

June 10, 2013

The Honorable Tom Harkin
Chairman
Committee on Health, Education,
Labor and Pensions
United States Senate
Washington, DC 20510

The Honorable Lamar Alexander
Ranking Member
Committee on Health, Education,
Labor and Pensions
United States Senate
Washington, DC 20510



*Working with and
Through our State
Associations, NSBA
Advocates for Equity
and Excellence in
Public Education
through School
Board Leadership*

**Re: *National School Boards Comments on Strengthening America's
Schools Act***

Dear Chairman Harkin and Ranking Member Alexander:

The National School Boards Association (NSBA), representing over 90,000 local school board members across the nation, supports efforts that the Senate Committee on Health, Education, Labor and Pensions to begin the legislative process to reauthorize the Elementary and Secondary Education Act (ESEA) with the scheduled bill mark up on June 11, 2013. We are optimistic that ESEA reauthorization could be completed during this First Session of the 113th Congress. However, NSBA is unable to support the legislation in its current form and urges that the bill be revised and brought back to committee as soon as practicable to reflect the themes and specific provisions that we have outlined below and in our follow up communications.

As you are aware, local school board members have been concerned for many years over certain provisions in the current *No Child Left Behind Act*. While, there are positive features to current law, there are too many other significant provisions that are educationally and operationally dysfunctional, including those that have wrongfully worked to erode public confidence in our public schools. We are looking toward this reauthorization to build on the constructive features of the current law and eliminate those that have produced a misdirection of the federal role.

Accordingly, NSBA appreciates the efforts made in the bill to address such areas as early childhood development, teacher and principal effectiveness through preparation and professional development, rigorous college and career-ready standards with valid and reliable aligned assessments. However, local educational agencies remain very concerned that this bill contains many requirements that must be redesigned or eliminated due to their negative impact on improving academic success as well as whether they are operationally and fiscally workable.

The complexity of the bill results largely from significantly increased and overwhelming requirements for local data collection, reporting, and plan development and implementation. Although many of these requirements are directed to the state educational agencies, compliance at that level will mean that these requirements would be passed on to the local educational agencies. Unfortunately, many local educational agencies would not have sufficient technical capacity or the fiscal or personnel resources needed to implement such a complex and administratively burdensome framework. Moreover, these requirements invite counter-productive micro-management of the educational delivery system as well as the focus of

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time needed for compliance purposes rather than on learning. Additionally, we note that with all the operational requirements proposed in this legislation there is no adequate provision for building the local capacity of school districts to acquire, maintain or otherwise implement these wide range of requirements.

More specifically, we offer the following areas that exemplify a more detailed list of our concerns:

Expanded Federal Role: We note that the role of the U.S. Secretary of Education appears to have increased substantially. Throughout the bill, the Secretary is authorized to determine the overall quality and effectiveness of greatly expanded state plan requirements that will, in turn, impact the local level. The Secretary would appear to be involved in the design of programs, directing the specifics, for example, in addressing parent/community engagement and extensive data collection. In the case of data, the bill calls for multiple cross tabulations of a wide range of academic and non-academic student data that we believe will be overwhelming for many school systems to produce. The same can be said of new local plan requirements. If the intent of this bill is to truly improve teaching and learning, local educational agencies must have maximum flexibility in order to design, develop and implement programs that best meet the unique needs of their students. Regardless of the size of local educational agencies, top-down requirements will not be effective due to the many variables within the local communities. In fact, such top-down approaches are disabling rather than enabling for our local educational agencies.

School Improvement Models: Additionally, local educational agencies, including those receiving NCLB waivers from the Secretary, continue to be concerned with the limited flexibility in designing and implementing turnaround models for low performing schools. It is important to note that NSBA's Center for Public Education recently completed [a study](#)¹ of the four federally directed models and found that on the whole the results in enhancing student achievement were weak. The bill does add a state option and another option that provides limited flexibility to local educational agencies provided they hire consultants for that purpose. These options will be unavailable or insufficient for too many schools and fail to specifically allow local educational agencies to develop their own unique approaches. Local educational agencies believe that it is critical to allow school districts to develop their own approaches as "home-grown plans" provided they are evidenced-based and designed to effectively meet the unique needs of their local communities.

