

THE STUDENT SUCCESS ACT (H.R. 3989) SUMMARY FOR MARKUP

The Elementary and Secondary Education Act (ESEA), reauthorized more than 10 years ago as the No Child Left Behind Act (NCLB), is in need of dramatic reform. Even though the law expired more than four years ago, legislation to update NCLB was never considered by the House Committee on Education and the Workforce. Since assuming control of the House of Representatives, Republicans have passed three reauthorization bills out of the committee, including the *Empowering Parents through Quality Charter Schools Act*, which passed the House with a broad bipartisan majority. The *Student Success Act*, along with the *Encouraging Innovation and Effective Teachers Act*, comprise the final pieces of the committee's efforts to reauthorize ESEA.

When it was enacted, 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. But we have now clearly identified the law's weaknesses. Adequate Yearly Progress (AYP) is a one-size-fits-all metric that restricts states' and school districts' ability to appropriately gauge student learning and tailor curriculum to enable students to graduate high school prepared for postsecondary education or the workforce. The cascading system of mandated interventions has not worked as imagined and is not producing the desired results in low-performing schools. The law's numerous programs (more than 80 in all) impose tremendous paperwork and regulatory burdens on states and school districts and have demonstrated limited success in improving student achievement.

The *Student Success Act* offers a better way forward for education reform by:

- Returning responsibility for student achievement to states, school districts, and parents, while maintaining high expectations.
- Providing states and school districts greater flexibility to meet students' unique needs.
- Investing limited taxpayer dollars wisely.
- Strengthening programs for schools and targeted populations.
- Maintaining and strengthening long-standing protections for state and local autonomy.

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 schools.

- Academic Standards: Similar to current law, the bill requires states to establish academic standards that apply to all students and schools in the state in at least reading and math, while allowing states to develop standards in other subjects at their discretion. Achievement standards used for judging student and school performance have to align

with the content standards, but the bill removes federal requirements for basic, proficient, and advanced levels of achievement. States are also allowed to establish alternate achievement standards aligned to the content standards for students with the most significant disabilities. Finally, the bill consolidates the requirements for English proficiency standards into the main Title I program.

- Academic Assessments: Similar to current law, the bill requires states to develop and implement a set of annual assessments in reading and math, the foundation for student learning. To reduce the burden of over-testing on our nation's students, the bill eliminates the federal requirement that states administer assessments in science. States retain the option to develop assessments in science and other subjects at their discretion. States are required to give the same reading and math assessment to all students in the state in each of grades 3-8 and once in high school. Assessments still must include reasonable accommodations for students with disabilities. States are allowed to adopt alternate assessments for students with the most significant cognitive disabilities and computer adaptive assessments, and have the flexibility to use multiple measures of student achievement. The bill maintains requirements on disaggregating subgroup data, assessing the English proficiency of English learners, and 95 percent participation rates for all students and each subgroup,
- Accountability: The bill eliminates Adequate Yearly Progress (AYP) and replaces it with a state-determined accountability system. States are required to develop and implement a statewide accountability system that includes the following elements:
 - Annually measure the academic achievement of all public school students against the state's academic standards (including growth toward the standards) using the statewide assessment and other academic indicators determined by the state.
 - 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.
 - Include a school improvement system implemented by school districts that includes interventions in poor performing Title I schools.
- School Improvement: As noted above, the bill requires states to include, as part of their statewide accountability structure, a system of school improvement interventions implemented at the local level for Title I schools that the state determines to be poorly performing. The bill repeals the federally mandated interventions included in sections 1116 and 1117 of current law, giving states and districts maximum flexibility to develop appropriate school improvement strategies and rewards for their schools. The bill increases the state set-aside for school improvement to 7 percent (up from 4 percent), but eliminates the local set-asides, meaning more Title I money will flow directly to school districts. The bill eliminates the School Improvement Grants (SIG) program that the Secretary of Education used to create four unworkable turnaround models, instead using those funds to increase the authorization level for the Title I program.
- Parent Information: The bill maintains the current requirement that states and school districts issue and distribute annual report cards, but streamlines the data reporting to ensure meaningful information is easily available to parents and communities. States and districts must report disaggregated data on student achievement 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 results on the 4th and 8th grade reading and mathematics National Assessment of Educational Progress (NAEP). The bill maintains parents' right to know their students' achievement levels, and moves the right-to-know regarding teacher professional qualifications to the *Encouraging Innovation and Effective Teachers Act*.

- **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.
- **Highly Qualified Teachers:** The bill repeals section 1119 of current law, which sets federal requirements around teachers and paraprofessionals and removes the requirement that teachers be highly qualified. The *Encouraging Innovation and Effective Teachers Act* includes requirements for locally-developed teacher evaluations, so federal teacher policy can move from onerous and meaningless burdens to strategies that will reassure parents their students' teachers are effective.
- **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.

