

TO: **Chiefs, Deputies, Federal Liaisons, and Communications Directors**
FROM: **Chris Minnich, CCSSO Executive Director;**
Peter Zamora, CCSSO Director of Federal Relations
DATE: **June 5, 2013**
SUBJECT: **Preliminary Summary and Analysis of Senate Democrats' ESEA
Reauthorization Bill**

On June 4, Senator Tom Harkin, Chairman of the Senate Committee on Health, Education, Labor, and Pensions (HELP), with the co-sponsorship of the HELP Committee Democrats, introduced the Strengthening America's Schools Act of 2013 (S.1094). This is the Elementary and Secondary Education Act (ESEA) reauthorization bill that the HELP Committee will mark up beginning Tuesday, June 11. The purpose of this memorandum is to provide a brief summary of major provisions of this comprehensive bill and present preliminary state perspectives on the proposal.

CCSSO is generally encouraged by the direction that the Chairman has chosen regarding the primary accountability provisions contained within Titles IA and IIA. The bill would, in essence, authorize the accountability systems states have implemented under ESEA Flexibility waivers: college- and career-ready standards; significant interventions in the bottom 5 percent of schools in the state and the 10 percent of schools with the largest achievement gaps; 4 school turnaround models plus a fifth, evidence-based model and a sixth, state-selected model; and required use of state performance targets and student growth models. The bill would not, however, allow states to use GEDs or so-called "super-subgroups" for federal accountability and reporting purposes. It would require states to consider student outcomes in teacher and principal evaluations, but would not require that the results of these evaluations be used for personnel decisions (as is required under waivers).

CCSSO is concerned, however, by the number and scope of the requirements in the 1150-page bill outside of the core accountability provisions described above. A primary area of concern is the multitude of new state and local data collection and reporting requirements and the new reporting requirement that each data point be disaggregated by race, disability, English proficiency status, and income and also cross-tabulated between these subgroups. In other words, the bill would continue current subgroup reporting and accountability but also require new reporting on the intersections of the current subgroups when the number of students in the cross-tabulated group exceeds the "n" size. This constitutes an exponential increase in reporting on each current data point and the many new required data points that the bill would require (described below). The bill would also require a new mandatory "n" size of 15 for reporting and accountability purposes. These new reporting requirements, considered in their totality, present a significantly increased burden to states, districts, and schools.



CCSSO is also concerned about, among other elements: the substantial number of new federal programs with comprehensive and specific requirements included in the new bill; new federal requirements around the reporting and equalization of state and local funding streams; new requirements intended to prevent bullying; new assessment and accountability provisions for English Language Learners in Title III; limited reform of the Department's peer review and state plan approval process; and the scope of the application, planning, and reporting requirements for new and newly-authorized competitive grants. We will consider the totality of the legislation as we implement CCSSO's legislative strategy.

Please see below for a brief summary of the Chairman's proposal. CCSSO will also provide a summary and analysis later this week of the substitute amendment that Senator Lamar Alexander, Ranking Member of the HELP Committee, will propose on behalf of committee Republicans. In addition, we will produce a side-by-side chart that will compare and contrast existing law, waivers, and each congressional reauthorization vehicle bill.

CCSSO will host a call at 4:00p.m. (EDT) on Monday, June 10, as we prepare for the HELP Committee mark up the next day. You may participate by calling 1-866-469-3239 and using this access code: 25633882.

This is the beginning of what could be a lengthy reauthorization process. CCSSO is working with both sides of the aisle in each chamber of Congress to support bipartisanship and a successful ESEA reauthorization in this Congress.

Title I: College and Career Readiness for All Students

The bill would maintain the current structure of Title I, Part A (Grants to Local Educational Agencies), retaining most of current law in such areas as formula allocations, implementation of school-wide and targeted assistance programs, and private school equitable participation, and would adopt many of the concepts introduced by the Obama Administration through ESEA waivers. It includes language on accountability and reporting that is very different from current law.

