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NO CHILD LEFT BEHIND: EARLY LESSONS FROM STATE FLEXIBILITY WAIVERS

HEARING

OF THE

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

ON

EXAMINING NO CHILD LEFT BEHIND, FOCUSING ON EARLY LESSONS FROM STATE FLEXIBILITY WAIVERS

FEBRUARY 7, 2013

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NO CHILD LEFT BEHIND: EARLY LESSONS FROM STATE FLEXIBILITY WAIVERS

THURSDAY, FEBRUARY 7, 2013

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

The committee met, pursuant to notice, at 10:10 a.m., in room SH–216, Hart Senate Office Building, Hon. Tom Harkin, chairman of the committee, presiding.

Present: Senators Harkin, Sanders, Whitehouse, Bennet, Franken, Baldwin, Hatch, Alexander, Isakson, Murkowski, Roberts, and Paul.

OPENING STATEMENT OF SENATOR HARKIN

The CHAIRMAN. The Senate Committee on Health, Education, Labor, and Pensions will please come to order. I welcome everyone to our first education hearing of the new Congress. Today's hearing will focus on No Child Left Behind Flexibility Waivers to the States.

Nearly half a century ago, the U.S. Congress passed the landmark Elementary and Secondary Education Act of 1965 during the 88th Congress. It was one of the great accomplishments of that Congress, and I think it bears repeating what the aim of it was. It was to address the needs of vulnerable students, needs that were not being met by the States. It was designed to provide schools and communities additional resources specifically targeted to help lift children out of poverty by ensuring equal access to quality education for all.

The Federal Government stepped in because many States could not or would not provide for their most vulnerable children. Since being signed into law in 1965, the Elementary and Secondary Education Act has been reauthorized seven times. Each reauthorization has sought to enhance the law's effectiveness while staying true to its original mission to improve educational outcomes for disadvantaged students.

The ESEA was last authorized in 2001 during the administration of President George W. Bush. That law, the No Child Left Behind Act, aimed to increase the transparency of schools' effectiveness or, I should say, lack of effectiveness in meeting the needs of students who were struggling, students living in poverty, students who were English language learners, and students with disabilities.

The law's goal was to give families and the general public the data they needed to assess whether students in a given school were

being taught the reading and math skills they needed to be successful. Only the Federal Government could require that this data be tracked for all students across the country.

In October 2011, this committee passed a reauthorization of ESEA, preserving the reporting and transparency components of No Child Left Behind and continuing to emphasize strategies to close the achievement gaps for disadvantaged students. Unfortunately, we could not move that bill beyond this committee. However, in this new Congress we will redouble our efforts to reauthorize ESEA and to address more effectively the needs of disadvantaged students.

In the absence of a reauthorized law, President Obama and Secretary of Education Duncan have offered waivers to No Child Left Behind. Those waivers aim to address the needs of States and local districts to improve instruction and provide flexibility, to address the needs of students and the educators serving them. As of today, 34 States and the District of Columbia have received approval of their waiver requests. These States are now 5 months into implementing their waiver plans. Meanwhile, the remaining 16 States have either submitted a waiver request, have not submitted a request, or have been told their waiver has not been approved.

The implementation of waivers has relieved States from requirements such as Adequate Yearly Progress and also from restrictions on how certain title I funds are used. As the Department of Education continues to work with the States to implement waivers, here's what this committee needs to do. We need to understand the status and scope of State waiver plans being implemented. We need to consider the conditions and activities of States that do not have approved waivers. And we need to ensure that the policies and programs we support are effective in meeting the needs of our most vulnerable students.

While almost 50 years have passed since the initial passage of the Elementary and Secondary Education Act, many of the conditions that led to its passage have not changed dramatically. In 2012, the child poverty rate was 20.5 percent. Over 6 million public school students were students with disabilities. More than 5 million public school students across the country were English language learners.

Today we'll hear from two panels. All witnesses will share their thoughts on the Department of Education's waivers and how those waivers are impacting our most disadvantaged students.

Our first panel, of course, will be Secretary of Education Arne Duncan, who will give us an update on the implementation of the waivers. On the second panel, we'll hear from two State chief school officers, and we'll also hear from Andy Smarick and Kati Haycock, advocates and analysts who can speak to the particular needs of disadvantaged students.

I thank them all for being here. We'll introduce them later. But now I'd like to turn to Senator Alexander for his opening remarks.

OPENING STATEMENT OF SENATOR ALEXANDER

Senator ALEXANDER. Thanks, Mr. Chairman.

Mr. Secretary, welcome.

I'd like to thank the Chairman for this hearing. It is very timely to talk about waivers and what we'll be able to do this year on the Elementary and Secondary Education Act. And I welcome the Secretary. I said when he was appointed by the President that he was one of the President's best acts, and I still think that. And I appreciate his service and his leadership. We have occasional differences of opinion, but we focus on the things we agree on, and I'm glad he's where he is.

On the subject of waivers, the Chairman did a good job of reciting the history of the Elementary and Secondary Education Act. I mean, the bottom line is that it expired in 2007 except for a provision that says if Congress didn't act, it continued. Congress didn't act, so it's continued. And we're overdue in doing our job and taking a look at the Elementary and Secondary Education Act and reauthorizing it for another period of time. I mean, that's our responsibility. We should do it. So that's our fault. That's on us.

In the meantime, some of the provisions of the Elementary and Secondary Education Act don't work right when applied to States. So the Secretary has stepped up and said, "Well, I'll solve the problem by using a waiver authority." This waiver authority is a pretty simple provision that was put into the Elementary and Secondary Education Act in 1994. I'm not sure anybody paid a lot of attention to it when it was put in. It's one page.

It says the Secretary can waive any statutory or regulatory requirement under the Act, and the way you get a waiver is that a State educational agency or local educational agency or Indian tribe submits a waiver request to the Secretary. Then it says it shall be developed and submitted by the local agency to the State agency and by the State agency to the Secretary. That's all it says.

That would suggest to me that a waiver like that would be—let's say before No Child Left Behind was passed in 2001, if I were the education commissioner of Tennessee, I might write the Secretary and say, "Mr. Secretary, could I use some of the title II money, which isn't being as well used now as it should be"—that's something Senator Harkin and I and Secretary Duncan all agree on—"may I use it to help create a teacher evaluation plan for Tennessee?" And the Secretary could say, "Yes, you can," or "No, you can't."

What's happened, though, is that the Secretary's using of this waiver authority has gone much broader than that. It's become a sort of Washington version of the old game children used to play called Mother, May I? We used to play it in Tennessee. I think it's played around the country. You say, "Mother, May I?" and then the mother says, "You may do thus and so," and if you do the right thing, you get to do it, and if you don't get to do it, you're out of the game.

So this is an example where the State might say, "Mother, may I create a teacher evaluation system," and instead of saying yes or no, the Secretary says, "You may, but only if you wash your hands and practice the piano and do your homework and cleanup the kitchen and rake the yard." And you might say, "Well, Mother, that's not what I asked to do," and Mother would say, "Well, but that's what you have to do if you want to go out and play."

