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**BEYOND NCLB: VIEWS ON THE ELEMENTARY  
AND SECONDARY EDUCATION REAUTHORI-  
ZATION ACT**

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**HEARING  
OF THE  
COMMITTEE ON HEALTH, EDUCATION,  
LABOR, AND PENSIONS  
UNITED STATES SENATE  
ONE HUNDRED TWELFTH CONGRESS  
FIRST SESSION  
ON  
EXAMINING BEYOND NCLB: VIEWS ON THE ELEMENTARY AND  
SECONDARY EDUCATION REAUTHORIZATION ACT**

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NOVEMBER 8, 2011

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Printed for the use of the Committee on Health, Education, Labor, and Pensions



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## **BEYOND NCLB: VIEWS ON THE ELEMENTARY AND SECONDARY EDUCATION REAUTHOR- IZATION ACT**

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**TUESDAY, NOVEMBER 8, 2011**

**U.S. SENATE,  
COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,  
*Washington, DC.***

The committee met, pursuant to notice, at 10:04 a.m., in Room SD-106, Dirksen Senate Office Building, Hon. Tom Harkin, chairman of the committee, presiding.

Present: Senators Harkin, Hagan, Merkley, Franken, Bennet, Whitehouse, Enzi, Alexander, Isakson, Paul, and Murkowski.

### **OPENING STATEMENT OF SENATOR HARKIN**

The CHAIRMAN. This session of the Health, Education, Labor, and Pensions committee will come to order.

Today's roundtable will focus on moving beyond NCLB, No Child Left Behind, the current iteration of the Elementary and Secondary Education Act, and toward reauthorization of the law for the needs of the 21st Century. Over the last 2 years, this committee has held 10 hearings on the full range of issues covered under the law. I've also held numerous stakeholder meetings and participated in lengthy negotiations with my Republican colleagues which resulted in a bill that was voted out of committee a little over 2 weeks ago.

I believe the committee's bill takes several important steps forward by, first, resetting our national goal from students attaining proficiency to ensuring that students graduate from high school prepared for college and a career; second, by closing the comparability loophole and ensuring that title I schools get their fair share of Federal resources; third, incentivizing States and districts to develop rigorous teacher and principal evaluations and support systems, with the goal of continuous instructional improvement; and, fourth, providing a laser-like focus on turning around the bottom 5 percent of schools and our Nation's dropout factories, the high schools that graduate less than 60 percent of their students, so that real change occurs in these schools, and the students who attend them have their academic trajectory set on a new and improved course.

Today we will hear from key stakeholders in this debate who are impacted by the educational laws we pass in Washington. I am eager to hear each of their perspectives on how through this reauthorization we can provide States, districts, and schools with the tools they need to help all students succeed. I think we have pro-

vided some of those tools in our bill, but I'm sure that there are others who think that more can be done.

One thing I know for certain is that the current law is not bringing about the significant improvements in student achievement that our country needs and that our children deserve. We must reauthorize to get out from under the ineffective No Child Left Behind Act.

I expect our roundtable participants will discuss things they like about NCLB and our bill and things they would like to see changed. The goal today is to have an open discussion that informs the ongoing debate on ESEA reauthorization. And I thank all of our participants for being here today.

I will now turn to Senator Enzi, the Ranking Member of our committee, who has been a strong partner in our work on ESEA reauthorization.

#### OPENING STATEMENT OF SENATOR ENZI

Senator ENZI. Thank you, Mr. Chairman, and I thank you for your willingness to work on this roundtable. Last month's markup of the Elementary and Secondary Education Act was a major step forward in the reauthorization process, which has been stagnant over the last 4 years since No Child Left Behind's authorization lapsed.

I expect that there will be many more changes to the bill that we reported from the HELP Committee in order to gain broader support from members on both sides of the aisle and to further improve the draft. Marking up the bill was the first and important step in the reauthorization process.

This is not to say that there was not a lot of work that occurred beforehand to get that bill to markup. To the contrary, we received testimony from over 70 witnesses, including the Secretary of Education, elementary education experts, State and district superintendents, principals, teachers, and representatives of special populations.

The committee hosted a Web site where people from all across the United States could express views and solutions. And each Senator has heard from constituents both here in DC and in-state as to the concerns, fixes, and changes needed to improve the No Child Left Behind law. Now that we've marked up the bill in committee, we're holding this roundtable to get input on the bill. We want to know whether we're developing fixes to the problems that have been identified. We also want to hear about what else we need to do to improve the bill as we move forward.

I want to thank today's panelists, each of whom comes from vastly different backgrounds and who can provide a range of observations on both current law and the draft bill that was reported out of the HELP Committee last month. Today, we'll continue the conversation of identifying problems on the ground with the current legislation and how we can create policy that provides flexibility for innovative approaches in the States.

I'm also interested in hearing about the aspects of No Child Left Behind that today's panelists think should be retained as we move forward. Although there are many criticisms of No Child Left Behind, there are positives that we can point to as well. It moved the

conversation around education in this country toward greater transparency of outcomes, and it invited parents to take a more active role in their child's education.

I think that's been retained while shifting the emphasis from bad schools back to seeing that no child is left out. By shining a light on the children rather than just the schools and by making sure that data were broadly available, parents, teachers, principals, and taxpayers can have all the access to information they needed to make decisions about children, not just about schools. That's a profound development and one I'm committed to retaining and building upon as we move forward in the reauthorization.

While No Child Left Behind pushed us to learn about and address many of the shortcomings in our schools, it also plays strict, one-size-fits-all rules on how States and local education agencies address deficiencies within schools. In the bill that we considered in committee, we removed most of those Federal mandates and asked States to intervene only in their bottom 5 percent of schools and those schools with the largest achievement gaps.

However, parents and teachers will know how their children are doing because of the information that will be reported for every child. We want the results to follow the child so subsequent teachers can make a difference. For all other schools, we have told States that they must take the lead by returning responsibility for accountability, albeit it accountability that expects students to be college- and career-ready, to determine what makes the most sense for their students.

Although I hear the concerns of many that this bill does not include performance targets and other federally designed annual objectives, having the goals of students entering careers and college without the need for remediation is a goal that requires intensive, step-by-step, grade-by-grade planning, not some marker as to whether the student is prepared on the day they graduate. States will intuitively need to design rubrics that get their students on this path. They don't need unnecessary Federal micromanagement that says how and when they should reach each progressive milestone. And as a practical matter, we've learned that No Child Left Behind did not handle this responsibility very well through one-sized accountability systems that focused on schools.

The bill we reported out of committee attempts to remove No Child Left Behind's oversized Federal footprint and return it to the States where it belongs and is most effectively implemented. As I stated during the markup, I do not support 100 percent of the bill we reported out. I would have supported a much smaller Federal role and far fewer Federal programs.

I also know that Chairman Harkin would have supported far greater federally designed accountability. That's the essence of working to get something done—a bill that will include the broader Senate, the broader Congress, stakeholders, and those interested in better instruction and a more prepared workforce moving forward so action can be taken instead of just wasted debate. But, again, this is another step in that process and we will be further informed as more voices are involved.

With that said, I'll continue to support a lessened Federal role in schools, fewer Federal programs, and greater transparency to

parents through reporting on the child's performance. We need to place more emphasis on seeing that each child is getting the education that we promised. I was disappointed the markup moved in the opposite direction within those three goals, so I encourage my colleagues to work together to improve this bill if we truly plan to move the legislation to the president's desk.

In summary, I thank you, Mr. Chairman, for working with me on this hearing. I'm looking forward to continuing the substantive policy discussion from last month's markup.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Enzi.

Let me just take a moment to introduce each of our participants. I know some Senators would like to also weigh in with their own introductions. I'll start on my right.

First, we have Rick Hess, Resident Scholar and Director of Education Policy Studies at the American Enterprise Institute for Public Policy Research. Mr. Hess is also the author of the education column in Ed Week called "Rick Hess Straight Up," the executive editor of Education Next, and a research associate with the Program on Education Policy and Governance at Harvard University.

Next is Jon Schnur. Mr. Schnur is president of the board of directors and co-founder of New Leaders, formerly known as New Leaders for New Schools. He has developed national educational policies on teacher and principal quality, afterschool programs, district reform, charter schools and preschools.

I will now invite Senator Paul to introduce the next person.

Senator PAUL. I'm pleased today to have Pam Geisselhardt here from Adair County. She's a gifted and talented teacher and I think one of the great successes of our Kentucky public education. And I really am glad that we were able to have this hearing to talk about the bill before it's final, to get your understanding and your input as to how we can change and make No Child Left Behind less of a Federal burden on teachers and principals and superintendents and all our educators.

Thank you, Ms. Geisselhardt, for coming.

The CHAIRMAN. Thank you, Senator Paul.

Next, we have Tom Luna, the Idaho superintendent of Public Instruction. Mr. Luna currently serves as president-elect of the Council of Chief State School Officers. He will serve as president beginning in 2012.

Next is Katy Beh Neas, a senior vice president for Government Relations with Easter Seals. She does incredible work with Easter Seals. I can attest to that over all the years. She is responsible for Easter Seals Federal and State public policy activities and is also co-chair of the Consortium for Citizens with Disabilities Education Task Force and has expertise in both disability education and early childhood education.

Next, I would ask Senator Alexander for an introduction.

#### STATEMENT OF SENATOR ALEXANDER

Senator ALEXANDER. Thank you, Mr. Chairman.

We welcome Charles Seaton from Memphis. After a career or 15 years in non-profit juvenile prevention programs, he decided he wanted to work with children in Memphis. He works in the eighth

grade with exceptional children, special education children, and I understand that he is involved, as every Tennessee teacher and principal is right now, in the new teacher-principal evaluation process. We might hear something about that from him.

Welcome.

The CHAIRMAN. Thank you very much, Senator Alexander. Next, I would invite Senator Hagan to introduce Mr. Grier.

#### STATEMENT OF SENATOR HAGAN

Senator HAGAN. Thank you, Mr. Chairman.

I am proud to have an opportunity to introduce an old friend of mine, a proud North Carolinian and an East Carolina University Pirate and one of this country's foremost education leaders and innovators, Dr. Terry Grier. While Dr. Grier has served as a superintendent for nine school districts across six States, he has experienced the public education system from all levels, as a student in Fairmont, North Carolina; a graduate of East Carolina University and Vanderbilt; and as a teacher, a coach, and a high school principal.

I first met Dr. Grier in 2000 when he became the superintendent of my hometown, the county of Guilford County in North Carolina. I happened to represent that county in the State Senate at the time.

And during his 8 years in Guilford County, Dr. Grier led the district as it cut its dropout rate in half to less than 3 percent, increased the high school graduation rate from 63 percent to nearly 80, received one of the largest private investments ever in a public school system from the Joseph M. Bryan Foundation and the Center for Creative Leadership to help train school leaders, and established one of the country's first early college high schools. And as we know, today, early college institutes across the country are widely seen as one of the most effective ways to steer our low income students on a path to success.

Then Dr. Grier continued his track record in San Diego, where he helped reduce the dropout rate by 50 percent and increased scores on the California Standards Test to all-time district highs. In 2009, Dr. Grier became superintendent of the Houston Independent School District, the seventh largest school district in the Nation with more than 200,000 students.

In Houston, his initiatives continued to produce results for schools and students. And last month, it was announced that the Houston Independent School District landed 87 schools on the 2011 list of the State's high performing schools, by far the leader among the urban school districts in the State.

I am pleased and honored to welcome my old friend, Dr. Terry Grier, to this committee.

Thank you.

The CHAIRMAN. Thank you very much, Senator Hagan.

Senator Mikulski could not be here today, but she wanted to express her definite appreciation to you for all that you do and for being here today.

Next is Amanda Danks.

Ms. Danks teaches special education in Baltimore City Public Schools—currently teaches at the William S. Baer School, a school

for students with severe disabilities and who are medically fragile. In addition to her school responsibilities, Ms. Danks also serves as a resident advisor for new special education teachers and works with the families of children with autism to support them in their homes and communities.

Next to Amanda, Mr. Wade Henderson. Mr. Henderson is the president and CEO of the Leadership Conference, formerly known as the Leadership Conference on Civil and Human Rights. He also heads up the Leadership Conference Education Fund. And prior to these roles, Mr. Henderson was the Washington Bureau director of the NAACP.

Finally, I'd like to invite Senator Paul to introduce our last witness.

Senator PAUL. I'd like to welcome today Elmer Thomas, who is the principal of Madison Central High School in Richmond, KY. He is the vice president of the Kentucky Association of Secondary School Principals. This year, he was the Kentucky principal of the year. And has spent time working in his school on the Focus and Finish Program which identifies struggling seniors and creates opportunities to have career certification and work-study programs. We're very happy to have Principal Elmer Thomas with us here today.

The CHAIRMAN. Thank you very much. And thank you all for being here for this very important discussion.

Mr. Hess and Mr. Schnur, I'm told, may have to leave us early around 11:30. We understand your busy schedules and appreciate that you could be here. And that goes for all of our panelists. Thank you all for being here.

Before we start, let me explain the format of a roundtable. I'll start the discussion by asking a question of one of the panelists. That person will answer. If one of the panelists wants to respond to the question as well or to something the panelist has said, take your name tent and put it on its end, like that. That way, I'll know to call on you.

Or if a committee member wants to ask a question or a followup or an intervention, I ask them to do the same. We usually have a lot of folks who want to talk. I'll recognize someone and we'll continue the conversation. This won't be like a formal hearing, although it is being recorded.

I'll ask different committee members to join in asking questions as well. We'll try to keep the discussion flowing while being respectful of one another, and I hope the result will be a good in-depth conversation regarding the bill. I'd just also ask everyone to refrain from giving speeches. Well, if they're a couple of minutes long, that's OK—but long speeches.

Given that we may lose you early, I'll start with Mr. Schnur.

Can you tell us what you believe are the strengths of the bill that the committee has passed or how you think it could be improved?

**STATEMENT OF JON SCHNUR, CO-FOUNDER AND CHAIRMAN  
OF THE BOARD, NEW LEADERS, NEW YORK, NY**

Mr. SCHNUR. Thank you so much, Chairman Harkin, Senator Enzi, Senator Alexander, Senator Hagan, members of the com-

mittee. It's an honor to be with you, and I must say you are tackling one of the most pressing priorities for the country. And the blend of addressing education as both a national priority and a State and local responsibility is a delicate one, and I understand there are issues at play in this bill on that.

To answer your question, I've been in dozens and dozens of schools around the country looking at where we have leaders working to improve often low achieving schools, urban schools, some rural schools. And I think we've seen some lessons emerge from those. I'll mention a few of those, and then, to me, take the implications of what I think are a couple of the biggest positive aspects of this bill and a couple of areas that I think really could be improved.

When we've looked at the schools, we've analyzed where we've got schools that are making dramatic progress, including serving low-income kids, kids of color, kids with special needs, kids who many people in the society don't think can achieve. And we've got actual examples, and you've seen some of these. We're getting dramatic progress.

And we've got some of our own new leaders, new leaders from the schools who actually are in schools that have gotten incremental progress. We've analyzed the difference—a few trends we've seen.

First, in all the schools where there's been progress, there is really genuinely high expectations for our kids to achieve, specific expectations that get kids on track to be ready, not just for doing a little bit better, but for success in college and careers.

Second, there is in these schools—and we didn't realize this 10 years ago when we started our principal training program. There is a focus in the school on constant improvement of teaching and feedback to improve the quality of teaching regularly in the school, because teachers are not just born. You've got some great teachers, but teachers who are working at it with coaching can make dramatic improvement when there's the right feedback and improvement, and pockets of schools are doing that. Most are not.

Third, we see intense cultures of high expectations and personal responsibility and efficient use of time for all kids. You can't legislate that from the Federal level. That's the kind of thing you have to drive through effective leadership, the kind of culture that can drive high expectations in practice.

Fourth, we do see adequate funding, including funding for the teaching profession, which is so important, but also discretionary funding. The little bits of discretionary funding turn out to make an enormous difference to help principals or superintendents make improvements. So even your discretionary competitive programs have outsized importance because schools are struggling for that little bit of extra money to make improvements.

Fifth and finally, there's leadership, and leadership at the local level that's invested in driving outcomes, which is inhibited when there's a culture of compliance and kind of a mindset of checking the box from too many regulations. And I think it's a big issue that you all are rightly addressing.

Specifically, what I think is good and what I think can be improved in the bill—briefly, one is matching what I think those

schools need. The insistence and the requirement for college- and career-ready standards and assessments is so important, not that that's federally prescribed, but having something is—most of these schools do not have those expectations. If you do, that should be institutionalized, because that's fantastic in this bill.

The second, the competitive grant programs focused on talent, on principals and teachers—the Pathways program, the Great Principals Act—really trying to train principals and teachers and support them in exchange for performance accountability for their institutions.

Third is the prioritization on low achieving schools. It's a disgrace that we have schools that are achieving on such low levels in this country. And even if you got flexibility now—that's a priority in this bill.

And finally, I do think that it's important that you've got to fix some of the prescription and regulatory mindset of No Child Left Behind in order to remove the culture of compliance and try to invest in leadership at the local level. I think those are really good.

Two issues I'll close on—I have two significant concerns about the bill that I would pay a lot of attention to if I were in your shoes in the Senate and working on improving this bill. First of all, there's been a lot of discussion about teacher and principal evaluation and effectiveness systems. And I realize that there are those who would say that should be mandated. There are some who say that it shouldn't be part of this bill.

I would recommend improving on the current bill by putting in place a very substantial incentive—not a requirement—a very substantial incentive, perhaps taking as much as 50 percent of the title II program, which has not been effective, to support competitive grants to help States and districts design and use these systems. And in some ways building on Senator Alexander's bill, I think the incentive is there, but could be larger.

I think over the course of 10 years, you could put enough funding that every State would be able to get funds, and I think there's a way of doing it. Since it turns out that only 42 percent of title II right now is used for teacher and professional development, I think you could actually get more funds through this approach to support professional development than the current program.

The last thing I'd say on this—right now, title II isn't working very well. I think if you put in place State-driven systems on a competitive voluntary basis, you could actually get a lot more bang for your buck from the systems.

And the very last thing I'll say is, I do think there needs to be much more press on the performance targets and press for improved achievements. I think there are various ways to drive that transparency and accountability.

Thank you.

The CHAIRMAN. Thank you very much, Mr. Schnur. When you said the successful schools—you gave five things: high expectations, constant improvement of teaching, the culture of personal responsibility, adequate funding, and leadership.

