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EDUCATION REGULATIONS: WEIGHING THE BURDEN ON SCHOOLS AND STUDENTS

HEARING

BEFORE THE

COMMITTEE ON EDUCATION
AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

HEARING HELD IN WASHINGTON, DC, MARCH 1, 2011

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EDUCATION REGULATIONS: WEIGHING THE BURDEN ON SCHOOLS AND STUDENTS

Tuesday, March 1, 2011
U.S. House of Representatives
Committee on Education and the Workforce
Washington, DC

The committee met, pursuant to call, at 10:00 a.m., in room 2175, Rayburn House Office Building, Hon. John Kline [chairman of the committee] presiding.

Present: Representatives Kline, Petri, Biggert, Platts, Foxx, Hunter, Roe, Walberg, DesJarlais, Rokita, Bucshon, Barletta, Noem, Roby, Heck, Miller, Kildee, Payne, Andrews, Scott, Woolsey, McCarthy, Tierney, Kucinich, Davis, Bishop, and Hirono.

Staff present: James Bergeron, Director of Education and Human Services Policy; Kirk Boyle, General Counsel; Casey Buboltz, Coalitions and Member Services Coordinator; Heather Couri, Deputy Director of Education and Human Services Policy; Theresa Gambo, Office Administrator; Daniela Garcia, Professional Staff Member; Jimmy Hopper, Legislative Assistant; Amy Raaf Jones, Education Policy Counsel and Senior Advisor; Barrett Karr, Staff Director; Brian Melnyk, Legislative Assistant; Brian Newell, Press Secretary—Workforce; Mandy Schaumburg, Education and Human Services Oversight Counsel; Alex Sollberger, Communications Director; Linda Stevens, Chief Clerk/Assistant to the General Counsel; Alissa Strawcutter, Deputy Clerk; Tylease Alli, Minority Hearing Clerk; John English, Minority Legislative Fellow, Education; Jamie Fasteau, Minority Deputy Director of Education Policy; Brian Levin, Minority New Media Press Assistant; Kara Marchione, Minority Senior Education Policy Advisor; Megan O'Reilly, Minority General Counsel; Helen Pajcic, Minority Education Policy Advisor; Julie Peller, Minority Deputy Staff Director; Alexandria Ruiz, Minority Administrative Assistant to Director of Education Policy; Melissa Salmanowitz, Minority Press Secretary, and Laura Schifter, Minority Senior Education and Disability Policy Advisor.

Chairman KLINE [presiding]. Good morning. We appreciate the opportunity to hear the thoughts and expertise of our witnesses on this important subject.

Today's hearing is the first in a series the committee will convene to examine the federal rules and regulations that are undermining the strength of the nation's education system. Education is critical to fostering a competitive workforce, encouraging a strong

economy, and improving the prosperity of future generations. The further a student can advance in his or her education, the more likely he or she will be able to secure a stable job, earn a sustainable income, and have the tools necessary to build a successful future.

The current state of education in America is troubling and unacceptable. Every year, more than a million students fail to graduate from high school. Making matters worse, an increasing number of students who complete high school are unable to meet the costs associated with higher learning.

Those who do attend college can emerge without the knowledge and skills necessary to compete in the workplace. The nation's education system is clearly broken, despite escalating intervention by policymakers in Washington over the last 45 years.

In 1994, the Government Accountability Office conducted a review of federal education regulations at the K-12 level and the burden they placed on state and local school leaders. The GAO discovered states employed 13,400 full-time individuals to implement federal education programs. At the time, the federal government imposed 41 percent of the administrative burden, yet paid just 7 percent of the total costs. Although those figures are more than a decade old, the situation hasn't improved. In fact, it has gotten worse.

Recent reforms at the federal level have exacerbated the burdens placed on state and local school leaders. States and school districts worked 7.8 million hours each year collecting and disseminating information required under Title I of federal education law. Those hours cost more than $235 million. The burden is tremendous. And this is just one of many federal laws weighing down our schools.

Evidence of this costly dynamic was clearly visible during the administration's recent experiment with Race to the Top. Instead of rewarding states for pursuing innovative solutions to advance student achievement, the administration forced states to navigate an overly complicated, expensive process and adopt policies that reflect the priorities of Washington bureaucrats.

The administration has also tied assistance for states to improve under-performing schools to a one-size-fits-all plan to boost failing schools. Instead of instituting the common-sense reforms our nation needs, initiatives like this merely extend the status quo.

The trend of imposing onerous mandates that lead to greater costs and paperwork burdens is also happening in higher education. The latest rounds of negotiated rulemaking didn't actually clarify the law. Rather, they made it more confusing, forcing schools to redirect critical funds to pay the inevitable fines or hire outside counsel to help make sense of the new regulations.

This "Washington knows best" approach is not helping our nation's education system improve. Instead, it is increasing regulatory burdens on schools and piling more costs on the backs of our students.

We have to ensure taxpayer dollars are spent wisely and effectively. But we must also ensure federal mandates aren't road blocks to success in our nation's classrooms. Anyone who has talked to a superintendent or a teacher understands that federal law can stand in the way of innovative solutions and meaningful

reform. Reducing the regulatory burden placed on our education system makes good fiscal sense and good policy sense.

The House has charged this committee to look at rules and regulations within our jurisdiction that may hinder job creation and economic growth. Today's hearing is part of that important effort. And we will leave no stone unturned as we look to strengthen education and the workforce.

I look forward to our witnesses' testimonies and will now recognize my friend, the distinguished senior Democrat member, George Miller, for his opening remarks.

[The statement of Chairman Kline follows:]

Prepared Statement of Hon. John Kline, Chairman, Committee on Education and the Workforce

Good morning. We appreciate the opportunity to hear the thoughts and expertise of our witnesses on this important subject.

Today's hearing is the first in a series the committee will convene to examine federal rules and regulations that are undermining the strength of the nation's education system.

Education is critical to fostering a competitive workforce, encouraging a strong economy, and improving the prosperity of future generations. The further a student can advance in his or her education, the more likely he or she will be able to secure a stable job, earn a sustainable income, and have the tools necessary to build a successful future.

The current state of education in America is troubling and unacceptable. Every year, more than a million students fail to graduate from high school. Making matters worse, an increasing number of students who complete high school are unable to meet the costs associated with higher learning. Those who do attend college can emerge without the knowledge and skills necessary to compete in the workplace.

The nation's education system is clearly broken, despite escalating intervention by policy makers in Washington over the last 45 years.

In 1994, the Government Accountability Office conducted a review of federal education regulations at the K-12 level and the burden they placed on state and local school leaders. The GAO discovered states employed 13,400 full-time individuals to implement federal education programs. At the time, the federal government imposed 41 percent of the administrative burden yet paid just 7 percent of the total cost.

Although those figures are more than a decade old, the situation hasn't improved. In fact, it has gotten worse. Recent reforms at the federal level have exacerbated the burdens placed on state and local school leaders. States and school districts work 7.8 million hours each year collecting and disseminating information required under Title I of federal education law. Those hours cost more than $235 million. The burden is tremendous, and this is just one of many federal laws weighing down our schools.

Evidence of this costly dynamic was clearly visible during the administration's recent experiment with Race to the Top. Instead of rewarding states for pursuing innovative solutions to advance student achievement, the administration forced states to navigate an overly complicated, expensive process and adopt policies that reflect the priorities of Washington bureaucrats.

The administration has also tied assistance for states to improve under-performing schools to a one-size-fits-all plan to boost failing schools. Instead of instituting the commonsense reforms our nation needs, initiatives like this merely extend the status quo.

The trend of imposing onerous mandates that lead to greater costs and paperwork burdens is also happening in higher education. The latest rounds of negotiated rulemaking didn't actually clarify the law; rather they made it more confusing—forcing schools to redirect critical funds to pay the inevitable fines or hire outside counsel to help make sense of the new regulations. This Washington-knows-best approach is not helping our nation's education system improve; instead, it is increasing regulatory burdens on schools and piling more costs on the backs of our students.

We have to ensure taxpayer dollars are spent wisely and effectively. But we must also ensure federal mandates aren't roadblocks to success in our nation's classrooms. Anyone who has talked to a superintendent or teacher understands that federal law can stand in the way of innovative solutions and meaningful reform. Reducing the

regulatory burden placed on our education system makes good fiscal sense and good policy sense.

The House has charged this committee to look at rules and regulations within our jurisdiction that may hinder job creation and economic growth. Today's hearing is part of that important effort, and we will leave no stone unturned as we look to strengthen education and the workforce.

I look forward to our witnesses' testimonies and will now recognize the distinguished senior Democratic member, George Miller, for his opening remarks.

Mr. MILLER. Thank you very much, Mr. Chairman. And thank you for holding this hearing. I think it is an important hearing to discuss the role of the federal government in education.

There is a consensus across the parties in Congress, the president and Secretary Duncan that the federal role in education needs to be reevaluated. And I think we can all agree that any federal involvement in our schools needs to work for the best interests of the students.

I want to start with a story about one of the best days of my career, which was right after school performance was reported in the local newspapers under the requirements of No Child Left Behind. These requirements gave parents an insight into what was happening in their local school and being able to compare it to the school down the block and across the city and across the greater East Bay of the San Francisco area.

They not only saw their AYP results compared to other schools, they saw disaggregated data about children like their children, English learners, minority children, poor children. But they also saw something else. They saw that their school didn't have very many highly qualified teachers, something we think is an anachronism today but remember the struggle simply to get that definition into this law.

So they wanted to know why they didn't have them. At that time, my state had 60,000 teachers in the classrooms who were on the temporary emergency credential. And some of them had been on the classroom—on that credential that is good for 1 year, 5, 6, and 7 years, hiding out in poor minority schools where nobody would ask whether or not they were qualified to teach or assess what they were doing. That was a great moment in my career because those parents now had information and started a revolution in that district.

And I think that that is what we have to understand, that there is a purpose to some of this. I join the chairman as he talks about regulations that can absolutely drive you crazy. As somebody who is involved in the writing of that policy, I want to see what happens. And let us not pretend like it is only the federal government.

I once had a contest with Chairman Boehner when he was—Speaker Boehner now—when he was chairman of this committee, with Harold Levy, who was the head of the New York schools at that time, about where the real burden came from. He texted all of his principals and asked them was it the federal government or what. And they said, no, it is your office. It is everything you send us every day asking us to fill out, forms and requirements. So this is not just a problem at the federal government.

But I also want to talk about what we have learned by having these kinds of various types of reporting requirements. Prior to the

law, to No Child Left Behind, only 11 states had access to data that showed gender and ethnicity. Only six states had data about the achievement of poor students. Only seven states were able to see data about the achievement of students based on English proficiency. These students were invisible. They were struggling in classrooms across the country, but nobody knew it.

Their parents didn't know it. School officials didn't know it. The community didn't know it. And so, nobody was able to fix it or to address the needs of these students.

We passed No Child Left Behind to tackle this very harsh reality. We meant what the title said. No longer would it be okay to let a child fall behind because we didn't know how they were doing in school. Schools had to be accountable for all of their students.

Today's parents, nonprofits, charter schools are all responding to the students' needs demonstrated by this newly-found data. The law implemented a system of reporting and accountability to ensure that all students are being held to the same high standards and to compare students' achievement across schools, districts and states. These new requirements allowed us to move the system forward. They allowed us to have a conversation today about how to reevaluate the federal role without losing sight of what we got right for students, parents and communities in NCLB.

We have all learned what we got right. We also have learned about what we got wrong. We learned there is a lot more we need to do to better support states and districts to improve the system and most importantly, to improve the outcomes for students.

There has to be more coherence in the system. This means setting strong goals, maintaining strong and meaningful accountability and giving states and districts the support and the flexibility to reach those goals and to meet the needs of students. We need to fund programs in a way that allows districts to maximize the funding to meet the unique needs of their students and community. We also need to recognize the critical role of data to guide programs and measure the performance.

Strong use of data is what allows the federal government to get out of the way while maintaining the integrity of these programs. Strong, reliable data lets teachers, parents, administrators and communities take responsibility for the design and account for outcomes in a performance-based system. Similar principles apply to how we approach regulation accountability in the higher education arena where we have the duty to protect the integrity of billions of dollars in federal taxpayer dollars.

We also know, however, that the outcomes we ask for drive practice. We need to be mindful about those outcomes and supporting the goals and accountability systems we set.

Let us remember, too, that we have all of these conversations and questions, and throughout these conversations, we have to ask the question, what is right and what is burdensome in the system. But first, we must ask, what is in the best interest of the students. Without that framework, we have lost sight of the true purpose.

I look forward to this hearing. And thank you, again, Mr. Chairman, for inviting our witnesses to testify and enlighten us on this subject.

[The statement of Mr. Miller follows:]

Prepared Statement of Hon. George Miller, Senior Democratic Member, Committee on Education and the Workforce

Thank you, Mr. Chairman, and thank you for holding this hearing.

Today we'll hear about the role of the federal government in education.

There is a consensus across both parties in Congress, the President and Secretary Duncan, that the federal role in education needs to be re-evaluated.

And I think we all agree that any federal involvement in our schools needs to work in the best interest of our students.

I want to start with a story about one of the best days in my career which was right after school performance was reported in my district, as required by No Child Left Behind.

These requirements helped give parents insight into what was happening in their children's schools. After a newspaper first published the AYP results about my district, parents called for a community meeting, not because they were upset about the scores, instead because they were infuriated they hadn't known this information before.

That moment highlighted what we got right in No Child Left Behind—real information for parents about the state of their schools.

Before we passed NCLB ten years ago, accountability in education was nearly non-existent and, worse, student performance was masked.

Prior to the law, only 11 states had access to data that showed gender or ethnicity.

Only 6 states had data about the achievement of poor students.

Only 7 states were able to see data about the achievement of students based on their English proficiency.

These students were invisible. They were struggling in classrooms across the country, and nobody knew. So nobody did anything to fix it.

We passed No Child Left Behind to tackle this harsh reality, and we meant what the title said.

No longer would it be okay to let a child fall behind because we didn't know how they were doing in school.

Schools had to be accountable for ALL their students.

Today, parents, non-profits and charter schools are all responding to students' needs demonstrated by this newly found data.

The law implemented a system of reporting and accountability to ensure that all students were being held to the same high standards and to compare students' achievement across schools, districts and states.

These new requirements allowed us to move the system forward.

They allowed us to have these conversations today about how to re-evaluate the federal role without losing site of what we got right for students, parents and communities in NCLB.

While we have learned what we got right, we also have learned a lot about what we got wrong.

We learned there is a lot more we need to do to better support states and districts to improve the system, and most importantly, improve outcomes for students.

There has to be more coherence in the system—that means setting strong goals, maintaining strong and meaningful accountability and giving states and districts the support and flexibility to reach those goals and meet the needs of students.

We need to fund programs in a way that allows districts to maximize funding and meet the unique needs of their students and community.

We also need to recognize the critical role of data to guide programs and measure performance.

Strong use of data is what allows the federal government to get out of the way while maintaining the integrity of programs.

It lets teachers, parents, administrators and the community to take responsibility for the design and accountability for outcomes in a performance based system.

Similar principles apply to how we approach regulation and accountability in the higher education arena, where we have a duty to protect the integrity of billions of dollars in federal taxpayer dollars.

We also know, however, that the outcomes we ask for drive practice. We need to be mindful that those outcomes are supporting the goals and accountability systems we set.

Let's remember, too, that as we have all of these conversations and question what is right and what is burdensome in the system, that we always first ask ourselves what is in the best interest of students.

Without that framework, we have lost sight of our true purpose.

I look forward to hearing from our witnesses about what's happening in school districts and institutions of higher education and what we can do to ensure our students succeed.

Chairman KLINE. I thank the gentleman.

Pursuant to Committee Rule 7-C, all committee members will be permitted to submit written statements to be included in the permanent hearing record. And without objection, the hearing record will remain open for 14 days to allow statements, questions for the record, and other extraneous material referenced during the hearing to be submitted in the official hearing record.

It is now my pleasure to introduce our distinguished panel of witnesses. Dr. Ed Hatrick is in his 20th year of service as the superintendent of Loudoun County Public Schools. Over his 44-year career in Loudoun County, he has been a high school English teacher, high school principal, director of special education, director of instruction, supervisor of guidance and foreign languages, and assistant superintendent for pupil services. Dr. Hatrick is also the president of the American Association of School Administrators and vice president of the Urban Superintendents Association of America. It is a shame we couldn't get somebody with some experience.

Welcome.

Ms. Kati Haycock serves as president of the Education Trust, a national civil rights advocacy organization that promotes high academic achievement of all students at all levels. Before joining the organization, she served as executive vice president of the Children's Defense Fund and founded and served as president of the Achievement Council.

Welcome.

Mr. Gene Wilhoit serves as the executive director of the council of Chief State School Officers, a trade association representing the leaders of the state departments of education. He began his career as a social studies teacher in Ohio and Indiana and served as a program director in the Indiana Department of Education, a district administrator in West Virginia, and a special assistant at the U.S. Department of Education before becoming executive director of the National Association of State Boards of Education. In those positions, he shepherded finance reform, designed and implemented assessment and accountability systems, and reorganized state agencies to focus on service and support.

Mr. Christopher Nelson serves as the president of St. John's College in Annapolis, Maryland. He is a member of the Maryland Independent College and University Association and has served as chairman of its board of directors. He is past chair and a founding member of the Annapolis Group, a consortium of over 120 of the nation's leading liberal arts colleges and has served on the National Association of Independent Colleges and Universities' Board of Directors.

A reminder on the light system—there is a little box in front of you. When you start your testimony, a green light will come on. After 4 minutes, it will be a yellow light. And after 5 minutes, a red light will come on. And that will be an indication that you should look for a way to wrap up your testimony or your response.

I will assure you all that it is not my intention to drop the gavel in the middle of a sentence or a paragraph. We would like you to complete your thought.

However, once again, I will remind my colleagues that when the red—when the light turns red for you, the gavel is much more likely to come down to be respectful of everybody's time here.

We will just go right down the line and start with you, Dr. Hatrick. You are recognized.

STATEMENT OF DR. EDGAR HATRICK, SUPERINTENDENT, LOUDOUN COUNTY PUBLIC SCHOOLS

Mr. HATRICK. Thank you, Chairman Kline, Ranking Member Miller and members of the committee. Thank you for inviting me to testify today regarding the impact of federal regulations and reporting from a public school administrator's perspective. My name is Edgar Hatrick. And I am the superintendent of Loudoun County Public Schools. And I also serve as president of the American Association of School Administrators.

Loudoun is a large, growing school district of more than 63,000 students located in Virginia outside of Washington, D.C. I speak to you today from my 44 years of experience as an educator, which includes 20 years as superintendent. I am here to talk to you about the impact of federal regulations and reporting requirements on school districts.

Loudoun County Public Schools, or LCPS, like school districts across the country, complies with all regulations and reporting requirements of our local school board, our state education agency and federal agencies. It is important to note that, while Loudoun County Public Schools has resources such as data analysts, program analysts, and a research office with support staff, 70 percent of school districts in the United States have an enrollment of 2,500 students or less with very limited staff, but with the same regulations and reporting requirements. Fewer resources do not excuse compliance from federal reporting.

Federal regulations are necessary for program integrity and to implement programs consistent with congressional intent. However, when compliance with reporting requirements becomes the focus of implementation, it sends a powerful message that the process is more important than the product. In other words, the pressure to comply makes it seem like adherence to data collection and reporting are more important than our mission of teaching and learning.

Specific regulations, data collection, and reporting vary greatly and are dependent on program, grant, and agency requests. However, there is overlap, resulting in redundancy of reporting and resources being diverted from the mission of teaching and learning.

I would like to share with you an example. The Office of Civil Rights, OCR, reporting requirement comes with no funding and ignores the availability of this information from state education agencies. The most recent OCR data collection was completed this past December and required aggregating and disaggregating more than 12 categories of data with more than 144 fields for each of our 50 elementary schools and 263 fields of data for each of our 24 secondary schools for a total of 13,994 data elements.

And this was just for one school district out of the 13,924 school districts in America. For LCPS, this required 532 hours of staff time, at an estimated cost of $25,370, which translates into diverting 82 instructional days away from students.

The vast majority of the reporting requirements from OCR are seeking data already transmitted to the Virginia Department of Education, thus causing duplicate effort. To inform policy, federal regulations and reporting requirements need to align with the mission of public education to serve students. From my vantage point, it appears that some federal reporting requirements are not connected to federal programs or funding. In fact, there is often confusion about whether reporting elements are required by the federal government or by our states.

Another reporting area that has limited funding tied to it is IDEA. Federal funding for IDEA provides 9 percent of the total cost of serving the 6,719 students with disabilities in Loudoun County. Local school districts collect and report data to the state that is used in the state performance report as a part of the federal monitoring of IDEA. States, including Virginia, submit data to USED on the outcomes for students with disabilities as a part of state performance report. Currently, Virginia collects data for 20 indicators. And Loudoun County Public Schools provides the data on an annual basis.