So what happens is this simple waiver authority has turned into a conditional waiver, with the Secretary having more authority to make decisions that, in my view, should be made locally by State and local governments. According to the procedure, a State would apply for all 10 waivers and agree to implement four principles, and it's pretty detailed. Here's the Tennessee document. By the time you get through with everything that's required, this one page of law turns into a great big thick book.

Is that bad or good? There's a lot of good in it. In the State of Tennessee, most of what Secretary Duncan wanted done, the Governor and the legislature wanted to do anyway. They didn't have a lot of trouble agreeing on what to do. But it's more complicated than it needs to be.

The State of Iowa, where the Chairman is from—there was a disagreement in Iowa. They have their own evaluation system, but according to the Secretary or the department's view of an evaluation system, it isn't the right evaluation system. So Iowa's request for a waiver was denied.

The State of California requested a waiver. That was denied because California law doesn't permit such a teacher evaluation system. I'm all for teacher evaluation systems. I just don't think they ought to be defined and run out of Washington, DC.

So we have a problem here. The problem is that more and more decisions are being made in Washington about whether schools and teachers are succeeding or failing when, in fact, the Secretary and I and Senator Harkin pretty well agreed on a bill last year that basically moved many of those decisions out of Washington. That was part of what we agreed to do. So we've gone, in my view, in the wrong direction.

Are all the results bad? Absolutely not. Some of the results are good. But the correct thing for us to do, in my opinion, is for the Secretary to show restraint on insisting on a one-size-fits-all set of conditional waivers and step back and just say yes or no in a much simpler way, giving more allowance.

Or even better, we should do our job in the Congress, working with the House, take Representative George Miller's advice when he said last year, Mr. Chairman, that we ought to have a lean bill, and see if we can go back to work this year and reauthorize the Elementary and Secondary Education Act and put into law whatever needs to be put into law, let the Secretary step back from the waivers, and let the States make their own decisions about whether teachers are succeeding or failing.

So this is a very timely hearing. I look forward to working with the Secretary and the Chairman and other members of the committee. I hope we can take the work we did in the last Congress, focus on what we agree on, come up with a lean bill, pass it, and let the House pass whatever they pass.

My last comment, Mr. Chairman—excuse me for going on a little long—is that the Senate just changed its rules a little bit, which would help us in this way. It's easier to go to conference. So the House may pass a bill that's different than our bill—and beforehand, I could understand the majority leader's feeling that, well, the Republicans won't let us go to conference, and I haven't got time to fool with that. Now it's easy to go to conference.

We ought to pass whatever we can pass. The House can pass whatever it can pass. Let's go to a bipartisan conference and see if we can get a result and move away from this Washington version of Mother, May I?, which is the waiver process that we've gotten into with Congress having a major amount of the responsibility for the fact that the Secretary is undertaking these waivers.

Thank you.

The CHAIRMAN. Thank you, Senator Alexander. Since my name and my State was mentioned, I want to say to my friend from Tennessee that had I been Secretary, I just would have denied Iowa's waiver request, also. It just wasn't good. I just want to get that on the record.

Today we welcome U.S. Secretary of Education Arne Duncan to our hearing. He's no stranger to this committee. Secretary Duncan has served as the Secretary of Education since January, 2009. In fact, he was one of President Obama's first cabinet appointees. Under Secretary Duncan's leadership, the Department of Education has launched a series of prominent initiatives, including the Race to the Top competitions, the Investment in Innovation Program, and, of course, the effort that we are here to discuss today, the State Flexibility Waiver from No Child Left Behind.

Prior to joining the Obama administration, Secretary Duncan served as chief executive officer at the Chicago Public Schools for 8 years. In his early career in education, he served as the district's director of magnet schools and in 1996 was an integral partner in establishing the Ariel Elementary Community Academy in Chicago.

Mr. Secretary, thank you for your leadership and your service to our country. Thanks for joining us today. We look forward to your testimony. Your statement will be made a part of the record in its entirety, and I'll set the clock at 10 minutes. But if you go over that, I won't get too nervous.

STATEMENT OF THE HONORABLE ARNE DUNCAN, SECRETARY, DEPARTMENT OF EDUCATION, WASHINGTON, DC

Secretary DUNCAN. Thank you so much, Chairman Harkin and Ranking Member Alexander and all the other members of the committee. I really appreciate the opportunity to testify on the flexibility that the Department of Education has provided under ESEA to empower States, districts, and schools to move forward with reforms that benefit all students.

I'm going to keep my testimony relatively brief. I'll be happy to take any questions you might have, but I think you have some fantastic panelists coming after me. You have two of the Nation's best superintendents from Kentucky and New York, Terry Holliday and John King. You have a couple of outside experts, Kati and Andy, who are very, very thoughtful on that. And hearing from particularly the State sups who are living this every day, I think, will be really informative to this body.

Before I begin, I just want to take a moment to recognize you, Senator Harkin, for your extraordinary career in public service. I know, Senator, it's a little bit early, a little premature, to be talking about your legacy, and there'll be many more tributes to come over the next 2 years. But I didn't want to let this moment pass

without expressing my real appreciation for all that you have done and continue to do for our Nation's students.

Over the last 4 years, I've been so grateful for your clarity of vision, your counsel, and your tireless commitment to strengthening public education, from working to give students better Internet access to improving teacher prep. The Americans with Disabilities Act, one of your crowning achievements, is truly our Nation's emancipation proclamation for students with disabilities.

We all know we still have a long way to go before every child with a disability has equal educational opportunities. But we're so much closer to realizing that dream, that core tenet of the American promise, because of your leadership and your service. Thank you so much for that.

I said a moment ago that we have provided ESEA flexibility to States. That's absolutely true. But the guiding principle of ESEA flexibility is that flexibility must first benefit students. We must protect our Nation's young people. Every State that receives that flexibility from NCLB must demonstrate its commitment and its capacity to improve educational outcomes for all students, to close achievement gaps for disadvantaged and minority students, to increase equity, and to improve their quality of instruction.

The Federal role in education is really relatively narrow. We support States and districts, provide incentives for innovation, research what works to boost achievement, enforce the law, including civil rights laws. But the Federal Government does not serve as a national school board. It never has and it never should. We don't dictate curriculum, levy school assessments, or open and close schools. We don't specify the content of academic standards or negotiate teacher contracts.

We do have a responsibility to set a high bar to protect the interest of students, especially at-risk students. But how to reach that bar, I believe, should be left to States. ESEA flexibility is very much in keeping with that limited, narrow Federal role. And it's no secret that I'm a big believer in State and local leadership in education. I spent 7½ years as the CEO of the Chicago Public Schools, and I lived the reality, both the strengths and the significant shortcomings of the No Child Left Behind law.

By the time I came to Washington 4 years ago, I knew, along with millions of parents and educators, that NCLB was fundamentally broken and it was time to be fixed. NCLB was a critical step forward to improve transparency and accountability for all students and subgroups. That law, as you know, was passed in 2001. The world has changed pretty dramatically since that time, and we have learned so much since then.

For example, in 2001, Facebook didn't exist. Yet here in 2013, NCLB is still somehow the law of the land. And as 2014 approaches, the law has become a barrier to reform. It, unfortunately, encouraged—and this was not intentional, but just was a byproduct. It, unfortunately, encouraged too many States to actually lower standards and to teach for the tests.