Would I understand that under culture of personal responsibility comes the subset of families? In other words, we always focus on schools. But we know a lot of what influences a kid's ability to

learn and desire to learn is what happens outside the school. What role does the family play in that list of yours in those successful schools?

Mr. SCHNUR. As you know, it's huge, and as a dad of a 6-year-old and a 4-year-old and a 2-year-old, I walk my kid to public school every day. I know the roles of a parent—the role that parents play. But the schools that we've seen that have driven big results do find ways to really engage parents in taking responsibility to drive improvement for kids.

Most parents want the best for their kids, but a lot of them don't have the support they need. There are strategies that can include the parents in this culture of personal responsibility, as you're noting, and, I think, especially, are driven by the leaders of the school and the teachers that they enlist.

The CHAIRMAN. Senator Alexander.

Senator ALEXANDER. Thanks, Mr. Chairman.

I'd like to thank all of you for coming, and I thank Senators Harkin and Enzi and Paul for making this hearing happen. I think it's useful.

Let me take what Mr. Schnur said and go to Mr. Seaton, who is from Memphis. Mr. Schnur suggested that the bill would be improved if we had a larger incentive for teacher-principal evaluation.

Mr. Seaton, Tennessee is currently going through a teacher-principal evaluation process. I think almost every teacher is involved in it. And that's the result of a program, Race to the Top, which had an incentive for States who wanted to do teacher and principal evaluation.

What's going on? What's your experience there in Sherwood School in Memphis? How are teachers and principals responding to it? And what role do you think the Federal Government ought to have in requiring it, defining it, and regulating it?

**STATEMENT OF CHARLES SEATON, TEACHER, SHERWOOD MIDDLE SCHOOL, MEMPHIS CITY SCHOOLS, MEMPHIS, TN**

Mr. SEATON. Good morning. Thank you to the chairman and all of you for having me here.

We in Tennessee are actually, I believe, setting the standard nationally, and, hopefully, people will start paying attention to what we're doing with regards to evaluation. We know that if you want something, you have to inspect it or you have to evaluate it. And so we took the lead with accepting the Race to the Top money and decided that we were going to look at putting a good teacher, an effective teacher, in front of every young person that we have in the State of Tennessee.

Memphis went a step further, and we started looking at a number of evaluation models, nationally, that were being used. And Memphis City Schools developed or redeveloped—retooled a model, and we're using it now. Every teacher, every principal, whether they're teaching a student—so that means administrative personnel also—are being evaluated, and they're looking at a number of issues.

They put a rubric together that looks at the actual art of teaching and measures those skills that we believe are effective skills to teach, and it also looks at culture or the teaching domain, where

you are. And I think that we have seen that it's caused us, as teachers, myself included, to re-evaluate exactly how I'm doing and try to put those high-yield strategies in front of myself.

Senator ALEXANDER. You're a special education teacher. Is that right?

Mr. SEATON. That is correct. I teach special education. And it's caused us—and No Child Left Behind has done a good job in focusing attention on those areas of special needs children. But I think we see in Tennessee that we've created now a culture that is data-driven as well as personnel driven. So we're able to look forward.

Senator ALEXANDER. Thank you.

The CHAIRMAN. Before I call on the next Senator—I think it was Senator Bennet—let's go to Mr. Grier who wanted to have an intervention on this point.

**STATEMENT OF TERRY GRIER, SUPERINTENDENT, HOUSTON INDEPENDENT SCHOOL DISTRICT, HOUSTON, TX**

Mr. GRIER. Yes. Thank you, Senator. Thank you so much. It's good to see you.

In Houston, we believe that teacher and principal evaluation is just too important to leave to chance. It has to be fixed in this country. As a school superintendent, I've been leading district after district, and when you get there and you see that student performance is not very high, but evaluation ratings on almost everyone is off the scale, it just has to be fixed.

We have to have a teacher and principal evaluation system in this country and in our school systems that give our employees a real honest picture of what they're doing. Last year, in Houston, we implemented two new evaluation systems. Our teacher evaluation system will contain a weight of about 50 percent, a little less, of student academic performance, as well as will our principal evaluation as we finish it up this year.

This past year, as a result of our efforts, we retained 92 percent of our highest performing teachers in Houston. And, frankly, we replaced 55 percent of our lowest performing teachers in the district.

The CHAIRMAN. One thing that Senator Alexander has gotten into my head about is how tough it is to do evaluations, and that we don't really have the metrics, if that's the proper word that I could use, of what is a good teacher evaluation system. Or are there a lot of different things out there? You said that 50 percent in Houston was based on student performance, and you seem to think that whatever you're doing in Houston is working.

Is there a template there for the rest of the country? I've been reading articles about Tennessee, and they're trying to adopt some kind of evaluation. But it's very difficult.

Mr. GRIER. It's difficult work, but as we proved in Houston, it's not impossible work. When you can retain 92 percent of your best teachers, and you can replace 55 percent of your lowest performing teachers in a year, that's proof that it's—in the seventh largest district in the country, it's not impossible. We had over 2,500 teachers involved with us in developing our teacher evaluation system. This is something we did with our teachers, not to our teachers.

The CHAIRMAN. So they were involved in developing the system.

Mr. GRIER. They must be. They just absolutely—it's critical that they must be.

The CHAIRMAN. If you have that on paper—maybe my staff has it. I don't know. I'd like to see what you use for the other metrics.

If you use 50 percent on student performance, what's the other 50 percent?

Mr. GRIER. A lot of it's pedagogy, how teachers teach, classroom management—

The CHAIRMAN. Did you do classroom observations?

Mr. GRIER. Classroom observations, a minimum of—

The CHAIRMAN. Do you ask students—are students involved?

Mr. GRIER. Students are not involved in our particular component.

The CHAIRMAN. Do you think that's important? Because I've often thought that one of the best people to evaluate a teacher—students know who's a good teacher.

Mr. GRIER. It's fascinating. We know several things about teacher evaluation. Teachers know who the good teachers are. Students know who the good teachers are, as do parents, particularly parents who understand how the system works and that are reasonably well-educated.

Where we struggle sometimes is in training principals to evaluate teachers and to have the skill sets. We required all of our principals in Houston to go through 35 to 40 hours of teacher evaluation documentation, appraisal training. It's very important.

The CHAIRMAN. Mr. Luna had his up next. Mr. Luna.

#### **STATEMENT OF TOM LUNA, IDAHO SUPERINTENDENT OF PUBLIC INSTRUCTION, BOISE, ID**

Mr. LUNA. Thank you, Mr. Chairman. In response to Senator Alexander's question about evaluations and incentives—and at some point, I would hope to be able to have a discussion also about Idaho's State chief's views about the law itself, the good parts and the other parts.

But when it comes to evaluations and incentives, we know that the most important factor—once a child enters a school, by far the most important factor is the quality of the teacher in the classroom. It's by far more important than the amount of money spent, the curriculum, the technology. All those are important, but by far the most important factor is the teacher in the classroom.

And so in my State, we went through the process of developing a teacher performance evaluation that is built upon the Charlotte Danielson framework. And I think many would tell you that Charlotte Danielson is definitely an expert in the observations and evaluations of how teachers perform in the classroom.

And then 50 percent of the evaluation now in Idaho has to be based on student achievement, primarily focusing on growth. Parental input has to be part of the teacher's performance evaluation. We've also implemented a statewide pay for performance plan, or merit pay, as some people would refer to it, where teachers in Idaho can now earn up to \$8,000 a year in bonuses based on taking on leadership roles or if they teach in a hard to fill position, but also if they teach in a school that shows high academic growth.

The point I would like to make, and to answer your question, Senator Alexander—you asked about evaluations and incentives. Should the Federal Government require it? Should it define it? Should it regulate it?

We did all of this without any incentive or mandate from the Federal Government. And if you want to find a balance, I don't see, necessarily, a problem with the Federal Government requiring it. But I think it goes too far if the Federal Government tries to define it or regulate it. I think Idaho and other States could demonstrate that we're ahead of the curve when it comes to robust evaluations and incentives so that we don't leave it to chance as to whether every child has a highly effective teacher every year they're in school.

[The prepared statement of Mr. Luna follows:]

PREPARED STATEMENT OF TOM LUNA

Chairman Harkin, Ranking Member Enzi, members of the committee, thank you for the opportunity to discuss the urgent need for ESEA reauthorization with you today. My name is Tom Luna, I am the superintendent of Public Instruction for Idaho and the president-elect of the Council of Chief State School Officers.

Let me be clear at the outset that in the interest of long-term reform and efforts to increase student achievement throughout the States, the Council believes that a reauthorized ESEA is the best path forward. We support your efforts in moving this process along and hope that Congress can move swiftly and send a bill to the President for his signature this Congress. We support the Administration's ESEA Flexibility plan, but all students deserve to benefit from a timely and comprehensive update to the ESEA.

I applaud the bipartisan effort in the Senate to bring forth a comprehensive reauthorization bill that maintains a meaningful commitment to accountability while promoting greater State and local leadership in K-12 education. As Idaho's State Superintendent, I have strongly encouraged reauthorization to transform this law away from a prescriptive one-size-fits-all Federal model, to an approach that promotes State and local decisionmaking, while maintaining an unwavering commitment to accountability for all students, especially the disadvantaged. Idaho has already moved in this direction by passing comprehensive education reform known as Students Come First that raises academic standards, creates the next generation of assessments, implements a growth model for increased accountability, ties educator evaluations to student achievement, and rewards excellence in the classroom. The Senate HELP Committee now has found the right balance to reauthorize the Federal law and give States the higher levels of accountability and flexibility they need to raise student achievement.

The bill passed out of this committee last month sets high expectations for all States and empowers them to lead on behalf of their students. Specifically, the bill requires all States to adopt and implement college and career-ready standards and improved assessments aligned to the higher standards. These next generation assessments must measure student knowledge and their ability to apply knowledge through higher order skills. Removing the one-size-fits all accountability approach found in current law, the bill requires States to establish rigorous new accountability systems, make annual determinations for all schools and districts based on clear goals and continuous improvement, and provide an array of rewards, supports, and interventions for all schools, with a focus on the lowest performing schools and those with the largest achievement gaps.

States are already moving reform in these critical areas and have a proven track record of doing the right thing on behalf of their students. For example, 45 States have adopted college and career-ready standards in English Language Arts and Mathematics through the Common Core and 45 States have agreed to develop next generation accountability systems aligned to core principles designed to ensure meaningful results for all students. With nearly every State also collaborating with one of two consortia designing next generation assessments, the conclusion is simple—States are not running from accountability, they are stepping up and embracing higher levels of it on their own accord. Your legislation will help more States continue this work by incentivizing State leadership, clearing away hurdles presented by current Federal law and creating the necessary flexibility for States, districts and schools to tailor solutions aimed at addressing persistent underperform-

ance. 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 the HELP committee bill, however, will enable the State to forgo costly and burdensome implementation and administration of distinct Federal and State systems. Idaho's new statewide accountability system will include performance targets designed to ensure that all students are on a path to college and career readiness.

Idaho's system will include a single, streamlined statewide accountability system that will include growth measures, growth toward college and career readiness and will account for measures that include pushing even the highest-achieving student, such as dual credit and AP course enrollment. Idaho has already taken steps toward building this accountability system through by passing comprehensive education reform laws, known as Students Come First. Through these laws, the State is raising academic standards, creating the next generation of assessments, implementing a growth model for increased accountability, tying educator evaluations to student achievement, and rewarding high-growth and high-achieving schools. In addition, the State is focusing on increasing the number of students taking dual credit courses in high school, and all high school juniors will take a college entrance or placement exam before graduation. These reforms lay the groundwork for Idaho's waiver application for ESEA Flexibility and are aligned with the proposed legislation to reauthorize ESEA.

The HELP Committee's bill has seen several positive improvements as a result of the committee's input and we hope the bill will continue to see further improvements when it is discussed on the Senate floor. In that spirit, I would like to offer two suggestions. The bill limits States to a single framework for identifying the 5 percent lowest achieving schools based on assessments in English and Math as well as graduation rates for high schools; but allows for the use of other valid outcome measures for all other schools. This distinction effectively creates two accountability systems and unnecessarily prevents States from using multiple outcome measures to get a more accurate account of how students are performing. Additionally, while we support and appreciate efforts to incentivize the development of meaningful teacher and leader evaluation systems through competitive funding grants, CCSSO did not oppose the overall requirement for States to require districts to implement such systems in order to receive title II funds. Again, this is an area where States are already leading, Thirty-five States are working together to develop evaluation systems that support educators as well as use performance to make determinations about performance levels for educators. Requiring States to develop evaluation systems based in significant part on student achievement and including multiple measures, without prescribing the design or uses of such systems will further strengthen this legislation.

In closing, let me say that as long as the Federal Government contributes to funding public education, it should play a role in ensuring accountability both for ensuring positive results for all students and encouraging the best and highest use of taxpayer dollars toward achieving those results. In short, States also must be empowered to define and lead education reform efforts and the Federal role should be limited and focused on setting a high performance bar and on supporting comprehensive State and local reform efforts. One needs to only look at what is going on in Idaho, Indiana, Ohio, Florida and other States across the country to see evidence of States' commitment to accountability and comprehensive reform. It is evident that education chiefs across the country have embraced the challenge of turning around low-performing schools and closing achievement gaps. We know States will deliver higher standards, aligned assessments, robust accountability systems, aggressive turnaround interventions and meaningful educator evaluation systems, because the work is already well underway. Maximizing the impact of these important reforms, however, will require Congress to update the ESEA to empower States to go even further. Given this context, we respectfully urge every member of the committee to support passage of this legislation on the Senate floor and to work collaboratively with the House to send a balanced reauthorization bill to the President for his signature.

Thank you for the opportunity to testify today.

**The CHAIRMAN.** Thank you, Mr. Luna.

I will go in this order—Senator Bennet, Ms. Danks, Ms. Geisselhardt, and then Senator Paul.

## STATEMENT OF SENATOR BENNET

Senator BENNET. Thank you, Mr. Chairman. I'd like to thank everybody for being here today, especially Mr. Seaton and Ms. Danks.

Thank you for teaching. I deeply appreciate it.

Senator Alexander, I spent some time on the phone this morning with your very excellent Commissioner of Education in Tennessee, hearing from him about the evaluation system there, and he sends his regards to you.

Senator ALEXANDER. What did he say?

Senator BENNET. I'll tell you later.

[Laughter.]

He said they have the best system in the world. And since I support both of Mr. Schnur's amendments to the bill, I wonder if you could talk a little bit about, from your perspective—because no one around this table, I don't think, has spent more time in as many schools as you probably have—what is the importance of the performance targets? And what should that look like in this bill, ideally, if we're able to find a path that would allow us to include it?

Mr. SCHNUR. Well, you people in this room have a lot more expertise on the legislative issues. From a school perspective, from a principal, teacher, kids sitting in schools, I think it is of vital importance—and I think they don't necessarily care where this comes from. But kids across the country need a press that's supported from outside the school for higher performance.

There are too many things conspiring to kind of bring lower—I'm not saying the Federal Government should at all micromanage this. But I'm saying from the school perspective, all these things conspire to have, in many ways, lower expectations.

The best principals need and benefit from the public, in some way, saying, "You can do better in specific ways. You've got to hit bigger goals. We're going to have transparency against progress, against bigger goals." And the best leaders—they want to do it, but there are a lot of people who will be naysayers. And so having that support, I think, is important.

Specifically—and my view is not shared around this—I'm sure in this room, universally, but I do think that requiring having performance targets is really important. I think there should be a lot of flexibility for States that have those defined as long as they're making big progress in getting kids to succeed. But I think it's a great blend of empowering States to do—and how? By requiring there be the targets to do it, I think, would be really helpful. And the transparency against that is as important as anything else.

One thing I would just briefly mention—and some of the Senators here know—we're launching a new organization, America Achieves. And one of the things we're going to do is convene a panel of people, including former Secretary Riley and former U.S. Secretary of the Army Pete Geren and people like Eduardo Padron, who runs the Miami Dade Community College, and Deb Gist in Rhode Island and others—teachers, great teachers, and frontline principals—to put recommendations together for what goals and targets should be.

Early learning, K-12 through post secondary—a private panel—and I think that can help inform the debate, and getting good

thinking out there is important. But I think somewhere at the government level there needs to be a drive to ensure there are targets and transparency against those, in my view.

The CHAIRMAN. Thank you very much.

Now I've got Ms. Danks, Ms. Geisselhardt, Senator Paul, Mr. Seaton, and Senator Isakson. We can probably sit here for the next 2 hours and discuss performance targets and evaluations. There are other aspects of the bill we'd like to get to. So could we perhaps—and maybe you're going to bring up some other things. I don't know. But, hopefully, we can sort of—

Senator ENZI. Perhaps we could have each of them quickly mention what they think is good in the bill and what they think needs improvement in the bill, and then go back to this kind of a format so that nobody gets left out on making their comments.

The CHAIRMAN. OK. Let's go to Ms. Danks, first.

Ms. Danks.

**STATEMENT OF AMANDA DANKS, LEAD TEACHER, WM. S. BAER SCHOOL, BALTIMORE CITY PUBLIC SCHOOLS, BALTIMORE, MD**

Ms. DANKS. Good morning.

The CHAIRMAN. Do you want to address the performance and evaluation—

Ms. DANKS. I just wanted to respond to your question about how the rubric was created. In Baltimore City, we recently passed a contract where the teachers are paid for performance, and we also went through that process of creating a rubric. It took about a year, and we had all our stakeholders, administrators, teachers, some family members, working together through many drafts to create a rubric that truly defined what highly effective teaching looked like in the classroom.

I think Senator Alexander's question about whether or not the Federal Government should have a hand in that—I think the autonomy that our district had in creating that rubric for our specific needs was fantastic. I don't think that our rubric would translate to a lot of school systems just because we are an urban area with a different set of populations.

I do teach at a school for students who are severely disabled and medically fragile. And within our own school, we're actually looking at creating our own rubric just because—the rubric that the district created was fantastic because it was so specific. It has footnotes and explained every detail. But for a lot of our students, those details are not going to apply.

And, again, I think having that autonomy for us to go through that process on our own and define what highly effective looks like for our student population is a great way to ensure that we have highly effective teachers in the classrooms.

The CHAIRMAN. Very good.

Ms. Geisselhardt.