I would like to describe one of the 20 indicators on which we have to report. Indicator seven, titled, "Improving Cognitive and Social Outcomes for Preschool Students with Disabilities," mandates that a team of professionals must provide developmental information on the entry status of a child into special education. Each report takes approximately 30 minutes to complete per student.

It requires input from three professionals: a psychologist, an eligibility coordinator and an early childhood special education teacher. Last year, we reported on 409 preschool students, which took 613 hours at an estimated cost of $25,000. In other words, 94 instructional days, again, were diverted from instructional support to students in the classroom. And there are 19 other indicators that also are complex and costly.

Careful thought about what information is really needed versus what is nice to have and use occasionally or not at all ought to be required before school districts are required to gather and report information. I would rather spend our precious education dollars on service because the services are mandated to the full extent of the IEP. If compliance is important, then the service mandate must be adjusted or funding for IDEA increased.

Loudoun is a growing school district. And the number of hours for the collection of these data will continue to increase while resources continue to shrink. Again, I realize the importance and value of federal regulations and compliance with reporting requirements. However, when all requirements are treated as equally important, even though not all requirements are equally important, it distracts staff from activities with a high payoff for students.

In conclusion, as you consider the policy implications, I pose these propositions. First, federal agencies must better coordinate, align, and limit reporting requirements to be less onerous, redun-

dant and/or duplicative. Second, reporting on implementation of federal regulations should be reduced and more closely linked to the funding provided.

And at the end of the day, it must be clear that the data were actually needed and how the data were used so the importance of the data can be judged by Congress and those of us in the field. Policies and regulations should be written so that they support the mission of teaching and learning and limit or eliminate the impression or actuality that the process of filling in the compliance reports and other regulatory reports is more important than improving educational outcome for students. Thank you.

[The statement of Mr. Hatrick follows:]

Prepared Statement of Dr. Edgar B. Hatrick, III, Superintendent, Loudoun County Public Schools

CHAIRMAN KLINE, RANKING MEMBER MILLER, AND MEMBERS OF THE COMMITTEE: Thank you for inviting me to testify today regarding the impact of federal regulations and reporting from a public school administrator's perspective.

My name is Edgar Hatrick and I am the Superintendent of Loudoun County Public Schools and also serve as the President of the American Association of School Administrators. Loudoun is a large, growing school district of more than 63,000 students located in Virginia outside of Washington DC. I speak to you from my 45 years of experience as an educator, which includes 20 years as a superintendent.

I'm here to talk to you about the impact of federal regulations and reporting requirements on school districts. Loudoun County Public Schools (LCPS), like school districts across the country, complies with all regulations and reporting requirements of our local school board, our state education agency (SEA) and federal agencies. It is important to note that while Loudoun County Public Schools has resources such as data analysts, program analysts, and a research office with support staff, 70% school districts in the United States have an enrollment of 2,500 or less with very limited staff but with the same regulations and reporting requirements. Fewer resources do not excuse compliance from federal reporting.

Federal regulations are necessary for program integrity and to implement programs consistent with Congressional intent. However, when compliance with reporting requirements becomes the focus of implementation it sends a powerful message that the process is more important than the product. In other words, the pressure to comply makes it seem like adherence to data collection and reporting are more important than our mission of teaching and learning.

Specific regulations, data collection, and reporting vary greatly and are dependent on program, grant, and agency requests. However, there is overlap, resulting in redundancy of reporting and resources being diverted from the mission of teaching and learning.

I'd like to share with you an example. The Office of Civil Rights (OCR) reporting requirement comes with no funding and ignores the availability of this information from State Education Agencies. The most recent OCR data collection was completed this past December and required aggregating and disaggregating more than twelve categories of data, with more than 144 fields for each of our 50 elementary schools and 263 fields of data for each of our 24 secondary schools, for a total of 13,944 data elements. And this was just for one school district out of the 13,924 school districts in America. For LCPS, this required 532 hours of staff time at an estimated cost of $25,370, which translates into diverting 82 instructional days away from students

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Local school districts collect and report data to the State that is used in the State Performance Report as a part of the federal monitoring of IDEA. States, including

Virginia, submit data to USED on the outcomes for students with disabilities as a part of the State Performance Report. Currently Virginia collects data for twenty indicators, and Loudoun County Public Schools provides the data on an annual basis. I'd like to describe a one of the twenty indicators on which we have to report.

Indicator 7, "Improving Cognitive and Social Outcomes for Pre-school Students with Disabilities," mandates that a team of professionals must provide developmental information on the entry status of a child into special education. Each report takes approximately 30 minutes to complete per student. It requires input from three professionals: a Psychologist, an Eligibility Coordinator, and an Early Childhood Special Education teacher. Last year we reported on 409 pre-school students, which took 613 hours at an estimated cost of $25,000. In other words, 94 instructional days again were diverted from instructional support to students in the classroom. And there are 19 other indicators that are as or more complex and costly. Careful thought about what information is really needed versus what is nice to have and use occasionally or not at all ought to be required before school districts are required to gather and report information. I would rather spend on services because the services are mandated to the full extent of the IEP. If compliance is important then the service mandate must be adjusted or funding for IDEA increased.

Loudoun is a growing school district and the number of hours for the collection of these data will continue to increase, while resources continue to shrink.

Again, I realize the importance and value of federal regulations and compliance with reporting requirements. However, when all requirements are treated as equally important, even though not all requirements are equally important, it distracts staff from activities with a high payoff for students.

In conclusion, as you consider policy implications, I pose these propositions:

- Federal agencies must better coordinate, align and limit reporting requirements to be less onerous, redundant and/or duplicative.
- Reporting on implementation of federal regulations should be reduced and more closely linked to the funding provided. And at the end of the day it must be clear that the data were actually and how the data were used so the importance of the data can be judged by Congress and those of us in the field. Policies and regulations should be written so that they support the mission of teaching and learning and limit or eliminate the impression or actuality that the process of filling in the compliance reports and other regulatory reports is more important that improving educational outcomes for students.

Chairman KLINE. Thank you.

Ms. Haycock?

STATEMENT OF KATI HAYCOCK, PRESIDENT, THE EDUCATION TRUST

Ms. HAYCOCK. Chairman Kline, Ranking Member Miller, and members of the committee, my name is Kati Haycock. I am president of the Education Trust here in Washington. And I want to thank you for the opportunity to testify before you this morning on the role of the federal government in education and its impact on states, districts, and schools. And I want to apologize in advance for what is quite obviously a voice that is not fully recovered from a bout of laryngitis last week.

You know, in his address to CPAC last month, Indiana Governor Mitch Daniels used language that, I think, aptly captures the historic role of the federal government in education. "Our first thought," he said, "is always for those on life's first rung and how we might help them increase their chances of climbing."

Indeed, it is important to remember that from the very first iteration of the Elementary and Secondary Education Act during the presidency of Lyndon Johnson through the more recent presidencies of George W. Bush and Barack Obama, the federal role—the role of federal support for education has been very clear: to provide schools that serve concentrations of low-income children, of ethnic and language minorities, and students with disabilities with

the extra support that they need to help move these youngsters up from the bottom rung of life's ladder up higher.

But while the focus of that investment has always been clear, it is important to acknowledge its implementation has been far from perfect. And among the most important lessons we have learned is that excessive controls on how federal dollars are spent at the state and local level are often counterproductive.

Now, in the early years of ESEA, the green eye shades guys who monitored the use of federal funds had essentially one operative question when they visited state and local school districts. What they said to us is prove to us that the dollars that we gave you are being spent only on the children for whom they were intended. Never did they ask the more important question—and that is, are these children learning more.

Beginning with the 1994 reauthorization and continuing in 2001, Congress actually began a very important transition from an emphasis on bureaucratic monitoring to an emphasis on improved results. That started by ensuring that states actually had standards and could monitor the progress of students.

But essentially what Congress did is propose a trade. You show us improved results, especially for the children who are underachieving, and we will stop telling you how to spend the money.

Now, the truth of the matter is that it is very sad that there are many educators who actually would argue that the focus on improving results is, in and of itself, burdensome. Those educators would prefer to go back to the days when we could just sweep the under-performance of certain groups of kids under the rug or where we at least weren't obligated to actually improve their performance.

Here, however, it is vitally important that you stand with the 103rd Congress and the 107th Congress and with the children themselves. Tell them we are not going back to the time when results didn't matter. In fact, if there is one thing that I think both critics and supporters of NCLB agree, it is that the law's focus on the under-performance of certain groups of students was dead on, hugely important.

Of course, that doesn't mean you have to do it the same way next time. But the important thing is that both children and taxpayers themselves deserve a focus on improved results. This is not a time for us to slow down the pace of education improvement.

There are also some who would argue that the law's focus on public reporting is, in and of itself, burdensome. Here, though, we hope you will stand for the right of parents to honest reporting on how their children are performing and on school and teacher quality and for the right of taxpayers to actual honest reporting on whether their investments are actually making an impact on children.

It is, however, important to acknowledge that in the shift to—from an emphasis on monitoring to an emphasis on results, the federal government has not always lived up to its part of the bargain. And I want to give you three quick examples of that because these are the burdens, often horrendous ones, to which Congress should focus its attention during reauthorization, sheering off unnecessary burdens and producing a thin law with a clear focus on improved results.

One of those is the provisions of the school improvement requirements, which, by some counts, require schools to produce plans that have no fewer than 17 elements. But here is what happens. Those 17 requirements go to the states. The states end up turning them into 50. That turns into a 100-page plan. And school principals will tell you they end up spending 7 or 8 12-hour days filling out the plan, only to have to do it again 2 weeks later when their teachers return.

That is the kind of requirement you could eliminate in the next law. The same could be said of the law's supplement, not supplant requirements, which served an important purpose, but end up being so difficult to monitor that you end up getting the green eye shades folks involved again. And that result is schools don't have the flexibility that you intended to provide.

And one final example of an unnecessary burden, certainly, is in the depth of the detail required on what happens when schools don't meet their targets. Most of those are so difficult to administer, require so many plans and so much coordination that in the end, there are very few benefits to kids.

Requirements like these are one of the reasons why the current law is more than 1,000 pages long and why it has an additional 300 pages of regulation. And surely, if you were extraordinarily disciplined in the coming reauthorization, you could produce, again, a thin law that would focus entirely on what is important, that is results, rather than what is not.

And I think, just in conclusion, there is one practical test that you could use in fashioning that law, asking one important question. And that is, does the proposed provision provide a powerful level to educators in improving achievement, especially among the children who are most likely to be left behind. If the answer to that is yes, the provision goes in. If the answer to that is no, it does not. Thank you very much.

[The statement of Ms. Haycock follows:]

Prepared Statement of Kati Haycock, President, the Education Trust

Chairman Kline, Ranking Member Miller, and Members of the Committee, thank you for the opportunity to testify before you this morning on the role of the federal government in education and its impact on states, districts, and schools.

In his address to the Conservative Political Action Conference (CPAC) last month, Indiana Governor Mitch Daniels aptly captured the historic federal role in education when he said, "Our first thought is always for those on life's first rung, and how we might increase their chances of climbing." Indeed, from the first iteration of the Elementary and Secondary Education Act (ESEA) during the presidency of Lyndon Johnson, through the more recent presidencies of George W. Bush and Barack Obama, the focus of federal support for education has been clear: to provide schools serving concentrations of low-income students, ethnic and language minorities, and students with disabilities with the extra support they need to help move these youngsters up the American economic ladder and the American social ladder, more generally.

But, while that focus has been clear, its implementation has been far from perfect, and we have learned a lot of lessons along the way about how the federal role should work. Among the most important: Excessive controls on how federal dollars are spent at the state and local level are counterproductive.

In the early years, the green eye-shades monitoring federal funds had one operative litmus test for states and localities: "Prove to us that the dollars we gave you are being spent only on the children for whom they were intended." Never did they ask the more important question: "Are the children learning more as a result of our support?" Under this structure, the feds knew very specifically where dollars were going, but they had no idea what those dollars were (or were not) doing.

Beginning with the 1994 reauthorization and continuing with the 2001 reauthorization, Congress began an important transition: from an emphasis on bureaucratic monitoring to an emphasis on improved results. That started by ensuring that states had standards toward which all students were moving and goals for measuring their progress. Essentially, Congress proposed a trade: You show us improved results, especially for underachieving children, and we will stop telling you exactly how to spend the money we gave you.

Sadly, there are many educators and others who would argue that the focus on results is, in and of itself, burdensome. They would prefer to go back to the days of sweeping the underperformance of some groups of children under the rug of school-wide averages—or, at the very least, to be free of the obligation to actually improve their achievement. For them, it is enough to have "served" them, even if they remain on the very bottom rung.

Here, however, it is vitally important that you stand with the 103th Congress and the 107th Congress—and with the children themselves. Tell them we are not going to turn back the clock to a time when results didn't matter. In fact, if there is one thing on which both critics and supporters of NCLB agree, it is that the law's focus on the underperformance of groups of children was dead-on. Of course, your focus on results for all children doesn't have to be done in exactly the same way as No Child Left Behind.

Looking at just a snapshot of achievement without recognizing growth, for example, was far from perfect. But both taxpayers and children deserve a focus on improved results, and the country needs us to pick up the pace of improvement, not slow it down.

There are some, too, who would argue that federal requirements for reporting to parents and the public are burdens that districts should not have to bear. Here again, though, we hope you will stand for the right of parents to honest reporting on school and teacher quality and for the right of taxpayers to honest reporting on the impact of their dollars.

However, it is important to acknowledge that in the shift to an emphasis on results, the federal government has not lived up to its part of the bargain. These are the burdens—often horrendous ones, I might add—to which Congress should turn its attentions during reauthorization, sheering off unnecessary regulatory burden and producing a "thin" law with a clear focus on improved results. Let me provide a few examples.

a. The school improvement provisions of the law, for example, require the development of a plan that, by some counts, contains no fewer than 17 elements, most of which are simply pulled from a grab bag of activities important to various interest groups. I saw the effect of this in a recent visit to a small school district in the Midwest. Here's what happens: The federal government demands a plan with 17 elements, and sends that requirement to the state. The State Department of Education, in its infinite wisdom, turns that 17 into 55, formats them within a 100-page plan, and demands the plan BEFORE school starts. For the principals of these schools, the burden looks like this: six 12-hour days to produce a plan, which—to be a real plan—has to be redone two weeks later once their teachers return and can provide input.

b. The same can be said of the law's supplement, not supplant requirements. Though designed to respond to a real problem—that, instead of using federal funds to increase supports for struggling students, as intended, states sometimes simply replace state dollars with federal dollars—these provisions cannot be adequately monitored without returning power to the green-eyeshade folks. The net result: Schools do not get the flexibility over their federal dollars that you aimed to provide.

c. And here's one final example of unnecessary burden: Schools that fail to make annual yearly progress face a number of consequences, including offering choice and supplemental services, like tutoring, to students. Doing this requires district approval and coordination, review and selection of providers, plans—and, of course, meetings with parents and written notice to them.

In short, it's a lot of work for a school. But, does it result it any real benefit to kids? No, because test results don't come back until the end of the year and parents have no idea about the availability of these options until after the deadline for opting into them has passed.

Requirements like these are one of the reasons why the current law is more than 1,000 pages long, and why the regulations issued under it add another approximately 300 pages. Surely, if you were extraordinarily disciplined, you could design a thin law that focused energies on what is important, rather than what is not.

Let me conclude by proposing a practical test for determining what—beyond accountability for results and honest public reporting—should go into that thin law: Does the proposed provision provide a powerful lever to help local educators do what

it takes to raise achievement, especially among the children most often left behind in state improvement efforts? If the answer is yes, the provision goes in.

If the answer is no, it does not.

Thank you.

Chairman KLINE. Thank you.

Mr. Wilhoit?

STATEMENT OF GENE WILHOIT, EXECUTIVE DIRECTOR, COUNCIL OF CHIEF STATE SCHOOL OFFICERS

Mr. WILHOIT. Members of the committee, it is a pleasure to be with you today to talk about eliminating unnecessary requirements, and I think equally important, a parallel conversation about how the federal government can use its role to leverage continued improvement in public education. We are at this point, as states, realizing that this is not a federal issue alone, that states need to be as diligent as the federal government in terms of redefining the requirements and the processes that are engaged in accountability measures.

But we do understand, clearly, that we are not asking for no regulation, no reporting at all. In fact, this is not a matter of whether we collect or not collect data. It is about the thoughtful process. And it is about how we can support ourselves in terms of a strategically driven process of collecting information. Because we will need information to assure that we are accountable for the funds that you are providing to public education, we are also engaged in a process of reflective thinking now that we have not been engaged historically. And we need that information to drive educational improvement.

So you have my written testimony, but I would like to just provide five areas where I think you could provide some leadership as we move forward in this area. First, I think there needs to be a much more centralized process for driving data collection across the states.

From what we can gather, the historic process that has been put in place and that is perpetuated is that these data collection efforts have been driven from various program offices, not from a centralized source within the department. So I think we could dramatically increase our capacity if we could bring that together in a single place within the federal agency. And from that place, we could then begin to organize, make some very serious decisions about what is necessary and what is not, make some central decisions about how we—why the information is important and why it is not.

Secondly, I think you could remove some redundancies and find some major improvement very quickly in the process. I reference a report that we commissioned where we looked at 625 different data reports that are requested through the states that filters down to the local community. In those, we found 241 discrete data elements that were repeated or requested more than once in a single area.

I referenced in my testimony this issue of data collection in students with limited English abilities. We found 73 different requests in the reporting requirements to the states and then filtering down to the locals, again, for the same information. Those redundancies don't appear to be particularly characteristic of any one program.

They run across all the federal program areas. There needs to be a thorough process of removing those redundancies.

Third, I think it is important that you hold steady on some of these requirements. They are changing dramatically. An example that I would use here is that in the last reauthorization of IDEA, there was—there were 20 new reports added to the reporting to the states and then down the locals during the last 6 years. Almost all of those have been revised in terms of annual updates and changes in the process.

That creates an additional burden on folks. And it also removes the sort of ability to track change over time when you have different kinds of reporting requirements coming in from states, not to mention the diversion of effort at the local level.

Fourth, I think you could, in your relationship with the department, provide for a much more dynamic process than we have right now for updating regulations. The intent of current federal law, No Child Left Behind, was lofty in many areas. We added tremendous restrictions in the regulations process.

But what has caused major problems over the last few years is that those regulations, which were frozen at that time have not had a vehicle for improvement, other than a waiver process, which, is again, within itself, requires a tremendous amount of reporting. It becomes a process of persuading the feds that this is important to do. And it has to fit within, again, another set of regulatory guidelines. It is a difficult process.

If there were a process to constantly review those regulations and build from knowledge that is being accumulated and updated, we wouldn't have had a lot of the pressure points we have right now on implementation. A couple of examples that I use in here are around the issue of freezing the accountability around results and not accounting for growth in this process. There was a good reason for that when the law was established.

States didn't have the capacity to put growth models in place. They have them now. They are still, with that new information, unable to move forward and to redesign those accountability systems because of the regulations.

And then, finally, a suggestion I would give is that you need to tie regulations to the oversight function. They are carried out. We have multiple agencies overseeing the implementation at the state and local level. They all have different criteria for overseeing and adhering to the—making sure we are adhering to the regulations. And they all report in different ways and have different sorts of oversight teams.

So I appreciate the opportunity to raise these five issues. I hope they are helpful as you think about the process. Just to restate, the states are committed to doing what we can in partnership with you. I think you have a good partner in the department in some areas that are—the new secretary is willing and anxious to make some of these changes with us.

[The statement of Mr. Wilhoit follows:]

Prepared Statement of Gene Wilhoit, Executive Director, Council of Chief State School Officers

Good morning Chairman Kline, Ranking Member Miller, and Members of the Committee. My name is Gene Wilhoit and I am the Executive Director of the Coun-

cil of Chief State School Officers (CCSSO). CCSSO represents the public officials who head departments of elementary and secondary education in all 50 states, the District of Columbia, the Department of Defense Education ctivity, the Bureau of Indian Education and five U.S. extra-state jurisdictions.

Thank you for inviting me to speak with you about federal regulations that provide minimal or no value to students and schools, but represent significant state and local burdens. Eliminating dated or unnecessary requirements, while also rethinking the appropriate federal role in education is essential to unleashing innovations needed to improve American education. This Congress has an important opportunity to further states' work by streamlining regulations and creating policy conditions conducive to local leaders' success. We look forward to working with this Congress and the Administration to create a federal role that supports innovation, while still holding states accountable for all children. In the meantime, states intend to continue leading ground-breaking reforms designed to help all students meet college and career ready standards. Federal education laws and regulations can support states by removing arriers to innovation and resisting the temptation to codify a single right answer for the nation's more than 90,000 public schools.