I went on a listening and learning tour in late 2009 and gathered feedback from teachers and parents and administrators and students themselves. I visited more than 30 States to figure out what

we could do to fix No Child Left Behind, and my staff traveled to literally every State in the Nation.

After hearing from stakeholders in early 2010, our administration issued a blueprint for reform. We called on Congress to work together to complete a strong, bipartisan reauthorization that would correct the shortcomings of NCLB and better protect and serve all students and put the right incentives in place to raise the bar.

Chairman Harkin, Senator Alexander, Senator Enzi, and all of you on the committee—many of you will recall that I came up and met with you repeatedly to try to push through a strong bill that would protect and serve all students. But you also know we stand here today without that reauthorization. So in September 2011, 4 years after ESEA was due to be reauthorized and 16 months after the President issued his blueprint, President Obama announced that for States committed to reforms that would implement NCLB's goals, our department would grant waivers that comprise ESEA flexibility.

I granted those waivers pursuant to my authority as Secretary of Education under Section 9401 of ESEA. That statute permits the department to grant waivers to certain provisions of NCLB where a State has demonstrated those waivers are necessary to improve student learning and increase the quality of instruction. Providing waivers was always, always our Plan B. But I was not willing to stand idly by and do nothing while students and educators continued to suffer under No Child Left Behind.

Today and every day, I stand ready, willing, and able to partner with all of you to fix NCLB. But in the interim, let me talk to you about why I thought waivers were important. I'm going to try and walk you quickly through a number of slides and then open it up.

The first one is just trying to look at what existed before and where we tried to go. As I mentioned earlier, unfortunately—this, I think, was not at all intentional, but 19 States, almost 40 percent of our Nation, lowered standards to comply with No Child Left Behind. It's one of the most insidious things that happened there. What we try to do is support States that are raising standards, and we've seen 46 States raise standards, a huge step in the right direction.

I think under No Child Left Behind there was far too much focus on a test score and on the proficiency cut score, that bubble of students around that narrow bar. What we wanted to put in place were multiple measures and a focus on growth and gain so there weren't incentives to teach to a narrow band of students but to help every child, whether the child was special needs or a highly gifted child or anyone in between, to provide incentives for teachers and schools and States to be helping every child to progress.

No Child Left Behind labeled many schools failures but didn't do a lot to help those schools and those students who were actually struggling. That fundamentally has to change. To me, it's not about labels. It's about what are we doing to change students' lives and change their educational trajectory. Many, many schools under No Child Left Behind were labeled as failing. Some were absolutely struggling. Some were actually showing real progress. And when

schools are improving each year, to have them labeled as failures doesn't make sense.

I've often also said the only reward under No Child Left Behind is you are not labeled a failure. Something is wrong with that. When you have schools and districts and States who are beating the odds every single day, and they're seeing remarkable student growth and achievement in under-resourced communities, we have to shine a spotlight on excellence and success. And, to me, that's a huge important part of what we try to do with the waiver package.

I very much agree philosophically with Senator Alexander. I think too much of what happened under NCLB was dictated from Washington, and there are many strings attached to how districts could spend. I think as a country we underinvest in education. We'd like to invest a lot more, and I'm going to always be the biggest proponent of that.

But where we have existing resources and we're dictating from Washington how they be spent, that ties the hands of local educators who know their children and communities best. One of the things we've done through waivers is free about $2.8 billion, not in new money, but in existing money, not dictating from Washington how that be spent, but listening to local educators, holding them accountable for results, but letting them figure out what the best ways are to help children learn.

Then, finally, there was a significant emphasis in NCLB on teacher quality, and that was an important step in the right direction. However, the measures of teacher quality were all based upon paper credentials. There was no connection between what that teacher was actually doing in the classroom and whether that teacher's students were actually learning. We've tried to bridge that divide with waivers.

Next slide, please. As I stated earlier, I'm trying to go through these pretty quickly. Under No Child Left Behind, 19 States dummied down standards. I come from one of those States, from Illinois, and I had a shock of a lifetime about midway through my course as CEO of the Chicago Public Schools. We had been raising student test scores almost every year and felt pretty proud of that. We got back data from an outside independent group that showed our goal of getting students to a proficiency cut score, while that looked important, had no correlation to them being successful beyond high school and college.

In fact, if we were serious about getting them ready, that proficiency cut score was far too low. We had to get our students to an advanced status. We found that out independently. The State's resources and the State's accountability system was incenting all the wrong behavior and, in fact, doing, I thought, grave damage to children and families. We've tried to reverse that.

No Child Left Behind had a focus on accountability and data and subgroups as very important. However, it was a very narrow focus. And, yes, reading and math are hugely important. But I always say if you have the best third grade test scores in the world, but 50 percent of your students are dropping out of high school, you are not changing those students' lives. You can't go get a job with a third grade test score.

So looking at not just an absolute score, but looking at growth and gain, how much students are improving each year, the student comes in far behind and leaves your class just a little bit behind. That's not a failure. That's great progress. That's tremendous work. And I want to look at outcomes. Are graduation rates going up? Are dropout rates going down?

For me, the biggest challenge we have as a nation is that we have a 25 percent dropout rate today. We have a million young people leaving our schools for our streets. There are no good jobs out there for them. We have to do everything we can to increase graduation rates and reduce dropout rates. We've seen some real progress there, but we have a long, long way to go.

The goal can't simply be just to graduate from high school, but what are you doing beyond that? And for the first time in our country, the first time in our country, under the waiver package, States are starting to look at outcomes beyond graduation. Are students going on to college? Are they going on to college not having to take remedial classes? Are they actually prepared? Are they persevering while they're there?

And looking at a more comprehensive set of indicators, is it more complex? Absolutely. Does it present a much more honest and comprehensive and long-term view of what I call outcomes? This is a huge step in the right direction. All the leadership here, all the creativity, is coming from States.

Next slide. This one is a fascinating one, Mr. Chairman, that I didn't fully understand until we got into this. And I thought it would be particularly pertinent because of your extraordinary work in championing the rising opportunities of young people with disabilities. No Child Left Behind, again, not intentional—and this gets a little technical—but because of large N sizes, there were many, many hundreds of thousands of children across the State who were invisible. Let me say that one more time—who were invisible under No Child Left Behind. They were not a part of the accountability system.

And what I've given you is just a small handful, like 9 or 10 States, of how many more schools under waivers are now accountable for the results of children with disabilities versus under No Child Left Behind for the past X number of years. This is true for children with disabilities. This is true for English language learners. This is true for poor children. This is true for African-American children. This is true for Latino children.

The fact that these children were unaccounted for, were invisible, is, again, not something I think anyone knew. I sort of wondered had this body been aware of this fact, would someone like you, Senator Harkin, have voted for the original bill if you knew how many children with disabilities were not in the mix. But to see so many thousands of additional schools and hundreds of thousands of students now where adults have to be accountable for their learning every single year—this is a very, very significant step in the right direction.