Comparability: NSBA supports the concept of comparability and believes it is important to ensure that Title I schools receive comparable educational support. The proposed comparability provision would change the method for how local educational agencies determine whether comparable services are being provided from local resources to Title I schools compared to other schools in the district. It would require local educational agencies to show that they spend no less at each Title I school – as determined by the combined state and local per-pupil expenditures for personnel and non-personnel – than they do at the average non-Title I schools in the district. One unintended consequence is that many local educational agencies would likely have to reallocate funding for educational resources from other schools, Title I and non Title I schools alike, in order to equalize-up their school-to-school per-pupil expenditures, even if that transfer arises from a cost differential in a Title I school that has nothing to do with the actual delivery of educational resources—like lower costs for transportation, social service, safety or employee health and pension contributions. NSBA conducted a survey of local school districts in 2012 to determine the potential impact of these changes in calculating comparability. Nearly 300 local school officials across the country responded and found the provision burdensome and not geared to achieving the desired educational outcome. A provision in the current Senate bill that would provide the Secretary with the

¹ <http://www.centerforpubliceducation.org/turnaround>

authority to consider state or local options would also be untimely and unmanageable. NSBA's full report can be found [here](#)². This report further exemplifies the complexity of regulations that would need to accompany just this one provision, meanwhile, the bill already contains many new provisions that are more closely linked to educational equity, such as the distribution of effective teachers and other provisions that target local educational support to Title I schools.

Regulatory Expansion: We note that one of the purposes identified in this bill calls for streamlining federal requirements to reduce burdens on States, local educational agencies, schools, and educators. Yet, in reviewing the requirements not only under Title I, but under other titles as well, this complex and detail oriented bill significantly expands federal involvement that, in our view, will invite more regulations. We believe that in order to ensure that Congress' intent is being followed to prevent regulations not specifically authorized by legislation and to provide local educational agencies meaningful opportunities to have their concerns addressed in regulations, grants and other relevant agency actions new protections will need to be put into law. This is a critical concern for local school boards – which has resulted in the introduction of legislation, the *Local School Board Governance and Flexibility Act, H.R. 1386*, which we urge you to consider and incorporate in your revisions to the bill.

Public Charter Schools Expansion: Local educational agencies continue to be concerned with the increased congressional support for public charter schools in the legislation and the apparent willingness of Congress to not hold public charter schools to the same accountability requirements as traditional public schools. Further, contrary to the provisions of the bill, local educational agencies should be the sole or preferred authorizer of the charter schools to be established in their area, as well as have the opportunity to be involved in their evaluation when they are not. Similarly, the bill should not encourage the redirection of operational and capital expenditures away from school districts. We would also urge for greater transparency in how charter schools, including charter cyber-schools, report their financing and ownership. With only 17% of charter schools out performing traditional public schools and twice that number performing worse, we believe these provisions are needed to protect students, provide parents with meaningful information, and to protect the taxpayer interest.

Conclusion: In view of our critical concerns, NSBA is unable to support the bill in its current form. In urging you to revise the current language, it is suggested that you identify and address the most important areas that the federal government should be engaged in rather than overloading the system. We would be happy to work with your staff regarding our specific concerns and to support your efforts to bring a revised bill back to committee as soon as possible

If you have any questions concerning our comments and positions please contact Reginald M. Felton, Assistant Executive Director for Congressional Relations at 703-838-6782, or by e-mail, rfelton@nsba.org.

Sincerely,



Michael A. Resnick
Associate Executive Director

² <http://www.nsba.org/Advocacy/Key-Issues/NCLB/May-2013-NSBAs-survey-finds-that-the-proposed-comparability-requirements-in-the-Senates-ESEA-bil.pdf>