The basis for some federal education policies, and the laws and regulations that embody them, no longer fit the present reform context, because of changing conditions at the state, local and school level. The dynamic environment of education reform necessarily means that some regulations outlive their purpose and of course other regulations are not sensible on the first day they are issued. We are already engaging with the Department of Education on many of these issues and look forward to continuing positive dialogue between Congress and the Administration. My objective today is to highlight several examples of regulations and requirements that do not currently support sound education reform or directly encourage improved tudent achievement. This list is not exhaustive, but does illustrate the need o update the Department of Education's regulatory framework.

Federal Data Collection and Reporting Regulations

Federal education laws and related regulations require the collection and reporting of thousands of data points—most collected at the school level. Data are collected by the Department of Education to support valuable research, oversight and accountability and to otherwise guide and inform policy decisions at all levels of government. States strongly agree with the need to strategically collect critical data to support accountability and inform policy decisions, but strongly oppose data collection for the sake of data collection. In collecting data, priority should be given to supporting mproved student achievement and other data collections need to be thoroughly screened to determine if they are truly needed.

Federal education data collection is often redundant and generally lacks a coherent and comprehensive vision. The absence of a unified data strategy arose out of inconsistencies and redundancies in federal statue, but also multiple offices within the Department of Education collecting the same data. The Department does not have a central process for ensuring that the same data (or very similar data) is not being collected by multiple offices. These problems are compounded by data requests not clearly linked to federal statutory objectives, collection requirements that sometimes change year-by-year (limiting decision-makers' ability to compare data over time), and lack of timely notice about new reporting requirements. It is oteworthy that the Department of Education is aware of these issues and as been working with CCSSO to identify possible solutions.

To be clear though, we are still working with the Department to further explore and better define this challenge. A CCSSO commissioned preliminary data collection analysis detailed 625 separate federal data reports and within them 241 discrete data elements that were reported more than once. For example, Student Limited English Proficiency Status is required in 73 different files. Moreover, we discovered that the same data element is often collected up to 3 different times a year. Since states are required to report data in aggregate table formats there is no simple way to report an individual piece of data. Thus each time a data element is collected or recollected there is a cost associated with valuable staff time at the school, district and state level that is expended to obtain, verify and then report these figures; cost and time that could be better spent focused on supporting efforts to improve low-performing schools or other important reas. We are in the early stages of this data burden analysis and will keep the committee apprised as we gather further information.

The data collection problem is compounded by redundant requirements and changing obligations year-by-year. For example, after the 2004 reauthorization of the Individuals with Disabilities Education Act, the Department of Education issued regulations requiring the collection of data around 20 additional indicators. The De-

partment subsequently reworked or changed nearly all of these requirements, some of them more than once, over the past six years. This moving target unnecessarily burdens states and localities and makes it very difficult to establish solid baselines or compare ny of the data from year to year. Furthermore, the data elements collected for three of the indicators are already collected as part of EDFacts.

As a result of the existing burdens, states have spent so much on their current data collections that they have no additional resources to support eaningful research or add additional elements on the link to improved tudent achievement.

Accountability and Adequate Yearly Progress Regulations

In preparing for today's hearing, our members highlighted a range of regulatory requirements linked to outdated statutory provisions currently under review by Congress. While the statutes themselves are not the intended focus of today's hearing, it is difficult for some important areas to ogically separate statute from regulation, so I want to highlight several such examples raised by our members.

In many respects, federal regulations are responding to outdated statutory requirements. This is the case with federal regulations that prescribe a one-size-fits-all accountability system that over-identifies schools as failing, mandates rigid improvement actions, and misallocates scarce resources that should be focused on states' persistently lowest performing schools. For example, the current Adequate Yearly Progress system reflected in statute and regulation does not allow most states to create accountability systems that give schools credit for student improvement over time. Under an existing pilot program, the Department of Education allows a small number of states to use growth models for this purpose, but federal requirements forbid the majority of states from using such systems for accountability determinations. This dated requirement was created before states developed the longitudinal data systems needed to track student progress over time-which in turn allows for the creation of evaluation systems to measure educator effectiveness and support instructional improvements. States capable of implementing a fair and reliable growth model should be empowered to do so integrating them into their accountability systems. These statutory and regulatory requirements have inhibited states from implementing innovative assessment and accountability models, including the use of high quality adaptive assessments that can better meet the needs of individual students. The current rigid accountability system also leads to a serious misallocation of resources, because state school turn-around funding and efforts are targeted across a larger number of schools (many of which are relatively high performing), rather than being targeted to the persistently lowest erforming schools that need the most assistance. This misallocation irectly impacts the students requiring the most support.

Highly Qualified Teacher (HQT) Regulations

As with accountability above, federal HQT requirements and regulations have not kept pace with practice. The regulations have become a strain on states' abilities to move toward models of teacher effectiveness tied to student achievement, and the regulations have also become increasingly complex to address implementation realities, particularly in rural areas. Current requirements overemphasize the value of credentials as an indicator of a teacher's ability to succeed in the classroom, fail to fully address the unique needs of small and rural communities, and burden states' abilities to dedicate staff and resources to developing educator evaluation systems focused on outcomes, not inputs. Requirements do not withstand examination of student achievement results in the classrooms of some HQT teachers and the regulatory framework diverts time and attention from the need to ensure that all students are taught by an effective teacher. Leading states are now exploring the implementation of next generation educator evaluation systems, which will substantially rely on tudent achievement results to measure an educator's performance, even as they continue to help their schools satisfy HQT requirements.

Despite the national transition to output based effectiveness models the Department of Education continues to rigidly enforce the agency's HQT regulations, which have grown increasingly more complex as the Department struggled to create workable regulatory exceptions focused on small and rural schools, special education teachers, and to enable needed alternative certification pathways. These complicated exceptions and the burdensome compliance and reporting associated with them, could be minimized by formally shifting federal law to a teacher quality policy-set focused mostly on student outcomes and other related variables, and not educator inputs. In order to have an effective teacher in front of every tudent in this country, these inconsistencies must be rectified and the focus needs to be on outputs instead of simply credentials.

If states all permitted to implement growth-based models for Adequate Yearly Progress, then the same data used in those models can be integrated into educator effectiveness models that are based on student performance and outcomes, rather than educator inputs. States' longitudinal data systems can link student data across years to determine growth and those same growth data can be included in educator effectiveness measures. These data can also become important in the identification of effective professional development programs and activities that can assist educators in improving their practices.

Federal Program Monitoring Visits and Tracking Federal Funding

Regulatory requirements focused on tracking and accounting for federal funding lack a focus on outcomes. The federal government's current system mandating how funds must be spent and accounted for by recipients is "stove piped" and does not focus on whether funds are well used. As the stewards of state funds, chiefs agree that a public, transparent accounting of taxpayer dollars is critically important, but the system must be efficient to ensure that scarce resources are not being unnecessarily diverted from the needs of students. For example, independent programs and separate staffs are often created, each with their own purposes and agendas. Too much time and effort is spent inefficiently accounting for federal funds program by program-including engaging in burdensome audits and program reviews focused on these issues-which has nothing to do with whether the funds are well spent on students. This challenge flows in part from the statute, but is compounded by the broad ange of Office of Management and Budget circulars and regulations that detail how recipients must account for funds.

Lastly states often face auditing or site visits from multiple Department of Education entities at separate times and the reports developed following monitoring visits are sometimes not delivered to states in a timely fashion. Furthermore, follow-up by the Department to state responses is often slow, while States are given a short window to respond to findings. While monitoring visits serve an important purpose, the overall burden associated ith them could be minimized by eliminating unnecessary regulations and instead focusing more on a given program's outcomes for children. In closing, CCSSO supports a meaningful federal role in ensuring strong accountability and efficient oversight. The federal government must not, however, unnecessarily burden states and local districts with regulations that stifle or limit innovation. One state recently reported to us that it has had to shift staff into compliance oriented positions in order to meet their federal obligations and estimates that well over half of its state agency time is spent dealing with federal regulations—I'm sure we would all agree that spending time that way is missing the mark.

States seek a fundamental shift in federal law that rightly raises the bar in terms of education goals, but clears-away unneeded regulation and returns power and judgment to states and districts with regard to the means of achieving those goals. This approach will result in a new and better federal policy-set that expects and promotes innovation, evaluation, and continuous improvement in state policies, instead of relying on a one-size-fits-all approach riddled with regulatory requirements that may discourage or prohibit effective evidence-based reform. States seek this proposed new state-federal partnership, because the elimination of burdensome regulations alone will not resolve the complex challenges facing the nation's ow performing schools, even though such changes are critically important to state and local leaders' abilities to help all students succeed. In accordance with this approach I submit for the record a recent letter CCSSO sent to Congress outlining a new state-federal partnership. Our collective goals must be to raise student achievement and turnaround low-erforming schools. The state school chiefs around are true partners toward these goals.

Chairman KLINE. Thank you.

Mr. NELSON. Let us hear from higher education.

STATEMENT OF CHRISTOPHER NELSON, PRESIDENT, ST. JOHN'S COLLEGE

Mr. NELSON. Thank you. Chairman Kline, Ranking Member Miller and members of the committee, I am Christopher Nelson, president of St. John's College in Annapolis, Maryland. And I have served in that capacity for over 20 years.

St. John's is one of over a thousand members of the National Association of Independent Colleges and Universities on whose behalf I am also testifying. I am grateful for this opportunity to discuss with you the regulatory burden on colleges and universities.

In the overall scheme of things, St. John's has been one tiny college among thousands. We maintain an enrollment of under 500 students. Nonetheless, the regulatory world applies to us as much as to the rest.

Ours is a community devoted to liberal education. Our means are the reading of great works of literature, philosophy, mathematics, and science. The curriculum is rigorous and fully required of every student. Anything that distracts us from our central purpose is a loss, particularly now when resources are tight.

When I consider the appropriate sharing of public and private responsibility for higher education, I turn to the words of Justice Felix Frankfurter in a 1957 Supreme Court case where he laid out the elements of autonomy that should belong to every college. "It is the business of a university," he said, "to provide an atmosphere in where there prevail the four essential freedoms of a university, to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study."

In my written testimony, I provide examples of the unintended effects of certain particular regulations, the duplicative nature of others, a summary of the time required to respond to the myriad regulations, and reports required of us and the number of "burden" hours calculated by federal agencies who are required to describe the cost of compliance measured in staff time expended.

To give an example, the Higher Education Opportunity Act alone added well over 200 pages to the Higher Education Act and over 200 pages to the federal regulation to the implementing regulations. The October 2009 general issues regulations alone included estimates that reported burden hours would increase in 20 different areas, ranging from one to approximately 110,000 hours.

There are cumulative numbers. And this is just one regulatory package. The cost of compliance is large for institutions of all sizes, but particularly so for a school of our size that has no office of institutional research of staff dedicated to support that function. This means that literally dozens of people on our campus, myself included, assume this burden as part of our daily work.

One effort to quantify the regulatory burden was undertaken by the Catholic University of America, which compiled an A to Z list of the laws that apply to colleges that fill nine single-space pages. You may have this in front of you, an alphabetized list of these things.

I also have with me three large notebooks right here to my left that the Catholic University allowed me to borrow for this purpose. And these just contain the summaries of those laws, not even the regulations or sub-regulatory guidance issued pursuant to them.

Please understand that I don't question whether any one of these regulations supports a good end, but simply note the accumulative effect. My written testimony speaks to the many forms of regulation under the Higher Education Act, some directly related to programmatic administration and much that is not. And they come

from agencies outside the Department of Education by virtue of the many other functions we serve.

What concerns me most, however, is the extent to which the regulatory process intrudes into the core of the academic undertaking, intrusions that challenge the independence of our schools to determine what may be taught, to whom, by whom, and how. Diversity of mission and purpose is the greatest strength of American colleges and universities. Attempts to regulate us as though we are all trying to accomplish the same thing would be a mistake.

Institutional autonomy is a strength. If a college has abused its public trust, correction ought to be aimed at the one who has abused that trust, not at the rest of us by another unnecessary regulation.

Let me suggest one other thing you might consider. As new requirements are created, get rid of some of the old at the same time. The concept would be something along the lines of a pago system for regulation that could be applied both to regulatory requirements and to data collection.

Thank you for looking at the question of regulatory burden and for inviting me to speak with you.

[The statement of Mr. Nelson follows:]

Prepared Statement of Christopher B. Nelson, President, St. John's College, Annapolis, MD

Chairman Kline, Ranking Member Miller, and members of the committee, I appreciate having the opportunity to appear today to discuss the regulatory burden on colleges and universities. I am Christopher Nelson, president of St. John's College in Annapolis, MD, and I have served in that capacity for twenty years.

St. John's College is a co-educational, four year liberal arts college known for its distinctive curriculum grounded in the study of seminal works of the Western tradition. St. John's is a single college located on two campuses, one in Annapolis, Maryland, and another in Santa Fe, New Mexico. The campuses share an identical curriculum and a single governing board. Each campus is limited to fewer than 500 students, and the faculty-student ratio is 1 to 8. We have no majors and no departments; all students follow the same program. Students study from the classics of literature, philosophy, theology, psychology, political science, economics, history, mathematics, laboratory sciences, and music. No textbooks are used. The books that form the core of our study are read in roughly chronological order, beginning with ancient Greece and continuing to modern times. All classes are discussion-based. There are no class lectures; instead, the students meet together with faculty members to explore the books being read.

We are a community dedicated to liberal education, which seeks to free men and women from the tyrannies of unexamined opinions and inherited prejudices. It also endeavors to enable them to make intelligent, free choices concerning the ends and means of both public and private life. The books we read are timeless and timely; they not only illuminate the persisting questions of human existence, but also have great relevance to contemporary problems. They change our minds, move our hearts, and touch our spirits.

St. John's is one of the over 1,000 members of the National Association of Independent Colleges and Universities (NAICU), an organization that represents the diversity of private, non-profit higher education in the United States. Some years ago, I was involved with a NAICU group that looked broadly at the responsibilities of independent higher education. Our conversations about these responsibilities offer a general framework for illustrating the many different ways to look at regulatory burden on colleges.

Briefly, this burden can be viewed from three vantage points:

(1) Responsibilities under the Higher Education Act;

(2) Regulation by agencies outside the Department of Education; and

(3) The quasi-regulatory conferred on accreditors by virtue of an institution's participation in Title IV programs.

I'll talk about each of these points in a bit more detail, but start by observing that-whatever the vantage point-the regulation of colleges and universities is mas-

sive. Various efforts have been made in the past to quantify it, but no one has managed to come up with a definitive number.

One of the more ambitious efforts to compile this information as a means to assist with compliance has been undertaken by the general counsel's office of the Catholic University of America. Among other things, they have compiled an A-to-Z list of laws (*http://counsel.cua.edu/fedlaw/A-Z.cfm*) that apply to colleges that covers nearly 9 single-spaced pages. They have kindly let me borrow the three large notebooks on the table before me that contain just the summaries of the laws on the A-to-Z list. That doesn't even include the regulations or sub-regulatory guidance-which for the Department of Education alone takes up three large file boxes.

When I step back from the mass of the more mundane record-keeping, reporting and compliance environment, I try to see what the effect of all this is on our principal task, fulfilling our educational mission for the sake of our students. Every diversion or distraction from these primary purposes weakens our best attempts to achieve those ends. Most especially, we all need to keep in mind the immortal words of Justice Felix Frankfurter in a 1957 Supreme Court case, when he tried to lay out clearly the essential functions of a college our university that should be protected from governmental intrusion:

It is the business of a university to provide that atmosphere which is most conducive to speculation, experiment, and creation * * * an atmosphere in which there prevail the four essential freedoms of a university—to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study.

Higher Education Act

An outgrowth of the NAICU group I mentioned was a categorization of three types of regulation that are related to the Higher Education Act. These categories included:

(1) regulations directly related to the administration of HEA programs;

(2) regulations providing for appropriate accountability of recipients of HEA assistance; and

(3) regulations that are not related to program administration or accountability, but that are applied by virtue of the fact that Title IV assistance is provided.

It is the third category where most concerns about regulatory burden have been raised. It is not a question of the good intentions behind these requirements, but that they continue to accumulate with no paring back or review of what is already on the books. Just a couple of examples-

• Colleges have been required to include in their annual campus crime reports "arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons possession. (HEA Section 485(f)(1)(F)(i)(IX). Under the Higher Education Opportunity Act (HEOA), enacted in 2008, colleges now have to include similar (but not quite identical) information in a biennial drug and alcohol abuse prevention report. (HEA Section 120(a)(2)).

• Likewise, colleges have long been required to certify compliance with restrictions on lobbying at the time of applying for federal support and after receiving it. However, under HEAO, an institution must annually "demonstrate and certify" to the Secretary of Education that it has not used any HEA funds to attempt to influence a member of Congress in connection with any federal grant, contract, loan, or cooperative agreement, or to secure an earmark.

The Higher Education Opportunity Act alone added well over 200 pages of language to the Higher Education Act and well over 200 pages of the Federal Register devoted to regulations to implement it. And that is without counting the Federal Reserve regulations issued to cover the Truth in Lending Act provisions included in the HEOA or any of the additional IPEDS survey questions and guidance.

One observation I would make about federal regulations is that there is a section in each final regulation that calculates estimated "burden hours" for institutions and students to comply with the regulations. For example, the general and non-loan programmatic issues regulations issued in October 2009 estimated the addition of 8,541 burden hours for the reporting of information about retention rates, placement rates, and post-graduate employment. Various other burden estimates in this particular regulation ranged from 1 hour to 109,645 hours.

This is just one regulatory package. These hours add up to a point where compliance becomes onerous for institutions of all sizes-but particularly so for those as small as St. John's College. We have no office of institutional research or staff to support that function. This means that literally dozens of people on our campus, including myself, assume a portion of the reporting and compliance burdens in our daily work. But what is just as troubling is that, although there is a law that re-

quires agencies to calculate estimated burden, no one really seems to pay much attention to what that burden is.

We see a similar phenomenon with data collection. The Higher Education Act requires institutions to provide data to the Department of Education through the Integrated Postsecondary Education Data System (IPEDS). No one would argue with the need to have good data about institutions of higher education. However, to me, good data means data that people want and will use. Over the years, the amount of data collected under IPEDS has continued to grow without any real review of whether it's useful. I understand that the Human Resources survey (*http://nces.ed.gov/ipeds/surveys/2008/pdf/HR—2008.pdf*) is one of the more onerous of the nine IPEDS surveys (*http://nces.ed.gov/ipeds/resource/survey—components.asp*), and it is not clear that much of the information collected on it is ever used. (I have with me a copy of this one. The questions and instructions cover 137 pages.)

Finally, I would observe that there are occasions where regulations collide in ways that lead to nonsensical results, and I'll just give just one example. Several years ago, a women's college wanted to offer a post-baccalaureate pre-med program. The institution was told that-unless men were admitted to the program-they would be in violation of Title IX regulations because the program enrolled only students who already had BA degrees, even though the program itself did not offer a higher degree. Consequently, the institution opened the program to men; and the highest number of men who have enrolled since that time is 4. Nevertheless, this school was told two years ago that it would need to fill out a detailed Equity in Athletics Disclosure (HEA Section 485(g)) form because it was a "coeducational" institution. (Speaking of that form, we at St. John's are sent that form despite our having no intercollegiate sports, intra-mural teams that include both men and women, and an entire athletic budget that pales in comparison with a single Assistant Coach's salary at some universities.)

Regulation by Other Agencies

The NAICU group I mentioned also looked at the many different hats we wear and the wide variety of bodies to which we must be accountable. Broader regulation of colleges comes as part of our roles as property owners, landlords, financial agencies, laboratories, and the like.

Again, appropriate regulation related to carrying out those functions is not the problem. Where we often run into difficulty is when we find ourselves having to deal with regulations that were not really intended for us.

A couple of recent examples—

• Just last week, more than a dozen higher education organizations joined efforts in submitting comments to the Securities and Exchange Commission (SEC) on proposed rules that would require individuals who fit the broad definition of "municipal advisor" to register with the SEC, and comply with new record-keeping requirements.

The SEC proposal is part of the ongoing implementation of the Dodd-Frank Wall Street Reform Act, signed into law this past summer. This act was never intended to regulate colleges and universities, and our institutions are not even mentioned in the bill or law. The intent was to regulate "market professionals" and "market participants." However, the SEC proposals—if implemented—could require tens of thousands of college and university officers and employees to register with the SEC and adhere to new reporting requirements.

In addition, while the definition of "municipal advisor" expressly excludes elected trustees and employees of public colleges and universities, it does not expressly exclude appointed trustees of public universities or trustees and employees of private colleges and universities. Yet, employees and officers of private colleges and universities perform the same functions as employees and officers of public institutions.

• There is currently a great deal of confusion about the application of the Federal Trade Commission's "red flag rules." These rules require the development and implementation of written identity theft prevention programs and are primarily targeted to financial institutions and creditors. Last December, Congress passed legislation to limit the entities required to develop these programs and some college officials thought they might not be covered under this new law. However, it now appears unlikely that most colleges will be excused after all. The legislation provides three definitions of a creditor, and the exemption applies only to the third of the three.