Next slide. I talked about this a little bit. But the goal is not just to label challenges but to help those students most in need of help. Raising the bar on college- and career-ready standards for every single child is hugely important, making sure that we are closing

gaps. Kati Haycock will testify later—has talked a lot about closing gaps in half at a rapid pace. I think all of us would like those gaps to disappear tomorrow. But that, unfortunately, is not where we are.

If we can rapidly close those gaps in half, we start to demonstrate what the country is capable of doing. If we can have States and districts start to break through on this, we create a body of evidence of best practices. And making sure that those students that are furthest behind are improving at a faster rate than those who are further ahead is a core tenet around our flexibility.

And, again, making sure that we are taking real action, not just labeling schools as failures, but taking dramatic action when schools aren't working—and the vast majority of schools in our Nation are improving, are getting better each year. But we have a relatively small number of schools where 40, 50, 60 percent of students are dropping out, and that's been true not just for a couple of years, but often for a couple of decades.

Yes, we have insisted on strong, clear action, and that's been a little bit controversial. But in those cases, I'm absolutely convinced that we have condemned not just those children, but entire communities to poverty. We have to challenge the status quo and do something better, and we're seeing a tremendous level of courage and creativity coming from school districts and States around the country there.

Next slide. We talked about this a little bit. Just to give you one concrete example, in Massachusetts, there was a school that was labeled a failure under No Child Left Behind, but actually was showing real progress. And under the new system in Massachusetts, the State-designed system, that school, Columbus Park Preparatory Academy in Worcester, MA—it was labeled among the bottom 20 percent in schools in the State under NCLB. In fact, it is getting better each year. That school is not a failure. That school is a success. It is improving. It is doing the hard work.

Shining a spotlight on success, not mislabeling them as failures—and think how demoralizing that is to teachers who are working so hard to be labeled a failure when they're seeing real improvement each year. Think how confusing that is to parents, who think, "My school is getting better, I'm participating," and then you get a letter from the Federal Government in Washington, saying, "No. In fact, your school is a failure." It is dishonest. It is misleading. It is demoralizing. It is the wrong thing. Shining a spotlight on success is hugely important. We have to do a lot more of that in this country.

Next slide. I talked about this. We've tried to free almost $3 billion in title I money that under No Child Left Behind was prescribed by Washington. We don't have the best ideas here. The best ideas come from the local level, and we want to continue to empower folks to use scarce resources to best meet the needs of their children and communities.

Next slide. There's nothing more important than getting a great principal into every school and great teachers into every classroom. Talent matters tremendously in education. And for decades in this country, we have acted as if talent didn't matter. We've acted as if every teacher was the same or every teacher was above average.

We haven't focused on principal support. As in education, as in politics, as in the business world, as in nonprofits, leadership matters. Great principals lead great schools. Great teachers do miraculous things with children. When you have teachers who aren't as effective, students fall further and further behind. It gets to the point where it's almost impossible to catch up. So having honest, hard, tough, difficult conversations around teacher and principal effectiveness, we have seen a level of activity and dialog around the Nation as part of the waiver process that I think is extraordinarily healthy and, frankly, is decades overdue.

Let me just give you one example. Governor Haslam, your good friend, Senator Alexander, in Tennessee, I think has done a remarkable job of working to improve teacher and principal evaluation systems, and he is now in the second year of implementing the new statewide system there in Tennessee. And there were lots of skeptics and many real challenges in Tennessee, but collectively, the State, I think, has listened and learned and improved the system.

Department officials there in Tennessee met with 7,500 teachers around the State and surveyed 16,000 teachers and 1,000 administrators for input on the new evaluation system. In Memphis, art teachers were very frustrated because they were being evaluated based in part on school-wide performance in math and English, and they thought that wasn't fair.

You had a really enterprising and really innovative music teacher named Jude Davison in Memphis. He thought he could do something better, and he convened a group of arts educators to come up with a fairer system. He wasn't scared of accountability. I haven't met a teacher yet that is. They just want it to be fair. They want it to be honest. And after he surveyed art teachers around Memphis, Mr. Davison's committee developed a blind peer review evaluation to access portfolios of student learning in the arts.

That work has proven to be so popular that Tennessee is now making that system available statewide. That's the kind of innovation, flexibility, and local leadership and creativity that waivers have spurred that were basically impossible under No Child Left Behind.

Next slide. You know, at times, partisan ranking here in Washington—I appreciate both Chairman Harkin and Senator Alexander and your huge commitment to working in a bipartisan way. What we've seen across the country is tremendous bipartisan support for waivers. We've seen 32, 33 States come in across the political spectrum from far left to far right. We have another seven or eight States that are currently under review. And for all the drama you have here in Washington, there's been a lot of quietness, just a lot of hard work, courageous work, going on in States around the country.

The media loves to focus on controversy and noise. The lack of noise here has, I think, led to an under-reported story of how much courage, how much leadership, regardless of politics and ideology, that we've seen across the country.

Let me just close by saying that we approach this work with a tremendous sense of excitement coupled with a real sense of humility. What's exciting about ESEA flexibility is that States are lead-

ing the way in strengthening education for all children. In the vast majority of cases, State and local leaders have been extraordinarily innovative and have shown great courage in challenging the educational status quo in which 25 percent of our young people don't ever graduate from high school.

And as I've said a number of times, I'm not interested in flexibility simply for its own sake. I'm not interested in plans that just look good on paper. We're working with every State that receives a waiver to ensure that they follow through on their commitments. And we are partnering with each State to support their ambitious and tough and challenging work, with a laser-like focus on what makes the difference for children.

I don't have a moments doubt that State flexibility is a significant and major improvement for children and for adults from NCLB. But I absolutely know at the same time that we and our partners in the States will make mistakes as we move forward on implementing flexibility. We have to continue to learn from these mistakes, correct them quickly, and share that learning across the country. But we can never let the perfect become the enemy of the good, and that's what I think we've done for far too long here in education.

We all approach this work with a clear knowledge that if this was easy, it would have been accomplished a long time ago. Ensuring a world class education for every child is both a demanding challenge and an urgent imperative for our Nation, our communities, and our children. I know that all the members of this committee share those core beliefs, and I look forward to continuing to work with members to ensure that, in America, education truly becomes the great equalizer. It must be.

Thank you so much, and I look forward to your questions.

[The prepared statement of Secretary Duncan follows:]

PREPARED STATEMENT OF THE HONORABLE ARNE DUNCAN

Chairman Harkin, Ranking Member Alexander, and members of the committee. Thank you for inviting me here today to testify on the flexibility that the Department of Education has provided under the Elementary and Secondary Education Act of 1965 (ESEA) to empower States, districts, and schools to move forward with reforms that benefit all students. I say that we have provided flexibility under the law to States, which is true, but the guiding principle of ESEA flexibility is that it is for students.

We have worked closely with States to ensure that every State that receives flexibility from the No Child Left Behind Act (NCLB) demonstrates its commitment and ability to improve educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction. However, this is not a change from one federally mandated, top-down system to another. Congress set the standard for flexibility in the law, and each State that has received flexibility met that standard in its own way. Each State's plan addresses the unique strengths, challenges, and needs of its districts, schools, principals, teachers, and students.