Providing States and School Districts Greater Flexibility to Meet Students' Unique Needs

- **Funding Flexibility:** Consistent with the *State and Local Funding Flexibility Act* passed by the committee in July 2011, the bill allows states and school districts to use funds for certain special population programs for any activity authorized under any of the other programs. This allows state and local officials to use federal funds to meet their own unique needs. While school districts will not be allowed to use funds received for Title I schools outside of those schools, they can move additional funding to low-income schools. The bill maintains separate funding streams for the Migrant Education, Neglected and Delinquent, English Language Acquisition, and Indian Education 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, included in the Obama administration's waiver package, will allow low-income schools greater flexibility to consolidate programs and focus their efforts on raising the achievement of all students.

Investing Limited Taxpayer Dollars Wisely

- **Authorization Levels:** The bill limits funding authorizations to the FY 2012 appropriated levels to ensure taxpayer dollars are spent efficiently. Consistent with the charge to increase public transparency and end the use of "such sums," the bill ties potential funding increases to inflation. It also consolidates authorization levels into one section in the law.

- 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. These 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 that increased education spending will improve 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.
 - Data from the U.S. Department of Education show that, since enactment of NCLB, nearly every school district request to waive MOE was granted. The bill acknowledges this reality and eliminates the burden up front for districts.

At the same time, the legislation maintains the law's Supplement, not Supplant requirements, which ensure that federal dollars are used on top of state and local resources, protecting the traditional federal role in education. Maintaining these provisions will ensure states and districts will not be able to dramatically cut education spending and fill in the gaps with federal dollars.

Strengthening Programs for Schools and Targeted Populations

The *Student Success Act* maintains separate funding streams for the Migrant Education, Neglected and Delinquent, English Language Acquisition, Rural Education, and Indian Education programs, but merges them into Title I of the law. The bill strengthens each program in key ways.

- Education of Migratory Children: The bill provides a reservation of funds to assist states in supporting high-quality educational programs and services to address the unique educational needs of migratory children, including during summer periods. The legislation strengthens how migrant student counts are determined in each state, basing state allocations on the average number of eligible full time equivalent migratory children from the previous three years and a count of the number of migratory children who receive services under summer 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 improve educational services for students in state and local 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 the operation of the program.
- English Language Acquisition, Language Enhancement, and Academic Achievement: The bill includes a reservation of funds to provide services to help non-English speakers learn English and meet state academic standards. As noted above, the bill consolidates

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, so states and school districts receive accurate and reliable data and stabilize funding. Consistent with the *Setting New Priorities in Education Spending Act*, 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 Program (SRSA) and the Rural and Low-Income School (RLIS) Program. The legislation updates current locale codes, which determine eligibility of rural districts and schools under both programs, and includes a sliding scale hold harmless formula for districts that are now ineligible under the SRSA program because of the new codes. The bill allows school districts to apply for funding under both the SRSA and the RLIS program.
- **Indian Education:** The bill reserves funds to meet the unique educational and cultural needs of American Indian students and encourages Indian tribes, communities, and parents to participate in the education of their children. The bill allows school districts and Indian tribes applying for formula grants to apply in consortia to maximize the use of federal funds. Consistent with the *Setting New Priorities in Education Spending Act*, the bill eliminates the Native Hawaiian Education and Alaska Native Education Equity programs, which are duplicative of other services and funds provided to these populations under Title I. The bill also eliminates the Fellowships for Indian Students program and the Improvement of Educational Opportunities for Adult Indians program, which have not been funded since 1995. It also eliminates the In-Service Training for Teachers of Indian Children Grant, the Gifted and Talented Indian Students program, and the Grants to Tribes for Education Administrative Planning and Development program, which have never received federal funding.

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

The *Student Success Act* includes the General Provisions of ESEA, but moves them from the current Title IX to a new Title V. The bill maintains and strengthens these important protections for students, parents, communities, states, and school districts while eliminating other burdensome and duplicative requirements.

- **Private School Students:** The bill strengthens provisions in Title I and Title V to ensure the participation of private school students and teachers in the programs funded under this Act. The bill 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.
- **Secretary's Authority:** The bill protects state and local autonomy over decisions in the classroom and limits the authority of the Secretary of Education. The legislation: (1) prohibits the Secretary from imposing conditions on states and school districts in exchange for a waiver of federal K-12 education law; (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 into entering partnerships with other states; and (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, that will bring greater transparency.

- Military Recruiters: The bill improves the military recruiting provisions in current law by ensuring military recruiters have the same access to high schools as institutions of higher education.