In addition, regulation by agencies other than the Department of Education results in the same type of accumulated burden. Again, it is not a question of whether any one of these regulations supports a good end, but of how these things pile up.

The substantial expansion of the information to be provided under the IRS Form 990 is one such example. [Additional information attached.]

Accreditation, Autonomy, and Academic Integrity

What concerns me most, however, is the extent to which the regulatory process has ripple effects that intrude into the very essence of the academic undertaking, effects that challenge the independence of our schools to determine what may be taught, to whom, by whom, and how. This goes beyond the question of the amount of staff time and institutional resources that are devoted to compliance activities.

I cannot measure the amount of time I have spent personally defending the essential strength and good effects of the peer review process that underlies the accreditation of our colleges. This defense has been required continuously over my entire 20-year period of service as a president against efforts, some less successful than others, of federal and State agencies to dictate to us or to our accrediting agencies what our standards ought to be for a core curriculum in the classroom, for student assessment, for institutional accountability, for inter-collegiate comparisons of measures of success according to wildly diverging institutional missions and purposes, and on-and-on.

Some of this regulatory reaction is in the interest of consumer protection. Of course none of us would defend fraud or deceptive practices, but too often the attempts at regulation have rested on a consumer metaphor that is not well suited to many, if not most, of our institutions. People do not buy diplomas, they earn them. Knowledge is not poured into students like milk from a bottle; it is undertaken through an activity of learning that belongs to the students. Students must work at their education. So, while educational opportunity may be fairly claimed by them as a right, the education they might acquire is not. Better the government help encourage and support access to our institutions than seek ways to have us alter our many and diverse visions of what an education ought to look like! This diversity of mission and purpose is the greatest strength of American colleges and universities. In reviewing the regulatory environment for higher education, it would be good if this truth might be kept in mind: that institutional autonomy is a strength, and that where institutions abuse their public trust, correction ought to be aimed at the institution that has abused that trust rather than at the rest of us through another general wide-ranging regulation.

Conclusion

As is so often the case, it is easier to describe problems than to implement solutions. However, I do have a few thoughts about steps I'd encourage you to take as you deal with regulatory burden.

#1—As new requirements are created, get rid of some of the old ones at the same time. The concept would be something along the lines of a "pay-go" system for regulations. This concept could be applied both to regulatory requirements and to data collection. Remember too that all of us are regulated by another huge apparatus of State regulatory agencies (and I have attached a list of forms St. John's must file with both federal and state agencies.)

#2—Recognize that the accumulation of layers and layers of regulatory activity can't be addressed simply by picking a few selected regulations to be abolished or modified. A good start would be to provide funding for section 1106 of the Higher Education Opportunity Act (P.L. 110-315) [full text attached], which provides for a review by the National Research Council of the National Academy of Sciences to determine the "amount and scope of all federal regulations and reporting requirements with which institutions of higher education must comply." However, funding for this study has not been provided, and so it has not been initiated.

I realize that funds are limited, but-at the same time-would point out that over the past several years the federal government has provided some $500 million for the development of state systems to have educational institutions to collect piles of unit record data. The Administration's FY 2012 budget request includes an additional $100 million for this purpose. This committee wisely took the lead in preventing the development of such a data system at the national level. Rather than continuing to support activities that lead to even more form-filling and paperwork by educational institutions, why not stop funding State efforts to do just that and use those resources to figure out how to pare down unnecessary burden?

#3—Finally, please be mindful of the ripple effect that legislative action can have. I know this can be tedious, but it is critical.

I understand that today's hearing is but one of a series of oversight hearings your committee intends to conduct. Thank you for taking the time to look at the huge regulatory apparatus that is in place and for giving me the opportunity to appear before you.

ADDITIONAL INFORMATION

IRS Form 990

The Internal Revenue Service issued final new Form 990 and instructions in January 2009, for 2008 tax-year filings and beyond. The new form was designed to report much more detailed information in a variety of areas, but most specifically information regarding compensation, governance and endowment.

The additional disclosure of compensation information on certain employees and officers and certain compensation practices go far beyond what the tax-exempt community has ever been accustomed to providing. The new disclosures are more closely aligned with those required of publicly traded companies.

The new Form impacts the way tax-exempt organizations, including colleges and universities, must report the details of compensation arrangements. They are complex and require cost estimates that have previously been used for internal reporting only.

For example: Part II of Schedule J specifies that all nonprofits must now report details of respective compensation plans in a tabular form that provides information on each named official—including all officers, directors, trustees, up to 20 key employees, and highest compensated employees—a breakdown of the following:

a. base salaries
b. bonus and incentive compensation
c. longevity and severance payments
d. deferred compensation
e. cost of nontax benefit plans (medical, disability, housing, education, etc.)
f. any compensation that was previously reported in a prior year Form 990

There are additional new disclosure requirements relating to endowments on Schedule D, including:

a. beginning and end of year balances
b. contributions to endowments
c. investment earnings and losses
d. grants or scholarships from the endowment
e. expenditures for facilities and programs
f. administrative expenses
g. percentage of endowment held as board designated, permanent or term endowments
h. whether or not endowment funds are held by other organizations, related or unrelated
i. description of intended uses of endowment funds

SEC. 1106. ANALYSIS OF FEDERAL REGULATIONS ON INSTITUTIONS OF HIGHER EDUCATION

The Secretary of Education shall enter into an agreement with the National Research Council of the National Academy of Sciences for the conduct of a study to ascertain the amount and scope of all federal regulations and reporting requirements with which institutions of higher education must comply. The study shall be completed not later than two years after the date of enactment of this Act, and shall include information describing——

(1) by agency, the number of federal regulations and reporting requirements affecting institutions of higher education;

(2) by agency, the estimated time required and costs to institutions of higher education (disaggregated by types of institutions) to comply with the regulations and reporting requirements described in paragraph (1); and

(3) by agency, recommendations for consolidating, streamlining, and eliminating redundant and burdensome federal regulations and reporting requirements affecting institutions of higher education.

St. John's College List of Reports filed with federal and State Agencies

The following is a list of reports coordinated by our Registrar and completed by various St. John's employees over the course of a typical academic year. It is by no means complete as to reports prepared by other offices. They are in addition to reports to and surveys by non-federal and non-State agencies, e.g., reports to admissions guides, foundations, and the like.

The first part of the list includes reports requiring input from more than one office. The latter part of the report includes surveys completed largely by one office.

Multi-Office Reports:

1. IPEDS (the Integrated Post-Secondary Education Data System) Annual Collections

IPEDS is run by the Department of Education and participation is mandatory for schools receiving Title IV funds.

Offices with input:

Business Office (finance survey)

Financial Aid (annual awards)

Registrar's Office (enrollment; degrees awarded; graduation/retention rates)

Personnel Office (faculty information)

2. MHEC (Maryland Higher Education Commission) Annual Collections

Maryland's state reporting requirements, which are also mandatory for schools receiving Maryland state aid (like the Sellinger Grant).

Offices with input:

Financial Aid (student aid file-FAIS; S5 report)

Registrar's Office (enrollment; degrees awarded; complete student data file; etc.)

3. MICUA (Maryland Independent College and University Association) Surveys undertaken to meet collective reporting by the MICUA to the Higher Education Commission.

• Accountability Survey (Admissions; Business Office, Financial Aid; Registrar's Office)

Single-Office Reports:

1. Advancement

• National Endowment for the Humanities

—We the People Endowment fund financial information

—Effects of We the People Expenditures

—Details of We the People Expenditures

• Maryland State Arts Council (interim and final reports)

—Mitchell Art Gallery budget and fundraising figures

—Information about exhibitions, programs, and visitors

• Maryland Cultural Data Project

—Mitchell Art Gallery budget and fundraising figures

—Information about exhibitions, programs, and visitors

• Arts Council of Anne Arundel County (interim and final reports)

• Mitchell Art Gallery budget and fundraising figures

• Information about exhibitions, programs, and visitors

2. Business Office

• Form 990, 5500, 5527, W-3, 1099, to internal revenue service

• Report unclaimed property to state of Maryland

• Annual property tax return

• Quarterly Line of Credit covenant test to PNC bank

• NACUBO annual endowment survey

• Provide information for annual insurance audit

• Provide inputs to annual FISAP report (federal financial aid)

• Provide inputs to Middle States Survey for accreditation

• Provide inputs to American Academy of Liberal Education Survey for accreditation

3. Financial Aid

• FISAP (Fiscal Operation Report and Application to Participate)

• College Board

• MICUA

4. Library (generally needed for accreditation purposes)

• ACRL (Association of College and Research Libraries) Trends and Statistics

• National Center for Education Statistics, Academic Libraries Survey

• Miscellaneous surveys such as the ALA-APA Library Salary Survey

5. Personnel Office

• Workers Compensation

• BLS—Department of Labor

• CUPA

• HEDS/AAUP

6. Registrar's Office

• Solomon Lists to Armed Services

• Middle State's Institutional Profile

• Open Doors Survey (international students)

Chairman KLINE. Thank you very much.

Thank all of you for your testimony.

Thank you for bringing the display, Mr. Nelson. I am looking at that and thinking about what you said that that is the summary

of the regulations. I hesitate to see what the whole pile looks like. You probably would have had——

Mr. NELSON. It is actually just the summary of the laws. The summary of the regulations would be volumes and volumes more. Bigger.

Chairman KLINE. Well, that is exactly what we are trying to get out. So I do appreciate the—the visual aid there. I think it is helpful to us.

And I want to thank all of you.

In his opening comments, the Ranking Member pointed out that it is not just the federal government that has regulations. And I feel your pain, I think, to quote an old famous quote. When you think about all the regulations that are generated by the state, by the school boards, individual principals, and superintendents, everybody is trying to get data and to make decisions and to make sure that things work. And so, there is no question that you not only have those binders, but many more.

Along that line, any of you, I guess we can start with Dr. Hatrick or anybody else. When you look at—when you look at the federal government, particularly—but I guess you can look across the state—where else are schools—and I am really looking at K-12 now, mostly. Where are these regulations coming from, what kind of agencies?

Mr. HATRICK. Well, we have a number of regulations and reporting requirements to do with child nutrition, to do with Head Start, of course, everything surrounding IDEA that is sort of outside of ESEA. And then the ARRA funding that we received is now carrying with it probably one of the biggest reporting requirements we have ever experienced.

I mean, we are literally going to submit the grades for all of our children to the federal government. And they are going to be paired with teachers. I am not sure to what end. We don't have a national grading scale. We don't have a national curriculum. But for some reason, there is interest in Washington in knowing what Susie made in English in the third grade.

So it is just in almost every aspect of what we do—and I think the point is well-taken by the Ranking Member and by everybody else, this is not just a federal problem. My teachers look at me and say the same thing that you said.

Now, sometimes they are not aware that what I am asking of them. I am asking because I have to report it to somebody else. But every time you turn around, there is both a new requirement and, as the teachers say, you keep adding to our daily requirements for what we are supposed to do, but you never take anything away. Well, we in the superintendency, feel the same way.

Chairman KLINE. Anybody else, examples of regulations, particularly from agencies other than the Department of Education?

Mr. Nelson or ever who——

Mr. NELSON. Well, there are a number of different agencies. Because we serve in capacities other than education alone, we have regulations for under securities law, labor and employment, laboratory safety, OSHA, EPA, you name it.

Under this list that the Catholic University of America has done, we have got regulations just under A for the Age Discrimination

Act of 1975, the Age Discrimination and Employment Act of 1967, the American Jobs Creation Act, American Recovery and Reinvestment Act, Americans with Disabilities Act, Employment, Americans with Disabilities Act with respect to students, animal welfare, anti-kickback acts, anti-terrorist financing guidelines, Anti-Trust Act of 1890, Artists Rights Acts, athletically related student aid, Atomic Energy Act, and so on. So that they don't all apply to St. John's, but they apply to colleges and universities across the country. And that, of course, is just A.

Chairman KLINE. It would be funny, except I know that it is a real burden.

Mr. NELSON. Yes.

Chairman KLINE. And we want to get at that. So, again, I thank you for your testimony.

Mr. Wilhoit, you mentioned that rules can stifle or flat-out prevent innovation by states. Can you give us some examples where rules have just blocked you from making the changes? You alluded to some in your testimony, but——

Mr. WILHOIT. I think a couple of examples of that—we have to remember that the environment today is very different than it has been in the past. There is a tremendous pressure on states to make dramatic changes to reach the goals we have established. And so, any time you freeze a set of process regulations and the more you define how one carries things out, the more difficult it is to reach the goals. So in many cases—I will just use Title I as an example.

When I was commissioner, I had an interesting comparison to make. I looked at the Title I schools who were making dramatic improvement in terms of student results, something I was very interested in. And then I looked at the results of the federal monitoring of Title I. And there was no correlation between the ones that were successful in getting student results and the ones who were successful under a Title I audit because those Title I audits were looking at procedures about how one puts a program in place.

You could literally get a positive audit under the regulations of Title I and not be a high performing Title I school. What we have is more emphasis on the procedure that one goes through, the rules one follows, the kinds of day-to-day activities of the processes and papers that you have on file, literally. They go through those cabinets and look at whether those files have all those line items or not.

And then I am over here as a commissioner trying to figure out how any of that has any relationship to the high-performing districts. You could have one—a school that is doing well and still not be in compliance with Title I. You could have a school that is in compliance and not be achieving.

Chairman KLINE. Thank you.

Mr. Miller?

Mr. MILLER. Let me pick up on that, Gene. I think a lot of that is quite possibly because you weren't asking the right questions at that time. You were asking questions about whether or not you had all the marbles in the right hole. But you weren't asking whether or not kids were getting a good education at this school because you didn't have any data. And most school districts were terrified of the data.

And most states were terrified of the data. They weren't interested in talking about performance. You know, we have a requirement in No Child Left Behind that 95 percent of the students at the school have to take the exam.

People say, "That is outrageous. What about kids who are sick? What about kids who are traveling with their parents? What about kids who are," whatever. The fact is, before that requirement, they were taking kids on field trips because they didn't want those kids taking the test because they would bring down the performance of the school.

They were telling parents, "You can keep your kid home today." They were going to study hall as opposed to the exam. What we tried to do—I mean, you make a great case here. You make a great case for reauthorization because No Child Left Behind was the last ESEA authorization of the last century. We have moved into a new century.

Districts that used to fight data now want data. They want to be performance-based, at least they say they do for the moment. They want to be performance-based. They want to be based on outcomes. That is an entirely different system than No Child Left Behind addressed.

One of the great disappointments was when Bill Clinton talked about who was going to go across the bridge to the 21st century, we didn't bring the American education system across that bridge until much later. So now the question is, I think as Ms. Haycock's pointed out, if you have a thin system and you have good data and it is performance-based and it is outcomes-based, there is a lot fewer questions you have to ask about whether or not you have five reams of paper and did the federal government pay for three of them or did the federal government pay for four of them because you are only allowed to pay for two-and-a-half of them. And if you don't measure them the right way, then you can't use that paper for those Title I students.

What the hell does that tell you? But that was on an old command and control system. We are trying to transition, if we can ever get the reauthorization of this, to a performance-based system where, with common data across the state and with some sense of common core standards, we would then be able to see how these schools were doing. And that would be a rather simple question for parents, for teachers, for the community on how their schools are doing.

That is a far cry from the system that has evolved since 1965 to today. When I came to this committee we talked about radioactive dollars. And if they weren't radioactive and they didn't follow every child and you couldn't measure, we took all the money away from you. That was really not a good move for districts that were trying to provide an education.

So we have gone through a lot of iterations here. And you know, when we decided as a nation and the court decided it for us, that children with disabilities were entitled to an education, you started to have to ask some questions. And we know what the resistance was. And we know that children were being put into programs that weren't designed to help them acquire an education.

But now we have kind of evolved to a period where we think we ought to hold the school responsible for what the school can accomplish and not punish them for those things that they can't accomplish. That is a far different mindset than 1975. So the time has come, I think, really for this committee and for organizations to start thinking about how you transition to an information-based system, which is—most of the things you read there in that list of information have nothing to do with the performance of these schools or the information that should be imparted to communities and parents and teachers and others about what is going on in that school.

And I would hope that in this reauthorization, if we are able to get to it, we can jettison reams of federal requirements that provide no value-added to the education of these children or to our ability to provide a better education, hopefully, better tomorrow than we did yesterday. So I think this is a fundamental challenge to us. But I don't know how you get there if you don't go for the reauthorization.

Highly-qualified teacher—the first time I said we should have a highly-qualified teacher in class, I lost on the House floor 434 to one. People said you are not telling us what kind of teachers we are going to have in the classroom. I said, gee, I thought maybe they would have subject matter competency. We'd just start with that. You know, if they are going to teach history, that they took a course in history.

But anyway, we have come a long way since then. We have come a long way since then. Growth models—you are right. School districts couldn't do a growth model because they didn't want an information system because the teachers didn't want an information system. And sometimes the schools didn't want an information system because they weren't proud of what they were doing or they were afraid of of what it would show.

Well, I think that—hopefully, over the last couple of years and a lot of political battles here and the emergence of new players in this system and new beliefs about accountability that we can now move to a modern, if you will, relationship and partnership between the federal government and local school districts and those communities. But I will not give up on the idea that there is information that provides a level of transparency so that parents and communities can make decisions about their schools.

And we should never, ever give up on that because we see all across this country where parents have been empowered by the really crumby information that is given out today under No Child Left Behind. But it is more information than they ever had access to before. And that is going to be a real challenge. And we should grandfather a pay-as-you-go. We should write a new one, get rid of the one that is now obsolete because there is no point in having people respond to the Act of 1890.

Thank you.

Chairman KLINE. I thank the gentleman. I am hoping that we can, as we enact one, we can get rid of several and start looking at the reams that Mr. Miller was talking about and make this simpler. That is why we very much appreciate your testimony today as we try to understand the burden and what just seems to be re-

porting for reporting's sake and not really helping to educate children.

Dr. Roe?

Mr. ROE. Thank you, Mr. Chairman.

Mr. Nelson, I thought you had brought the Health Care Act with you over there on the table, looking at the size of it.

I come from a background of having been a previous mayor of a city, having a local school district under me.

And, Dr. Hatrick, you are to be commended for 20 years. That is a tough job. And I think one of the toughest jobs is most—I thought doctors were frustrated. The most frustrated people I meet now are teachers.

I had a chance to meet with several teacher groups last week in Sevierville, Tennessee. And they are inundated with data.

And, Mr. Miller, I agree with you. If the information is worthwhile, it is worth doing. It is worth gathering. But if it is not, just to gather data for data's sake and to look at this thing that Mr. Nelson brought with him—and I know this is what is going on.

And we just got Race to the Top funds. And I asked the teachers—I am talking about the teachers teaching the children, not all the clipboard people above them gathering data, but the actual people in the classroom. They are very frustrated people because they don't have—their time is being taken up and time added to their day to do this stuff that, I don't see, that adds much value.

And so, I know as a local mayor that the most frustrating thing that I ever dealt with was another unfunded mandate from the federal government. And I almost said if it cures cancer and it is unfunded, a mandate from the federal government, I wouldn't vote for a law here. I am being facetious. But you see where I am coming from.

Dr. Hatrick, when you dealt with that, or you deal with that, do you sense that same frustration? For instance, the disabilities, a valuable program. But we are providing in your district 9 percent of the funding and Lord knows how many requirements.

Mr. HATRICK. Yes, it is a huge frustration for teachers. One of the phenomena I see—I actually came in to central office work from a high school principalship with the full implementation of what was then called Public Law 94142. Now, we know it as IDEA now. And, you know, there were reporting requirements. There were regulations.

We all thought that what we were doing for disabled children was what we should have been doing for a long, long time. We have no complaint about that. But I hear from teachers now—I see it every year. I see teachers who leave special education classrooms to go into regular education classrooms to get away from the burden of the paperwork and the requirements that take them away from teaching.

One of my children was a special education teacher in California. And he now works in the central office of the L.A. Unified School District recruiting occupational and physical therapists for that system. It is 650,000 students, so he can have that kind of a niche.

But one of the things that frustrated him as a special education teacher was the amount of paperwork that was imposed on the

process that he couldn't find a nexus between what he was doing and the improvement of instruction. So, yes, it is very frustrating.

I mean, in our district, 1.5 percent of all the funding in my district comes from the federal government, 1.5 percent. And——

Mr. ROE. I agree with you.

Mr. HATRICK. I will stop there.

Mr. ROE. I was looking how we funded our local schools. The city provided almost a third, the county and then the state, and, exactly, about 1 percent. I wanted to send the money back. I said, "I am not getting value for all we are filling out here for the amount of burden that we are putting on our classroom teachers."

And it is one thing to use data. Let me give you an interview I heard the other. Former D.C. school superintendent here said that she had poor families in that were in under-performing schools, and she wanted them to get in a better school, in a charter school. These folks jumped through every hoop that they could and then couldn't get their kids into a charter school, which meant that they were left in an under-performing school. And they had no option.