No Child Left Behind was a landmark Act. Eleven years ago, Congress, with strong bipartisan support in the Senate and the House, rightly said that our schools needed to focus on all students; that for America to continue to succeed, all of our children had to succeed. That is why NCLB sought to hold every State, district, and school accountable for 100 percent of students being proficient in reading and math by the end of the 2013–14 school year.

NCLB's goals were the right ones—holding all students to the same, challenging standards; closing achievement gaps; and providing transparency and accountability for the proficiency and graduation rates of all students. But, the closer we have gotten to 2014, the more NCLB has changed from an instrument of reform into a barrier to reform. And, the kids who have lost the most from that change are those

who benefited the most in the early years of NCLB—students with disabilities, low-income and minority students, and English learners.

Because, in practice, NCLB unintentionally encouraged States to lower their standards so that more students would appear to be proficient, even though they weren't—and many States did. NCLB also labeled every school that missed a single target as failing, including some that were making progress in educating disadvantaged students and closing achievement gaps. It mandated one-size-fits-all interventions, regardless of a school's needs, preventing critical resources from being targeted where they could do the most good for kids. The exclusive focus on tests, and disregard for other important measures of success, forced teachers to teach to the test. And, subjects such as history and the arts were pushed out.

That is why, in March 2010, the President released his *ESEA Reauthorization*: *A Blueprint for Reform*, and called on Congress to complete a strong, bipartisan reauthorization that served the interests of all of our children. He convened—Chairman Harkin, Senator Alexander, Senator Enzi, and other congressional leaders—at the White House to develop a plan for reauthorization. Our Administration greatly appreciates the effort that this committee has put forth to reauthorize the law, but as you know, that has yet to happen.

So, after more than a year of working with Congress, in August 2011—4 years after ESEA was due to be reauthorized—the President directed me to develop a plan to provide States relief from some of No Child Left Behind's outdated and burdensome provisions, in exchange for new commitments to reforms to help prepare America's students to graduate from high school prepared for college and a career—higher standards that reflect college- and career-readiness; effective accountability systems that hold schools accountable for the performance of all students and all subgroups; and ensuring that every child has a great teacher and great principal. The following month, he stood with Democrats, Republicans, and Independents, including Chairman Harkin, Governor Haslam of Tennessee, and Governor Chafee of Rhode Island, to announce the details of that package. And in February 2012, our Administration approved the first 11 States that would receive new flexibility under the No Child Left Behind Act.

This flexibility represents a new Federal-State partnership forged by our Administration, using the authority provided by the law to empower States and school districts to decide how best to meet those commitments, and supporting those efforts. Because what has become clear from the past decade of NCLB is that the goals are important, but they are only the beginning, not the end. What is most important is to create the conditions and provide States, districts, schools, principals and teachers with the tools for reforms to grow. Congress recognized that principle of continuous improvement when it provided for flexibility in NCLB but limited it to waivers that would increase the quality of instruction and improve academic achievement for students. And we have maintained that high bar, because, as Congress recognized, flexibility for flexibility's sake does nothing for students, their families, or our country.

Almost exactly 1 year ago, the President announced the first group of States to receive ESEA flexibility. Today, 34 States and the District of Columbia have received flexibility—of these, 20 are led by Republicans, 14 by Democrats, and one by an Independent. Nine States, Puerto Rico and the Bureau of Indian Education have submitted requests that we are currently considering, and we expect additional States to submit requests by February 28.

States are using their flexibility to move forward with reforms that benefit all students. They are implementing more effective accountability systems that include multiple measures of school and student performance—so that when States, districts, and schools think about how best to target supports and interventions, and how to help principals and teachers improve their performance, they are looking at a range of factors that affect students, not just at a single test on a single day.

For example, Colorado has developed a system that emphasizes individual student growth and provides parents and community members with data showing whether students who aren't meeting standards are on track to meet them within 3 years, and whether students already achieving at high levels are maintaining that performance. Schools are also being rated based on current achievement, graduation rates, dropout rates, and ACT scores. New York is targeting not just the specific schools where subgroups are struggling, but the districts where subgroup graduation rates or achievement are among the lowest in the State. Schools in these districts, as well as other schools that are not meeting graduation rate or achievement targets, conduct in-depth needs assessments and develop plans to implement targeted interventions to improve achievement and graduation rates. These kinds of reforms can make a real difference in outcomes for students with disabilities, low-

income and minority students, and English learners, in ways that NCLB's one-size-fits-all requirements simply could not.

States are also focused on building capacity at all levels of their education system, for long-term, continuous improvement that benefits students, instead of simply focusing on avoiding Federal labels. Many States are creating State-level offices and regional centers that oversee and support low-performing schools and districts. Massachusetts's District and School Assistance Centers help districts assess their needs and plan interventions, and provide opportunities for districts and schools to learn from each other and share what works. Kentucky's Office of District 180 worked with universities to establish Centers for Learning Excellence, which place specialists in schools to work directly with the principal and teachers to help improve instruction.

These are just some examples of what States are doing with ESEA flexibility that hold great promise for our Nation's children. I hope that their efforts will inform your work on reauthorization, just as they are informing all of the Department's work on education reform.

In addition to better accountability systems, flexibility is supporting improved teaching and learning across all districts and schools in these States. States are putting in place more rigorous standards, and have developed plans to ensure that all students, including students with disabilities and English learners, have access to those standards. Now, parents and teachers really will know whether their kids are on track to graduate from high school prepared for college and careers.

And, States are implementing improved support and evaluation systems to provide principals and teachers with better information about their practice and targeted professional development to improve that practice. Senator Alexander's home State of Tennessee has been a leader in this work, and is in its second year of implementing a new evaluation system that takes into account multiple measures of teacher practice and student learning and ensures that teachers receive regular feedback to inform their instruction.

Finally, we have established an unprecedented, department-wide system of monitoring and support for States. Our job is to ensure that States are implementing their plans, and working with them to make sure that they are achieving results for kids and helping them to improve their plans where they are not. Because this isn't simply about compliance—it's about results. And, we are providing technical assistance and facilitating communities of practice among States and educators—because the greatest progress will come from educators solving new challenges and problems together.

As we move forward, we will continue to reach out to States, districts, schools, principals and teachers, parents, students, and others who care about education, to make sure that flexibility is making a difference for students—through higher standards, supports and interventions targeted to students' needs, and improved teaching and learning. We will work with States, districts, and schools to support educators as they continue to work to improve their efforts, so that all students graduate from high school ready for college and careers. America's children and families deserve nothing less, and I look forward to continuing to work with this committee toward that goal.

Thank you, and I am happy to answer any questions that you have.

The CHAIRMAN. Mr. Secretary, first, thank you for that excellent testimony. More than that, I want to thank you for your leadership over the last 4 years in what I would call stepping into the breach. When we couldn't act here in the Congress for whatever reason, you saw it necessary to not just sit idly by and let No Child Left Behind tear down our education system even more.

You acted with courage and forthrightness in setting up a system that I believe was fair to all. In setting up a waiver system that basically set the bar high but let States figure out how they might do it. You know, the States are still the great experimental laboratories.