**STATEMENT OF PAM GEISSELHARDT, GIFTED AND TALENTED COORDINATOR, ADAIR COUNTY SCHOOLS, COLUMBIA, KY**

Ms. GEISSELHARDT. I was wanting to speak to the teacher evaluation and incentive. I just wanted to say that there already is incentive, as far as a national board certification. In most States,

there's incentive pay for that, and that is marvelous professional development for teachers.

And as far as the evaluation, I think evaluation definitely needs to be done on the local and State level because it is so different in for instance, Memphis and rural Kentucky. And I think that's one of the great things about your bill—is that it does put more emphasis on local and State decisionmaking in all areas.

But as far as teacher quality, teachers are—well, I shouldn't use that term, because that's different in this bill. But as far as evaluation, teachers want to be evaluated, because teachers want to improve, and that should be the purpose of evaluation—is to improve teaching rather than to find fault with teachers and things like that. That is the purpose.

If we can have this, where our rubric and things like that give us the needs that we have as teachers to help us improve, that's what we're looking for. But we do very much want to avoid incentives and things like that that cause competition between teachers.

And that's a real concern for us as far as teacher evaluation and incentives, because in order for schools to be successful and in order for our students to learn, all teachers and all school personnel must work together for the education of the whole child, and we don't want to start—I think I'm speaking for all teachers in that regard. We don't want to start anything that causes a competition between teachers, because we do want to be able to collaborate and work together and be the best that we can be.

The CHAIRMAN. Thank you very much.

I think Senator Enzi made a great suggestion. I'd like to start with Mr. Hess and go down—not right now—as soon as we finish with Senator Paul and Mr. Seaton and Senator Isakson.

Senator PAUL. If you want to, go ahead, and I'll ask my question after you go down.

The CHAIRMAN. OK. You want to do that?

Senator PAUL. Sure.

The CHAIRMAN. OK. I think Senator Enzi made a good suggestion. Let's just start with Mr. Hess.

Mr. Schnur, you already had your shot. We'll skip you.

So Mr. Hess—and we'll just go down. What are the two or three things you like about the bill or the two or three things you don't like about the bill, if that's a fair enough question.

**STATEMENT OF FREDRICK HESS, RESIDENT SCHOLAR AND DIRECTOR OF EDUCATION POLICY, AMERICAN ENTERPRISE INSTITUTE, WASHINGTON, DC**

Mr. HESS. Sure. I appreciate the opportunity to be here, Mr. Chairman, Senator Enzi, members. For me, actually, unlike Mr. Schnur, I don't have the opportunity to spend as much time kind of on the ground. I spend much more of my time trying to look at these questions with some perspective.

I think if we look back at a half century of Federal efforts to improve schooling, some pretty stark lessons stand out that are rarely taken into account. We often spend time talking about whether the Federal Government should or should not be involved in education. If we go back to the Northwest Ordinance, Morrill Land Grant Act,

National Defense Education Act, for more than two centuries, we've actually had the Federal Government involved in some way.

For me, the much more useful question here is: What is the Federal Government equipped to do well when it comes to American education? I think the Federal Government is horribly situated to improve schools or improve teaching. It is just atrociously situated, because schools are enormously complex organizations. What we've already heard today from several of the folks on the ground—from Mr. Luna, from Mr. Grier—is how much improving teacher accountability, improving teacher evaluation, depends not on whether you do it, but on how you do it.

And the problem is, given this design of the American Federal system and the complexity of State education agencies and local education agencies and schools—is no matter how well-intended our efforts around trying to spell out improvement models, trying to stipulate preparation for principals who are going to take over turnaround schools, efforts to specify evaluation models, long experience teaches me that we are going to wind up with much more in the way of regulation and case law and compliance than we are with fulfillment of the intent of the law.

I would encourage us to be as cautious as possible about trying to spell out interventions or remedies for either schools or teachers. That said, I think there are some particularly useful elements of the law. I think a coherent vision of the Federal role recognizes that there are public goods the Federal Government, to my mind, is uniquely equipped with to provide an education.

One is robust and reliable transparency, both around student performance, around outlays and expenditures, and around disaggregating us to ensure that we have an x ray on how well kids everywhere of all kinds are doing.

Second, the Federal Government, I think, has an explicit charge to provide constitutional protections for vulnerable populations. We do this in IDEA. I think title I is an effort to do this. To my mind, the 5 percent target that's spelled out in the committee bill is reasonable.

Jack Welch, when he ran General Electric, used to have a mindset that they were going to try to fire the worst 10 percent of employees each year, not that he knew 10 percent was the right number. It could have been 15. I could have been 5. He just thought 10 percent was a reasonable target. And it strikes me that encouraging States to address those worst 5 percent each year is not unreasonable, so long, again, as we keep that focus on encouraging States to address it and not on trying to stipulate models through which they should address it.

Third, I think there is an enormously useful role in the kind of stuff Mr. Schnur alluded to to provide political cover for State, local, and union leaders who are trying to get themselves out of anachronistic systems. Often, even when you have superintendents like Mr. Grier or far-sighted union leaders who would like to do things differently, they get pulled back by their constituents who ask, "What's in it for us?"

One of the powerful levers of voluntary competitive grants is the answer to "What's in it for us?", where we can go out, we can bring

a spotlight, we can bring home dollars, and it provides us a chance to leapfrog into the 21st Century.

And fourth, I think there is a crucial Federal role when it comes to basic research. I think Senator Bennet's forthcoming amendment on ARPA-ED is enormously useful on this front. What I would encourage, though, is we keep in mind that the Federal role, if we think about DARPA, for instance, is to really figure out how do we leverage basic technological innovations and not get the Federal Government involved in trying to recommend particular models of implementation.

I hope that's helpful.

The CHAIRMAN. Very good, Mr. Hess, very, very comprehensive.  
Ms. Geisselhardt.

Ms. GEISSELHARDT. In regard to what's positive about it, I think, first of all, that—the statement Senator Enzi made was that No Child Left Behind was ineffective, and I certainly have to agree with that. And I would like to think of this really as not the reauthorization of No Child Left Behind but the reauthorization of ESEA.

As an educator, just the connotation of the term, No Child Left Behind, really is demoralizing to us at this point, because there is so much focus on testing, testing, testing that we have no time to teach. And it really has become that way within the schools. Working with gifted education, I run into this all the time, because things that I want to do with my students—the teachers don't want me to take them out of the classroom because they're addressing a particular standard that's going to be tested.

For instance, I was taking a group to view an open heart surgery, a live open heart surgery, and one of my teachers was giving a practice test to practice for the practice test to practice for the test. I mean, that's the way that it goes. These students are testing all year round, and it takes so much time from instruction.

And as long as we keep our standards and our gap groups set up as they are—I think the gap groups are effective. We want to look at those gaps. We want to be sure that no child is left behind, and that needs to be our concentration. And I was so thrilled when No Child Left Behind passed because I thought, "Hallelujah. Now we're going to see that every child learns every day."

But what we're doing in No Child Left Behind is we're leaving behind most of our students, because our students that have special needs are not being able to be taught the skills that they need to be taught. Our FMD classes, where teachers really, really, really, genuinely cared about these students, wanted these students to learn skills that they could use in their lives, life skills. They can no longer teach those skills because they have to address the standards. These students are going to be tested on the standards.

Gifted students are left behind totally, because they are already proficient or distinguished, and so teachers don't feel that they can use their time to work with these gifted students. Consequently, test scores of our gifted students are getting lower and lower. And many of these are the future leaders of our country, and we're not meeting their needs. So those students come to school and go home and have not learned throughout the day.

But the real concern of mine—and I do work with gifted students, is what I hear from the special ed teachers and their concerns that they have that they can no longer—they deeply care about these students or they wouldn't be in these jobs. They couldn't be in these jobs. But they cannot address the needs that these students really need in their classrooms.

We have even had an instance where we had a terminally ill special needs child and tried to get an exemption for testing and could not get that. Even with a doctor's note saying that the testing—just the process of testing would be detrimental to the child's health, we still could not get an exemption for that child, and their scores were figured in our accountability.

We have a student that has a four-word vocabulary. That's all he speaks. And one of the phrases that he uses or the terms that he uses—he can say, "yes," "no," "mom," and "hell, no." That's all he says, and that's all—he's in sixth grade now. That's all he has said throughout his schooling.

He's supposed to do a portfolio. Yes, it's an alternate portfolio. You know, that's what people say—"Well, we have alternate portfolios." But how do you do an alternate portfolio with that?

The CHAIRMAN. Thank you very much.

Mr. Luna.

Mr. LUNA. Mr. Chairman, just one point of clarification. I think a concern was raised earlier about the fact that incentives could create competition in schools and that that could be a negative impact. Just so you understand, in Idaho, when it comes to student achievement, we only go down to the school level. And so it actually fosters collaboration and teamwork amongst all the teachers in the school because they're working together to help all their students hit an academic goal. And if they meet that goal, then all of the teachers receive the financial incentive, not just a few teachers in the school.

When it comes to No Child Left Behind, No Child Left Behind reminds me of the old Clint Eastwood movie, "The Good, The Bad, and The Ugly," because there's a little bit of all of that in the law. I think the good part is it brought us—you know, this was 10 years ago. It brought us to a standards-based education system where now we were accountable for every child and we had to have a standardized way of measuring student achievement.

The bad part of the law was it was a one-size-fits-all. And in a State like Idaho, which is a rural State and then has rural communities within that rural State, it was difficult to implement the law.

The ugly part is we had a system where the Federal Government set the goal, and then they prescribed to the States what programs and processes we had to use to meet that goal. And if their programs and processes didn't work, we were held accountable. That was the ugly part.

I think that this law, this reauthorization, has kept the good parts of No Child Left Behind. In fact, I think it's even improved upon—going to a growth model, because if we're serious about making sure that every child's needs are met, then a growth model demands that a system not only focus on those students that aren't at grade level but also those students that are above, because you're obligated to show academic growth for those students also.

Today, once they hit proficiency, you're tempted to not focus as much on students that are proficient or higher and still focus on kids that are below proficiency.

The other thing about the law is it recognizes the leadership that States have stepped forward and taken in improving education. States chose to work together to develop a higher standard to hold all of our students to called, The Common Core. It wasn't because it was federally mandated. We chose to work together to create the next generation of assessments, not because it was mandated but because we know that's what's best for our students. And we chose to develop the next generation of accountability.

You have 40 or more States that without any Federal mandate or incentive have developed a higher standard for our students. We're developing higher assessments to measure our students, and we've come up with our own accountability plan that has had quite a bit of influence on the law that's been drafted.

I think it's a 10th Amendment issue, right, and I think it's recognizing the rights that States have and the responsibilities that States have. And I'm comfortable with that now more than even 10 years ago, because States now have demonstrated that they are more than willing and ready to step up and hold ourselves and our schools to a higher level of accountability.

The CHAIRMAN. Very good. Thank you, Mr. Luna.

Ms. Neas.

**STATEMENT OF KATHERINE BEH NEAS, SENIOR VICE PRESIDENT FOR GOVERNMENTAL RELATIONS, EASTER SEALS, WASHINGTON, DC**

Ms. NEAS. Thank you, Senator Harkin, Senator Enzi. I wanted to just say a couple of things from the perspective of Easter Seals. And I think our perspective is that students with disabilities, in general, have greatly benefited from the Elementary and Secondary Education Act, because the law requires their academic achievement to be measured and reported.

As a result, more students with disabilities have been afforded the opportunity to learn and master grade level academic content. That has been huge for our kids—the whole notion of they get a chance to try. There are a number of things that we like in the Senate bill—the notion of States to adopt college- and career-ready standards and an assumption of high expectations.

We also are very pleased that the bill does not codify the so-called 2 percent rule, which for us has allowed people to apply very, very low expectations to achievement for students with disabilities. We're very pleased with the elements that promote universal design for learning throughout the bill; access to multi-tiered systems of support, including positive behavior interventions; and the notion that early learning can begin at birth; and that this bill promotes those things.

There are a number of things that we're very concerned about and look forward to working with you to improve them. The bill doesn't change this notion of "N" size or subgroup size. And as a result, right now, less than about 30 percent of schools have enough students with disabilities to meet the subgroup category. So

70 percent of schools don't even measure—don't have enough kids according to their subgroup size.

We know that lots of kids—their progress isn't being measured and reported. This law requires 95 percent of kids to be assessed. We understand that not every kid is going to be at school every day. But we know that we need that data on subgroup accountability.

We really want at the end of the day for all kids to have access to the general education curriculum and for all kids to be held to high expectations. I spent the last 4 days with 350 Easter Seals people around the country and have had story after story after story of families who are told what their kid couldn't do. And they came to us, and we were able to help them figure out what they wanted to do. What I would plea to this committee—don't put in barriers that make it hard for kids to have access to the general curriculum. Before No Child Left Behind, before the Elementary and Secondary Education Act, for kids that have very significant cognitive disabilities, we used to hear over and over again that what they were taught was their colors.

And I'd get a family that would say, "We got another—this IEP—we've got goals in them that my kid's going to learn their colors, yellow, red, green. Next year, the goals for my kid's IEP are colors. My kids know their colors. We need to move on." And No Child Left Behind, the Elementary and Secondary Education Act, has given us a form that says every kid deserves the opportunity to make academic progress.

My plea to you is let's continue on that to make sure that there aren't barriers put in place that disallow kids to have access to the general curriculum, access to the supports that they need to learn. And one of the things we need are teachers who know what they're doing, who are committed to these kids, who will help them learn, and the tools to help them do that.

The CHAIRMAN. Thank you very much.

Mr. Seaton.

Mr. SEATON. Thank you again. One of the things—yes, we do need Federal involvement. We need your money. And in order to say that we need your money, you need to be able to have some involvement in the guidance of where and how that money is spent.

I do believe in Tennessee that we are moving forward and a culture has been created by No Child Left Behind that looks at the numbers, that looks at data. And we are willing to change and update our strategies on a regular basis.

There are three things that I want to talk about. Evaluation—real quickly, it has to happen. In the military, they used to say, "Inspect what you expect." Evaluations will cause us to look at how we're going to accomplish the things that we need to accomplish.

Leaders—we need leaders, and a lot of times, people think that becoming an administrator in a school system—you teach 10, 15 years, 3 or 5 years, and you can just become a leader. Leaders don't happen like that all the time.

There needs to be something—this guy Collins wrote Built to Last and Good to Great. Those are big-time business books. But they look at how to be effective over the course of time and how major companies have lasted, and then what they did to last. We

need to be able to take those same types of data points and benchmark what it takes to be a good leader in a school. And we need to look at the top 5 percent of schools as well as the bottom 5 percent, because those bottom 5 percent of schools are our dropout factories. And we need to address that with accountability.

I think that No Child Left Behind pointed us in the right direction. But it didn't give us the resources that we necessarily needed to make those changes. So as I look at what you are talking about—we have a program in Memphis called Cradle to Career, and it looks at education from birth to your career.

The college readiness program that you all have incorporated, I applaud, and I think that we, as educators and as a family of Americans, need to get together, and we just need to kind of accept the direction that you all have given us. And I thank you for this time.

The CHAIRMAN. Thank you, Mr. Seaton.

Again, what's good and what's bad about the bill?

Mr. Grier.

Mr. GRIER. Thank you, Senator. First, we want to say thank you for continuing to have an accountability component in there. Focusing on the bottom 5 percent of our schools that are persistently low achieving schools that have an achievement gap and allowing States some discretion in developing an accountability system in their State, I think, is all positive. We also would like very much that we no longer have to set aside money for supplemental educational services.

In our district, this after-school tutoring program has not yielded any results. We actually have had vendors that would give students rides to movie theaters in stretch limousines for signing up with them. Last year in our district we created our own tutorial program in our turnaround schools. We reconstituted five middle schools and four high schools. And we tutored all sixth and ninth graders in those schools in math every day, one tutor per two children.

At the end of the year, we had twice the academic gains that the Harlem Children's Zone achieved last year. We know that good tutoring with a good curriculum that is organized and that can occur during the school day can pay huge dividends.

Based on our own experience with turnaround models, we would like to really encourage you to modify the one where the current legislation limits the schools that reclassify as persistently low achieving to only use the closure and restart models. We believe that repeat classification should only prevent the LEA from using the same model they used during that initial classification.

We also would like to caution the committee on the additional reporting requirements that we fear may be attached to our parental involvement and in the successful safe and healthy students initiatives. We worry that, potentially, a large portion of funding allocations to these reforms will go simply into reporting mandates. We don't need that type of additional bureaucracy. We just don't.

Finally, one of the things that concerns us in Houston—and it concerns a lot of my colleagues in a lot of the large school districts—is this issue around comparability. And there are some real problems with that in the current legislation. We would love to

work with you later to perhaps work through some of this. But the way that you would come in and determine the formula around comparability is very problematic.

The CHAIRMAN. Which is in the bill?

Mr. GRIER. Which is in the current bill—needs major attention.

The CHAIRMAN. Which is in the current bill that we have, not the current law.

Mr. GRIER. Current bill we have.

The CHAIRMAN. Got it.

Mr. GRIER. Yes, sir.

The CHAIRMAN. I just wanted to be clear what you said.

Mr. GRIER. It's just a huge issue, particularly in a district, for example, like Houston, where in turning around our lowest performing secondary schools—and these were schools that were tagged with the label of dropout factories. We went out this past year and raised almost \$15 million from private sources. We lengthened the school day by an hour. We added a week to the school year. We hired all these additional tutors. Well, that cost more money.

To do that and bring those outside dollars in—and now, all of a sudden, those are there. In the bill's current language, if we had to use the comparability formula that you have here, these schools would actually be penalized by our efforts to go out and raise additional dollars.

Another thing that bothers me an awful lot as a school superintendent is that it just simply costs more money to turn these schools around. And I wish your current bill had some type of set-aside in the title I revenues that we receive that would be required to be spent on those schools.

And people can say to you, "Well, you have the flexibility to do that." Yes, you do. You often don't have the political will to do that, and that's very, very tough, because you're then taking money away from another school to insert in your lowest performing schools.

I don't have the magic number in terms of what that set-aside should look like. But we set aside 1 percent for parental involvement. Some people argue that's too low, but it is a set-aside that requires us to spend money to make sure we can engage our parents.

These schools that are so low performing—it takes more money. I can promise you one of the things I'm more concerned about than anything we've talked about here today—and I don't know how your bill addresses this—is the human capital that's required to address these 5 percent schools.