And that is why she was one—and I am a guy who went from the first grade—we didn't have a kindergarten when I was in school—but the first grade through twelfth and college through the public school system. So I am a huge supporter of public education. But then what is the option when you have failing schools out there and there is no other option left? What do you to then?

Mr. HATRICK. I guess if I knew the answer to that question, I would copyright it or patent it and retire. I think we have to look at a range of service delivery models for students. I believe, frankly, they all ought to be within the framework of public education. But I think there are alternatives available to us in the world of public education that can meet those needs.

I think we also have to recognize that sometimes we label schools as failing when, in fact, they are part of a failing community. And the school is, you know, maybe the symptom of what is going on in family life and community life and the whole social fabric.

Chairman KLINE. The gentleman's time is expired.

Mr. ROE. I yield back.

Chairman KLINE. Mr. Andrews?

Mr. ANDREWS. Thank you, Mr. Chairman.

Ms. Haycock, I am sure you talk to a lot of educators on a regular basis in your work. If you were to ask those educators what they think the biggest problem that ought to be solved in their schools is, what would they say?

Ms. HAYCOCK. That is a very good question. And I do—I actually spend most of my time meeting with groups of educators and community folks all around the country. I would say the vast majority of teachers would say the problem they need the most help with is around, sort of, curriculum and resources. What we do in this country most often is we hand teachers copies of our new standards, and we say, essentially, "Go teach."

In most other developed countries, they actually get a curriculum. They get really good instructional resources. They don't, in other words, have to work hard all day, go home and grade lessons and then after they are really tired, make up what they are going to teach the next day. So I think the biggest need for—ex-

pressed by teachers is really around the quality of curriculum and instructional support.

Mr. ANDREWS. Do you hear them also speak about ways to try to engender more parental involvement and more support of home environment for the students?

Ms. HAYCOCK. It certainly depends on what school, what community. Most of the schools that we have worked with over the years that are doing really well by their students, even students who come from very, very difficult circumstances, have figured out ways to engage parents. I mean, we know how to do that now. And parents are, despite the difficulties of their own lives, now real partners with their children—with their school and their children's education.

Mr. ANDREWS. If you ask teachers to name the top three obstacles that they confront at succeeding with all their children, would too many rules and regulations to follow make the top three for many of the people you ask?

Ms. HAYCOCK. That is certainly not the—those would not be in the top three from teachers, no. That might be in the top three from principals, although there would be two others on top of it.

Mr. ANDREWS. Okay.

Dr. WILHOIT—MR. Wilhoit, excuse me. In your testimony, you say that states strongly agree with the need to strategically collect critical data to support accountability and inform policy decisions but strongly oppose data collection for the sake of data collection. And I think you will find universal agreement with that proposition here.

And I thank the panel for giving us some very concrete and specific suggestions as to what some of those data collections just for the sake of data collections might be. And I am sure that members on our side would like to work with the chairman and the majority to try to take those regulations off the books.

But I want to ask you this question. Many of the data reports that are made are made to the Department of Education. Do your members favor the abolition of the Department of Education?

Mr. WILHOIT. No, there is no consensus. There are 51 of them, and they have 51 different perspectives on this. But there is no consensus about that role. I think they find certain functions of the Department of Education to be extremely helpful. I think they find other functions to be frustrating. And so——

Mr. ANDREWS. What are the functions that they typically find to be helpful?

Mr. WILHOIT. I think most recently, the effort on the part of the federal government to work directly with the states as policy is developed. If we are included in those early conversations and if we are a part of providing feedback, as policies are developed and as programs are implemented, we surface a lot of issues that can be avoided and problems that could be avoided. And so, I think most recently, they have been very pleased with the way that the department is reaching out to the states to engage them in that indirect process of regulation and policy setting.

Mr. ANDREWS. And just, if you could, supplement for the record, when you have an opportunity, if any of your 51 members favor the

abolition of the department, we would just like to have that for the record.

Mr. WILHOIT. Sure.

Mr. ANDREWS. Thank you.

I yield back.

Chairman KLINE. Thank the gentleman.

Dr. Heck, you are recognized.

Mr. HECK. Thank you, Mr. Chairman.

Thanks to the panelists for being here today. I think everybody agrees that we need to try to strike that balance between regulation, accountability, and transparency and meaningful results. We have heard a lot of talk about data today. But, in and of itself, that is just it. It is numbers. It is facts. And unless it is synthesized into meaningful information, collecting data really doesn't mean a whole lot to the process.

My perspective on this is twofold. One is, as a father of a 13-year-old in the public school system in Southern Nevada, who this week is undergoing CRT, Criteria Reference Tests, pre-week for the test that he is taking next week, losing 8 instructional days to both test prep and then actually taking the test to meet the requirements of this regulatory burden. And also as somebody who has spent a little bit less than half his life, 44 of 49 years, in school getting my degree with an undergraduate degree in education and thinking that I was going to be a teacher; until I did my student teaching and realized, similar to what Ms. Haycock said about being able to walk in and saying this is what you are teaching today with no resources and learning about the regulatory issues that I was going to suffer under and decided to go into something less stressful and went into medicine.

So in prepping for today, I heard from a constituent, Catherine Unger, who is a speech language pathologist. Sometimes forget the ancillary specialties that are also involved in educating our youth and concentrate on teachers.

And her concerns were over the IEP being used as an annual progress report and the fact that so much time is spent on making it look good on paper, whether or not it really had the students' best interests and needs at heart and also the disparities in requirements for documenting the therapy and the services that they provide, the differences between a special education teacher and a speech language pathologist. So a lot of discrepancies.

So my question would be for each member of the panel. If you could, make one recommendation on how to strike that balance between regulation, accountability, and transparency and meaningful results. What would that recommendation be?

Mr. HATRICK. I think I would recommend hearing from the practitioners in the field. I know among superintendents—you know, I go back to the fact that my colleague superintendents around the country, the vast majority of them are in school districts with very limited resources in terms of help. So when it comes time to fill out a report, guess who is doing it? The superintendent, the clerk of the board, the director of instruction—you know, you have a central office of three or four people, not three or 400 people.

I think it would be extremely useful to bring in people from the field who represent the various teaching disciplines, various size

school districts and just take some time to sit down and say with USED people, with congressional people, "Okay, why are we asking for this? How are we using the information once we get it? And what is the impact of providing it in the field?"

Otherwise, I think we keep talking around the big issue. And then what we do is we just pile on. We keep adding. We never take away. But I think we need to get back down to the people who are impacted by this, the speech therapists. You know, we partner with schools overseas, American schools overseas. And there are people teaching in those schools who are special education teachers who tell me they won't come back to the States because they don't have the requirements of the IEP. They teach children.

Mr. NELSON. I had a thought on behalf of higher education. And that is that I am a huge fan of the peer review process for accreditation where we are all asked to look at our institutional purposes, our mission. And then we are asked, not only whether we fulfill those purposes and that mission, but how we can improve on it.

And we are getting candid and helpful advice from professional educators, people who know our world and are trying to help us. It allows us to be candid about our faults. Any effort I see in federalizing accreditation—and there is some movement toward that, many efforts in the last several years—undermines this process.

What I am talking about is efforts by the department to pass a regulation that typically states something like this: "The accrediting organization is required to assure that institutions X, Y, and Z do the following." And so, they are doing indirectly through the accrediting agencies what they are not doing directly with the colleges and for good reason.

I fear, as I serve on these accreditation teams myself, that more and more accrediting agencies are asking this question: What does the federal government want, rather than, what do these schools need to do to improve the quality of their education.

Chairman KLINE. The gentleman's time has expired.

Mrs. McCarthy?

Mrs. MCCARTHY. Thank you, Mr. Chairman.

Mr. Nelson, one of the things that, listening to your testimony and going through your testimony—over the years, I have been extremely active in the best way that we can make sure our college campuses are safe. After Virginia Tech, I had introduced legislation, which was accepted and put into the higher education bill, basically working with the Cleary Act and also making sure that students would be notified any time there was an emergency on the campus.

Given the concerns that, basically, all of you are, basically,raising about the redundancy in a lot of the reporting—and I can understand that. In health care, they are doing the same thing. Some of the HEAs campus safety guidelines that I fought to get into there—is there an interest in the colleges in seeing a—you know, bringing them all together on these guidelines into a single, maybe more guidelines related to, like, alcohol and substance abuse because that is a safety issue on the campus also and consolidate them into, maybe, a guidance that draws on the best parts of the reporting guidelines. Could something like this be basically accom-

plished in the goal of streamlining the regulations while basically also——

Mr. NELSON. Yes, I haven't——

Mrs. MCCARTHY. Following the original——

Mr. NELSON. I haven't thought about that in particular. But I can imagine that such a thing would be possible. I mean, I look at the importance of these issues to St. John's College. And so, they must be huge to others.

We spend whole faculty meetings, where we might be talking about what is going on in the classroom, to talk about drug and alcohol issues, to talk about how we meet the various requirements and regulations pertinent to the Americans with Disabilities Act and health and safety issues and the like. And we bring in counselors and advisers to help us on this.

We even go through these drills and safety training with police and fire to see what kinds of—what our response ought to be like, how we would communicate, especially in a world where technology has such a play. And one needs to be ahead of this, lest the world of communications and blogging gets out such bad information, that people act wrongly in all of these things.

So I can imagine that there is a place where we could learn together how to streamline and how to think about best practices there. But I haven't done that yet. I haven't given thought to it. If I come up with something, I would be happy to get back to you.

Mrs. MCCARTHY. Well, I would because, obviously, hopefully, we will go forward on reauthorization. And I think there are issues that we need to look at, especially on safety on the campuses. You know, unfortunately with the shooting in Arizona, one of the universities had signs that the person that did the shooting was not well.

In one way, a week after they suspended him, they actually put a program together. So, I mean, things like this are always going to come up. But yet, we need to make sure our universities and all of our campuses are safe.

Mr. NELSON. I agree entirely with this. And we have gone to seek best practices from other schools in all of these areas. We have a psychiatrist on-call. We have several campus counselors for a tiny student body.

We have very tiny classes. And we actually take attendance. Failure to show up in class, we see, as a sign that there may be a problem. And then we have staff, both students and faculty, who will be there and go straight to the student's dormitory room or make calls on roommates or downtown in the off-campus housing.

One thing you can do as a small school, giving a lot of personal attention, is to attend to the particular needs of each of those students. But in doing that, we also build cooperative relationships with police and fire and emergency services, with the U.S. Naval Academy across the street, with the state capitol building, which is also across the street. We are rather well-protected or well-targeted with these institutions around us.

Mrs. MCCARTHY. But as we go forward, I certainly hope that you will give us some thought because maybe we can reach out and work and how we can do that without the redundancy of more regulations and everything else like that.

Mr. NELSON. Thank you.

Mrs. MCCARTHY. Thank you.

Does anyone else have—I know I was talking about a campus, but school grounds now are just as dangerous at times.

Mr. WILHOIT. I think you could apply this dilemma to several aspects of K-12 education. There have been similar sorts of horrible incidents that have occurred and systems haven't been prepared for them. I think in terms of this conversation today, there are a couple of different pathways that could be taken in how to deal with that in terms of regulations and in terms of oversight.

Our thought on this would be that that problem should not be ignored. It is a responsibility of the institutions to respond to it. But the way in which the laws are written and the way in which the regulations are developed could lead those institutions down a pathway of taking—pay more attention to the nature of the plan, the design, the reporting mechanisms around that than encouraging each of those institutions to build off of a generalized requirement that they address these issues, giving greater latitude in terms of how those plans are developed.

Mrs. MCCARTHY. So basically, you are also talking about having the flexibility of working for your campus. Basically, it might be different for another kind of campus.

Mr. WILHOIT. Absolutely. The——

Chairman KLINE. The gentlelady's time has expired.

Dr. Bucshon?

Mr. BUCSHON. Thank you, Mr. Chairman. I am going to make a few comments just—and thank you, panel, for being here to testify today.

And just to give you—my background is in cardiovascular surgery. And we found in health care that—and this seems fairly obvious. But just because we think something logically should be true, doesn't mean that it is.

And what I mean by that—our specialty has developed a database in cardiovascular surgery that shows us what works and what doesn't. We collect that ourselves. And we change practice patterns based on that data and not what we think works, but what we know works.

This will lead to a question, by the way. Also, however, there is a concept of local standard of care in medicine. And what some do well, others may not. And what works for some, may not work for others. So in that context, I am pretty much a results-driven type of thinker.

And, Dr. Hatrick, I would like to know, over the course of your career in education, regulations obviously have increased and not decreased. And the bottom line is it appears to me that the results haven't really changed. So if we are continuing to do a premise that regulation is what is going to make our students better, it seems like to me that, based on my health care experience, it is not working.

And I would like just to see what your comments are. Are the students doing better—that is the bottom line—since you started your career compared to today?

Mr. HATRICK. Yes. I don't think there is any doubt students are doing better now than they did when I started my career in 1966.

They have more opportunities. We have less dropouts. We have more high school completers, more college completers.

Whether or not they are doing so much better that they can compete in the world, which is doing better, is sort of a different question. I am not sure, though, that I would attach their doing better necessarily to regulation. I would attach it more to enablement.

And I realize that when we enable programs—when we admitted disabled children to school who were turned away prior to the implementation of 94142—I mean, we basically said we just don't have a place for you. We were giving them an opportunity they didn't have before. But I do find it hard to find the nexus between the reporting we do and the improvement.

And maybe I am making a fine line. I do agree that it is important that the data be collected to prove that we are doing what we say we are doing. But it ought to be measured on student outcome and student performance. And I hear a lot of agreement here. I am encouraged by this committee, quite frankly, that there seems to be some agreement across the committee about this.

Mr. BUCSHON. Mr. Wilhoit, you have a comment?

Mr. WILHOIT. Yes. I think you are onto something. And I think we in education need to pay a lot of attention to the developments in the medical profession over the last several years. You can draw that analogy of medical practice many years ago and compare it to today.

And I think the elements of what you are talking about could be really transformative in terms of educational practice. As I understand it, practitioners are engaged in deliberate work in the medical profession in teams. Individuals are assuming appropriate roles in that process. And as treatment is made, it is collected, and it is reported. There is an accumulation of knowledge there from practice that others can build on.

We don't have that in education. We don't have a way to bring the wealth of knowledge and learning that is going on in one location and transferring it to another. You have a rich database for sharing that information, but it is driven by the practitioners, not from someone outside. It is driven by best practice.

You are eliminating those procedures that do not work. And you are building off of those that are working. And you are developing, as a result of that, I think, a profession, a true profession or practice there that is not consistent in education.

We are not applied researchers in education. We are basically, at the local level, consumers of knowledge rather than those that are creating knowledge, as you are in the medical profession. So I would love to continue that conversation with you. I think you are onto something that could provide guidance to the education improvement in the next few years, from the medical profession.

Mr. BUCSHON. I yield back my time. Thank you.

Chairman KLINE. I thank the gentleman.

Ms. Hirono?

Ms. HIRONO. Thank you, Mr. Chairman.

As I listened to the responses of the panel to some of the questions asked by my colleagues, it occurs to me that as we are looking at reauthorizing ESEA—and you have all talked with—you all come from your different perspectives and experiences in dealing

with educators, do you have—could you cite specifically three—it doesn't have to be three—major, specific kinds of changes that we should make to ESEA to improve ESEA?

For example, I note that Mr. Wilhoit says that we should allow those states that have the capability to measure by growth models, that we should allow for the use of growth models. To me, that is a very specific kind of change that we should contemplate making to ESEA. So why don't we start with you, Mr. Wilhoit?

Mr. WILHOIT. And I would begin by creating this environment. It is important, with one slight addition to the growth model. Growth is important. It allows us to accumulate knowledge in an incremental way and to adjust practice based on that growth. It also provides a motivation for local schools to improve. But that growth has to be against status.

That is we need to be working toward those lofty goals that we have set for each of our students. And for me, that leads to the second piece of this. And that is every student needs to be benchmarked against preparation for future life. And that is college and career-ready. We need to set lofty standards as a guidepost for the states as they move forward.

So I would include both the ability to make incremental progress tied to a much higher set of goals. And the states are coming together around those goals for college and career readiness, defined in the broadest context.

Ms. HIRONO. What about the other members of the panel?

Ms. HAYCOCK. Sure. Let me agree with his suggestion that—one is, I think everybody on this panel—as everybody on this panel knows, one of the most pressing issues on the minds of educators and parents across the country right now is the quality of our teacher force.

As Mr. Miller indicated, you took an important step forward during the last reauthorization in putting attention on teacher quality. But you need to go the next step now and make sure you are looking at actual effectiveness of teachers as well as who gets access to the strong teachers. It is very, very fundamentally important part of the law.

The second change that I would encourage you to consider is to fix the comparability requirements of the law. Currently, Title I is based on a fiction. The idea is that districts provide equal amounts of dollars to their schools, and then the Title I dollars provided by the federal government provide extra on top of that. In other words, so you can provide extra help to the kids who are living in poverty.

But the reality is the way those requirements are administered allows teacher salaries to be excluded because that is the largest portion of the school spending. You have essentially eviscerated the impact of that law. And Title I dollars, instead of providing extra, are therefore, actually subsidizing schools with what should be provided by state and local dollars.

Mr. HATRICK. I think my hope would be that in reauthorization, what has become, in my career, a very scattered approach by the federal government, would be refined and particularized again and that we would get back to some of the roots of ESEA, which were to address rural and urban poverty. Now, unless—and the unless

part is unless the federal government intends to put a whole lot more money into public education than it now provides—because I think what happens is the federal dollars get so spread out, that local school districts don't have an opportunity to really make a difference in the lives of children.

I mean, I talk to superintendents across the country who say by the time it all washes through, they are spending hours and hours and hours reporting on the effective of $32,000 in their school district. And I think that is because we have got money going where it is not really needed. And I have to say I hope none of my folks are listening. My district is probably one that could do with less federal dollars if more federal dollars would go to where the children really need them.

And I think then if reporting followed that, if regulation followed that, that—you know, yes, it ought to be the business of the federal government, where it sends money, to make sure that growth is occurring. But it is not, I don't believe, with all due respect, the business of the federal government to be responsible for growth occurring everywhere.

That is what we have local school boards for. That is what we have public—you know, state education agencies for. So I hope ESEA will get back its focus on the kids who are really being lost, I mean, who are still being left behind, for all of our best efforts. And those are the kids who live in rural and urban poverty.

Ms. HIRONO. Well, I——

Chairman KLINE. The gentlelady's time has expired.

Dr. Foxx?

Ms. FOXX. Thank you, Mr. Chairman.

I found the testimony here today very, very enlightening. And I do have several questions.

Mr. Hatrick, you mentioned not getting any feedback for all the data that is collected. And let me tell you. I was 12 years on a school board. I was university administrator for 15 years and teacher. And I was a college president for 7 years. So I know a little bit about this work. Do you know of any feedback that has been received from the Department of Education that is useful to a local school district?

Mr. HATRICK. Well, let me just talk about my district. No, I don't think I could point to any data we have received back that made us go, "Aha, we need to change what we are doing," most times because by the time the data makes its way all the way up the chain and then all the way back down the chain, we are looking at data that is 3 or 4 years old. And I think that is another area we really need to look at.

Are there means of using the power of the Internet and electronic reporting to make data available? It is like what teachers tell us. You know, when you test once a year and you give—you know, you wait 6 weeks or 8 weeks or 3 months to give me the results, that doesn't affect my teaching.

Ms. FOXX. Sure.

Mr. Nelson, in your testimony, you mentioned there are many regulations in place that aren't worth the burden placed on the institutions. Could you name any regulations that are worth the burden that are placed on your institution?

Mr. NELSON. I guess, I think that there are a lot of useful laws. And some of those regulations—I forget how much—that the regulatory burden or the legal mandate behind it—that, I think, are good for the college. But if you are referring to data that may have come back to us, which was the question of the last one, then I don't recall seeing data that was helpful generated from outside.

But I think that there is an awful lot of good in the law that has been passed. It is just a question of the cumulative effect of all of that and the detrimental effect of having some of that come in the form of attempting to intrude into the educational mission of the school.

Ms. FOXX. Let me ask the question in a slightly different way then.

Mr. NELSON. Yes.

Ms. FOXX. Is there anything that you are doing now that is required by federal law that you wouldn't do if the federal law didn't exist?

Mr. NELSON. Well, I guess, I mean, a lot of my time is spent fending off a lot of what I think is either coming or has been coming under federal law. And so, I referred to the burden of this federalizing encroachment in accreditation. There are things that we are measuring because they can be measured rather than because they are good. And I think those are the ones that are the most dangerous. Many other things, I think, are probably quite good that we do and that we would continue to do if the laws were repealed.

Ms. FOXX. Mr. Wilhoit, I was in charge of an upward bound special services program at a time in my life. And I am very familiar with the kind of audits you were talking about for Title I, where they come in—somebody would come in. They would be paid a lot of money and spend 3 or 4 days going through my files just to check to see if all the boxes were checked, which didn't tell anybody anything about the effectiveness of the program.