But I think when we passed ESEA in 1965 and since then, we've always said there is a role for the Federal Government in making sure that kids that are disadvantaged, for whatever reason, are fully included in our educational system, are fully challenged, fully challenged to the utmost of their abilities. I think what you have

done in the last couple of years with the waivers is instructive to us as we begin to renew our efforts to reauthorize the Elementary and Secondary Education Act.

With that as a background, I just have a couple of questions that I would like to proffer. Again, you ensured that the waivers went beyond reading and math—thank you. I have been talking about that for a long time; areas that are important for a well-rounded student: history, sciences, music, arts, physical education.

In your own words, how have the waivers helped to expand that narrow focus that was one of the unintended consequences of No Child Left Behind? How was that expanded? You had a whole list of them on that slide.

Secretary DUNCAN. Yes. I don't know if we can go back to that slide, but I think, again, the initial focus of NCLB on reading and math—that's right. Those are the core, those are fundamental, and those are foundational. It's a starting point. It can't be an ending point. In looking at a holistic set of different measures and, again, looking not just at a test score—and I keep going back to that. Looking at a proficiency cut score creates lots of the wrong incentives to teach to a narrow band of children, not teach to 100 percent of children in a class.

Looking at growth and gain—how much are students improving—but then looking at a whole host of indicators beyond test scores. I worry that we've done too much teaching to the test. Testing tells us some things. But I want to look at graduation rates. I want to look at dropout rates. I want to look at students taking and passing AP classes, IB classes, dual enrollment for college, getting college credit while they're in high school. I want to look at what their academic trajectory is after they graduate from 12th grade.

You have, not because of our mandates, but because of State leadership, a whole host of indicators that different States are looking at. And I think this body, as you move toward reauthorization, has an amazing chance to take the best ideas from the best States and figure out how to comprehensively, holistically, not simplistically, evaluate how schools and districts and States are doing.

The CHAIRMAN. States have been responsive to this, right?

Secretary DUNCAN. This has all come from States.

The CHAIRMAN. So that whole line of ESEA flexibility has come from the States.

Secretary DUNCAN. And they've come up with some great ideas that me and my staff could never have imagined.

The CHAIRMAN. I think that's important to note. Second, one of the challenges with NCLB transparency was that many schools had not been reporting the proficiency of students because they reported there were too few students in a subgroup. Now, I will back up a little bit. There were some good things in No Child Left Behind, and one of those was beginning to look at these subgroups, this disaggregation of information.

The problem we had in NCLB, as you know full well, Mr. Secretary, was that we didn't define how big that subgroup was to be. Some States put the N group, to use that lingo, very high and so children were hidden. Some of the information that we have gotten from your department says that more than 10,000 additional

schools will report on student proficiency because of these new accountability systems.

But now, once again, States have introduced the concept of super subgroups, the combining of some subgroups such as students who are English learners with students with disabilities, to form a larger subgroup. If these super subgroups are being used, how are we going to know how kids with disabilities, for example, are performing?

Secretary DUNCAN. It's a great question. Going back to No Child Left Behind, hundreds of thousands if not millions of children were invisible under that system, and literally tens of thousands of schools, individual schools, were not accountable for children in those subgroups. So I think no one in this body, I assume, understood. I didn't begin to fully understand at the time. As we've gone through this process, it's become much more apparent to me.

So what we've tried to do is make sure, again, that hundreds of thousands of children if not millions—that tens of thousands of schools were now accountable for the academic outcomes of children with disabilities and African-American and Latino and ELL students and disadvantaged students who live below the poverty line and homeless children. A fine line that we talked briefly about before we came out is, ideally, you'd want to get down to an N of one for that child.

You can't do that for a couple of reasons. One, there are some protections, some privacy laws, that absolutely make sense. And, second—and I'm no psychometrician—but, statistically, you have to have a certain N size in order for people to draw conclusions from the number of children—let me be clear—not just in a school, but in a grade, in third grade, in fourth grade, in fifth grade.

What we've tried to do is make sure that we maintain that accountability for subgroups, but use this idea of super subgroups to actually brighten the focus, brighten the spotlight on subgroup achievement. States continue—this is really important. States continue to have to publicly report on each subgroup separately. But by combining subgroups, thousands more schools are now specifically accountable for the children in those subgroups than they would have been before.

And we did not allow any State to use a combined subgroup without demonstrating what protections they had in place to ensure that they couldn't mask any individual subgroups' ongoing failure to meet performance targets. So there's a level of technicality we can get into. I think it's a really important conversation for this body to have with us as we move forward on reauthorization.

Did we get it perfectly? I'm not sure if we got it perfectly, but I promise you this is a huge, huge step in the right direction. And with reauthorization, whenever that comes, we have a chance to take the next step.

The CHAIRMAN. Thank you, Mr. Secretary.

Senator Alexander.

Senator ALEXANDER. Thanks, Mr. Chairman.

Mr. Secretary, do you plan to offer waivers to individual school districts and States that didn't submit a request for a waiver, like

Texas, or that had their applications rejected, such as California or Iowa?

Secretary DUNCAN. Let me back up. California we did reject. Iowa we did not reject. We're still working with Iowa and another State or two. California has absolutely the right to continue to re-apply. We have a deadline at the end of this month. My strong preference is to work with States. I think there's lots of both legal and—you know, 15,000 school districts. That's a hard portfolio to manage. Fifty States—we think we can get our arms around that. So we'll cross that bridge when we get there.

But we have until the end of the month to have States apply. The vast majority of States in the country we're working in very close concert with. And my hope, in an ideal world, is that every State would come in by the end of the month. Will that happen? I'm not sure. But we're actually in conversations with some surprising States, and I'm hopeful there.

Senator ALEXANDER. So at this time, you're not planning to grant waivers to individual school districts who don't go through the States.

Secretary DUNCAN. Yes. My entire focus right now is on States. Again, at the end of the month, we'll see who's in, who did not come in, and who we're still working with. And let me be clear. There are a couple of States like Iowa where they applied and we haven't approved yet, but we haven't rejected. Those are still in process, and those could still be approved at a date beyond the end of this month.

Senator ALEXANDER. Well, as I read the statute, I don't see any authority that you have to approve an application for a waiver from an individual school district unless it goes through a State. So I am pleased with that answer.

These waivers last for 3 years? Is that the idea—the authority?

Secretary DUNCAN. I think we have the ability to waive for up to four. We have done sort of 2-year waivers. We really want to learn and then decide on how they are implementing and whether to re-up or not. And, again, in an ideal world, sooner rather than later, at some point, we would together find a way to reauthorize and fix the law.

Senator ALEXANDER. What happens to the waivers when the law is reauthorized?

Secretary DUNCAN. My understanding is that the waivers become obsolete.

Senator ALEXANDER. They go away and States move back to the law?

Secretary DUNCAN. That's my strong belief, and I'm happy to be corrected if I'm wrong. But, again, to be very clear, this was our Plan B because of the congressional lack of action.