Quality principals, quality teachers in every classroom—those are easy words to say. But when you get out and you start recruiting, our nine turnaround schools—we recruited nationally. We offered \$20,000 and \$30,000 incentives, stretch goals, \$5,000 signing bonuses to get principals to go into these schools.

We didn't have anyone from our highest performing schools lined up to go into those schools—no one. And we recruited 70 principals to hire 9. We hired those nine principals, and after a year, we replaced four of them. It's just hard work. And this whole issue

around turning around these lowest performing schools—the biggest issue that we'll talk about is the issue around human capital.

The CHAIRMAN. Thank you very much, Mr. Grier.

Ms. Danks.

Ms. DANKS. Thank you again. Something I really liked about the bill was the idea that each State would be adopting the college and career readiness standards. I think having those high expectations for all of our students is very important and is going to get our students ready for the 21st Century workforce or college or whatever they end up doing.

Something that I think has been missing for far too long from many of our standards are life skill standards, standards that address those skills that our students with the most severe cognitive disabilities need to master in order to be successful after their high school term is finished. So we focus a lot on the students that are typically developing, on what they're going to do after high school.

But this other population is left behind by not having those standards so that teachers know what to teach, so that we can effectively measure progress toward those standards, and so that we can be sure that those students are ready for whatever they may be getting into when they're finished with high school.

Everyone says that we assess too much. I think that we assess ineffectively too much. I agree. We have a lot of practice tests for the practice tests in order to take the real tests. I think that's completely ineffective.

If we were able to adopt some more effective assessments that provided teachers and administrators with the data necessary in order to inform our instruction and improve our instructional strategies so that we can push our students to those higher levels, then we would be able to assess quickly, efficiently, and more often. That data would be collected immediately.

I know we've talked about computer-based assessments. Those often are able to give us more quick results and provide them in such a way that the teacher can use those the next day in order to inform their instruction and make better strategy decisions.

Something that was always a struggle with No Child Left Behind that I didn't fully understand how it was addressed in this bill are the highly qualified standards. I know when I came through teaching, I did come through an alternative certification program, and the highly qualified standards was a lot of paperwork. No one ever came in my classroom to be sure that I was highly effective, but my paperwork was in, and that's all that mattered.

I feel like we're missing the target on that. Anyone can turn in transcripts, but not everyone can be a highly effective teacher in the classroom. We've talked a lot about the evaluation of teachers and principals. With that evaluation comes support and guidance. And so I think that is a huge piece missing in that highly qualified standards discussion.

Just because a teacher is highly effective 1 year with a new student population or at a new school, they may not be highly effective. I think that continued support to help our teachers grow into better instructors is going to be paramount for our students' success.

The CHAIRMAN. Thank you, Ms. Danks.

Mr. Henderson.

**STATEMENT OF WADE HENDERSON, PRESIDENT AND CEO,  
THE LEADERSHIP CONFERENCE, WASHINGTON, DC**

Mr. HENDERSON. Thank you, Chairman Harkin, Senator Enzi, and to all the distinguished members of this committee. I want to thank you for inviting me to this important bipartisan roundtable discussion on the reauthorization of the Elementary and Secondary Education Act.

Mr. Chairman, I have been uncharacteristically quiet this morning, and I would hope that gives me perhaps an additional minute to lay out both things that we like about this bill as well as those that pose a concern. So let me begin.

Let me say at the outset that I think all of us seem to agree that No Child Left Behind is in need of significant improvement. I think we would also agree that the global economy has imposed new demands on our Nation to improve the quality of public education available, both K through 12 but also post-secondary education.

The fact that our workforce is going to be drawn from an increasingly diverse population of individuals both native born and immigrants in our country makes this not just a moral issue—and, that is, improving education reform is a moral issue—but it's also a national security issue. And the fact that this committee is taking seriously its responsibilities for a deeper dive in this area is extremely important.

There are things about this bill that, indeed, represent improvements over current law. I'm going to outline them very briefly, and then I want to talk about the other things which pose concern.

We are very pleased that the bill requires more equitable funding within districts. I would disagree with Mr. Grier with respect to the responsibility of the Federal Government to use its leverage and its resources to help encourage improvement in this area. I think the bill does have an improved effort to address the problems of dropout factories, which are those schools that represent a significant part of the schools where individuals drop out annually. And for African-Americans and Latinos and native Americans, we often lose perhaps as many as 50 percent of our high school graduating class annually.

I think the bill does a great job in providing college- and career-ready standards. I would agree with Ms. Danks that there is improvement there. I'm pleased about the importance of data collection to ensure that the subgroups of boys and girls aren't matched and that interventions can be targeted more effectively. I think that's important.

We think the STEM courses available to under-represented groups is an improvement. All those things represent significant improvement, and we were especially pleased with Senator Franken's effort to provide additional protections for students in foster care. It makes a significant difference. Those things are, we think, very important.

But, unfortunately, from our standpoint, these improvements are overshadowed by the bill's, albeit it perhaps unintended, but nonetheless historic retreat on the accountability question. And because of this retreat, dozens of civil rights, education, and business orga-

nizations, including the U.S. Chamber of Commerce, have determined that we cannot support the bill at this time.

We have issued a statement to that effect, which I would request be entered into the record of this discussion this morning.<sup>1</sup>

The CHAIRMAN. Yes.

Mr. HENDERSON. Now, we are troubled by several provisions in the bill. Let me see if I can just outline them with the same brevity that I did with those things that we like.

We are concerned that the States would be required to take action to improve only a small number of low performing schools, that is, the bottom 5 percent of the schools in most States, and that while the bill does identify an additional 5 percent of schools with achievement gaps and those considered dropout factories, the bill does not require these schools to make any significant academic progress and prescribes no interventions. Moreover, it allows each State to decide which achievement gaps merit attention and which do not.

In the remaining 95 percent of the schools that are not among the States' very worst performing public schools, large numbers of low achieving students will simply slip through the cracks. Now, obviously, that happens today. But that is not the measure that we use to determine whether a newly reauthorized Elementary and Secondary Education Act is responsive to those problems. In many States, these students will be low-income students, students of color, those learning English, and students with disabilities.

The bill also does not require States to set targets for significantly improving high school graduation rates, despite the fact, as I noted, that every year, about 1.3 million students drop out, and only a little over half of the students of color, including African-American, Latino, native American, and southeast Asian students, graduate on time.

And then, finally, for English language learners, the bill eliminates annual, measurable objectives, which is a critical accountability element for the title III program.

Finally, the bill weakens requirements in the current law requiring that low-income students and students of color be taught at a higher rate by inexperienced, unqualified, or out-of-field teachers. We know that we can't close the achievement gap if we don't also close the teacher quality gap.

Now, I don't have the experience of many of the teachers and principals who work on the ground every day. But I am a board member, a trustee, of the Educational Testing Service. The Educational Testing Service, as a non-profit corporation, has launched a series of symposia and seminars focusing on ways to close the achievement gap. And in, I think, a highly academic and a deeper dive, they've identified a number of elements that lead to actually reducing the achievement gap between students.

But all of them are based on the core principle of accountability. It is indispensable to advancing the common goals that we have about closing the achievement gaps and maintaining our country's competitiveness in the global economy. I think it's fair to say and

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<sup>1</sup> Editor's Note: The statement referred to may be found at [http://dl.dropbox.com/u/2906714/MoreGroupsWithHoldSupportfromESEA\\_11\\_8\\_2011.pdf](http://dl.dropbox.com/u/2906714/MoreGroupsWithHoldSupportfromESEA_11_8_2011.pdf).

without hyperbole that the provisions in the bill that we have focused on with greatest concern really represent the *de facto* end of a national accountability system as we have come to understand it.

And while I believe that this notion of providing flexibility for individual school districts and schools may be important given the context in which it is raised, it is not appropriate to offer flexibility that, in effect, represents an end to the establishment of national standards that have been the significant—in fact, arguably, the most significant driver of the improvement of public schools that we've seen over the past decade of No Child Left Behind.

With that in mind, sir, thank you, and I appreciate the opportunity to—

The CHAIRMAN. I thought that was very thorough. Thank you very much.

And, Mr. Thomas, you've got the hammer.

**STATEMENT OF ELMER THOMAS, PRINCIPAL, MADISON  
CENTRAL HIGH SCHOOL, RICHMOND, KY**

Mr. THOMAS. Thank you, Senator. I really appreciate the opportunity to speak to you today, and I just want to say that as a principal, I love my students. I love my job as principal. I love working with our students every day and with our teachers every day. And in looking at this reauthorization, there are two or three things that I'd like to mention that I think are very positive and then some things that we can certainly work on.

Certainly, I think—as everyone is—in mind, we're looking out for interests of students. And so some good things that I think are in the bill—in the recommendation would be the student growth model. You've heard that quite a bit, and I think that's a real positive thing. To get rid of the punitive AYP sanctions was very effective, and so we appreciate that effort.

A lot of my work has been based on the college and career readiness standards. I think that's a good start there as well. I do think that it's important with the college and career readiness standards that we look at what our States are doing and allow the States to determine what those standards are. And in Kentucky, we've begun that work and are certainly very appreciative of that opportunity to set the standards as a State.

There are some things with the reauthorization that certainly should be looked at and thought about thoroughly before we move forward with anything—once again, locally determine what our college and career readiness standard looks like; in addition, approving some assessments for our students with special needs based on their accommodations set forth in their IEPs. I think our local ARC, the release committees, can determine what those assessments look like. And in so doing, there's going to have to be a removal of the 1 percent cap on some of our alternative assessments for our special needs students.

An example of that would be if you look at Madison Central High School, we are about 1,750 students. And if you take 1 percent of that for alternative assessment, that would be 17½—let's round up—18 students. At Madison Central, we have our severe disability students—we have three classrooms, 10 students each, for a total of 30 students. And so now we're looking at an accountability that

doesn't include the entire population that could have an IEP that says that they should be on an alternative assessment.

And so I would like for there to be an alternative assessment for—just remove the 1 percent cap there and let that local IEP—ARC committee determine that—that would be really good.

An issue that we find that we struggle with, at least, in my district and my previous district is the highly qualified part of the re-authorization. Whenever we look at the highly qualified, it's very burdensome. Our teachers struggle—we struggle to hire special needs teachers. And as we are all very aware, some of the best teachers don't come through a natural path through certification, and so we'd like some alternative ways and not really put the burden on the highly qualified mandate about the testing—so, for example, to be highly qualified.

We want to get highly qualified teachers for all of our students, and special needs is one area that we struggle in. We want to have high standards and put the best teachers in place there. But to do so requires a very burdensome testing process. We'd like to advocate for some local decisions there on what that highly qualified status looks like.

And then last, just simply as a principal, I was very fortunate a month ago to come to Capitol Hill and to petition on behalf of principals across the United States. But certainly as the Met Life NASSP Principal of the Year from Kentucky, I just have to talk about the four school turnaround models that we have that include getting rid of the principal in each one of those models if they have been in their position for more than 2 years.

Obviously, I think there are certainly principals out there who are poor principals who need to be removed. But, certainly, if we just put one assessment, or if we put one measure on those principals and remove them, then it's going to be quite difficult to keep some of our best principals. A really good example would be in our home State, in one of our counties, our principal has been there for just a little bit over 2 years. And he is in the bottom 5 percent—his school is, and we want to turn that school around, and he seems to be doing a really good job.

And if you look at their college and career readiness standards, they're doing very well. But based on the sanctions listed by the 5 percent, he's got to lose his job. As a result, I cannot support the four school turnaround models. And I would like to just ask for a fair analysis first to determine whether the existing principal is making gains and use some alternative measures to make those gains.

Thank you.

The CHAIRMAN. Thank you very much, Mr. Thomas.  
Let's see, Senator Paul.

#### STATEMENT OF SENATOR PAUL

Senator PAUL. Thank you, Mr. Chairman.

I want to thank the Chairman and the Ranking Member for having this hearing. I continue to learn more about the issue every time I hear more about not only No Child Left Behind, but about various ideas. I think it's a recommendation for the hearing that

we have a packed crowd. We have had standing room only the whole time. I think it is good.

And I, for one, see problems. As a physician, you try to diagnose the problem, you try to fix it. And we should continue to look at that as a problem solving sort of orientation for this.

I do think that there is a large philosophical sort of debate and battle that is part of this. For example, I hear ideas from people who are probably Republican, Democrat, liberal, and conservative on this panel, and a lot of them are good ideas. To my mind, it's not whether it's a good idea or bad. It's where it gets instituted that does make a difference.

For example, Mr. Grier has ideas. Mr. Seaton has ideas. They all sound good. But I'm afraid that once we make them universal—and while I would probably vote for Mr. Grier to be superintendent or Mr. Luna to be superintendent of their schools, I don't want them to be the national superintendent of schools.

And so it is a big difference—how much is it Federal. I think for the most part, the farther we—and this is a philosophical point. The farther we get away from the local school, the worse it gets. And the farther we get away from local government to national government, the worse the oversight gets.

I don't know that we can judge who a good teacher is. I think Ms. Geisselhardt is a good teacher, but I would have to know more. I would have to sit in her class, and I would have to look at that. I would have to maybe judge on how well her students are doing, but it's complicated. But I don't think I can ever know here whether she's a good teacher or not. And Columbia, KY is different than Memphis. It's different than Houston.

My argument for it is to keep in mind that there is a philosophical question here on local versus Federal. And I think we're coming together in understanding that maybe Federal overbearing or Federal overreach in education hasn't been good, and that it sometimes makes people a number.

People talk about special needs kids and special education kids. I think to put a number on them that makes them some sort of abstract mathematical percentage is a mistake. I mean, I don't know how I can tell whether 17 or 30 is right for the school district in Richmond, KY. I would think only locally they could figure that out.

I think we shouldn't have numbers in our bill that say—I think we all are concerned. I don't think Mr. Thomas is not concerned about special needs. He's concerned about being judged unfairly or his school is.

I think we've gone a long way in the right—a long way toward fixing some of these problems with AYP, with yearly progress. But I still am concerned that we still have the testing mandates, which will have people practicing to do tests, to do tests. I don't think we fixed that. I think that is still a problem that should be and could be fixed.

And so I'm glad we're having this hearing, because we still will try on the floor—and I would encourage all of you through your organizations—anybody through any teaching organization to still continue to lobby Congress because I've been at least given some indication that we may allow amendments on the floor, relevant

amendments to this. And I hope we will so we can make it better. We don't do this very often. We haven't done it in a long time. We need to try to make it better.

I am concerned and I'd like to ask this question—is that we are still going to judge the bottom 5 percent the way we've been judging schools. But we've kind of determined the way we've been judging schools wasn't very good. Somebody can help me out if I'm wrong on this, but I think we're still going to judge the bottom 5 percent the way we've been judging schools.

The problem I have with that is my kid goes to a public high school and it gets awards from either Forbes magazine or Newsweek for being one of the best schools. But it's also told it's failing by No Child Left Behind—37 States want out. And so, really, that makes me think the law is not very good and maybe we need more dramatic changes than what we're actually addressing.

I guess my question is how are we going to determine—if our model is not working for determining which is a good school now, is it a good thing to keep the 5 percent judged that way, or do we need to reassess how we judge who are the bottom 5 percent? And I'd like to start out with Mr. Thomas and see if he'll make a comment on that. But then I'd be more than welcome to hear other folks on this as well.

Mr. THOMAS. Thank you, Senator Paul. Well, I just think that it's very difficult whenever you use one measure to determine what your school is going to be successful as. Under the old law, certainly Madison Central High School has never met AYP. And so, therefore, we have struggled historically to meet that standard, and, of course, the standard, as it rose, became quite frustrating.

However, whenever we look at our new model, Madison Central High School is in the top third of college and career readiness. So whenever you're using just one kind of goal to determine what's meeting that standard, it's quite frustrating because it becomes—one target is successful and another target is not. It's kind of like what you're mentioning about your local school—is that according to one standard, they're a very good performing school. But according to another standard, they're not meeting that.

And so that's the issue that I struggle with there as well—is that we need to use multiple forms of assessment if we're going to do that—not over-testing, by the way. I'm not advocating for that. But let's look at the school holistically and see what we're doing.

The CHAIRMAN. Might as well just continue on down the line. I assume all of the ones are up to respond to what Senator Paul said, I suppose.

Mr. Henderson.

Mr. HENDERSON. Let me say, Senator Paul—

The CHAIRMAN. I don't know if your hand went up, but since we were there, let's just go this way.

Mr. HENDERSON. Thank you, sir.

Let me respond, Senator Paul, if I might, to your opening observation that this discussion we're having today involves primarily a philosophical difference about whether the States are the best laboratories for establishing significant reforms for education and whether the Federal Government may, in fact, have a role to play. I don't think anyone is advocating the nationalization of public edu-

cation. The Supreme Court, as you know, has already addressed that issue in *San Antonio v. Rodriguez*, a 1974 case which has acknowledged that public education is not a fundamental right under the Constitution.

But that same Supreme Court sought to examine early efforts to implement a states' right philosophy with regard to public education and found it deeply wanting and, in fact, offensive to the Constitution, because the results of the effort did not provide simply just an equality of educational opportunity but significant investment in those communities that had the least amount of political power or influence or were tainted by racial bias which was evident in a number of the States that spoke most loudly in favor of States' rights in public education.

The decision in *Brown v. The Board of Education* established, established, a Federal interest which No Child Left Behind essentially sought to vindicate by ensuring that the use of Federal dollars could be an incentive to improve the quality of public education available to students. That principle hasn't changed. It has been a bipartisan consensus that included people like Senator Alexander, who, as Secretary of Education, sought to implement similar efforts, and George W. Bush, who, in fact, signed No Child Left Behind into law.

This is not about a philosophical conversation about how best to educate students. It's about the practical effects of the failure to recognize the constitutional interest that every student has to a quality public education which was not being adequately served by State law. And so under the circumstances, I don't think this bill represents an extension of that principle. I think it represents a fair representation of where the principle stood.

Now, I've expressed my concerns about the accountability system because I think under the guise of reform, the provisions in the bill go too far to negate the legitimate Federal interest that we recognize exists. So rather than weakening that Federal interest, given the history of bias and discrimination under the State system, if anything, we should be looking to reinforce it in a more significant and positive way.

I don't see this as a philosophical debate at all. I see it as a practical debate affecting real live students and the consequences of a failure to educate them properly.

The CHAIRMAN. Mr. Grier.

Mr. GRIER. Thank you, Senator Harkin. As I understand the bill as it's written today, the bill doesn't just address the 5 percent of the lowest performing schools or the schools that have the largest achievement gap. It also gives States the option of identifying additional low performing schools in their States. And I think that the States should be commended.