The bill would require that states adopt "college and career ready standards" in reading or language arts, and in math and science, that are aligned with credit-bearing courses at public institutions of higher education and, as under current law, with the assessments that states would use carrying out the accountability requirements. States would also adopt English language proficiency requirements and also early learning guidelines and early grade standards if the state uses Title I funds for early childhood education. Science assessments would not be required to be part of a state's accountability system, the same as under current law.

The new assessments, which would need to be in place no later than the 2015-2016 school year, would be subject to requirements much like those under current law, but would also need to be able to track student academic growth.

Of particular note is that states that have received ESEA Flexibility waivers would be able to continue implementation of their waivers through the end of the current waiver period. In place of the current “adequate yearly progress,” states would design their own accountability systems that track and hold schools and LEAs accountable in the areas of student achievement and growth in reading or language arts and in math, English language proficiency, and high school graduation. States would establish their own school and LEA performance targets consisting of those in their approved waiver agreements, goals for bringing all schools to the level of achievement of the highest-performing 10 percent of schools in the state within a reasonable timeframe, with special attention to accelerating achievement for the lowest-achieving subgroups, or another equally rigorous option approved by the Secretary. The minimum subgroup size for accountability, or “N” size, would be at least 15.

Much as under the Department’s waiver rules, states would focus their school turnaround efforts on “priority schools” (the 5 percent of lowest-achieving schools in the state) and “focus schools” (an additional 10 percent of schools with the greatest achievement gaps). A priority school would be required to implement one of six school improvement strategies, four of which (the transformation strategy, the turnaround strategy, the closure strategy, and the school restart strategy [conversion to a charter or magnet school]) are largely consistent with those in the Department’s waiver rules. The fifth would be the implementation of a “whole school reform strategy” in partnership with an outside strategy developer. The sixth would be a state-determined option that would be required to be approved by the Secretary. Students in priority schools would also have the option to transfer to other public schools.

States and school districts would also be required to implement supports and interventions of their own design in schools with a subgroup that did not meet their performance targets for two years. Lastly, much of these school turnaround requirements would be delayed for two years after the passage of the bill under provisions designed to transition from existing ESEA accountability requirements to those under the bill.

Notably, the bill would also make significant changes in the current requirements for Title I state plans and report cards. The plans would include, among other things, information on the state’s plans for funding or expanding state-funded all-day kindergarten programs and a description of a statewide parent and family engagement strategy. Report cards would include significant new information, disaggregated and cross-tabulated, on such new areas as student academic growth, student remediation at institutions of higher education, pregnant and parenting teens, and student behavior.

Within Title I, the current School Improvement Grants program would continue. The current four percent set-aside of Title I-A funds, which also supports school improvement, would be increased to six percent and would support a broader range of technical assistance efforts.

The bill would require school districts to demonstrate that combined state and local per pupil expenditures in Title I schools are not less than these expenditures in non-Title I schools. School

districts that do not meet these requirements would be required to propose a plan on how to come into compliance.

Title II: Continuous Improvement and Support for Teachers and Principals

As under current law, Title II would focus on providing high-quality professional development to educators and on ensuring an equitable distribution of teachers and school leaders. The bill authorizes states to use funds to establish, expand, or implement teacher or principal preparation academies that would be held accountable by ensuring that graduates improve student achievement. It also includes a requirement for teacher and principal evaluations based in significant part on evidence of improved student academic achievement and growth (not later than the 2015-2016 school year). Under Title II, a state would continue to allocate at least 95 percent of its formula grant to LEAs by formula. Each LEA would use at least 20 percent of its subgrant to serve priority schools and, as funds permit, focus schools. Also as under current law, LEAs could use program funds to reduce class sizes in kindergarten through third grade.

Title III: Language and Academic Content Instruction for English Learners and Immigrant Students

As under current law, the great majority of Title III funds would flow to states and then to LEAs by formula. Unlike under current law, state educational agencies would be permitted to reserve up to 10 percent of their allocations for such activities as developing native-language content assessments and statewide entry and exit criteria for English Learner programs. As under current law, funds would flow to states based on either Census or state-reported counts of English Learners, but the Secretary would also have the authority to blend those two data sets. States would aim to bring all English Learners to proficiency in English within five years of identification.