Senator ALEXANDER. The concern I have both in the waiver and even in the law is that—let's take teacher evaluation. You pretty well write the law for a State on teacher evaluation. I mean, we've had a little experience with that in Tennessee, and I appreciate your compliment of Governor Haslam. I totally agree with you. I don't know of a State that quietly has done more over the last number of years to deal with the difficult problem of finding fair ways to reward outstanding teaching. I mean, that's sort of the

holy grail of K through 12 education, and I think you and I agree on that.

But your prescriptions—I mean, you've got six criteria that a State must follow in developing a teacher evaluation system, you said in your testimony. What if a State in its waiver doesn't do what you and your department think it ought to be doing according to, quote, "meaningfully differentiate performance using at least three performance levels"? Do you go in and tell them exactly what to do, or do you jerk the waiver out? How detailed do you get in helping a State write its own teacher evaluation system?

Secretary DUNCAN. Well, obviously, this is still very early on. But the fact of the matter is the vast majority of States around this country, again, across the political spectrum, we've worked in great partnership with, and we're finding solutions together. So, again, you've got testimony from a couple of State superintendents. Feel free to talk to any Governor or any State superintendent around the country.

And have we been perfect in this? I promise you we haven't been. Have we tried to listen and learn and work together? You know, that spirit—I think anyone would tell you we've done our best to try and be a good partner. And our goal going forward in reauthorization is that we build upon the good work of States and not go back and——

Senator ALEXANDER. Well, let me—I'm about out of time.

Secretary DUNCAN. I'm sorry. I'll shorten my answers.

Senator ALEXANDER. No, no. I don't want to interrupt you. But I'd like to ask you one last question. As we look ahead, we need to reauthorize ESEA. Right? I mean, we need to do that. That's the Administration's goal. That should be our goal.

Secretary DUNCAN. We needed to do that years ago.

Senator ALEXANDER. What advice would you have for this committee, based on your work with us over the last 2 years, on the easiest way for us to work together to get a result in this Congress that we weren't able to get in the last Congress?

Secretary DUNCAN. Well, I think it's no secret that for a couple of years Congress has been pretty dysfunctional, and there's been a breakdown along partisan lines and an inflexibility, an unwillingness to compromise and to find common ground, not just on this issue but on many, many issues. And I think if there's any area where folks want to come together in a nonpartisan, non-ideological, bipartisan way, I can't think of a better area than education. And I think with the leadership of you two here and folks across this committee, I'm actually hopeful.

But my team and I have put in hundreds and hundreds of hours in what proved to be a fruitless effort over the past 2 years. And in all candor, I would have liked to have gone to waivers earlier to give States more time to be thoughtful. But in deference to leadership in Congress, which was the right thing to do, we delayed that move for months.

Whatever I can do to be a good partner, please hold me accountable to do that. But I think at the end of the day, not just on this issue but on a whole host of issues facing our Nation, we need congressional leaders to find the common ground that you talked about and come together.

Senator ALEXANDER. Well, I look forward to working with Chairman Harkin on that as he—we were both thinking the same thing. We put in lots of time, too, and we produced a bill. We voted it out of committee in a bipartisan way, and it didn't get brought to the floor for whatever reason. So I'm committed to moving ahead. I'd like to do that. I look forward to working with you and with the Chairman, and we'll talk more about that as the days go on.

Secretary DUNCAN. I know how committed you are. I know that.

Senator ALEXANDER. Thanks, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Alexander.

And in order of appearance, it'll be Senators Franken, Hatch, Sanders, Isakson, Bennet, Roberts, Baldwin, Murkowski, Whitehouse. I now recognize Senator Franken.

STATEMENT OF SENATOR FRANKEN

Senator FRANKEN. Thank you, Mr. Chairman.

Thank you, Mr. Secretary. I agree that we should work together to do a reauthorization. I was proud of the work that we did as a committee to pass a bipartisan bill out of this committee last Congress. It wasn't everything I wanted, but I hope we can do that again, and I hope we can move it to the floor.

I want to ask you a few questions that are kind of things that I think about a lot. Growth, measuring growth—I remember your first testimony while I was on this committee when you talked about taking a sixth grade teacher who has a kid with a third grade level of reading, and that teacher takes that kid to a fifth grade level of reading. That teacher is a hero. But under the way No Child Left Behind worked, that teacher was a goat because the kid didn't reach proficiency.

I think it's really important that—and I know that almost all of the States that have flexibility, have waivers, are using a growth model in some way. What is your concept of the way we should measure growth? Because it's so important to me that we're measuring every kid's growth. No Child Left Behind—I like that name.

When you have bubble kids and teachers teaching to—we call it in Minnesota the Race to the Middle. The kid at the very top and the kid at the very bottom are ignored. I think every child's growth should be measured. What are your thoughts on that?

Secretary DUNCAN. Amen, and let me make it more stark. It wasn't the top kid and the bottom kid. It was the top 45 percent and the bottom 45 percent, the 90 percent of kids who were not the focus, and it was that small 5 or 10 percent around that proficiency. So not just the top and the bottom, but the vast majority of kids on either end of the spectrum—that was not the incentive under No Child Left Behind.

Again, to get away from looking at just the proficiency and to look at, to your point, how much every single child, whether they are special needs, whether they are average, whether they are highly gifted—is that child improving each year? And is there a perfect way to measure it? No. Are lots of States working in this area? Absolutely. So there's been huge progress here.

The one point I want to make that I think is so important is that while waivers was our Plan B, the tremendous benefit of waivers, which, again, I didn't fully anticipate, was a level of creativity com-

ing out of the States. And as you guys go back to reauthorize, you should not go back to our blueprint or, frankly, your blueprint. You should go get the best ideas coming from the best States. And if you do this reauthorization around growth and around everything else we're going to talk about, it could be pretty spectacular.

I think what we have done is we have speeded up the level of learning as a country, and, again, not perfectly. But the amount of creativity around growth and around a whole host of other subjects coming from States, including Minnesota, is pretty remarkable. And the best thing I could do and the best thing this body could do—and a better answer to your question as well, Senator Alexander—is to listen and to learn and to pay attention to the creativity coming from the States, and if we do that, we're going to land in a very, very attractive spot.

Senator FRANKEN. I want to ask you about computer adaptive tests. I was doing a principal roundtable, because a piece of what I want to do is to make sure that we're recruiting and training principals for high-need schools. I had a principal roundtable, and a principal referred to NCLB tests as autopsies. And what he meant by autopsies was that the kids take the test in late April, and they get the results in late June when the kids are out of school, and the teachers can't use them to instruct their instruction.

With computer adaptive tests, you get the results right away because they're computerized. They're adaptive in that they can—and this is an issue that I want to ask you about. They can measure you out of grade level, and I think that makes it easier to measure growth. And I want to know how you feel about computer adaptive tests. I feel very strongly that we should have them as long as you're making sure that every kid is getting toward proficiency on that grade level.

But it seems that growth and computer adaptive testing, in my mind, go hand in glove with the added addition of being able to get the results right away.

Secretary DUNCAN. I think you and I are in absolute agreement. And on a broader basis, again, different from 2001 when NCLB was originally signed into law, the amount that technology can and should change how we educate children is pretty remarkable. There are schools in New York City, in John's State, where—again, let me be clear between testing and evaluation. I'm not a big believer in a whole bunch of testing—but where every single day, teachers are understanding not what they taught, but what their children learned, and it's a really important distinction.