Now, whether or not we get into a debate about whether or not some States are different than the others—I happen to believe that States ought to have some flexibility in that arena, as I also believe local school districts should. When our State told us last year that we had four low performing high schools that they labeled dropout factories, well, quite frankly, we had three or four other high schools that had—we had some input—we may have decided per-

haps needed more attention than two of the ones on the list. They were identified by one narrow definer.

And so how you intertwine all that local flexibility and the State flexibility, I think, is important. It's often more difficult to do than it is—than to say that we ought to do it.

The CHAIRMAN. Now, I'm going to skip over one, two, three. I know that both Mr. Hess and Mr. Schnur have to leave. It's 11:30. I will go to those two and then come back to the three. Mr. Schnur and then Mr. Hess.

Mr. SCHNUR. Chairman Harkin, thank you. I just got word that I was able to move my meeting back, so I've got a little bit longer to get back to New York.

The CHAIRMAN. Oh, well, then, I'll get to you later. OK.

Mr. Hess.

Mr. HESS. You've got remarkable power, Mr. Schnur—move meetings from anywhere.

Thank you. I'd like to just say a couple of words about Senator Paul's question, and then really just a couple of other points I'd like to show the committee. One is I think Senator Paul is precisely right. One of the design flaws in No Child Left Behind was that—one of its great strengths, as Mr. Henderson has indicated, was that it essentially took a national x ray of where students were. It told us how students were performing at a given point in time.

Now, the problem with that and the way it was used is that an x ray doesn't tell you the cause. Knowing that students of this demographic profile in this community are at this level of achievement in reading or math or science does not tell us whether that is due to the school's performance, whether it is due to their home environment, or whether it is due to all of their prior years of schooling.

One of the problems with that x ray that No Child Left Behind took was we had tried to then use it as the basis for identifying whether schools were performing adequately or not, and I think that was a profound design flaw. Many of us pointed this out close to a decade ago, and it is still—it is very healthy to see the Senate wrestling with this today.

The superior alternative to try to identify this 5 percent—again, recognizing there's going to be murkiness about whether it's the exact rate, 5 percent—is to focus on how well those students are faring in the course of that academic year. So what we really want to do is look at how much those students are learning in things that we deem essential in the course of an academic year. That is the right essential starting point for identifying whether schools are doing their job well.

Again, because I think it is an imprecise science, because I think no matter how well-intended Federal interventions may be, they are, unfortunately, likely to do more harm than good, I think it is not useful to try to prescribe models. But I do think as, you know, picking up 10 cents on the dollar for State and district outlays, it is appropriate for the Federal Government to insist that States be identifying and coming up with strategies to address these.

Just a couple of other points I'd like to make real quick, since I, unfortunately, am required to leave. One, I think we've heard a number of what I would regard as terrific suggestions and practices

about how to educate children in schools and districts. I think the mistake is to imagine that when they are good ideas, we need to try to then promote them and encourage them from Washington.

It's not that—there is one question which the Senator pointed—Senator Paul pointed out which is the philosophic question. But even pragmatically, when Mr. Grier is trying to drive school improvement in Houston, what he is doing is working with a teacher unit, Houston Federation of Teachers. He is working with a district over which he oversees control. He is working with a board. He is working with employees who report to him. That is profoundly different from what the Senate or House are attempting to do in writing legislation.

All ESEA can do is empower the U.S. Department of Education to issue regulations attached to funding, which then must be funneled through State education agencies, which then must be picked up by school district superintendents. And at the end of the day, what we wind up with are rules, regs, case law which create enormous and often unanticipated compliance burdens.

Just one very evocative illustration is—Robert Bobb did a couple of years as a Detroit financial manager. One of the crazy ideas he tried to promote was the idea that they ought to be moving title I dollars out of substitute teacher funds and field trips into early childhood literacy. The State education agency told him he was not permitted to, that this was in violation of Federal guidelines around title I. Now, the U.S. Department of Education said that was incorrect, that he was actually—and consistent with the appropriate interpretation of the law.

But that's what happens when we try to write laws from Washington and they wind up on books at the State and in the district. We wind up creating enormous and unexpected hurdles for people trying to solve these problems in schools and districts.

Just two other really quick points—one, let me say that when it comes to school turnaround, when it comes to teacher evaluation, I have enormous respect for what Mr. Schnur is talking about, Mr. Luna, Mr. Grier. But I would argue that decades of experience in education, and particularly out of education, tell us it's not whether you do it. It's how well you do it.

There are three decades of research, for instance, on turnarounds, total quality management, corporate re-engineering. In the best case scenarios, these work 30 percent of the time. To imagine that we can identify some models that we will then require folks to use and imagine that that is going to increase the likelihood that they will succeed is, I think, just too—is to allow our aspirations to exceed what we can actually competently and usefully do.

And just to give one very concrete example of—I think, particularly on the teacher evaluation front—what I am concerned about, you may have read or heard about new school models, hybrid schools, like Carpe Diem or Rocketship academies or the School of One in New York City. One of the important things to note is these school models become very nearly illegal under much of what we're talking about in terms of state-of-the-art teacher evaluation.

These schools do not have a teacher of record in the conventional fashion. So in order to try to track students to a teacher and hold

that teacher accountable in a hybrid model or an online model or the School of One model simply doesn't work. If you require that teachers are going to be evaluated in this fashion, you either need to provide substantial waivers and loopholes or make sure that we are not regulating in a fashion that locks us into the 19th Century schoolhouse.

Thank you so much. I was honored to be here today.

The CHAIRMAN. Thank you very much. Very good. I had three more. I had Neas, Luna, Geisselhardt, and Schnur—I guess four. If you could give me just a couple of minutes—because I want to get to Senator Isakson and Senator Franken—just a couple of minutes, please.

Ms. NEAS. I'll be brief. I wanted to just review quickly with the committee—who are students with disabilities, because I think there is a great deal of confusion about who is a student with a disability who's getting special education services.

Eighty-five percent of students in special education have a disability that does not prohibit—that does not bar them from doing grade level work. If we look at who the categories are, 42, almost 43 percent of kids in special education have a specific learning disability. Almost 20 percent have a speech or language delay. Eleven percent have something called other health impaired.

So for the kids who could probably be appropriately in an alternate assessment on alternate academic achievement standards, those 1 percent kids, if we added up all the kids in the category of mental retardation, all the kids in the category of autism, all the kids in the category of traumatic brain injury, and all the kids in the category of multiple disabilities, we have far—we're still close—not all those kids are going to be incapable of learning grade level work. But a lot of those kids are being directed to an inappropriate assessment for them simply because of the nature of their disability category.

I have been in too many IEP meetings, and I agree with my colleagues here on the panel who say the test is driving too many things. I've been in IEP meetings in Virginia for kids who can do grade level work in certain subjects who have been told they can't access the general curriculum because the test dictates what curriculum they have. We can't put more kids into this track where they can't have access to the general curriculum, and they can't learn what all the other kids are being exposed to.

I think that's just a really important point that we understand—who are these kids. And a very, very, very small number of them are kids who cannot do grade level work.

The second thing is, I think it's absolutely essential that teachers have the skill and knowledge to do the job they've been asked to do; and, third, that testing has to inform instruction. I don't know why we're testing if we're not doing something that's going to turn around and benefit kids. I think the issues and concerns we have with the bill—we need to make sure that we're not putting more kids in an inappropriate assessment which is tracking them out of the general education curriculum.

I want to add just one quick thing about accountability. As you know, your bill limits accountability to the bottom performing 5 percent schools. And with the other 95 percent of the schools, one

of the things that we're very concerned about is—we still have the disaggregated data reporting requirement, which is really good. But where there are achievement gaps, we think there should be some trigger that something has to happen. And I keep calling it Subsection Do-Something, where if there is an achievement gap, we do something more than report it—that schools need to look at why that gap is there and take some action to address it.

I'm not going to sit here and tell you what that should be. Schools know what that should be, but they need to do something. Those are my two points.

The CHAIRMAN. Thank you, Ms. Neas.

Again, just a couple of minutes, I want to give Senator Isakson—who's been waiting a long time—a chance to say something.

Mr. LUNA. Thank you, Senator. I just wanted to comment that under the current No Child Left Behind law, we are on track for 100 percent of our schools to be held to Federal sanctions. Under the new law, it's 5 percent. I think it finds the proper balance. I think it's also important to understand that States have the responsibility—under the new law, States would have the responsibility to intervene for all schools. It's just the Federal Government is only prescriptive on 5 percent.

I think that finds the balance, Senator Paul, that I think those of us who consider ourselves conservative are looking for, what is the proper role of the Federal Government here. The U.S. Constitution is silent when it comes to education, so the 10th Amendment says it's left to the States. My Constitution at the State level is very specific that I have a responsibility to provide a uniform, thorough system of common public schools.

I think there are some on this panel who think that if the Federal Government does not mandate something, the States will not do it. And I think our actions speak otherwise.

Ten years ago, we had a law that required—before No Child Left Behind, we had Federal laws that required standards and assessments for all students. But 39 States had opted out of it. Today, we have States that, on their own, without any mandate from the Federal Government, have adopted a standard that is comparable to any academic standard in the world. And we're moving toward assessments that will be less intrusive and more informative, and we have put forth a plan for an accountability system that is an even higher level of accountability than the current No Child Left Behind requires.

I don't think that it's an accurate portrayal of the attitudes of States today to move forward with a bill that is based on the premises if the Federal Government doesn't mandate it, States will not do that. I think States have demonstrated that they're more than willing and on their own have adopted a higher standard and a higher level of accountability.

The CHAIRMAN. Thank you, Mr. Luna.

Ms. Geisselhardt, quickly.

Ms. GEISSELHARDT. In listening to Ms. Neas, I think Kentucky must be a little ahead of the ball game, as far as trying to close these achievement gaps. When we see these gaps, that does mean something needs to be done. And that's the problem, actually. We're working very hard at closing these gaps. And I also agree

with her that the ESEA and No Child Left Behind have helped tremendously the majority of the special ed students. As she was saying, many of those students are able to work at grade level.

But the ones I was referring to were those that are not capable. No matter what we do with those students, no matter what interventions we use, they are not—they're identified because they are not capable of working at grade level. And they should be assessed according to their IEPs rather than according to the assessment—

The CHAIRMAN. They fall into that 1 percent category.

Ms. GEISSELHARDT. That depends on your numbers in your district. And we've never had the number in our districts to fall into that 1 percent. They go in with our regular accountability. And while I do have this mic, I do want to emphasize what Mr. Hess said as far as funding. That is so very important.

I don't think that more funding is the answer by any means to education. The answer is to get funding channeled in the right direction. There's an awful lot of waste in education funding, and there just needs to be more flexibility as far as the use of funds.

The CHAIRMAN. Very good.

Last, and then I'm going to go to Senator Isakson.

Mr. SCHNUR. Thank you, Chairman Harkin. Just three very quick points on testing, turnarounds, and the urgency of passing the bill.

First of all, on testing, Senator Paul raised a point that I think we—in this country, there are schools and systems that have become too myopically focused on tests as the one indicator. And I think that we haven't seen a good organization drive progress without a set of measurable goals that are driving progress every day. I think we've gone too far in the direction of one test.

I think this bill includes some important components, as I understand it, to go beyond just testing, but to look at things like—including not only high school completion rates but college enrollment rates and the percentage of kids going to college without remediation. I think that's a very healthy move, to focus on goals and outcomes but not just tests. That's one point.

Second, on turnarounds, I must say, from my perspective, the capacity to turn around low-income schools is very limited in this country. I don't believe just from a practical perspective in the next few years we've got the capacity to turn around more than a fairly low percentage of the most low achieving schools. So while I agree with many of Mr. Henderson's comments about accountability, I don't think we should overreach in terms of the Federal Government trying to do too much, too many schools directly, because we just don't have the capacity to do it.

My concern, though, is on the achievement gap schools. I do think—I was a public school kid. My kids are going to public schools. There's a lot of public schools around the country that are serving many kids well but not kids in great need and kids of color. I think that those schools aren't going to improve for the kids in greatest need if there's not some press to improve that. I think that's an area for focus.

Then third and last, I would just say on the urgency of this bill overall, this is a race against technology. It's a race against the

economy. You know, one piece of data that strikes me is in 1973, there were only a quarter of jobs in the United States that required some post-secondary education—a quarter. In a few years, two-thirds of the jobs in the United States will require some post-secondary education. This is a change of seismic and rapid proportions by historical standards.

We were once first in the world in college completion rates, high school completion rates. We've slipped to 15th by some indicators, not because we've gotten worse. We've stayed the same, while other countries are moving ahead. And the economy is demanding more technology. It's demanding more—I think we don't have the luxury of sitting around—I think the leadership you're providing here to move this is important. I think kids and educators and teachers are not looking for a prescription from Washington, but they're looking for leadership from Washington. And I salute your efforts to provide that here.

The CHAIRMAN. Senator Isakson, thank you for your patience.

#### STATEMENT OF SENATOR ISAKSON

Senator ISAKSON. Well, thank you, Mr. Chairman, for the courtesy. I want to thank all the guests that have been here to testify today. I have—as I always do, when educators are present—learned something. You've all had a great input today into the conversation.

I know Ms. Neas and Mr. Thomas have both expressed themselves already on the issue of special assessment of special education kids. I'd like to ask Ms. Danks and Mr. Seaton, who are in the classroom every day—and I think you're the lead special needs teacher. Is that not correct, Ms. Danks?

One of the things I have been an advocate of, as the chairman knows, in this committee is some flexibility in the assessment of special needs children, in particular, and propose that rather than having a limited narrow waiver for cognitive disability that instead we allow the IEP to determine the assessment vehicle each year that the special education child is subject to, because that's the one time you have the parent and the teacher and the school present making the decision for that child in terms of how you're going to measure the progress of that child in that next year.

I'd like to have Ms. Danks and Mr. Seaton just comment on that.

Ms. DANKS. I agree with you. I think the IEP process is great at getting everyone together and focusing on that one student. I think when we come to assessing based on State or national standards or whatever we're talking about, we really forget that individualized part of the individualized educational plan.

I know at my school we're constantly battling between the State standards that are far beyond our students' cognitive abilities at this point in time and their IEP which actually does address the skills that they need in order to function after they're done with the public school system. Unfortunately, a lot of times, those two documents aren't working together, and so we're using a lot of our time to figure out that balancing game.

As far as assessing students with special needs, I think it's essential whether—I think an alternative assessment is great. I know in Maryland, we had the typical assessment that most stu-

dents took, and then we also have an alternative assessment. For a while, we also had a modified assessment for those students that fell outside of that 1 percent but still were not able to complete grade level work. They are doing away with that, and I'm not sure of the policies with that.

But as far as assessing students with special needs, I think that our students have enough obstacles, and for us to be another one saying that they can't do—I think that's such a disservice to them. I think we need to continue holding our high standards and provide an effective assessment, and I think that can be determined at various levels. Like you had mentioned, with the IEP process we can do that during—we can assess students based on the IEP and we may be serving them better.

At our school, we actually went through a process where we created an assessment. We got a waiver from our district assessments, and we created an assessment to look at our students' continuous progress, and that's the exact phrase that we used. And it took us about a year to create this assessment. We were continually looking at student progress as it relates to that student's capabilities.

We're not holding them to some standard that someone else told us to. We're actually looking at what the student is able to do throughout the school year based on what they have been able to do and what we hope we're able to push them to do in the future.

Senator ISAKSON. Before I get to Mr. Seaton, would you please, if you get a chance, allow the committee to have the Maryland alternatives that you're using in terms of measuring progress for those special ed kids? I'd love to see what you've developed.

Ms. DANKS. Sure. And, again, that's just at our school level, and—

Senator ISAKSON. I understand.

Ms. DANKS [continuing]. And I think that autonomy was fantastic because we were able to go through a process that taught our entire school staff so much about our students and our staff needs. And coming away from that process, we have a much greater appreciation for how difficult it is to create an assessment, and so we applaud people for doing that. But I can certainly share that with you.

Senator ISAKSON. Thank you very much.

Mr. Seaton.

Mr. SEATON. I do agree also that the IEP is a great place to start with using it as a driver for assessment. One of the things that's happening in Tennessee now is we have guidelines that are set for alternative assessments. And what I've found in my classroom is—I try to make sure that I do a thorough evaluation of the records and try to find anything that will allow me to use alternative assessments if that individual needs it. If they don't, I continue to use the Tennessee standards that we have—a little more work for me, but I outline those things that I believe are necessary at the time.

I stay in compliance nationally to make sure that I'm meeting the special ed requirements—so you're looking at an IEP inside of an IEP. You have a set of standards that says that—regulatory standards that we have to have that are grade level functions, but then I have another set of functions that are necessary for that

young person to be successful enough to want to go to the next level and then move forward.

Senator ISAKSON. I thank you both, and I don't have time to go to another subject, except to say, Mr. Luna, or Dr. Luna, whichever it is, Idaho is doing a great innovative thing by engaging parents more in the education of children. I know in your pay for performance, the parents actually have some say in that merit-based system, and I commend what you all are doing very much.

Mr. LUNA. Thank you.

Senator ISAKSON. Thank you, Mr. Chairman.

The CHAIRMAN. I'd like to ask Ms. Neas—I know you put yours up right away to involve yourself in that last discussion with Mr. Seaton and Ms. Danks.

Ms. NEAS. Thank you, Senator Harkin. I think what my two colleagues here on the panel described is exactly what's appropriate and available under current law. Under the Individuals with Disabilities Education Act, an essential component—an essential decision that each child's IEP team needs to make—and the IEP team includes the child's parents—is which assessment is appropriate to that child.

Does the child take an alternate assessment based on alternate achievement standards? Does the child take the regular assessment with or without an accommodation or modification? That is something that's currently required under IDEA. What my two colleagues just described is exactly what's supposed to happen. For those kids that are on alternate achievement standards, you have to design something that's appropriate to that child.

Those kids are in a unique place where they are not on grade level. I oftentimes call them act of God kids. Short of an act of God, these kids are never going to be on grade level. It doesn't matter how much their mother loved them, what they had for breakfast, how many books were in their home. These kids are not going to be on grade level. They need a different measure.

But they need to make progress. Someone needs to be making sure that this year they learned more than they learned last year. And whatever it is to that child is what we need to have continue.