The issue you brought up about teaching not being a profession in the sense that we have not used the knowledge that has been produced—I have been hearing that for 40 years or so, maybe, since I have been in the education profession. Is there any area that you can point to where we have, again, used feedback, particularly from the federal government to make modifications that have been good modifications?

Mr. WILHOIT. I would separate this. The intent of law, federal law, in my mind, is laudable. And those laws are put—have been put in place to address real problems. And in many cases, those federal laws have caused states to take the right action. And I could point to good examples of that over time.

We get into trouble when we don't implement those laws in light of the specific requirements of the law and do not look at it from the context of the overall information that needs to flow back. And in the process, we begin to drive practice toward implementation of those regulations as opposed to the real focus on children.

Ms. FOXX. Thank you, Mr. Chairman.

Chairman KLINE. The gentlelady's time has expired.

Mr. Scott?

Mr. SCOTT. Thank you. Thank you, Mr. Chairman.

Dr. Hatrick, how much of this data is—if we would call it data—and how much of it is prose, where you have—somebody actually has to compose a paragraph or something in response? Is most of what we are talking about things that you can run out of a computer?

Mr. HATRICK. It is a combination, Mr. Scott. Yes, you can. I used to catch a lot of grief from my people when I would say, well, can't you just push a button and give me that information. Because in most cases, you really can't. The part of the issue we face is data is there, but different agencies, federal and state, want it in different forms. And so, we spend a lot of time trying to make the data fit the form. And I think there was a suggestion earlier about, you know, some coming together to decide, some centralization, to decide that might ease that.

Mr. SCOTT. Well, let me ask Mr. Wilhoit. You are part of a national organization. When rulemaking is going on, are you testifying to see if they can't make the rules as simple as possible?

Mr. WILHOIT. We attempt to do so at every opportunity.

Mr. SCOTT. Do you also make—try to see if there is some kind of conforming software where all the states are using the same software so they can push the button that we are talking about?

Mr. WILHOIT. Data systems have emerged out of independent actions of local districts and out of individual work on the part of states. So we have an interesting dilemma in front of us.

How do the states come together? We have a project underway with the higher ed. institutions to standardize our data elements.

Mr. SCOTT. Are you all working on standardization?

Mr. WILHOIT. We are all working on that and reporting.

Mr. SCOTT. So everybody can report the same?

Mr. WILHOIT. Yes.

Mr. SCOTT. I think you indicated some central point. Are you suggesting that we establish within the Department of Education some centralized point where all data requests have to go through so when the data request is made, it is made in a form that is as easy as possible to comply with?

Mr. WILHOIT. Exactly. And that those data are looked at from an institutional perspective, not necessarily from an individual program perspective.

Mr. SCOTT. Now, if we had such a little office like that, would that save money?

Mr. WILHOIT. Depends on how one puts it in place. If you layer it on top of the other elements that you have in place, it probably wouldn't. If there is some forethought to this, it could save a lot. It could save, on the other end, tremendous amount of energy and time at the local level.

Mr. SCOTT. And so, if it is done right, it could be extremely helpful. And I assume you are going to try to be helpful in getting it right for us?

Mr. WILHOIT. We will, yes.

Mr. SCOTT. Part of the data that we request is kind of what I call input and some output. Output means did the students learn. But if you don't have any input data, okay, they didn't learn. Now what? And if it is all input, did you use the right number of paper, did you come to the right number of students, it doesn't have any-

thing to do with education. How do we get the regulations kind of done so that we are actually being productive?

Mr. WILHOIT. It seems to me the issue is what is important for federal policymaking to be reported up. And then it gets back to this issue of building the knowledge base at the place where it makes a difference. And that is primarily at the local level. That is where we need to begin to emphasize the sharing part of this and the growth, not so much that people are taking actions or undertaking procedures for reporting purposes.

The real issue, it seems to me, is how do you build a system where professionals are learning from practice and adjusting practice accordingly, not reporting data upward. And it seems to me, at the same time, we need to be thoughtful about what we learn out of that process for future policymaking purposes.

But again, all of that could be done with a thoughtful application of technology and the sharing of that. And you wouldn't have to interfere in the lives of folks if we had a system where they could push information up and it simply could be collected without interrupting lives on a regular basis.

Mr. SCOTT. Well, we look forward to you helping us in that process.

Mr. Chairman, I yield back.

Mr. KLINE. I thank the gentleman.

Mr. Hunter?

Mr. HUNTER. Thank you, Mr. Chairman.

First question is related to the last question. What is so complicated about having an open API? Or you would call it an advanced program and interface, which means that you can put data out in any form you wanted to and have it accessible by the state or the feds in their own way so you don't have to do it their way. You just put it there. That is what every business does.

McDonald's can tell you how many cheeseburgers were bought yesterday at the McDonald's by my house. So what is so complicated? I am just not getting it.

Anybody, please, feel free.

Mr. WILHOIT. It is complicated because we are trying to insert this sort of rational approach on top of a system that has emerged over time with high disconnected applications and procedures in place. You have to agree on the elements that one is going to collect. You have to agree on the standards of collection. You have to have systems in place that collect that information.

I think the technology is at a point where we could do this. I think it is a matter of working through the human element and applying it to the system that is now in place.

Mr. HATRICK. I think it is also the lack of a common definition of what the data is. I mean, McDonald's knows what a hamburger is, what a McDonald's hamburger is, which may not be the same as a Wendy's hamburger. But they know what their hamburger is. And they count those burgers. And they know how to prepare them.

And we don't have those common definitions when it comes to educating children. So I think the data we are trying to collect is much, much more complex. If you ask me about my school bus operation, I can tell you how many miles they drive, how many acci-

dents per mile, et cetera, et cetera, et cetera. There is a real shift when you get into the classroom and you start trying to figure out the effectiveness of a teacher working with a disparate group of students.

Mr. HUNTER. Well, let us move this on then and talk about—and, if you would, Mr. Nelson, just let me add this one part in. Then how do you do this if you are a rural school? Because you have talked about you have the ability and capacity and the wherewithal to do all of these things, provide data to different people in different ways. But if you are a rural school, you are not able to do this. So what do you think the impact is on rural schools having to meet all of these different standards and different datum definitions that you have to have to comply with this data and the feds?

Please?

Mr. Nelson, do you want to go ahead and speak on that point and then carry out——

Mr. NELSON. Not on that point.

Mr. HUNTER. Okay.

Mr. HATRICK. Well, I will speak for the superintendents. As president of AASA, most of our members are rural, small district superintendents. It is crushing. And I think, frankly, it is overwhelming. It leads to people sitting around trying to figure out what is being asked and how can we report it and how can we get through this and also do all the other things we have to do. And that is why, I think, we don't have the standardization that we might like to believe exists out there.

Mr. HUNTER. Mr. Wilhoit?

Mr. WILHOIT. I hear a lot of the rural folks talking about a need for them to reduce the tremendous burden on those staff people who are pulled in multiple directions carrying out very different jobs, being Mr. or Mrs. Everything in terms of those rural districts. They are now looking at ways that they could come together and share these kinds of resources.

It is another example of where efficiencies in the system could be dealt with rather than each one of those individuals maintaining their own system and doing that kind of reporting. You could do it through some cooperative kind of work.

Mr. HUNTER. And, Mr. Nelson, you had a comment on the first.

Mr. NELSON. Thank you. I was just going to refer back to the question about the use of a common technology to solve some of these problems. The question isn't whether the technology is available or should be put in place. But it is what it is trying—what problem it is trying to address, what data it is trying to collect.

The financial aid program, for example, in this country, all the data in higher education must be transmitted electronically through a particular system. It seems to me, perfectly appropriate. It is working well. We provide the data that we think meets the reasonable standards for accountability.

But it is the questions about what is going on in the classroom, outcomes that become really difficult. I like the analogy to the medical profession. I was a patient where I got to see a team working with me in front of me, looking at their checklist. What did we do wrong? What did we do right, including me in that conversation because medicine is a cooperative art.

And so is education. To include a team of people around who know what they are doing with the student present, that is an appropriate measure of assessment. You want to know what is going on, a process which allows the student to hear from a team of faculty that are all teaching that student that year what they think of the work, what could be improved. This system isn't one that would be dictated by the federal government.

It is something that ought to be in place as a model of assessment of student learning at every level of education in the country. It is something that we have been doing at St. John's for 70 years, since 1937. And it has remarkable affect because we have all that information.

We can look at it. It is all narrative. It is not data collection. It is prose. But it is all shared with faculty talking to faculty, learning about the student together and the student hearing what that is and then responding in kind.

Mr. HUNTER. Okay.

Chairman KLINE. Gentleman's time is expired.

Ms. Woolsey?

Mr. WOOLSEY. Thank you, Mr. Chairman.

Well, when No Child Left Behind was first advanced, my question to George Miller, who was our chair of this committee at that time, was—and I asked him point blank, "George, why should my schools, who are some of the best in the nation, have to be burdened with proving how good they are?" George was very patient with me.

He said, Lynny—he is one of six people in this world that are allowed to call me Lynny. "Even your schools will learn that low-income student populations are lagging behind." Well, you have to know I didn't believe it. Not my district. So I called my superintendents, my school superintendents.

And after I promised I wasn't going to use the information for anything but my own—you know, my own input, to learn from them, they confirmed that George was absolutely right. And this is before we implemented No Child Left Behind. Now, after the implementation of No Child Left Behind, these superintendents and educators don't like everything about No Child Left Behind. And that is absolutely for sure. But they have all agreed that there was a need to acknowledge that there were students being left behind.

So my question to you, Ms. Haycock, is that was then. This is now. Are the teachers, educators, administrators—in these lower-income schools—are they frustrated about the fact that now that we know this, that they are still being expected to bridge whether these kids are ready to learn when they enter the classroom? And what is your opinion of what we should be doing about this?

Ms. HAYCOCK. Well, certainly, Congresswoman Woolsey, there is no educator in America, to my knowledge, who would not prefer it if the youngsters who came into our elementary schools, especially those from low-income families, had really strong early childhood education. We all know that is a smart investment. We know it helps kids arrive at school ready to learn.

But if you are asking the question, do educators now resent being asked, even when children don't have those support services, to still do their best to raise their achievement levels, I think there

are some who do. But the vast majority thinks it now as their responsibility.

Now, let me be clear here. You put the focus on that when you passed the law in 2001. The moment you take it off, their attentions will go back. So if you are asking me can we afford, now that they know that their low-income youngsters or minority youngsters are achieving at lower levels, can we afford to take that attention off, the answer is no.

Mr. WOOLSEY. So all the way along the panel has talked about limited funding. So are teachers and administrators not expecting federal support to help the schools bridge that difference between what these kids come to school with and what they need? Besides, I don't think teachers resent having helped these kids. That isn't what I meant.

Ms. HAYCOCK. Yes.

Mr. WOOLSEY. I think they might resent us for demanding they do more with less.

And so, where do you see—so any of the rest of you, where do you see us investing appropriately in those with the most need?

Mr. HATRICK. Preschool education, preschool education, preschool education.

Mr. WOOLSEY. I hear you.

Mr. HATRICK. If you want a level the playing field for children growing up in America, it has to happen before kindergarten because once kids arrive in kindergarten, we are involved in remediation. And I think there is just sufficient evidence out there about the power of Head Start to change children's lives.

My regret is that, you know, even in my county, the Head Start program funds the education of 100 children. Now, our system funds a similar program—we can't make it quite as rich as Head Start—for about 300 more because we know—you know, Loudoun 3 years and running, is the wealthiest county in America.

We know that being poor in Loudoun is even harder than being poor in some other places because there is this assumption that everybody comes to school ready to learn. And everybody doesn't. So preschool education, preschool education, preschool education.

Mr. WOOLSEY. Thank you.

Chairman KLINE. Gentlelady's time has expired.

Mr. Barletta?

Mr. BARLETTA. Thank you, Mr. Chairman.

Mr. Nelson, as the mayor of Hazelton, Pennsylvania for more than a decade—and I was a representative of Pennsylvania's 11th Congressional District—I have had a unique privilege of forming strong relationships with local universities and community colleges in Northeastern Pennsylvania. But we heard a lot about how regulations have burdened schools.

I know regulatory demands are burdensome, not only for university presidents, but also for students, especially those who are first generation college students, which make up a good percentage of the students in Northeastern Pennsylvania. Can you give us an example of how increased federal involvement in higher education via heightened regulation requirements has implicated students?

Mr. NELSON. Well, I suppose there are a lot of things we administer under the financial aid program that affect the students di-

rectly. So whether they like it or not, they need debt counseling. Whether they like it or not, they need to fill out various forms and papers with all of that.

And so, we have turned into an educational system, not only to develop our academic program, but to help people understand the financial world that they are living with when they take on the debt. That directly affects students. And, frankly, we think that it is good for students to learn those things.

But another one that just—I mean, it happens to be the issue of the day on campus yesterday when I asked this question of a number of directors of various offices: the census. I thought that was once every 10 years. But it turns out there is sampling done every year. And that means that somebody has to track down these students in their dormitories or off-campus housing, get them to fill out the forms, and turn them back in.

Well, it seems like a simple little thing. But if any of you have teenagers or young adults as children, you know that that is probably one of the most difficult jobs. And our task as a college is to track them down and get them to fill them out. But they then have to do that. I mean, it is just a couple of simple examples.

Mr. BARLETTA. Can you identify any particular rules or regulations that make it difficult for schools to innovate or work together with each other and/or community partners to help increase student academic achievement?

Mr. NELSON. Yes, I will tell you one that I am really worried about. And that is the credit hour regulations that are under consideration. There I worry that it may limit the ability to have collaborations.

Any time you put a straightjacket on innovation, you run the risk that we can't change quickly and that we can't collaborate easily. I don't know a single college or university in the country right now that isn't undertaking a conversation about the sustainability of the operating model that they have been working with up to and through the financial disaster of late 2008.

They need the freedom to adapt quickly, to innovate, and to collaborate. And every school will have its own ways of doing that. But I think anything that can be done to be careful that we don't burden, particularly those programs that affect the academic life of the college, would be most welcome in these difficult financial times.

Mr. BARLETTA. Thank you, Mr. Nelson.

I yield back the balance of my time.

Chairman KLINE. Thank you.

Mr. Tierney, you are recognized.

Mr. TIERNEY. Thank you, Mr. Chairman.

And thank the witnesses for their testimony today and their enlightenment.

I think we are always knowledgeable about how important it is to take a closer look at the requirements that we have out there and try to get that balance between making sure that we get the data and make sure that the taxpayer gets their value and the families get what they deserve, what they have coming to them and to get rid of anything that is not necessary, that is overly burden-

some on that basis. So I know that there is some work being done out there.

And in the Higher Education Opportunity Act, Mr. Nelson, we charged the advisory committee on student financial assistance to conduct a higher education regulation study to determine whether any current or future regulations were duplicative, were no longer necessary, were inconsistent with other federal laws, were overly burdensome. Do you think that is a good way to go about it? Do you think that provision makes sense?

Mr. NELSON. I am sorry. Do I think what provision?

Mr. TIERNEY. That the provision that I am talking about charging the advisory committee on student financial assistance with conducting a regulation study to determine and identify all those regulations they may think are overly burdensome or duplicative or whatever.

Mr. NELSON. I think these are very important studies to undertake. I know that it has been a problem for people to implement the Section 1106 of that act, which provides for the National Research Council of the Academy of Sciences to determine amount and scope of federal regulations as well. And it seems to me that funding of that might go considerable distance along this line.

And I should say that this committee led the way in asking the department—or determining that the department should not collect national unit record data. But the department is still funding these efforts at a state level. That is a source of funding, it seems to me, that could help us get there.

Mr. TIERNEY. Good. Well, that is helpful. I mean, I am at a loss as to how else we might attack this problem, other than to have some qualified entity go out there and identify them so that we can then start knocking them down. So I am glad to hear you say that we have started along that path in that last reauthorization.

Any other ideas you have?

Mr. NELSON. Yes, I am sorry. My ears aren't functioning fully today. But I, maybe, hear the particulars of that question. I apologize.

Mr. TIERNEY. Which one? The one I am saying now or the past one?

Mr. NELSON. I heard that.

Mr. TIERNEY. Okay.

Mr. NELSON. So go ahead.

Mr. TIERNEY. All right. Any other ideas that you have for other ways that we may try to skin this cat, besides having a qualified entity go out there and identify them and so that we can knock them down, please let us know.

Mr. NELSON. Yes. Yes. The main thing that I had in mind when I suggested in my testimony a kind of pay-go system is for every new regulation that may come about, let us take a look and see if we can't—even if it can't remove some others. And one measure of that might be to look at the burden hours of the new regulation and then to see if we can't eliminate an equal number or more burden hours of the other.

Mr. TIERNEY. Thank you.

Mr. Wilhoit, I am looking here at this little review on that. In 2004, we did take some steps to reduce the paperwork burden on

states and districts. We included a paperwork reduction pilot into the law that would allow the secretary to waive up to 4 years of statutory or regulatory requirements, except the civil rights requirements, that link to excessive paperwork or other non-instructional burdens.

So I look at that, and I see that no states have applied for that yet. Can you share with me why or what the barrier or the impediment has been for states to apply for that waiver?

Mr. WILHOIT. I think that the states at this point are operating under this—I think the very fact of the procedure to go through to get those is lengthy, complex, and difficult. It is almost like applying another set of waivers—or regulations to the process.

And I think the real issue here is we should be thinking about a relationship between states and the federal government where a waiver is not the avenue for innovation. And we need to be thinking about how you build into this strong guidance and direction and clear statements from the federal government about what must be done, but build into the law an expectation that states will learn, grow, and improve through the process. I think the very process in itself is very burdensome for a lot of folks.

Mr. TIERNEY. Do you think the idea of such a pilot is worthwhile if we got rid of the burdensome application process?

Mr. WILHOIT. Yes. And I think even beyond that, if in reauthorization, if it occurs, and I think it should, we could think about a different kind of relationship where states would be expected to come forward with new designs and innovation, coming out of the learning that is going on in the states.

Mr. TIERNEY. Thank you.

You know, for any one of you that might want to answer this, I am always struck by educators telling me how many burdensome requirements they have and tests and things of that nature and then throwing it all up on a monthly calendar and finding out that so many of them are state regulations on that.

Mr. WILHOIT. It is true.

Mr. TIERNEY. So they are all angry at No Child Left Behind, or they are angry at the federal government. Testing for Massachusetts—they put up a calendar of tests almost every day of the month, and only one of them was a federal test on that. What can we do to sort of get the states to also take a look at this and try to work together, both the federal level, state and the district levels to sort of get these things down? We can do our job. But how do we work together cooperatively with those other levels of government to make sure it all comes down?

Mr. WILHOIT. There needs to be——

Mr. HUNTER [presiding]. The gentleman's time is expired.

If you could get that answer to him at a later time or for the record.

Mr. DesJarlais, Dr. DesJarlais is recognized for 5 minutes.

Mr. DESJARLAIS. Thank you, Mr. Chairman.

The question was asked earlier, what are the top concerns of teachers that you have been talking to in your areas. And we heard from Ms. Haycock. I wanted to pose that same question, what would be the top three concerns that you are hearing from teachers.

Dr. Hatrick, could you start?

Mr. HATRICK. Well, right now? One of the top concerns we are hearing is frozen compensation. Another one has to with enlarging class size, as we have less and less money to spend on educating children. And probably the third one has to do with, you know, kind of, just an overall frustration with the reporting requirements that are put on teachers by us locally, by the state, and by the federal government.

Mr. DESJARLAIS. Okay. Thank you.

And, Mr. Wilhoit?

Mr. WILHOIT. I hear them talk about their inability to meet the demands that we are putting on them right now and a need for a lot more help than we have been giving them. We need to redesign their pre-service and their professional development opportunities to be much more productive. I hear them talk about the need for strong leadership at the building level and in the form of a principal who knows instructions, know how to bring a team together and work together.

I hear, on this issue, more concern from the teachers of special needs students and those with ESL—students with English language needs in terms of burden and intrusion in life. I don't hear it as dramatically from mainstream kind of instructional people.

Mr. DESJARLAIS. Okay.

And, Mr. Nelson?

Mr. NELSON. Well, I am hearing the questions at a different level altogether. But I would say that the number one concern is the work to keep the federal government from trying to determine appropriate measures of accountability in the educational environment. So what I am really talking about is, as a liberal arts college, we are not trying to tell our students what they should think. We are trying to give them very difficult material to work with so that they can learn to ask the appropriate questions and free themselves from conventional opinions and from directives from above.

So the last thing I want to do is encourage any kind of system that suggests we are trying to teach to some norm. And these things are coming at us because of federal requirements through the accrediting agencies who probably have spent more time on that than any other. So I will just stop with the one for now.

Mr. DESJARLAIS. Okay. Thank you.

