal lands, and Indian reservations, for the loss of property taxes due to the presence of the federal government. Many of the bill's provisions were included in the FY 2013 *National Defense Authorization Act* and expire in early 2018. The legislation makes such language permanent and moves Impact Aid programs from Title VIII of current law to a new Title IV.

- Payments for Federal Property: The bill updates the formula by which school district allotments are determined for a district with federal property located within its boundaries that cannot be taxed. The new formula includes two parts. First, an eligible school district will get a foundation or base payment of either 90 percent of the payment most recently received (FY 2009) or 90 percent of the average payment received from FY 2006-2009, whichever is higher. Second, the district will receive an additional payment using a calculated per acre value.
- Payments for Federally-Connected Children: The bill streamlines provisions for Heavily Impacted school districts, which are districts with high percentages of military, Native American, or other federally-connected children. The legislation standardizes eligibility criteria for these districts at 45 percent enrollment of federally-connected children; bases per pupil expenditure eligibility requirements on state averages rather than national averages; and allows federally-connected children to be counted in enrollment numbers in the case of open enrollment policies in a state. The bill also amends the Basic Support Payments formula to provide equal prorated payments greater than 100 percent of the Learning Opportunity Threshold for eligible districts. Finally, the language allows school districts to continue to count children who have been relocated off-base due to renovation, rebuilding, or demolition after three years if the district continues to serve such children because of project delays and simplifies the annual process for counting these children.

- Timely Payments: The bill requires the Secretary of Education to provide Impact Aid payments within three years. This addresses long-standing school district concerns regarding the lack of on-time payments from the U.S. Department of Education, as Impact Aid accounts for a substantial portion of the operating budgets for many of these districts.

Maintaining and Strengthening Long-Standing Protections for State and Local Autonomy

The *Student Success Act* restores and protects state and local autonomy over public education. Since taking office in 2009, the Obama administration has pushed the largest expansion of the federal role in education in the nation's history. The Secretary of Education has usurped Congressional authority to rewrite NCLB, coercing states into adopting common standards and assessments in exchange for temporary relief of the law's burdensome requirements. The legislation strengthens the important protections for students, parents, communities, states, and school districts found in the General Provisions of ESEA. It also moves them from Title IX of current law to a redesigned Title VI.

- Secretary's Authority: The bill limits the authority of the Secretary of Education over decisions in the classroom. The legislation: (1) prohibits the Secretary from imposing conditions on states and school districts, including the adoption of the Common Core State Standards, in exchange for a waiver of federal elementary and secondary education law or federal grant funds; (2) prevents the Secretary from creating additional burdens on states and districts through the regulatory process, particularly in the areas of standards, assessments, and state accountability plans; (3) prohibits the Secretary from demanding changes to state standards and influencing and coercing states to enter into partnerships with other states; (4) outlines specific procedures the Secretary must follow when issuing federal regulations and conducting peer review processes for grant applications, including publicly releasing the identity of peer reviewers, which will bring greater transparency; and (5) ensures states may withdraw from Common Core without penalty.
- Private School Students: The bill strengthens provisions to ensure the participation of private school students and teachers in the programs funded under the Act. The legislation improves the consultation and negotiation processes to provide clearer procedures and faster notice for private school officials. These changes will better protect access for private school students.
- Military Recruiters: The bill improves the military recruiting provisions in current law by ensuring recruiters have the same access to high schools as colleges and universities.

Providing Services for Homeless Students

The *Student Success Act* reauthorizes the Education for Homeless Children and Youths program within the *McKinney-Vento Homeless Assistance Act*, the primary federal program that provides funding to states and school districts to educate homeless children.

- Improved Collaboration: The bill places a greater emphasis on improved identification of homeless children and youth and provides better collaboration and information sharing among federal and state agencies to provide services for homeless students.
- School Stability: The legislation strengthens provisions in current law to provide greater school stability and protections for homeless youth and parents.