There's nothing in the law that says for those—what my concern is, is that when you put kids who don't belong in that category of kids with the most significant cognitive disabilities, when kids who are outside of that are put in that and then otherwise—

The CHAIRMAN. I think there's some confusion here, if I might interrupt. There's a 1 percent rule—

Ms. NEAS. That's right.

The CHAIRMAN [continuing]. That says that schools can automatically—I guess that's the right word—automatically take up to 1 percent of kids who are in IEPs?

Ms. NEAS. What the law says is that up to 1 percent of kids, all kids, which roughly translates to about 10 percent of kids with disabilities, can have their progress measured on an alternate achievement standard—an alternate assessment based on alternate achievement standards. What the current regulation allows is that States can count those 10 percent of kids in the 1 percent as proficient. There's nothing that says States can't give more tests—

can't assess more kids, but they can't count them as proficient outside of that 1 percent.

And that's what we're seeing in a number of States where they're giving—more than 1 percent of the kids are taking this alternate achievement standard, and that's where our concern is. We think that too many kids are being inappropriately placed in that 1 percent. But we absolutely believe that there are kids who are appropriate to that 1 percent.

The CHAIRMAN. Do you disagree with that, Ms. Danks?

Ms. DANKS. I don't disagree. But I know something I've seen in a lot of IEP meetings with students who attend a comprehensive school—so that other percentage that we've been talking about, not the students with the most severe disabilities. And a lot of times, when the parents come to the meetings, they say, "I don't want my kid to be taking that test, so we'll just opt out of that," because this testing and assessing has just gotten so out of control. And the parents see that it's out of control, and they don't want their child participating in it.

Sometimes there is a lot of pressure from the parents to exclude the student from that general assessment just because of the stigma attached with that. I agree that that's an issue. I'm not sure if 1 percent is the magic number. We're talking about States' rights versus the Federal Government. I'm not sure if 1 percent is the correct number. I'm not sure if there is a correct number. But I do know that that's definitely something to be considered.

I also think on top of that—just to go back to the original question, I think that a huge component we're missing with this 1 percent are the life skill standards, so that—we could use the IEP, which are those academic standards, and some life skill standards. But there are no States—there's not a requirement that States have those life skill standards, and some States do and some States don't.

I think that's a huge disservice to these students, and we're not preparing them for what happens for most of them when they're 21 years old and they exit the public school system. We're not doing a good job of getting them ready.

Ms. NEAS. Senator Harkin, if I could just add—I think this whole notion of life skills is so important, and I don't know the answer. But it may be an IDEA issue and what's appropriate to that child and not necessarily an ESEA issue. I just wanted to raise that.

The CHAIRMAN. Mr. Seaton.

Mr. SEATON. Yes. For Tennessee, we have built in a way to kind of catch some of that 1 percent. Young people that have a certain IQ score, we use that as a baseline. If they are average functioning, close to, they are not allowed to be placed in that alternative assessment bracket. So one of the things that—people who want to opt out are not able to do that just based on the fact that their young people—or you believe that this will be better for your scores.

Ms. DANKS. I'm sorry. Could I just add one thing? I think the problem we're falling into, too, is there's either an alternative or what everyone else does, and children fall in a lot of spots between those two extremes. And so I'm not sure exactly how it's worded in the law, but the idea of continuous progress can mean a student

takes an assessment and they score 30 percent in this month, and then they score 35 percent the next month, and that's continuous progress.

And for some of our students who don't fall in that 1 percent but who are also not performing at or above grade level, that's still a way for that student to show that they're making that continuous progress and for the school to demonstrate that they are providing the instruction that enables that continuous progress.

The CHAIRMAN. Senator Franken.

#### STATEMENT OF SENATOR FRANKEN

Senator FRANKEN. That's kind of a good jumping off point for my—where I want comments from, and it's about computer adaptive testing. And to what extent does this—certainly in terms of special ed kids and measuring growth.

I've been struck by some of—Mr. Luna talked about the growth model. And I know Mr. Luna is concerned with gifted kids, and I know that from teachers I've talked to in Minnesota, the way the testing has been done in No Child Left Behind is what percentage of kids exceed a certain arbitrary benchmark of proficiency. And so you can take those gifted kids, and you know that kid's going to be proficient no matter what you do to that kid, so they ignore the kid. And I think Ms. Geisselhardt talked about that as well.

Ms. Danks, you talked about computer adaptive testing, and I want to followup with you on—or you to followup on that, if you like.

Mr. Thomas, you talked about a growth model and why a growth model is so important. And Mr. Hess, before he left, was talking about just how kids are progressing during the year, and you can do that with a computer adaptive test, because you can take it multiple times during the year instead of what we've been doing, which is giving a test at the end of April, and the results come back, and they're autopsies.

Mr. Schnur, you talked about the importance of doing it beyond one test. And the thing with the computer adaptive test, you can take it multiple times over the year and you can measure growth.

I'd just kind of like for anyone who wants to talk about what—if they see any downside to the computer adaptive test. And we've made it—one thing we've done is made it voluntary. I mean, maybe that's one of the federalism issues that we've responded to. I think every State should have computer adaptive tests, but I've deliberately said this is something you can do, you may do, you're allowed to do.

Does anyone have any feelings about that, or thoughts?

Mr. GRIER. I'd like to just take a quick stab at it. I think you're spot-on in what you're proposing. I think the infrastructure across the country is very sorely lacking for schools to be able to do this on a large scale basis, because you just can't march kids into one computer lab in a school in groups of 25 and think you're going to be able to do this.

I've worked in school districts where we had computers in every classroom, and it was wonderful. Teachers could do quick assessments and get the information back on really a daily basis, every

2 weeks, or whenever you wanted them to. But I work in a school district now where we don't have that type of infrastructure—

Senator FRANKEN. Do you have a computer lab?

Mr. GRIER. We have a computer lab in most of our schools. But very few of our schools have a computer in every classroom for every child.

Senator FRANKEN. Right. Not everybody at the school has to take this the same day. You can go—

Mr. GRIER. No. If we're just talking about special ed students, that may be different. But I think this technique you're talking about applies to all students. It makes it just much more difficult in a 3,000-student high school.

Senator FRANKEN. Yes. But what I'm saying is that I don't think all grades have to take it the same day. The third grade can take it one day, or one classroom in third grade can take it one day, and one classroom—they can go down to the—as long as you have a computer lab, which I think schools probably should have.

Mr. GRIER. With all due respect, I'm just saying to you from living it every day, one computer lab in the school would not support the kind of testing model you're talking about. It just won't do it.

Senator FRANKEN. OK. In Minnesota, they seem to be able—I've talked to schools where they've had one computer lab and they've been able to do this. But maybe they're smaller schools or something. I don't know.

Mr. LUNA. Mr. Chairman and Senator, in Idaho, we've done computer testing since No Child Left Behind started. We never did the paper and pencil. We could see the writing on the wall, and we've done computer tests all the time. In fact, the first test that we rolled out was an adaptive test, and it showed growth. But it did not then pass muster under No Child Left Behind so we had to take a step backward.

The law that is being considered today is going to allow us to go back to the kind of tests we were actually doing 8 or 9 years ago, where we could actually measure growth without a floor or a ceiling so that we could actually see where a student is—how they're performing. I think what you're talking about, Senator, is right now, we have assessments of learning. We give them at the end of the school year. Those are great for accountability systems, and they help inform instruction somewhat for the next year.

But what we need are assessments of learning—or, I'm sorry, assessments for learning, where there are assessments that are less intrusive and they happen during the regular classroom period. I've gone into classrooms before where the—it's a very high level of engagement, where children are engaged and there's a lot of learning going on. And all of a sudden, the teacher says, "OK. It's time for the quiz. Everybody close your books." It's just like somebody sucks the oxygen out of the room.

The technology is available to capture assessment data during a regular lesson plan while it's being delivered. It means a heavy dose of technology in every classroom. It's not going to get done with just one or two computer labs per school. In our State, we've chosen to make heavy investments in technology, not with Race to the Top dollars, not by raising taxes, not by spending more money

on education, but by—we're willing to spend the money we already have differently.

I won't go into the details of our technology improvements, but they're very expansive. And every one of our classrooms will have the technology available to do the kind of assessments that you're talking about without relying on rotating kids through a computer lab.

Senator FRANKEN. My only reaction to that is I've seen tests—or I've seen classrooms where you can immediately—or they do exactly what you're talking about, and that's fabulous. What I'm advocating on computer adaptive tests is one of the aspects of it is exactly what you're talking about, which is that the test results, if they can be done as the year is going by, they're fore-learning, because the teachers can see what's going on and use the results for instruction.

I think Ms. Danks is probably going to speak to the special ed fact, which is that if you're measuring—if you're allowed to go outside of grade level, you're able to measure growth, and that makes the problem we were talking about before—it actually, I think, addresses it to some extent, anyway, which is that if you're at least measuring growth, kids who are below grade level—you can still see that they're learning.

Ms. DANKS. I think you make a great point, and I think that applies to all students, not just students with special needs. Seeing that continuous growth is going to be much more rich data that the teacher is going to be able to use than that one time in March or April where the school has probably completely stressed out the child to get ready for this assessment. The parents know about it. The city knows. Everybody knows about it.

Those results don't come back until June, and, like you said, it's like an autopsy. And then that information is not always useful. A lot of times, it's given too late. Well, here's this skill we taught in September that this student never mastered—wish I would have known that in September.

I think that testing has become such an event, and it comes with so much pressure. And like you were saying, it doesn't need to be—everybody does it on the same day. It could be two to three kids coming in and—some of these kids know how to use a computer better than anybody I know. As far as that being a barrier, even for students with special needs, I don't think that that's an issue.

Our school does work with a partnership board, and they've helped us tremendously in raising a great deal of funds. We have several computers in every classroom, a Promethean board in every classroom, and I would really encourage schools who are struggling to gain that technology to reach out to your community partners, businesses that are getting rid of computers, because then you can implement this in your schools.

The CHAIRMAN. Mr. Schnur, did you have a response on this?

Mr. SCHNUR. Just a quick comment.

Senator Franken, I think you're absolutely right to focus on computerized adaptive assessments. I think in the future that's going to be universal in education at some point. I think it's a good example of something which, you're showing judiciousness in not, like, mandating it. There have been lots of bills where people in both

parties have said, "I like this idea and require it." I think it's right not to require it. I think it's good to support.

The one thing I would say about the goals that drive this is that the changing—the transparency and the goal requirements and accountability to enable growth and improvement is crucial to help all kids, lowest achieving and highest achieving. One thing I think is that at a minimum, States setting goals for kids to get some absolute level of performance—

Senator FRANKEN. Absolutely.

Mr. SCHNUR [continuing]. And proficiency advanced high school graduation. I think it is important. Otherwise, we're going to make slight improvements, but not keep up with the race we're in against the economy.

Senator FRANKEN. I think we're talking about mandating a certain rate of growth so that by the end of the 12th grade, they're ready for college—is what the goal is, anyway.

Mr. SCHNUR. I think that's the right direction.

Senator FRANKEN. I'm not sure how that language is in the bill in terms of mandating that every year, there'll be a year of growth.

The CHAIRMAN. Mr. Seaton, you put your card up, and then I'm going to go to Senator Merkley.

Mr. SEATON. Yes, sir. I teach in the Orange Mound Community, which is the second oldest African-American community in the Nation, only behind Harlem. And one of the things—when you start looking at technology, we need—and we are raising money through our district. But we need the support of the national government in order to fully use technology throughout our system.

I believe that the rapid assessments that we can get through those computer-based tests will be fabulous for us to use it as an ongoing tool. But I think that we still need to think how long will it take to get that type of technology in every school. And I think that one of the things that was mentioned, the common core standards, is—and this is where I believe we need some national leadership in having those common core standards as a base for our national assessment. Since we're looking at being competitive globally, we need to know where we all are from California to the bottoms of Mississippi.

The CHAIRMAN. Are you saying, Mr. Seaton, that there's an inequality of funding for schools based upon their zip code?

[Laughter.]

Mr. SEATON. No, sir.

Senator FRANKEN. We should rectify that.

Mr. SEATON. No, sir. I'm not saying that at all.

The CHAIRMAN. You should be.

Senator FRANKEN. Can I read this language just to respond to Mr. Schnur, because now I have it in front of me. It says,

"If the State chooses to use student growth as a measure of academic progress and to determine if students are on track to college and career readiness"

this is how—

"a student performing below the on-track level of performance for the student's grade level under subsection . . . on the academic assessment for the subject under subsection . . . is

attaining a rate of academic growth in the subject that indicates that the student will be on track to college and career readiness in not more than a specified number of years, and two, a student who is performing at or above the on-track level performance for the student's grade level on the academic assessment for the subject is continuing to make academic growth."

For States that choose a growth model, we are addressing, I think, what you raised, I think. Are you satisfied?

Mr. SCHNUR. I think that's good. My view is that having that federally prescribed but state some big goals about increasing the percentage of kids who are meeting big goals is important. But I know that's a longer conversation. But I think that's a great step in the right direction.

Senator FRANKEN. Thank you.

The CHAIRMAN. We have a rollcall vote that just started. Senator Merkley has been very patient. I'm going to go to him. But there's a rollcall—I know it's going to be at 12:15, and I think we're probably not going to come back after that.

Mr. Merkley.

#### STATEMENT OF SENATOR MERKLEY

Senator MERKLEY. Thank you, Mr. Chair.

And thank you to all of you for bringing your expertise here to the Capitol.

I'll followup on the computerized adaptive testing. Oregon was an early adopter of this, and I think folks can't imagine any other way of doing it. If schools out there are still using paper tests and the results come back months later, that is crazy if you're trying to have teachers be able to utilize the results in order to understand how their students are progressing. And the cost of the technology has come down so much that I certainly would encourage folks to explore it.

I wanted to note another issue, which is we're replacing the current requirements for adequate yearly progress for college- and career-ready standards and the goal of developing statewide accountability systems in order to receive Federal funding by 2014 and 2015. States vary in terms of the progress that they have made and will be making to develop this new accountability system based on college and career-readiness.

I thought Superintendent Luna, perhaps from Idaho's perspective—and other people are welcome to chime in—could give us a sense of how the State is progressing in developing and adopting these new assessments or the process that's anticipated and the expected timeline and kind of insights about the challenge that will occur in terms of this transition.

Mr. LUNA. Mr. Chairman and Senator, Idaho, along with Oregon and a number of other States—I believe there's almost 30—are part of the Smarter Balance Consortium that is working to develop the adaptive computerized assessments that we're talking about. I believe that they will begin piloting them in 2 years, and then after the pilot begin to administer them.

At the same time that those assessments are going into place, we're also going through the process of adopting the common core. And so we have to go through the process of aligning our curriculum to the higher standard and now an assessment that measures to this higher standard, and all of that is, as I said, in place to be piloted, I believe, in 2014. And then the year after, it becomes part of the accountability. It's the measure that we use in our State as part of our accountability system.

Senator MERKLEY. And so do you anticipate that the AYP will continue to be used between now and then? And if it's piloted in 2014, do we anticipate wide adoption the following year or 2 years later?

Mr. LUNA. Mr. Chairman and Senator, I think that's going to be up to the plan that the State puts together. I know that if it's a State that—I believe that if it's a State that's pursuing a waiver that there's actually 1 year where everything kind of stays the same, and that is the transition year. And I believe that is 2013, and then there's the transition. But I think it depends on the plan that the State puts together.

Senator MERKLEY. Do we have time for any other feedback on this question? Thank you.

The CHAIRMAN. Yes. Did you have feedback, Ms. Geisselhardt?

Ms. GEISSELHARDT. I wanted to address what Senator Franken said in regard to formative assessment. I think there is a lot of emphasis on formative assessment now, and it is being used and used for instruction. But as far as the tests that we would use for data collection in comparing students, whether we're comparing growth, which is what we hope to be able to do in the future, is compare growth—we would have to have—as I said, we would still have to have a testing window, where testing is done within a particular timeframe in order to use it for comparison.

Mr. LUNA. Mr. Chairman, I had one more quick comment, and it was in response to Senator Paul's early concern where he said that currently we have basically everyone that's frustrated with the current law, but now we're going to just take what we're frustrated with but only apply it to 5 percent of our schools. Under the new law, the 5 percent are not going to be held to the same frustrating parts of No Child Left Behind today. We will use a growth model, which we cannot use under the current No Child Left Behind. It will be a growth model that we'll use to measure how those schools are improving.

I think the most important part is now, under the new law, there's flexibility. We receive Federal funds right now where it's very prescriptive, where the school may need to focus on a specific area but the funding forces us to spend it elsewhere. Now, because of the flexibility in the law, we can take the Federal dollars and we can combine them and focus on the area where we know that low 5 percent school needs assistance. It is a different approach, and I think it'll be a far more successful approach.

The CHAIRMAN. I'll entertain a couple more, but when the second bell has rung we've got to go.

Mr. Schnur, you have something, and then Mr. Grier, and then Mr. Henderson. That's it. OK. Go ahead.

Mr. SCHNUR. Mr. Chairman and Senator Merkley, I think your question is a really important one. And I think there is a risk—as I said, there are many good elements in this bill. I have some reservations, significant ones, about the incentives that I mentioned before and on teacher evaluation and around the press for accountability and transparency.

I think there is a risk without more steps being taken that you won't in this bill drive the crucial transparency needed to look at performance across the whole system. And in the effort to provide flexibility, I think your question got at this risk that we may not actually give the public the transparency and how well States and schools are doing in educating kids at all levels at achievement gap schools.

I think that flexibility is good. But I think there's some important improvements that need to be in this area. Otherwise, what you've suggested may become a real downfall of this law. But I hope that can be addressed in this legislative process.

The CHAIRMAN. Mr. Grier.

Mr. GRIER. Yes, sir. Real quick, I want to come back real quickly to this issue about comparability. This is really a serious issue, and I might suggest that the committee consider a detailed impact analysis from the General Accountability Office or the Congressional Research Services on the impact of these changes before you move forward.

The last thing I wanted to say is that most of the really good charter networks in this country that are doing a great job are spending between \$1,000 and \$2,000 more per student in these low performing schools and are getting good results. This is in addition to the title I money. And I want to come back again—I'm really concerned that if we don't look at some type of set-aside to provide some additional title I funding for these low performing schools that we just aren't going to be willing to make the tough political changes that we need to make in giving them the amount of funding they need to do this work.

The CHAIRMAN. I thought that was ringing a bell. My staff just reminded me we have a 4 percent set-aside in this bill just precisely for what you're saying. There's a 4 percent set-aside for that.