And, I think that you touched on several of the concerns that I am hearing from the teachers back in my district. As a primary care physician, I have the opportunity to talk to teachers regularly, both as a patient and to hear their concerns when we are just visiting in the exam room.

And certainly, the frustration I am hearing is that they are not able to teach what they were trained to do. Instead, they are having to teach to standardized testing. Also, the lack of discipline was a very common concern and leadership in their principals.

Mr. NELSON. Yes, yes.

Mr. DESJARLAIS. And also, I think that there is just, maybe, a general loss of self-esteem and pride in their profession because they didn't go into teaching to get rich. They went in because they care about educating. And I think there is a lot of frustration there.

So anyway, as we look at the Department of Education now passing three decades of service, federal spending on education has increased 375 percent since its inception. And yet, our achievements in reading, math, and science remain pretty flat.

So, you know, I find it interesting that my colleague from Indiana, Dr. Bucshon's comments, seem to hit home with a lot of folks. And I wonder if I could yield about 2 seconds to Dr. Bucshon to ask him how much did you rely on federal regulations to inspire you to improve cardiothoracic surgery.

Mr. BUCSHON. Thank you. Very minimal. And that is the point I was trying to get across, is this was driven within our own profession——

Mr. DESJARLAIS. Exactly.

Mr. BUCSHON [continuing]. Outside of government because, as surgeons, just as educators want to see their students do well, we want to see our patients do well so there is pride in the profession. And we have taken it on ourselves to internally improve what we are doing because ultimately we want better outcomes.

I yield back.

Mr. DESJARLAIS. Thank you, Doctor.

And I will yield back the balance of my time, with that lesson.

Mr. HUNTER. Thank you.

Mr. Bishop is recognized for 5 minutes.

Mr. BISHOP. Thank you, Mr. Chairman.

Mr. Nelson, first off, congratulations on 20 years as a college president.

Mr. NELSON. Well, thank you.

Mr. BISHOP. Not easy to do.

And thank you all for your testimony.

I am going to assume that you are familiar with the financial aid implications of H.R. 1 that was passed out of the House a week ago Saturday.

Mr. NELSON. If you tell me what it is, I will probably remember that I am familiar with it.

Mr. BISHOP. Okay. It eliminates SCOG, one of the three campus-based programs.

Mr. NELSON. Okay. Thank you.

Mr. BISHOP. It cuts Pell grant maximum by 15 percent.

Mr. NELSON. Yes.

Mr. BISHOP. So let me ask this question. If the federal government were to come to NAICU members and say, we have a deal for you, we are going to cut the largest grant program by 15 percent, we are going to eliminate another grant program that has existed since the late 1960s, and 2 years later, we are going to phase out the campus-based student loan program, but don't worry, we are going to relieve your regulatory burden, is that a tradeoff that NAICU members would embrace?

Mr. NELSON. I don't think there has been any choice but that they would choose not to cut the Pell grants, not to cut SEOG, not to cut federal work study, subsidized loans. These are critical to serving the students' interests in each of our schools. And those students' needs have grown in the last 3 years. So the number of Pell-eligible students at St. John's has grown by 30 or 40 percent

in just the last year-and-a-half because of the family burdens out there.

Mr. BISHOP. Sure. So——

Mr. NELSON. And we really need these funds to help them have the access and opportunity to study.

Mr. BISHOP. I thank you for that. So you would urge the Congress to rethink those cuts?

Mr. NELSON. I would.

Mr. BISHOP. Thank you. You made a comment in your testimony about how the regulatory process is intruding, essentially, on academic freedom, on what schools teach and who teaches them. Are you referring there specifically to a federal intrusion, or is it more so an accreditation intrusion or a state intrusion?

Mr. NELSON. What I see is there have been state intrusions of this kind that we have dealt with. And I don't see a terrible problem at the state level right now in Maryland. But at the federal level, the—there were attempts earlier on to have federal regulations control outcomes assessments and to try to get us to measure and compare our measurements with other schools. Those were beaten back as being heavy-handed and intrusive.

But at the same time, they have moved to pushing that weight onto the accrediting agencies. So that question that I raised earlier that the accrediting organization is required to assure that each of our institutions do the following is a kind of federalized approach to that sort of thing.

Mr. BISHOP. Yes.

Mr. NELSON. So it is coming through the accrediting agencies.

Mr. BISHOP. Okay. Because the reason I ask is I used to run a college.

Mr. NELSON. Yes.

Mr. BISHOP. And I found that it was more state regulation, that we were—for example, had a limit to the number of courses that could be taught by adjunct faculty. That was imposed by the state, not by the federal government. We had a limit to the number of courses, remedial courses, to which we could assign academic credit, again, imposed by the state, not by the federal government.

Mr. NELSON. Yes.

Mr. BISHOP. But, okay, thank you for clarifying that.

One more question for Dr. Hatrick. You said preschool, preschool, preschool, music to my ears since I have been married to a woman who runs a preschool program of her own for 32 years. H.R. 1, the bill I referred to, cuts $1.1 billion out of funding for Head Start, would disenfranchise 218,000 students who would otherwise be eligible for Head Start. Am I safe in assuming that you would consider that to be a cut that we ought to reconsider?

Mr. HATRICK. Absolutely.

Mr. BISHOP. Thank you. Appreciate it.

I yield back the balance of my time.

Mr. HUNTER. Thank you.

Mr. Walberg, you are recognized.

Mr. WALBERG. Thank you, Mr. Chairman.

And thank you, to the panel, for being here today.

Just to go through some of the figures that have been laid out, I know, at least a couple times already, since 1965, American tax-

payers invested more than $778 billion on federal programs for elementary and secondary education. Reading and math assessment scores for 17-year-olds remain largely unchanged from 1973 levels. And then I read a recent report that indicates the regulations to implement one section of No Child Left Behind increase state and local governments' annual paperwork burden by over 6.7 million hours at an estimated cost of $141 million.

All of that, to ask this question of any of you, about your particular entities. How much in funding does it cost your agency, school, college, organization to comply with the rules and regulations imposed by the federal government? And, I guess, I would say how much staff time is spent on complying with No Child Left Behind, IDEA, or other federal programs? And then what positive impact has all of that produced, percentage-wise, in your program?

Mr. HATRICK. We estimate, in Loudoun County Public Schools, that it takes the equivalent of six full-time professional staff to meet all of the reporting requirements for various federal—and I would include some state agencies there as well. So to the earlier question, I don't know what happens in a rural district where there just aren't six staff to devote to this.

I think it gets pushed down to the teacher. I think that is the ultimate answer. Where you don't have central office staff to provide all this data, the people who wind up providing it are the people who are supposed to be teaching the children.

Mr. WILHOIT. I would like to get more specific numbers to you. But if you were to look at most state agencies today, you will find that the largest staff allocations are in federal food and nutrition, Title I, and IDEA. And, of course, those resources are provided as oversight functions from the federal government. So that makes the work that those people are engaged in very important.

One, they need not—it pulls them into isolated kinds of functions. And it makes it difficult for a commissioner to use those resources in other ways.

Secondly, the demands on state education agencies over the last few years have been moving away from compliance to more assistance in service role. And it is difficult to do so when you have staff locked up in those other functions.

Ms. HAYCOCK. I, obviously, can't add much detail on the cost, because my organization isn't a part of this. But I do want to say something about the results, because I think people have gotten a false understanding of what has occurred and what hasn't.

Remember, the focus of the Elementary and Secondary Education Act is largely on elementary schools, a little bit on middle schools, and almost no attention to high schools at all. If you look at the data on elementary schools, there have been significant improvements. That is especially true in the last 10 years, where you are seeing sharp improvements for all groups and record performance and the narrowest gaps we have ever had. But it has been true since the 1970s.

Where we are losing it, frankly, is in the high schools. That is where achievement has been relatively flat. It is up a little bit in math, but relatively flat in reading. So it is not that these dollars have had no impact. They clearly have. We are making——

Mr. WALBERG. Excuse me, just jump in there. But doesn't that suggest—I mean, if we are indicating the growth at the elementary level and it is not carrying through at the secondary level——

Ms. HAYCOCK. Yes.

Mr. WALBERG [continuing]. Doesn't that make the elementary level suspect, with all of the dollars, all of the regulations all put in place to try to bring it up, ultimately, if the outcome—so Mr. Nelson receives a new student that is capable, ready to start the process at the higher ed.?

Ms. HAYCOCK. It is, I think, not wrong to think that there is a problem in our high schools because we are not translating the better prepared students we are receiving from elementary schools into better prepared students for colleges or for the workforce. But that does not mean that we are not making significant progress in our elementary schools on every measure, both on state assessments and on the national assessment of education progress. There are much stronger results today than there were 30 years ago.

So, again, it is not that we know nothing about how to improve achievement. We have got, actually, a fairly strong record of improving achievement. What we are not doing as well at is translating that into growth at the high school level.

Mr. HUNTER. Thank you. The gentleman's time is expired.

Mr. Kildee, you are recognized.

Mr. KILDEE. Thank you, Mr. Chairman.

Ms. Haycock, the requirement for disaggregated data is a mandate of No Child Left Behind. Is this requirement achieving what it was intended to do? Is it playing a significant role in improving education? Can we make it more useful? And to what degree are the sub-groups that this was intended to make sure were not neglected, are they gaining from that disaggregated data mandate?

Ms. HAYCOCK. Certainly, the requirement, not just to report the data by group, but actually to improve the results by group, is probably, without question, the most important requirement of No Child Left Behind. There is no question, I think, that that attention has grabbed a hold of the attention of educators and focused their energy on improving, not just the overall average, but of all groups of students. And to take that away would be hugely destructive.

We may want to choose to formulate the requirements differently to look both at growth and at status in future laws. But to turn back the clock and say, "No, no, we weren't serious about that, we are really going to go back to looking at averages," would be devastating.

Your question is, did we make progress? During the last 10 years, all groups of kids at the elementary level have gone up. The groups of kids that were the particular focus of this law have gone up somewhat faster than those who were not.

That means you are making a difference. Is it fast enough? Absolutely not. Is it good enough? Absolutely not. Do we have to turn it around at the high school level? Absolutely. But one thing we know from the history of American education is that when we stop focusing on something, we stop making progress.

Mr. KILDEE. So perhaps, or hopefully, 10 years from now, we will find out that this did play a significant role in those who were being neglected.

Ms. HAYCOCK. Yes. There is no question we know that now.

Mr. KILDEE. Is there much gaming of the system or attempts to game the system when we measure these students?

Ms. HAYCOCK. Yes. At virtually every level, there have been attempts to game the system. And there have been—and, frankly, there were imperfections in the law itself that encouraged that. There was no incentive, for example, for states to raise standards or to have high standards. If they lowered them along the way, they made their schools better. Those are the kinds of things that, fortunately, the work of the states in developing common standards have helped with. But those are the things we need to fix this time around as well.

Mr. KILDEE. Well, I certainly appreciate your answer. I happen to agree with it. We worked very hard on this. And we intended that this really would make a difference for these students. And glad to hear at least most schools are trying to do it.

Ms. HAYCOCK. I think that is right.

Mr. KILDEE. And we should make sure that they continue to do that. Thank you very much, Ms. Haycock.

Ms. HAYCOCK. Thank you.

Mr. HUNTER. Mrs. Biggert is recognized for 5 minutes.

Mrs. BIGGERT. Thank you, Mr. Chairman.

I think this question probably goes to Dr. Hatrick and Mr. Wilhoit, if I am pronouncing that right. I don't know. But I am concerned about the Race to the Top and wanted to know a little bit about the burdens that that may be creating.

And I know, Dr. Hatrick, I don't think that Virginia has not applied for Race to the Top. I know that there is a lot of information going to all the states. And are you implementing some of the things that are in there? Because this is said to be the—you know, the precursor to how we will do K-12 reauthorization. A lot of that will be in there.

Mr. HATRICK. Are we implementing—I am sorry. I had a problem hearing.

Mrs. BIGGERT. Some of the states are—actually, even though they did not take—or be in the Race to the Top, they were awarded the funds for it and all that. But many of them are implementing the kinds of ideas that are in there. Is Virginia looking at that at all? Or are you just—so you don't have to worry about the regulation?

Mr. HATRICK. No, you know, we try to look at everything that is going on. If people have good ideas, we are not at all shy about asking to borrow them. And so, I think that, you know, probably that has been a positive aspect of Race to the Top in that it has provided incentives for people to think differently. That said, I am not sure the competitive nature of Race to the Top is going to help American education.

Mrs. BIGGERT. And so, you did not apply for it?

Mr. HATRICK. No.

Mrs. BIGGERT. Okay.

Mr. Wilhoit?

Mr. WILHOIT. There was a tremendous response to Race to the Top. I think it was a result of some pent-up energy that existed in states, a desire to move in some areas. And it gave an avenue to do so.

With 12 states receiving that money and a number of other states who had taken pretty significant action in the states to build consensus to get a positive rating and to be competitive, in a way, has caused those states to commit themselves to some reform initiatives that they are now finding difficulty resourcing. And so, I think you will find that continued pressure on the states.

Are those things that should be done? Probably so. And yet, I think the dilemma is going to be now that we have stepped back, engaged lot of people in a state community around this issue, gotten commitments from a lot of districts to move forward, they are experiencing some pressures to make sure they can resource it in an adequate way. So I think those pressures will continue.

The other pressure on them, I think, for those that were funded, right now, is the multiple reporting that is being asked of them from—the department has been very cooperative in interacting with the states. But we also have reporting from OMB and from the attorney general's office, just multiple kinds of pressures on folks for accountability purposes.

Mrs. BIGGERT. So that makes a lot more. And is there a reduction for other reporting if they are working in that?

Mr. WILHOIT. Not yet.

Mrs. BIGGERT. Do you think that this will be used as far as the reauthorization of K-12?

Mr. WILHOIT. The Race to the Top program?

Mrs. BIGGERT. Uh-huh. Uh-huh.

Mr. WILHOIT. There is no doubt in my mind that that has changed the agenda in the states. In fact, it is kind of interesting to watch the attention being paid to the Recovery and Reinvestment Act and on Race to the Top and this sort of increase and focus on those issues and the guiding principles around that program in the four areas of reform. And that almost superseded their attention to implementation of No Child Left Behind.

We are at a—brings the issue to the table again about reauthorization. We are creating a dynamic environment out there where people are chasing reform. And yet, we are operating under a system that we created several years ago.

Mrs. BIGGERT. Thank you. Thank you.

And then, Mr. Nelson, it seems like we hear so often that kids are going to college and they are not ready and they have to have remedial. And there are so many—the numbers are actually staggering how many students are having to go through remedial education when they get to college. Is there data collection for this? Are the universities really, you know, looking into this so that they can go back to the states or go back to the schools and make sure or see how that can be fixed?

Mr. NELSON. Sure. I ask high school teachers all the time, please teach grammar. We don't get it coming out of our high schools now. And it shows. But I think the important thing here is that there has been greater access to colleges and universities among a broader and wider population. This is a good thing. But it often brings

with it, therefore, a broader group of students, many of whom are less well-prepared.

Many colleges are responding to this by just sucking it up and preparing—and providing those courses, particularly at the community college level. Many other schools are sending the students to get those courses, post-secondary educational courses, to get them. And others are talking with state school administrators about how we can work together to have students better prepared for higher education.

Mrs. BIGGERT. But is there data collection?

Mr. HUNTER. The gentlelady's time is expired.

If you wouldn't mind getting back to her on the record, too.

Mr. Payne is recognized.

Mr. PAYNE. Thank you very much.

Our state lost out on Race to the Top. You remember there was some question whether the governor was interested in it, and some wrong information was sent. And so, we lost $800,000, I think it was, to the dismay of many of us.

But anyway, prior to No Child Left Behind, accountability in education—in the educational system was vague and unenforced. States were able to tout students' success while hiding actual student performance data and ignoring achievement gaps. The disaggregation of data shed great light on the growing achievement gaps in this country and called for solutions to provide an equal access to quality education for all, regardless of economic background, race or ability level.

Now the national assessment of educational progress, NAEP data, showed that the achievement gap in your state of Virginia, Dr. Hatrick, has narrowed by race between 2003 and 2007. Earlier, Ms. Foxx asked if there was anything that you are doing now that you wouldn't be doing if it were not required by the federal government. Dr. Hatrick, would Virginia still be focused on educating all students equally, advantaged and disadvantaged, if the required data disaggregation had not shed light on the achievement gap?

And in many instances, as a matter of fact, many school systems did not like No Child Left Behind because, even though a school system may show that it is sending a large number of students to higher education, once you did the disaggregation you found that there were really a group of students that were definitely being left behind. And it did shed light on this situation. So I wonder would Virginia still be focusing—and actually, there have been achievement because of the—and I wonder whether the achievement would have occurred had it not been for the disaggregation that was required by No Child Left Behind.

Mr. HATRICK. Well, Congressman, when I answered the question, I wasn't answering for Virginia. I was answering for Loudoun County Public Schools. We actually disaggregated and reported disaggregated data before No Child Left Behind was a law. We realized, because of something I referenced earlier, when you are as wealthy and have as high a socioeconomic index as we have, children who don't have those same opportunities really are in great danger of not succeeding.

So I think it is very fair to say that probably one of the most important change outcomes of the law has been the reporting—of

disaggregation of data and reporting that. And I think it would be fair to say that had the law not been passed, practices would not have changed.

We realized it was too easy—in a place like Loudoun County, it was just too easy to be like woebegone. You know? And let the overall wonderful performance on average of our students mask the issues that we faced. As far as I am concerned, that is the signal strength of the law.

Mr. PAYNE. Great.

Anyone else have any comment on that? You all agree?

Mr. WILHOIT. There is no doubt that No Child Left Behind changed the conversation in the country and changed the emphasis. And I think in this area, as you think about moving forward, you should not abandon this focus on every child and adequate transparency in the system in terms of reporting and holding folks accountable.

I think you have an opportunity—now that lots of changes have occurred, you have an opportunity to begin to think about a new gap definition. And that it is not the difference between students in a particular school or within a school district. It is the difference between where that student is and where they need to be to be successful.

And I think that is where states have been reflective in the last few years about coming to some agreement around what students should know and be able to do to have future success. And now we can leverage that in terms of reporting actual student progress against those targets that we have put in place.

Mr. PAYNE. Thank you. Thank you very much.

Mr. HUNTER. Thank the gentleman.

With the witnesses' indulgence, we are going to go through one more round of questioning at 3 minutes. And I would like to start with the ranking member. Mr. Miller is recognized.

Mr. MILLER. I would hate to leave this hearing with the impression that somehow there is not an ongoing effort to try to rationalize regulations. It is interesting that other administrations by the party—they don't seem to pick up much steam.

I mean, we have already talked about the paperwork Reduction Act. Nobody really participated, even though there was the promise of long-term relief for short-term intensity of reporting, what have you.

Ed-Flex, 13 governors that came up with nothing, except George Bush, who came up with the idea that he was going to disaggregate the data for every kid in Texas. Now, the data was—the books were cooked a little bit in Houston, but what the hell.

So apparently it can't be left to the party. I know that this spring there is a conference on IDEA with the department on trying to rationalize and make better the regulations under IDEA. And I hope that people will participate in that.

Just on another point I want to not leave the hearing with the question on the unit hour, Mr. Nelson. You know, in 1957, I appreciate what Justice Frankfurter said. In 1957, families weren't going deep into hock to pay for an education. Most families weren't. Middle-class families certainly weren't.

You know, there was the G.I. bill. But there wasn't the Pell grant. There wasn't a loan industry out there at that time. We have changed that a little bit here, fortunately.

But the fact of the matter is I think you have to know we are really purchasing something of value with borrowed money, either borrowed from the taxpayers or borrowed from the families. And you now have an entry of a whole series of colleges that come to their creation with a business plan as opposed to an education plan, in some instances.

So when we looked at accreditation last year, we see 12 units at a $6,000 premium per student, being offered that when we go back to the accreditation—we went back to the process twice with the inspector general—we see that 12 units was offered as graduate work. It was determined it wasn't the quality of upper division requirements. In fact, they weren't so sure it should have even qualified for lower division.

But somebody was out $6,000 of their money for that 12 units in 5 weeks. But they have a plan that says every 5 weeks, you have got to roll these students over so you can get the units.

So, you know, you don't want us telling you what to do. Well, the university community better start taking responsibility for what it is they are presenting to families and students who are going into debt and the taxpayer that is going into debt to provide his education, what is it that is being offered. I am a big fan of the great book series, big fan. But what is it that is being offered here in terms of value?

And you could argue the great book is priceless. But it is a real serious issue because people—especially when you have a completion and attainment rate that is very worrisome where you end up with no certificate, no degree, no credential, except debt. And that is happening, as we now see these figures—you know, because of reporting, we start to see what is happening across various segments of the higher education community.

This is a very worrisome problem because when I went there, it was $45 a semester for the whole law school. Okay? That wasn't a problem. But it is today. And I just wanted—this isn't the place for that discussion. But it is not because we are just wandering around looking to stick our nose in people's business. But we have people who are ending up with a massive amount of debt and no education. And I just want to put that on the record.