Each LEA receiving funds would enter into an agreement with its SEA on targets for increasing the percentage of English Learners who achieve proficiency within five years. LEAs failing to achieve their targets for more than two years would be subject to increasing consequences, including state takeover of their Title III programs. States themselves would be subject to accountability at the Federal level. In addition, states would be required to provide services to certain English Learners after they graduate high school, if they were identified as English Learners less than five years before graduation; this would be accomplished through memorandums of understanding with local institutions of higher education. Additionally, states are permitted to use their state share of Title III funding to fund development of assessments in a language other than English if 20 percent of the English Learner population in that state (with a minimum of 10,000 students) speaks that language. The bill would also authorize a new program of English Language Acquisition Technology Innovation Grants.

Title IV: Supporting Successful, Well-Rounded Students

Under the bill, Title IV (which currently authorizes Safe and Drug-Free Schools and 21st Century Community Learning Centers) would house a number of content- or approach-specific programs, including Improving Literacy Instruction and Student Achievement (replacing the current reading programs), Improving Science, Technology, Engineering, and Math Instruction and Student Achievement (replacing Mathematics and Science Partnerships), Increasing Access to a Well-Rounded Education (replacing a number of subject-specific authorizations), and Successful, Safe and Healthy Students (replacing Drug-Free Schools), as well as 21st Century Community Learning Centers. Additional programs in this title include Promise Neighborhoods, Parent and Family Information and Resource Centers (replacing the currently authorized Parent Information and Resource Centers), and Programs of National Significance.

The authorization for 21st Century Community Learning Centers would be revised to permit the use of program funds for “expanded learning time programs” that significantly increase the total number of hours in a regular school day, week, or year in order to meet the needs of students with the greatest academic needs, and “expanded learning time initiatives” that significantly increase the number of school hours at high-need schools (by not less than 300 hours) and redesign the school’s program, in addition to the before-, after-, and summer-school programs that have traditionally been funded. The Department of Education would be prohibited from giving priority to any of these types of program structure.

Title V, Part D: Public Charter Schools

This section updates and reauthorizes the current law Charter Schools Program (CSP). The bill authorizes the use of funds for replication and expansion of high-performing charter schools (which has been carried out under the authority of appropriations legislation); updates the definition of charter school to include a performance contract (related to student achievement and other measures); adds a definition of high-performing charter school; and adds new priorities and selection criteria for grants.

Other Programs Created or Repealed

The bill would authorize a number of programs not included in the current ESEA. Some of these have been operating for several years without specific authorization in the law – these include Race to the Top, Investing in Innovation, the Teacher Incentive Fund, and Promise Neighborhoods. A number would replace and revise programs in the current ESEA; these include Achievement through Technology in Education (replacing the Enhancing Education through Technology program), Secondary School Reform (replacing School Dropout Prevention), and Accelerated Learning (expanding on the Advanced Placement program). See discussion of Title IV, above, for other examples of replacement programs.

Within the Innovation in Improvement authority, the bill would authorize the creation of an Advanced Research Projects Agency-Education (ARPA-ED).

The bill would also create a number of smaller, new authorities, including Centers of Excellence in early childhood education, Green Ribbon Schools, incentive grants for financial literacy education, and a Promise Schools authority. In addition, new protections for LGBT youth are included in Title IV.

The ESEA programs that would not be reauthorized are largely those that have not been funded in recent years – e.g., Even Start, Teaching American History, and School Mentoring. However, there are also programs receiving funding in fiscal year 2013 (Physical Education, Elementary and Secondary School Counseling) that appear to be consolidated under the bill. A number of programs not funded in several years (Voluntary Public School Choice, School Libraries, Educational Technology, and Parent Centers) would have their authorizations extended.