Mr. GRIER. For those bottom 5 percent schools?

The CHAIRMAN. Yes.

Mr. GRIER. OK. Thank you.

The CHAIRMAN. Mr. Henderson.

Mr. HENDERSON. Thank you, Mr. Chairman. Because this discussion is coming to a close, I just want to make a concluding observation if I might, which is that we began at the outset conceding that No Child Left Behind isn't perfect and in need of reform. I don't think anyone disputes that.

I think there are some who would argue, however, that the current draft bill represents an, shall we say, overreach on the part of the Federal Government by using its Federal dollars of investment to try to guide State accountability. I got that. The truth is, however, that ESEA really establishes a floor, not a ceiling, on accountability and that States are obviously free to exceed and create new standards that, in fact, hold all students accountable.

My only point is this. Look, I celebrate the fact that over the last 50 years, the country has changed significantly for the better and become a more perfect union. But I also recognize that Americans often are ahistorical and fail to take into account the specific elements that led to the change that we support today. Had the Federal Government not chosen to intervene in States' activities in this area, we would not have had the improvement that we've seen.

And those who seem to argue that States, when left free to their own devices, can achieve the kind of goals that we all seek need only look at the record that has been established over the past to recognize that the States themselves are not perfect, and that they have, in turn, improved their academic involvement because of the Federal Government, not in spite of it. And so I think, in that sense, this does the discussion of government's role a disservice to the extent that we fail to recognize the contributions that the Federal Government has made in improving the quality of education for all.

The CHAIRMAN. Well, thank you very much, Mr. Henderson.

Thank you all very much. I thought this was a great 2 hours. Here, I guess, as chair, I get to have the last word.

Let me just sum it up this way. The whole issue of elementary and secondary education is a complex issue. But we can't just throw up our hands and say because it's complex, and there's all these moving parts, that we can't do anything and we walk away from it.

What I've heard here is that there's a role to be played by the Federal Government, the State government, and the local government. We've just got to figure out what those roles are, and they may vary from time to time, depending upon circumstances.

I will State that this bill that we have will not solve every problem in elementary and secondary education. Mr. Luna said when he talked about No Child Left Behind—he said there's the good, the bad, and the ugly. What we've tried to do is get rid of the bad and the ugly and keep the good and try to expand on it somewhat. So, yes, we've retreated in some areas and advanced in others.

Every bill that passes a committee or a Congress, I can poke a hole in it. No bill has everything everybody wants. I understand that. This bill is not Mr. Enzi's bill, and it is not mine, either. But it is ours. And in that way, we make those kind of agreements.

I think the essential question is: Is it better than the present bill? Does it advance the causes of finding the proper balances between Federal, State, and local? And does it warrant general support across a wide spectrum, knowing full well that everyone here has something that probably they would like to change in that bill, including Mr. Enzi and me.

But the question is: Does it advance the cause of what we're trying to do in finding those proper roles and trying to provide a better structure and framework for every child in America to get a really good education so we have really good, effective teachers, good leaders in school, that we have comparability, that we have—that we even out the—Mr. Seaton, I don't think you got my subtlety in that, you know.

Jonathan Kozol wrote about this a long time ago, about savage inequalities, and those still exist today. In Fairfax County, our

schools have the best computers and everything that you can imagine. Why don't your schools have those? Well, there's a little bit of inequality in zip codes.

We have to figure out how we make sure that kids who happen to be born in bad circumstances, have a bad family circumstance, low income, impoverished area, maybe English language learners, maybe have a disability, maybe have a learning disability—how do you keep them progressing, too? How do you reach down to that child who has the least and make sure they get the benefit of our education system?

That's what we're trying to do, imperfect as it is. That's what we're trying to do.

I thank you all very much. It's been a great discussion.

The committee will stand adjourned. Thank you.

[Additional material follows.]

## ADDITIONAL MATERIAL

**PREPARED STATEMENT OF ALAN KNAPP, DIRECTOR OF NATIONAL POLICY—  
PARTNERSHIP FOR 21ST CENTURY SKILLS (P21)**

Chairman Harkin, Ranking Member Enzi and members of the committee, thank you for the opportunity to submit this testimony as the committee continues to further deliberate on the reauthorization of the Elementary and Secondary Education Act.

Every child in America needs deep core subject knowledge and essential skills to succeed as effective citizens and workers in a demanding global economy. These demands require that students be fully equipped with proficiencies beyond the basics of reading, writing and math. Skills known as the 4Cs; Critical thinking and problem solving, Communication, Collaboration, and Creativity and innovation, and the ability to learn, apply, and adapt them to all subjects are becoming increasingly more important for college and career readiness. Colleges and employers agree that students who learn to fuse subject knowledge and these skills in school are better prepared to enter the workforce.

However, these skills are not expressly defined or stressed in Federal education policy and are not found currently in this bill. P21 is pleased that the ESEA reauthorization bill includes a number of references to skills aligned with standards and assessments as part of college and career readiness throughout section 1111 and section 1131. This is a good start. However, we would like to see a more clarified definition of the 4Cs or perhaps reference a set of criteria from the U.S. Department of Labor which closely resembles P21's Framework for Learning, such as their O\*NET Content Model, and add this to section 9101. This would help guide States toward fully incorporating these skills into their learning and accountability structures.

As mentioned previously, this bill does a good job in our view of including a number of references to skills aligned with standards and assessments as part of college and career readiness. However, we remain concerned that nothing in the bill requires local professional development applications or allows local uses of funds for professional development to enable educators to help fuse these skills with content.

Additions to this bill to this effect in section 2122 and section 2123, along with an expanded definition of professional development in section 9101, would create the environments and resources for our educators to meet this challenge so that all students can apply a range of skill competencies alongside core academic subject knowledge and do so in real-world contexts.

P21 strongly believes that students become more engaged and take ownership of their education when project-based learning opportunities are emphasized that allow students to apply their knowledge and skills in real-world contexts. The ESEA reauthorization bill includes a number of uses of grant funds to help implement innovative and effective secondary school reform strategies to ensure students graduate high school ready for college and career, including service-learning, experiential, and work-based learning. However, there is no mention of project-based learning. The addition of this principle to section 1201 would allow opportunities for students to apply their knowledge and skills in real-world contexts.

Many of these principles are currently embodied in the 21st Century Readiness Acts, S. 1175 and H.R. 2536, which represents bicameral and bipartisan legislation that P21 and its members strongly support and endorse.

Sixteen States and many local school districts throughout the country continue to unite with us around a shared vision for student outcomes and success that are based on identifying and delivering rigorous content knowledge and skills that students need to be effective workers and citizens in the 21st century global economy. States realize we are in a skill-based economy and seek the opportunity and flexibility in Federal education law that helps their education systems meet this challenge. This momentum isn't sustainable unless Federal policy recognizes and creates environments that support and encourage State and local innovation in this direction.

Our Nation's future depends on our ability to prepare children not just to succeed, but to lead in the 21st century. P21 believes that fusing rigorous content with the mastery of these critical skills is essential in order to prepare our students to be global citizens who can fortify the American workforce and democracy.

ABOUT P21

P21 is the leading national organization that advocates for 21st century readiness for every student. As the United States continues to compete in a global economy that demands innovation, P21 and its members provide tools and resources to help

the U.S. education system keep up by fusing core subjects (the 3Rs) with the 4Cs (critical thinking and problem solving, communication, collaboration and creativity and innovation). While leading districts and schools are already doing this, P21 advocates for local, State and Federal policies that support this approach for every school.

**PREPARED STATEMENT OF THE NATIONAL ALLIANCE FOR PUBLIC CHARTER SCHOOLS,  
SUBMITTED BY URSSULA WRIGHT, INTERIM PRESIDENT & CEO**

Chairman Harkin and Ranking Member Enzi, thank you for your leadership in sponsoring a bill to reauthorize the Elementary and Secondary Education Act (ESEA). We appreciate the committee's diligence and hard work spent updating the ESEA to better reflect the lessons that we've learned from No Child Left Behind (NCLB).

As the National Alliance for Public Charter Schools (NAPCS), we are the leading organization advancing quality, growth and sustainability for the charter sector. We take an integrated approach to our advocacy work that has an impact at both the Federal and State levels. Our mission is to lead public education to unprecedented levels of academic achievement for all students by fostering a strong charter sector. At the Federal level, the U.S. Department of Education's Charter Schools Program is the prime focus area for the NAPCS and the charter school movement. As such, most of our comments are focused on title V, part D: Charter Schools Program, even though as public schools, charters are subject to the wide spectrum of obligations under the ESEA.

**ABOUT THE CHARTER SECTOR**

Forty-one States and the District of Columbia currently have State laws that allow charter schools. The NAPCS estimates that there are more than 5,600 charter schools serving more than 2 million students. While those numbers are small in comparison to the overall size of public education in the United States, they mask much larger percentages in a growing number of communities. Today, six American school districts have at least 30 percent of their public school students enrolled in public charter schools. These include such major cities as New Orleans (leading with 70 percent) Washington, DC, Detroit and Kansas City. Additionally, 18 school districts have 20 percent or more of their public school students enrolled in charter schools, and nearly 100 districts now have at least 10 percent of public school students in charter schools. The large majority of charter schools are independent, community-based schools, most often founded by parents, teachers or local organizations. Less than 30 percent of charters have outside management, either non-profit or for-profit. In almost all States, it is the governing board of the school (itself a nonprofit organization) that holds the charter, whether there is outside management or not.

According to the most recent national data (a study by researchers at Ball State University), charter schools receive about 22 percent less in per-pupil funding than other public schools, a figure that varies by State and community. The biggest contributor to this gap is a lack of dedicated funding for facilities. Only 11 States provide direct funding for leases, mortgages, and major renovations.

Nationally, charter schools enroll a significantly larger proportion of Black and Hispanic students than do other public schools. Charters also enroll a slightly larger proportion of students eligible for free or reduced lunch. They enroll a roughly equivalent percentage of special education students as other public schools (11.9 percent vs. 12.4 percent nationally). In all of these cases, the numbers will vary by State and community.

There is an emerging picture that charter schools serve underrepresented students well—low-income and minority students in charter schools do better on standardized tests and have a higher likelihood of college entrance and completion. Perhaps the most intriguing study is one just released by the National Charter School Research Project in which researchers reviewed a set of studies chosen for methodological rigor. The team did a meta-analysis of the various studies, looking through a series of lenses at a vast amount of data. Their findings are not unalloyed good news for charter supporters, but they did find evidence of strong performance in elementary reading and math, and middle-school math, and especially good results in urban charters.<sup>1</sup>

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<sup>1</sup> Julian R. Betts and Y. Emily Tang: *The Effect of Charter Schools on Student Achievement: A Meta-Analysis of the Literature*. National Charter School Research Project, University of Continued

There is an impressive body of evidence that charter schools are effective at closing achievement gaps, with most research focused on racial gaps in urban schools. However, a CREDO study also found that low-income students in charter schools, and English Language Learners, both outperformed counterparts in district schools.<sup>2</sup> A new study of nonprofit charter management organizations (CMOs) found that while their overall average effect on achievement was small (and pulled down by some outliers on the low side), those at the upper-end of the performance scale were achieving remarkable results.<sup>3</sup>

Charter schools can be a lever for change in education reform. As we try to improve the quality of education for all children in this country, and the reauthorization of ESEA is a key component of this work, charter schools are raising expectations with high standards and creating innovative programs to better prepare children for 21st century life and workforce demands. The programs at the Federal level that support charter schools can often spur positive improvements in State law and incent States to adopt and support innovative methods of schooling.

#### THE FEDERAL CHARTER SCHOOLS PROGRAM

There are four Federal programs that support public charter schools: the Charter Schools Program (CSP); the State Charter School Facilities Incentive Grant Program; the Credit Enhancement for Charter School Facilities Program; and the Charter Schools Program Grants for Replications and Expansion of High-Quality Charter Schools.

Created in 1994, the CSP provides financial assistance to help cover charter school startup costs. Through a competitive process, the U.S. Department of Education awards grants to State education agencies (SEAs). In turn, SEAs make subgrants to charter schools. If an SEA doesn't apply for funding or if its application for funding is not approved, the Department of Education can make grants directly to charter school developers. Since its creation, the CSP has received almost \$3 billion in funding and has impacted hundreds of thousands of public school students.

Created via the NCLB, the State Charter School Facilities Incentive Grant Program provides Federal funds on a competitive basis to States to help cover charter school facility costs. The program is intended to encourage States to develop and expand per-pupil facilities aid programs and to share in the costs associated with charter schools facilities funding. Over the past 7 years, the program has received over \$100 million in funding and has leveraged over \$1 billion dollars on the behalf of charter schools, serving over 472 schools.

The Credit Enhancement for Charter School Facilities Program provides grants on a competitive basis to public and nonprofit entities that enhance the ability of public charter schools to raise private capital to acquire, construct, renovate, or lease academic facilities. Since 2002, the program has received over \$221 million in funding helping over 335 charter schools finance facilities. It has done an exceptional job of using those funds to leverage private investment in charter facilities. In fact, more than \$9 private sector dollars have been raised for every \$1 dollar in Federal funds.

Last, in 2010, the NAPCS, with help from bipartisan leadership in both the Senate and House, secured language in the appropriations process that allowed for a portion of the CSP funds to be used flexibly by the Secretary of Education to establish a grant program for the replication and expansion of high-performing charter schools. This has allowed the Federal Government to provide funds to high-quality charter models that have a strong track record of success.

#### ESEA DRAFT PROPOSAL: TITLE V, PART D

The NAPCS is optimistic regarding the proposed updates from your committee to the Federal charter schools programs. The provisions related to charter school quality, sustainability and accountability are aligned with our organizational strategy and the best thinking from the field. Specifically, we support the provisions related to the replication and expansion of top-performing public charter schools, including allowing CMOs to apply directly to the Department of Education for funding. Expanding the Federal law to allow this important growth of the sector will give char-

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Washington-Bothell, 2011. [http://www.crpe.org/cs/crpe/download/csr\\_files/pub\\_NCSRPNottsTang\\_Oct11.pdf](http://www.crpe.org/cs/crpe/download/csr_files/pub_NCSRPNottsTang_Oct11.pdf).

<sup>2</sup>Margaret Raymond: *Multiple Choice: Charter School Performance in 16 States*. Center for Research on Education Outcomes, Stanford University, 2009, P. 6. : [http://credo.stanford.edu/reports/MULTIPLE\\_CHOICE\\_CREDO.pdf](http://credo.stanford.edu/reports/MULTIPLE_CHOICE_CREDO.pdf).

<sup>3</sup>Joshua Furgeson, et al. *Charter Management Organizations: Diverse Strategies and Diverse Student Impacts*. Mathematica, 2011: [http://www.mathematica-mpr.com/publications/PDFs/Education/cmo\\_final.pdf](http://www.mathematica-mpr.com/publications/PDFs/Education/cmo_final.pdf).

ter schools the opportunity to continue practices proven to deliver results and expand innovations designed to meet the needs of 21st century learners. We also applaud the bill's rigorous levels of reporting; oversight and accountability for public charter school authorizers; focus on equitable funding; and prominence given to improving access to facilities for public charter schools.

There are a few areas within title V, part D that NAPCS would like to see strengthened as the bill moves through the Senate. We would like to expand access to grants in subpart 1, the Successful Charter Schools Program, to nonprofit intermediary organizations with a track record of success in supporting high-quality CMOs. We are also supportive of the National Activities grant that bolsters charter school quality and encourages dissemination of best practices. In order to achieve the full impact of this program, the NAPCS supports increasing the percentage of funds reserved for section 5420. We'd also like to see further assurances in place that will require eligible local education agencies to demonstrate that they are actively supporting environments for charter schools through such measures as having district-wide plans for charter growth and enhancing the availability of loans or bond financing for facilities.

The NAPCS is concerned about the definition of "high-performing charter school" as it may be too narrow, including the requirement that schools track persistence rates at institutes of higher education—some States simply do not have this capability. Also, by requiring that student achievement and growth be a primary factor in decisions around renewal could present conflicting requirements for the charter schools between authorizing State laws and the Federal program. We suggest that the word "primary" be removed to allow for multiple measures of academic performance.

Moreover, we have concerns that the definition of high-performing charter school applied to subpart 1, section 5411, may have unintended consequences in the form of unfairly limiting credit availability to worthy charter schools that desperately need it. We have heard from a number of public charter school leaders, who have achieved amazing results in their schools, that some of the terms of this new definition would have prevented them from receiving financing or would restrict their expansion plans.

In addition to reviewing the Charter Schools Program, we thank you in advance for examining all parts of the bill to ensure the same levels of accountability found in title V, part D are applied throughout the law. It is essential that our Nation do more to meet the educational needs of all children—including children of color, low-income students, populations with disabilities, or non-native English speakers. We would like to see title II bolster efforts to provide children from underserved populations with exceptional teachers. The NAPCS has consistently witnessed that high performing charter schools, which typically serve a large proportion of low-income and minority students, attribute much of their success to the caliber and commitment of their teachers. We support requiring some of the strongest provisions that are optional under the current proposal, such as recruiting, preparing, placing, supporting, rewarding and retaining highly rated teachers and principals in high-need, low-performing schools.

We thank you for the opportunity to submit written testimony. We look forward to continuing to work with your committee as ESEA reauthorization moves forward.

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NATIONAL CONFERENCE OF STATE LEGISLATURES,  
November 8, 2011.

Hon. TOM HARKIN, *Chairman*,  
*Senate Committee on Health, Education, Labor, and Pensions*,  
*428 Dirksen Senate Office Building*,  
*Washington, DC 20510*.

Hon. MICHAEL B. ENZI, *Ranking Member*,  
*Senate Committee on Health, Education, Labor, and Pensions*,  
*833 Hart Senate Office Building*,  
*Washington, DC 20510*.

DEAR CHAIRMAN HARKIN AND SENATOR ENZI: We are writing on behalf of the National Conference of State Legislatures (NCSL) both in response to recent legislation reauthorizing the Elementary and Secondary Education Act (ESEA) that passed out of the Senate Health, Education, Labor, and Pensions Committee and to present the views of the Nation's State legislators as you discuss the current iteration of ESEA, No Child Left Behind (NCLB), in today's hearing. NCSL's policy on ESEA reauthorization is attached for your reference.