Thank you very much, Mr. Chairman. Thank you.

Mr. HUNTER. Thank the ranking member.

And I think when you were paying $45, I wasn't born yet. I think it was a long time ago.

Mr. MILLER. Very——

[Laughter.]

Mr. HUNTER. I would like to ask one last question, going back to something that is not very exciting, but data, again. When you are looking at data—and I know we are not supposed to ask questions we don't know the answer to, as Mr. Andrews would probably tell me. So I am getting into hot water here.

But who, in you all's mind, should be the one to determine the standard for the data that is needed or the data about the data, the meta-data, if you would? Right?

Who do you see doing that, the states deciding each for themselves and then the federal government having to work through whatever standard they recognize? Or would this be where there would be a role for the federal government to say, hey, here is the standard, here is what we are going to do, we are going to bring an SAP or Oracle or whoever, and we are going to make sure that everybody's data is just the same and we are all asking for the same thing?

Mr. HATRICK. I think I would go back to the comments I made about data quality. I think you have got to get a mixed group. It has got to be the practitioners who are going to have to provide the data. It has got to be the regulators who know why they want the data. And there has to be conversation between—communication between those two people.

Right now, I think a lot of what is happening is somebody is talking, and nobody is listening. Or somebody is listening, and nobody is talking. I think we have got to get everybody around the table and say, first of all, why are we collecting this data, what do we—and what will the outcome be. Is the outcome to publish a fancy report? Or is the outcome to improve education? And that takes the practitioner and the regulator working together.

Mr. HUNTER. But technically, though, the data has to be standardized in some way. I mean, you would have to have a place to—you are going to store it somewhere. It has got to be accessed. So who decides what that is?

Obviously, if you have something—like the NFL has great data kept, by the way, because DOD is using the NFL's data ability because they have stats on every player from wherever back to when they were 3 years old and played Pop Warner, right?

But the way that they do that, it is obviously ruled by the NFL. So who decides that? I mean, who—because what you said is true, Dr. Hatrick. But who decides what the standardized data form is going to be? Is that the state?

Mr. HATRICK. I think reality will be he who pays gets more voice.

Mr. NELSON. I think it may depend on what the issue is. There are all sorts of accountabilities for different laws where it would be quite appropriate for that data to be collected by the federal government, by the state government.

But when you are talking about matters of achievement in the classroom, it seems to me, that in higher education, it would be the accreditors. I think that working together with our peers, we have got a pretty good sense of things that work and things that don't work. And there is a lot of data that is gathered for that purpose. That is where I would put that.

Mr. HUNTER. Thank you.

Mr. Wilhoit?

Mr. WILHOIT. The issue of data collection has to—I agree, would require coordination among all federal, state, and local. But I do think there is a unique responsibility for states to come together to bring commonality of reporting from all of those local sites. And that requires standard definitions. And it requires some sense of agreement around the elements to be collected.

I think the federal government, though, has a responsibility to say to the states that in order for you to be accountable for the use

of resources, we need these kinds of data. And it is your responsibility, states, to build this into the reporting system. And it is a responsibility for both of us to work a system design that would allow that information to come up as efficiently and as effectively as possible out of the state systems.

I think there is also this horizontal conversation that needs to go on between—among states. It doesn't make sense that we all do this separately under different assumptions and different definitions. And we are beginning to work together across the states to make sure there is more commonality in that reporting.

I think at the federal level, there is a partnership role. This is a proposition that needs support in the short-term and in the long-term in terms of resourcing. There is this federal—as I said, a federal interest in making sure the information coming to you is in line with law and is providing you the information you need. And so, it needs to be built into the system.

I think there are privacy rights that are a big part of this conversation. We need no information coming from beyond the district level in terms identifiable information. We need systems around FERPA resolved so that we can collect important and relevant information, but not in an individualized way from individual students, which brings the local community back into this conversation.

But there is a lot of conversation around this, and I think something that we would encourage continued interaction so that all of us can come together to resolve this issue. We certainly need a much better system than we have right now.

Mr. HUNTER. Thank you.

With that, I would like to thank the witnesses for taking time to testify today. And there being no further business, the committee stands adjourned.

[An additional submission of Chairman Kline follows:]

March 15, 2011.

Hon. JOHN KLINE, *Chairman,*
Committee on Education and the Workforce, U.S. House of Representatives, 2439 Rayburn House Office Building, Washington, DC.

Re: Federal Reporting, Data Collection and Mandates and their Impact on Student Achievement

DEAR CHAIRMAN KLINE: In response to your request during the House Education and the Workforce Committee Hearing held on March 1, 2011 on federal reporting and data collection requirements, federal mandates and their perceived impact on achieving the intended goals of federal programs, the National School Boards Association (NSBA), representing 14,500 local school boards across the nation, is pleased to provide you with additional information.

As you heard from many of the witnesses during the congressional hearing, educators, including local school board members, remain committed to the goals of providing high quality educational services to all students and to fair and accurate accountability measures. However, local school board members report that the increasing numbers of federal mandates and reporting and data collection requirements are too burdensome on local school districts and have little real impact on improving teaching or learning.

In view of your strong interest in examples of such federal requirements and mandates, through the use of an informal survey, NSBA requested a sample of local school board members to solicit comments from their own local program officials regarding current federal requirements and their perceived impact on improving student, teacher, or principal performance, as applicable.

This initial informal survey response reflects the views of local officials from 62 school districts from urban, rural, and suburban areas with a broad range of student

enrollments and equally diverse populations. Our preliminary review of the informal responses suggests great frustration among school district officials regarding many of the current federal reporting requirements and mandates. However, even more revealing by this informal survey is that when asked what impact these federal requirements have on improved performance, their responses indicate the following:

Requirement	High/good/some impact	Little/no impact
Data Collection	22.9%	76.0%
Federal Mandates	48.2%	51.7%
Reports	35.3%	64.7%

We have attached a summary of the specific reports, data collection requirements, and federal mandates identified by the respondents and a summary of their rationale for eliminating the requirement. Our analysis of this data will continue.

You will note that these requirements are related to specific programs such as Title I, have evolved from the last reauthorization of the Elementary and Secondary Education Act (ESEA), as the No Child Left Behind (NCLB) Act, or are related to Special Education Services under the Individuals with Disabilities Education Act (IDEA).

NSBA recognizes that the information we are providng is preliminary and anecdotal. However, a review of the specific reporting requirements and mandates identified by these local school district program officials certainly could be interpreted as a very serious challenge. While committed to delivering high-quality educational services, school board members are increasingly more concerned as they prepare to face significant funding reductions in their operating budgets in the coming years.

Additionally, NSBA continues to advocate for the elimination of unnecessary and burdensome data collection and reporting requirements and mandates. We urge you and your colleagues to establish the following criteria to be met before adopting future data collection and reporting requirements:

1. Data collection requirements should be focused on improved student learning and performance.
2. Data collection requirements should not be duplicative of other data requested by the U.S. Department of Education, and to the extent feasible, not be duplicative of any data collection required by state education agencies (SEA) or local education agencies (LEA).
3. Data collection requirements should be based in law to preclude the expansion of data collection requirements currently mandated by the U.S. Department of Education.

We encourage you to review the summaries of the current federal requirements identified as burdensome, as well as their rationale for eliminating or modifying such requirements.

NSBA very much appreciates the opportunity to provide additional information regarding federal reporting requirements and mandates. We look forward to working with you and your staff in the coming weeks as you prepare for the reauthorization of the Elementary and Secondary Education Act. Questions concerning our survey may be directed to Reginald M. Felton, director of federal relations at 703–838–6782, or by e-mail, *rfelton@nsba.org*

Sincerely,

MICHAEL A. RESNICK,
Associate Executive Director.

CURRENT FEDERAL DATA COLLECTION OR REPORTING REQUIREMENTS IDENTIFIED AS UNNECESSARY OR BURDENSOME BY LOCAL SCHOOL DISTRICT RESPONDENTS

A preliminary review of the specific requirements identified as being unnecessary or burdensome by individual respondents to the informal survey pointing to the kind of reporting requirements that should merit further review:

1. Financial and Personnel Reports related to ARRA, Ed Jobs, and SFSF Fund multiple times each year.
2. Quarterly federal expenditures, including the federal online reports related to full time equivalents (FTE).
3. Reports related to attendance at professional development opportunities by paraprofessionals under NCLB.
4. Reports related to Adequate Yearly Progress (AYP) under NCLB, including school accountability report cards.

5. Title I Comparability Reports, Title I end-year reports and time certification paid with federal funds in whole or in part, and other reports regardless of the size of the allocation.

6. Reports related to Supplemental Education Services and Public School Choice under NCLB.

7. Student Data reports under Carl Perkins Career and Technical Program, including reports related to E–Tiger.

8. E-rate forms such as 470 and 471.

9. Reports related to Special Education Services that are overlapping and duplicative.

10. Reports related to high school drop-out monitoring, particularly for students who have relocated or whose status may have changed but unable to confirm.

11. Reports related to the employment of highly qualified teachers, including development plans

12. Poverty Data collection for private schools under Title I.

13. Mandates for removing principals when schools are in corrective action status under NCLB.

14. Targeted Assistance School reporting on the Consolidated Application

15. Dietary restrictions that do not take into consideration the physical size and age of students

16. Reports related to Title I parent involvement, including annual reviews by parents and site reviews.

SUMMARY OF RATIONALE OFFERED BY LOCAL SCHOOL DISTRICT RESPONDENTS REGARDING UNNECESSARY OR BURDENSOME REQUIREMENTS

While the respondents offered specific rational for viewing their identified requirements as unnecessary or burdensome on local school districts, their major concerns could be grouped into the following areas:

1. Much of the data is duplicative and redundant therefore wasting very limited staff resources that could be re-directed to improving student performance. Separate federal programs require the collection of very similar data but on different cycles requiring costly data management support teams and hardware.

2. Many districts have significantly reduced non-instructional personnel resulting in far fewer resources to complete the required reports.

3. The frequency in the collection of the data needs to be reassessed. Even when the data are important, quarterly collection of data that simply reaffirms the presence of deficiencies cannot be corrected on a quarterly basis.

4. Much of the data collected is based on unreliable and invalid student assessments resulting in inaccurate representation of the student, school, and school district performance

5. Much of the data requested is simply unrealistic. For example, data regarding the value of professional development on student performance requires staff expertise that is not available or subjective judgments that cannot be made.

6. The significant amount of staff time required to complete reporting requirements is often inversely related to the amount of the grant, since no minimum thresholds are established in terms of award and the cost to prepare the required reports.

7. There is little relationship between the data or reporting requirement and improvements in student learning.

[An additional submission of Mr. Wilhoit follows:]

February 1, 2011

The Honorable John Kline
Chairman
Education & Workforce Committee
United States House of Representatives
Washington, D.C. 20515

The Honorable George Miller
Ranking Member
Education & Workforce Committee
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Kline and Ranking Member Miller:

At our recent Annual Policy Forum, Chief State School Officers from across the nation discussed our collective education policy priorities, particularly with regard to pending reauthorization of the Elementary and Secondary Education Act (ESEA) and what needs to be done to reinvent ESEA and address several shortcomings in the present No Child Left Behind Act (NCLB). We welcome the President's State of the Union call for Congress to reauthorize ESEA in a manner that supports state-led reform, and we look forward to working with the Congress to craft such a law. We see this as an important moment that presents real opportunities for progress.

I am writing on behalf of the Council of Chief State School Officers (CCSSO) – representing the education leaders from all 50 states, the District of Columbia, six territories, the Bureau of Indian Affairs, and the Department of Defense Education Activity - to communicate three core points:

1. **Chiefs remain committed to leading education reforms**, as demonstrated by the state-led development and adoption of college- and career-ready standards, current development of dramatically improved assessments aligned with those standards, etc.;
2. **Chiefs call on Congress and the Administration to focus on a bipartisan effort to re-envision and reauthorize ESEA in 2011** to support these state reforms and innovations, consistent with CCSSO's ESEA Policy Statement; and
3. If, despite all efforts, ESEA reauthorization is delayed, **chiefs intend to exercise the authority expressly granted by Congress to states in NCLB to develop and propose new, innovative policy models in terms of accountability and other areas** that move beyond NCLB, and we urge the Administration and Congress to encourage and support this strategy – so that

current law does not become a further barrier to innovation and achievement.

This letter elaborates on each of the three points. I look forward to joining with the chiefs to discuss these points further with you.

I. States Intend to Lead Education Reform

As you are well aware, there are important education reforms occurring in states across the country, anchored in the belief that our education policies and systems must be designed to ensure that all students graduate from high school ready for college and career. States vary in their strategies and pace in advancing this agenda, but the direction is clear. This is evidenced by myriad state-led reforms initiated over the last several years, often despite NCLB requirements, including:

- The development and adoption of **college- and career-ready, internationally benchmarked standards**, including the Common Core State Standards in reading/language arts and math that have been adopted by 45 states and territories;
- The ongoing development of **robust, internationally benchmarked, assessments** aligned to rigorous standards, including through the two national assessment consortia (PARCC and SMARTER Balanced) that are developing common assessments across more than 40 member states;
- The design and implementation of individual student identifier, **longitudinal data systems** that track the progress of students over time, which are now largely in place across the states, as well as the recent release of **common data definitions**;
- The establishment and adoption of **accurate, common graduation rates** across the states;
- The design and implementation of **growth models** for accountability, which focus schools on ensuring that students meet the goal of college- and career-readiness; and
- The development of improved **standards for teacher and principal effectiveness**, and **teacher and principal evaluation systems** focused on student achievement.

States are committed to leading a bold and balanced agenda. States are raising the bar for our education systems, in a manner that supports districts, schools, and educators in achieving our education goals. Important federal initiatives have complemented state efforts and stimulated the pace of state reform and leadership. Even in the face of outdated federal requirements and significant state budget shortfalls, states remain committed to leading the reform agenda.

Federal law – in terms of ESEA reauthorization as well as NCLB implementation – must support this state leadership and innovation, and not remain a barrier or seek to codify a single "right" answer for national education reform.

2. ESEA Reauthorization Must be a Top Bipartisan Priority

In this spirit, we call on Congress and the Administration to make ESEA reauthorization the top priority for 2011.

Some observers have expressed concern that Congress may not complete the work of ESEA reauthorization in 2011. ESEA reauthorization is an opportunity for collaboration in a policy area that is too often overlooked among competing priorities and yet is most essential to the long-term success of our economy and democracy.

The CCSSO ESEA Policy Statement, released by the chiefs in 2007 and revised in 2010, provides a roadmap for reauthorization and concrete recommendations that are inherently bipartisan – based on a simple but profound shift in the state-federal partnership:

> **This policy statement presents a vision…to guide reauthorization of the Elementary & Secondary Education Act (ESEA). First, states must continue to lead the way with bold, thoughtful education reforms to ensure that all students graduate from high school ready for college and career. This includes developing and adopting higher, clearer, and fewer standards; improving state assessment systems; ensuring transparent, disaggregated accountability; building educationally rich data systems; strengthening teacher and leader effectiveness; and turning around underperforming schools.**
>
> **In return and to succeed, we need a new federal education law that invests in these state efforts and encourages innovation, evaluation, and continuous improvement—so that states can develop and implement policies to help districts and schools dramatically improve student achievement and close achievement gaps.**

Chiefs hope for more than just small changes to current NCLB requirements. We hope for a fundamental shift in federal law that raises the bar on education *goals* but returns power and judgment to states and districts with regard to the *means* of achieving those goals. We hope for a new form of ESEA that expects and promotes innovation, evaluation, and continuous improvement in state policies.

States are eager to work with Congress and the Administration to reauthorize ESEA to reflect the important principles included in CCSSO's ESEA Reauthorization Policy Statement. For example:

- Require states to establish next generation accountability systems that meet certain core principles (e.g., aligned to college and career readiness, focus on student achievement, annual assessments, disaggregated results), but give them the flexibility to design the systems to address their unique state contexts;
- Require states to set professional educator standards and establish meaningful teacher and principal evaluation systems based on multiple measures that include returns on student achievement, but leave states and districts the flexibility to design those evaluation systems and define their use;
- Provide states with meaningful flexibility to consolidate programs and funding within ESEA and across other federal laws with a particular focus on breaking down barriers and better integrating across early learning, K-12, and higher education;
- Build state capacity by supporting state education agencies' leadership to implement the core foundations of standards-based reform and build high performing systems necessary to meet college and career ready standards.

At this crucial moment, inaction or a piecemeal approach to updating the law could exacerbate the problems currently hampering meaningful reform and delay efforts to dramatically improve systems to advance student achievement. We must get this right and get it done.

3. In Anticipation or Absence of ESEA Reauthorization, States will Present Innovative Reform Models under Section9401

Our main goal for federal policy in 2011 is to support Congress and the Administration in reauthorizing ESEA to create a new state-federal partnership for reform consistent with the principles outlined above. That is job #1.

If reauthorization is delayed, we intend to exercise authority expressly granted by Congress to *states* under Section 9401 of NCLB providing that *states* may propose innovative policy models that move beyond the requirements of NCLB. This is particularly important with regard to development of new state accountability systems and the outdated requirements of NCLB that could hamper reform.

We believe this authority in NCLB does *not* allow states or the federal government to "get out" of core requirements. Rather, it says that if states have models of education reform that are more educationally sound, consistent with state and local

judgment, and can better advance student achievement, then states may propose and the Secretary may approve those models.

We understand some parties have called on the Department to make discrete changes to the way that NCLB is implemented. While we agree with many of the specific changes suggested by these organizations, we believe discrete "fixes" will not create the new atmosphere needed to enable state and local reforms to meet their full potential. Instead of this technical approach, we propose a new strategy designed to maximize innovation through state proposed models subject to peer review and secretarial approval.

States are committed to leading a balanced and bold reform agenda. To support states in these efforts, CCSSO is leading a Task Force of chiefs in developing a roadmap for states and the nation in terms of *next-generation accountability systems*. The report of this Task Force will be out shortly and will provide clear principles to guide state leadership in accountability, as well as recommendations for federal law. The purpose is to develop accountability systems that are more valid and educationally meaningful, and that better connect accountability determinations to delivery of supports that can help all schools move all students toward college- and career-ready performance.

As this work moves forward, CCSSO intends to work with states, individually and collectively, to support development of promising, evidence-based accountability systems that move beyond NCLB and may result in state-specific proposals to put these systems in place. We call on Congress and the Administration to support this state-led approach.

Consistent with our pending Task Force report, each state (acting individually or collectively) should be empowered to propose for review and approval a new model of school and district accountability based on several principles that are designed to better drive school performance toward college- and career-readiness; more accurately and meaningfully identify and support the range of schools (particularly including the lowest and highest performing schools); and better provide actionable data to support districts, schools, principals, teachers, parents, students, and policymakers to dramatically improve student achievement. Each state's proposal should address several requirements. It must:

- Fully align accountability expectations and measures to the goal of all students graduating from high school ready for **college and career**;
- Make annual accountability determinations for **all schools based on the performance of all students**;

- Base accountability determinations on **student outcomes**, including but not necessarily limited to improved, rigorous statewide assessments in reading and math (grades 3-8 and high school) and accurate graduation rates;
- Include both **status and growth** measures in accountability determinations, measuring whether students are on track or making significant progress toward college and career readiness;
- Base accountability determinations in part on **disaggregated data** of student performance across relevant subgroups;
- Provide **timely, transparent, disaggregated data** and reports that can meaningfully inform policy and practice;
- Identify at a minimum the **lowest performing schools for significant, meaningful interventions,** as well as the highest performing schools as models of excellence (chiefs believe it is the state's responsibility to develop comprehensive state accountability systems that include a focus on improving schools across the entire performance continuum but believe that for federal accountability purposes, requirements should be limited to the chronically underperforming.).

Beyond these core requirements, states may and will develop proposals that approach these issues in different ways. State proposals could include several other elements beyond those above, such as inclusion of deeper diagnostic reviews to better link initial accountability determinations to delivery of meaningful supports and interventions. State proposals may and will look different across different states, based on state context, priorities, and ideas for innovation. Further, state proposals may include key transition rules that states might need to move to these new accountability systems, such as holding schools in their accountability status for a limited time as we move to new, improved assessments and accountability models. Finally, state proposals should include regular review and be designed to evolve over time.

This state-led approach to revising NCLB implementation could be a model for ESEA reauthorization and could be managed much like prior NCLB "accountability plans," but with far greater focus on state innovation, evaluation, and continuous improvement.

We look forward to working with you further in support of education reform across the nation.

Sincerely,

Gene Wilhoit

cc: The Honorable Tom Harkin
The Honorable Michael B. Enzi
The Honorable Arne Duncan
Members of the Senate Health, Education, Labor and Pensions Committee
Members of the House Education and Workforce Committee
Senate Leadership
House Leadership

[Whereupon, at 12:35 p.m., the committee was adjourned.]

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