Because State legislators have a constitutional responsibility to establish and fund public education, they have a compelling interest in the reauthorization of this statute. In February 2005, NCSL's bipartisan Task Force on No Child Left Behind issued a report that recommended changes to the law, and discussed a productive and efficient role for the Federal Government in what has traditionally been an area of public policy funded and administered by the States. The law is now almost 10 years old and has not been reauthorized. Reauthorization of this statute will allow all States to benefit from corrections to the current law.

First and foremost, we applaud the committee's recognition that the Adequate Yearly Progress (AYP) metric based on achieving a 100 percent proficiency standard in reading/language arts and mathematics based on standardized tests was a flawed and static measure. NCSL believes that the ability to focus on student growth over time, and the ability to use multiple measures rather than relying exclusively on standardized tests to evaluate performance, provides a more robust and appropriate measure of how schools are performing. The committee's approach of allowing States to set career- and college-ready standards is a more workable method, enabling States to build on the work they are already doing in content standards and on assessments.

The Federal involvement in developing common standards and tests should be based upon and circumscribed by the language Congress used in Public Law 96-88 in 1979 to create the Department of Education, which did not include a directive regarding State allocation of their own funds, or for determining what paths States must follow to enhance student performance. The true virtue of the standards movement is its genesis in the States and its adaptability to State-specific conditions.

One of the biggest problems with NCLB was that it was set up to over-identify failing schools. The Senate committee bill allows a focus on the lowest group of low-performing schools, which means more resources can be targeted to the schools that most need additional assistance. The bill is further enhanced by the flexibility offered to States to design a school turnaround plan that makes sense for its own schools.

We hope that as the bill comes to the Senate floor, Congress will continue to discuss the appropriate way to set academic content and achievement standards for special education students. NCLB has required that special education students be tested at grade level, but the Individuals with Disabilities Act (IDEA), the Federal law governing special education, mandates that these students be taught according to ability. This is a basic conflict that presents difficulties for States as they seek to raise the achievement of all students. NCSL is pleased that an amendment allowing special education teachers to be exempt for the requirements regarding highly qualified teachers was adopted by the committee. Many special education teachers must teach multiple subjects and having them prove content knowledge in each subject is unrealistic. Data collected as a result of NCLB requirements has given us a better picture of the academic performance of special education students, and we look forward to continued discussion about the best way to meet their needs.

NCSL is also pleased that the committee's legislation contains some additional flexibility from NCLB provisions regarding highly qualified teachers. There is no disagreement that well-prepared teachers with strong subject matter expertise can provide the kind of instruction every child needs. However, NCSL supports common sense provisions in the committee bill that allow States and districts to deal with the realities of staffing classrooms. These include allowing teachers of Native American, Native Alaskan and Native Hawaiian culture, language and history to be exempt from credentialing requirements that apply in other subjects, and allowing a teacher in a rural classroom to be supported by distance learning. This is another area where we hope the discussion is beginning, not ending.

States are firmly committed to evaluating teachers and principals. However, decisions about these evaluations and how they should be used are best left to the States, and NCSL appreciates that the committee did not require this.

NCSL remains concerned about possible Federal incursion into State school finance formulas. The committee bill requires that State education agencies develop and implement a plan to ensure that combined State and local per pupil expenditures are equal between title I schools and other schools. The complex issues around school finance equity are best resolved at the State and local level, and this action has implications for State funding formulas and finance laws.

While the legislation does not contain every change in NCLB that NCSL is seeking, it represents a mostly positive step in correcting some of the worst imbalances of a well-intended but flawed Federal law. We applaud the Senate HELP Committee for its work so far. Knowing that many issues remain to be discussed when the bill comes to the floor of the Senate, NCSL looks forward to continued refinement of this legislation.

For further information, please do not hesitate to contact NCSL State-Federal affairs staff Lee Posey ([lee.posey@ncsl.org](mailto:lee.posey@ncsl.org)) or Michael Reed ([michael.reed@ncsl.org](mailto:michael.reed@ncsl.org)) or call NCSL's DC office at (202) 624-5400.

Sincerely,

THE HONORABLE JOHN GOEDDE,  
*Idaho Senate,*  
*Co-Chair, NCSL Education Committee.*

THE HONORABLE ROY TAKUMI,  
*Hawaii House of Representatives,*  
*Co-Chair, NCSL Education Committee.*

ATTACHMENT—NCSL POLICY: REAUTHORIZATION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT

The current incarnation of the Elementary and Secondary Education Act, No Child Left Behind (NCLB), significantly shifted control of K-12 education to Federal officials and away from State and local-elected officials. While the original intent of NCLB—to identify the unmet needs of all children in our education systems and promote education reform—is commendable, State legislators believe that current Federal policy dilutes the impact of limited Federal resources. NCLB also mandates the use of a flawed and discredited method of measuring academic progress that over-identifies failure and promotes a process and compliance model of Federal-State interaction, instead of allowing for State innovation.

NCSL calls upon Congress to complete the overdue reauthorization of NCLB. State legislators believe that NCLB should be rethought in its entirety and calls on Congress to swiftly adopt legislation that:

- Incorporates the recommendations of the NCSL Task Force on No Child Left Behind. These recommendations include revitalizing the State-Federal partnership; overhauling Adequate Yearly Progress (AYP); amending the State-plan approval process to make it more transparent and less arbitrary; and changing the sequence of consequences for under-performing schools;
- Follows the concept of incentive-based programs as opposed to the coercive, punitive system at the heart of NCLB;
- Acknowledges State constitutions and State-elected officials as well as basic principles of federalism;
- Focuses on the need for effective teachers in classrooms, rather than meeting a Federal definition of “highly qualified teachers”; and
- Avoids penalties that reduce Federal K-12 funding for any State that shows continuous improvement in student achievement, and/or a closing of the achievement gap in that State, using any legitimate metric that is incorporated into State policy.

ADVOCACY & CONSULTING FOR EDUCATION,  
WAYNE, PA 19087,  
November 7, 2011.

DEAR SENATOR HARKIN: I am a federally trained special education advocate in Pennsylvania and am writing to you about the HELP Committee hearing tomorrow. It is my understanding that my name was submitted along with my biography to your office in preparation for testifying at tomorrow's hearing to discuss the reauthorization of the Elementary and Secondary Education Act. I wanted to follow up with you about offering my testimony tomorrow. I have thoroughly reviewed the reauthorization and am well-versed in the topic. In addition to my close review of the document, my training has provided me with a perspective that is particularly appropriate for this discussion. I am one of about 75 people in the United States to have successfully completed the only Federal training for special education advocates, the Special Education Advocates Training (SEAT), offered by the Council of Parent Attorneys and Advocates through a grant from the Office of Special Education Programs.

I am traveling to Washington, DC today for a Department of Education round-table in advance of tomorrow's hearing, in conjunction with Parenting Magazine's Mom Congress initiative. I have previously served as the Pennsylvania representative for Mom Congress and currently function as the Special and Gifted Education Mentor. Following this discussion, I will be meeting with staff from Senator Bob Casey's office at 4:30 p.m. to discuss both the ESEA revisions and the TALENT Act. I would be honored to have the opportunity to speak about any part of the bill be-

fore the HELP Committee tomorrow, and to this end I am including three statements I have prepared. The first discusses the Act as a whole and particularly its stance on parental engagement, a key piece of this legislation that I am well-situated to discuss given my experience representing parents and children. The second statement discusses the TALENT Act, and the third is a combination of these two topics.

In advance of the hearing tomorrow, I wanted to confirm that you had received my bio and share with you my thoughts. It would be a privilege to be able to provide feedback about this Act before the committee, and I am fully prepared to do so. Please let me know whether time and space will permit me to participate, and I will look forward to hearing from you or one of your staff. I can be reached today at (610) 529-9350.

Sincerely,

MELISSA BILASH.

### Attachments

#### ESEA AND TALENT ACT-COMBINED TESTIMONY

Providing high quality education is about expectations and accountability. When we think about America's children we are considering a diverse and exceptional population capable of astonishing things. As you consider reauthorizing the Elementary and Secondary Education Act I would urge you to not forget our history, the realities of education, or the heights that our children can reach. We are poised to strike a balance between our greatest aspirations and the on-the-ground challenges in education. It is my hope that, by enacting the TALENT Act and reauthorizing a more accountable Education bill, we can strike that balance.

My name is Melissa Bilash and I am here to speak on behalf of parents and families. I am a federally trained special education advocate. My practice in Radnor, PA spans seven States and is dedicated to providing assistance and support to families of exceptional children seeking appropriate accommodations in the school setting.

While the possibility of new methods is integral to progress in schools, there are some basics that we can never neglect. Every student should have a thorough needs assessment performed for each academic subject, each year. Students do not just have needs related to their academic ability, but related to their age, developmental abilities, social and emotional abilities, home life circumstances, and many other facets of their lives. All needs that will affect a student's academic capacity must be met and it is imperative that we do not overlook other educational needs because a student is able to do "well enough" without additional support. We must be providing support that makes a child's full potential a reality. The proposed bills are about seeing students as individuals and seeking to support them in meeting that potential.

In this vein, I would encourage the committee to re-evaluate both pieces of legislation to provide tangible accountability wherever possible. The proposed parent and family engagement and differentiated education in both bills are promising steps towards this kind of accountability. I would ask that we take these measures even further.

Parent and family member engagement can be strengthened in the reauthorization to assure school accountability. Establishing school compacts must require the written approval of at least 75 percent of parents and family members for enrolled students. Schools must be mandated to make and maintain contact with parents on a quarterly basis and also to be able to demonstrate this contact through careful recordkeeping. Finally, I would suggest that when providing assessment data, all parents and family members receive written notification of the family engagement mission statement of the ESEA and their rights within it. We know that parent and family member engagement is one of the most primary factors in student success. We would be short-changing this country's students if we did not demand accountable, documented parental engagement.

The TALENT Act proposes a renaissance, not just in gifted education, but in the way we educate all students. I am excited to see this kind of goal-setting and evidence-based progress in education and would encourage the committee to do everything in its power to make these aspirations a reality. All schools should be required to return the results of at least one new strategy for identifying gifted students, one new strategy for instructing gifted students, and one gifted strategy that has been implemented in mainstream classrooms for the school year. By requiring the documentation of these strategies we are giving schools the opportunity to thoroughly assess their methods and evolve their programming based on the effectiveness of the strategies and the need of their students.

If the No Child Left Behind Act has taught us anything it is that education is not a numbers game. We, as a nation, are invested in high quality instruction and career readiness for our students that acknowledges their learning needs and stimulates academic growth. Having worked with the families of many exceptional children I feel strongly that every child needs to be treated as an individual. To this end, we must continually develop new ways to identify needs and engage students and their families. This process will be unique to each school district, classroom, and student, but that does not remove the necessity of accountability to certain standards.

My experience tells me that schools are often only able to meet the minimum standards required. If this is what we can expect of our schools, then we have a responsibility to set the expectations appropriately. I would appeal to the committee to mandate careful documentation of family engagement and to require schools to provide parents with information about their role in the educational process.

Furthermore, as schools enact new strategies for identifying and instructing exceptional students and apply these methods to the wider population, I would encourage documentation and reporting of this progress. Accountability affords schools the opportunity to evaluate family engagement and new education strategies and to benefit from one another's experiences. This bill represents a bipartisan effort to reform our current educational policy; we must make the most of this momentum to ensure that our children have access to excellent educational opportunities as well as the chance to share our successes with the wider community. In this way, schools across the Nation can move forward together toward higher quality education.

Thank you.

#### ESEA TESTIMONY

Streamlining: the act of altering a process to make it more efficient and simple. Listening to the conversation about the Elementary and Secondary Education Act Reauthorization, streamlining public education seems to be lauded as its highest virtue. A simplified process will localize decisionmaking, reduce the number of participants, and remove many voices from the conversation. As good as this sounds, a free, appropriate, public education will never be this simple.

My name is Melissa Bilash and I am here to speak on behalf of the parents and families of exceptional children. I am a federally trained special education advocate. My practice in Radnor, PA spans seven States and is dedicated to providing assistance and support to families of exceptional children seeking appropriate accommodations in the school setting.

A free, appropriate, public education involves the efforts of many individuals. It is necessary that administrators, teachers, school staff, and parents all work in conjunction to create programming and services that suit the needs of each unique learner. This can be an arduous and lengthy process that is ongoing throughout a child's academic life. Without the cooperation of each of these people the academics and overall development of a student can suffer irreparably. We cannot simplify, or streamline our way out of this conversation. We are learning all the time that parent and family engagement is vital to success in education. My greatest fear is that our desire for efficiency will offer only nominal opportunities for parent engagement or exclude families from education altogether.

Karen Mapp, from the Harvard Graduate School of Education, has synthesized 51 studies examining the influence of family and community relationships on academic achievement. The studies spanned a wide diversity of cultures and the full range of K-12 grade levels. She has found not only that parents have the desire to be involved in their child's education, regardless of their own education level, ethnicity, and socio-economic background, but that many are involved in whatever ways they believe they can be. Without supporting these parents and providing them with the best possible information about how they can encourage academic success, we are ignoring a primary resource in a child's life.

The ESEA Reauthorization addresses parent and family member engagement; however, we must require more than schools offering simple opportunities for parent and family member involvement. We have to approach this matter as it is presented to us: currently, many parents do not have the resources to take proper advantage of the opportunities for engagement that schools provide. Whether it is time, finances, education, or otherwise, we cannot assume that simply being given a greater chance to participate will allow parents to do so. This legislation needs to mandate greater communication between public schools and families of enrolled children. Schools are responsible for setting curriculum, providing materials, and seeing to all other aspects of academic success. We must also demand that they communicate clearly with parents and go the extra mile to involve all necessary parties

to a child's education in decisionmaking and programming for that child and for the school at large.

In my work, I see the reality of federally mandated parent involvement every day. The process of creating and individualized education plan requires parent agreement and approval of an exceptional student's educational program. In these cases we are dealing with children who need specific accommodations in order to access their education, but all children should have this kind of specialized attention. All parents deserve the opportunity for authentic engagement, but in my experience, statutory requirements to involve parents are not always enough to ensure that a child is offered or provided with a program that meets their needs. These mandates do not prevent parents from needing the assistance of advocates or, in some cases, attorneys, in order to seek appropriate educational accommodations for their child. As someone who sees the effect of legislative requirements of parental involvement every day I would appeal to you to make the mandate for parental engagement as stringent and specific as possible.

Parent and family member engagement can be strengthened in the authorization to assure school accountability. Establishing school compacts must require the written approval of at least 75 percent of parents and family members for enrolled students. Schools must be required to make and maintain contact with parents on a quarterly basis and also to be able to demonstrate this contact through careful recordkeeping. Finally, I would suggest that when providing assessment data all parents and family members receive written notification of the family engagement mission statement of the ESEA and their rights within it. We know that parents and family engagement is one of the most primary factors in student success. We would be short-changing this country's students if we did not demand accountable, documented parental engagement.

This reauthorization places us in the privileged of learning from and correcting our mistakes. We have seen the detriment of highly standardized assessment of schools and students and we know that this is not a numbers game. To evaluate the true quality of education and student progress we must move forward into a system of realistic and measureable family engagement in our public schools. We must be wary of simplifying education too much. Appropriate education for individual students requires our careful and responsible use of all available resources to meet unique needs. We would ask that the committee think carefully about the balance of efficiency and quality education. Please do not streamline parents and families out of the schooling process. Setting concrete, accountable standards for public school engagement with families is the only way to assure continued involvement and the continued success of American students.

#### TALENT ACT TESTIMONY

The TALENT Act is an opportunity for schools to recognize the gifts and unique needs of each student. This bill is a renewed chance to help our highest achieving students meet their potential and to improve programming across the board for all children. Teachers are regularly reporting the low priority that high achieving students receive in classrooms and schools. Coupled with the overarching problems facing public schools this paints a disheartening picture of public education. The TALENT Act could provide a renaissance in research, strategy, and methodology for gifted education and a greater focus on the unique needs of individual students of any academic ability.

My name is Melissa Bilash and I am here to speak on behalf of the parents and families of exceptional children. I am a federally trained special education advocate. My practice in Radnor, PA is dedicated to providing assistance and support to families of exceptional children seeking appropriate accommodations in the school setting.

According to the National Association for Gifted Children, 65 percent of teachers report that education courses and teacher preparation programs focused either very little or not at all on how to best teach academically advanced students. Fifty-eight percent of teachers say that they have had no professional development focused on teaching academically advanced students in the past few years. It is clear that teachers are not receiving the support they need to properly educate high achieving students. When we consider that they are as many as 6 million gifted students in the school system, the lack of gifted instruction in schools comes into focus as an educational crisis.

The best possible solution to the current state of gifted education is supporting the teachers who instruct and observe students every day. The Act's push towards specialized training for teachers and school staff is a promising and exciting opportunity. Administrators, teachers, and school staff should be afforded multiple

chances to expand their abilities and required to take advantage of at least one training each school year. A commitment to supporting and providing resources to these professionals will change the tenor of education and refocus the system, not just on high ability children, but on how unique the needs of each student are, regardless of their level of academic ability.

Having worked with the families of many gifted children I feel strongly that each of these children needs to be treated as an individual. To this end, we must continually develop new ways to identify and engage gifted students, based on the National Research and Dissemination Center for the Education of the Gifted and Talented, schools should be implementing at least one new method of identifying gifted students and one new strategy for instructing gifted students each year. It is vital that this research is implemented in schools so that high ability children are identified and provided with appropriate opportunities, but also so that we can begin a body of knowledge about which gifted education strategies and how they best serve the larger school population.

While the possibility of new methods is integral to progress in schools, there are some basics that we can never neglect. Every student should have a thorough needs assessment performed for each academic subject each year. Gifted students do not just have needs related to their high ability, but related to their age, developmental abilities, social and emotional abilities, home life circumstances, and many other facets of their lives. All needs that will affect a student's academic capacity must be met and it is imperative that we do not overlook other educational needs because a gifted student is able to do "well enough" without additional support. The TALENT Act is about seeing children as whole individuals and seeking to support them in meeting their potential, no matter what it looks like.

As an advocate for families of exceptional children, I support the TALENT Act and hope that it leads to real progress in differentiated education, not just for gifted students, but for all students. This bill is necessary to the well-being of children all over the country. We have a responsibility to mandate the identification, appropriate instruction, and support of our gifted young people. Currently, 18 States do not collect information about gifted students and 21 States do not monitor or audit district programs for gifted students. For the sake of these students it is necessary to begin requiring tangible, documented efforts to improved gifted education.

[Whereupon, at 12:29 p.m., the hearing was adjourned.]