The goal of teachers is not to teach. The goal of teachers is to have their children learn. Every single day, using technology, teachers have real-time feedback as to what their children learn that day, not once a year as an autopsy after the fact. But think about how empowering that is for great teachers, to understand every single day that,

> "This is what my children learned and comprehended and need to move to the next level, or this is what they didn't get, and I have to figure out a way to reteach."

To have that feedback on a daily basis so they come in the next morning with a specific game plan, an instructional plan for that

child—think how radically different that is than a teacher teaching to a class of 30 or 35 all the same way, at the same time, day after day after day, and having no real insight into "Are my children learning?"

Senator FRANKEN. Thank you. And may I have just in the record that I realize that "added addition" is a tautology. I said that earlier in my question. I think so. An added addition? It's not a tautology? What is it?

The CHAIRMAN. An added addition.

[Laughter.]

Senator FRANKEN. OK. I'll submit that question to a grammar——

Secretary DUNCAN. I don't know what tautology means.

Senator FRANKEN. A redundancy.

Secretary DUNCAN. Thank you.

Senator FRANKEN. I'm sorry. I've wasted everyone's time.

[Laughter.]

The CHAIRMAN. I'm glad we got that cleared up.

I guess Senator Hatch is not here.

Senator Isakson.

STATEMENT OF SENATOR ISAKSON

Senator ISAKSON. Thank you, Mr. Chairman.

Secretary Duncan, I want to commend you for the leadership in the department and thank you for staying on. We had a conversation the other day, and you assured that. I just want to memorialize that in the record because you've done a terrific job.

Can you explain to me how you describe the invisible children, the children with disabilities who became invisible? How did they do that under No Child Left Behind?

Secretary DUNCAN. This is such an important point that I think no one in this body, I assume, had any idea on it. I don't think the people who wrote the bill had any idea on it. I just gave you a slide for nine States for children with disabilities. If you think about 50 States for children with disabilities and then 50 States for children who are African-American or 50 States for children who are Latino, ELL, think about the math of this.

So the short answer is that because N sizes, the number of students that were captured for a school or for a grade under No Child Left Behind, were relatively high, there are lots of schools with children who are ELL or special needs or African-American or Latino or who live below the poverty line who are in those schools who are literally, literally not a part of that school's and, therefore, that district's and that State's accountability system. So they were, by definition, invisible under No Child Left Behind.

Senator ISAKSON. But I thought the law dictated that they would be in a disaggregated group for evaluation purposes, used further to measure the school's AYP for the purposes of needs improvement.

Secretary DUNCAN. Only if the N size was large enough. And the N sizes were too large—again, this is some gaming that States did. You had N sizes of—I'll just make this up, but if your N size was 80 in that school and that was approved, and you had 79 kids, it didn't count.

Senator ISAKSON. So that's how they got around the evaluation.

Secretary DUNCAN. Yes, sir.

Senator ISAKSON. It's good for that to be public, because I don't think a single member of the committee knew that. I certainly didn't.

Secretary DUNCAN. This is really, really profound. As the committee moves forward to reauthorization, the idea of invisible children has to go away.

Senator ISAKSON. One thing I do know, though, as one of the nine folks that wrote this thing back 12 years ago now, is we knew the AYP was going to be a problem. The better schools did, the harder it was going to be to meet it, and you'd end up having performing schools becoming needs-improvement schools, which is the reason why reauthorizing ESEA is absolutely essential for us to do.

But I want to commend you on the waiver system that you developed. Georgia was one of the States that got a waiver. And I think from those waivers and from those schools, the new things they're doing give us a template for what we can do if we can ever get around to reauthorization in terms of the Congress.

Secretary DUNCAN. Yes.

Senator ISAKSON. It's kind of professional malpractice for us to be blaming schools for the performance of a law which we haven't reauthorized in, I think, 5 years. Is that right? 2007. So I commend you on what you're doing in the flexibility.

I know the one thing that I was most impressed with—and I'm not bragging about my State. Well, I guess I am bragging about my State. But the career and college performance readiness index is a whole lot more understandable for both the parent and the teacher and the department in terms of student performance. And those are the types of things these waivers are going to bring about.

Secretary DUNCAN. Yes. Again, I just want to echo your praise for Georgia and a lot of this creativity we've seen, not around a third grade test score, but about outcomes for children in high school and beyond. Georgia, Senator, has been at the forefront of that and has really helped to push my thinking. So I just want to thank your State leadership there. And just to reiterate your point, when and if you guys move toward reauthorization, there's a lot there to learn from that's really valuable.

Senator ISAKSON. My last question before I run out of time—you've done a great job in terms of allowing alternative certification to meet the qualified teacher requirements of ESEA and No Child Left Behind. When we get to a reauthorization, will you help us to memorialize that in ESEA? Because if we don't, we're not going to be able to meet the standards we need to meet in the classroom.

Secretary DUNCAN. Yes, absolutely. Again, that goes to a broader point, that this idea under—there's a lot of time and energy in No Child Left Behind around what were called HQT, highly qualified teachers. It was at that time, again, in 2001, a step in the right direction to start to say that teachers matter. The problem with that was it was 100 percent paper-based and had nothing to do with student learning.

I'm much less interested in paper credentials or alternative or traditional routes. I just want to know, whether it's traditional universities or nonprofits or whatever, that those who are producing

teachers for this country—are they producing teachers that are having an impact on student learning? We need a lot more of that, wherever they're coming from.

Senator ISAKSON. There are a lot more ways than just paper and pencil ways to determine somebody's qualification. We've got Troops to Teachers programs and things like that that are really helpful and ought to be a part of an alternative certification process.

Secretary DUNCAN. The final thing, not to go on too long—one of the reasons I'm a big fan of alternative certification is that I worry about the growing lack of diversity in our Nation's teacher workforce. And I've seen very, very little creativity coming from schools of education around making sure that our Nation's teachers reflect the great diversity of our Nation's public school students. And many of the alternative programs, including Troops to Teachers, are bringing us more men, more men of color. We talk about the devastation, academically, of far too many of our African-American and Latino boys of color. Having a few more men of color as role models and mentors and teachers sure wouldn't hurt.

Senator ISAKSON. Thank you for your service.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Isakson, I just wanted to say that—and I didn't want to interrupt your questioning, but having followed this—and I know you were very active in No Child Left Behind—the disability community was very happy with what happened in No Child Left Behind, because before, there was absolutely no assessment at all of students with disabilities, and so now there was assessment done.

This disaggregation, as you mentioned—it was only later on we found, students with disabilities weren't part of the accountability part of what schools had to account for, because they were put in these big subgroups. On the one hand, they were happy that, finally, kids with disabilities were part of the assessment, so we now had that transparency, but they weren't included in the accountability or the progress the school had to make. That's why they are asking now about putting some limits on how big that subgroup has to be.

Senator ISAKSON. I remember that late night in the basement of the Capitol when we were on the conference committee, you and I together, working on that very thing.

The CHAIRMAN. That's right, exactly. And, actually, at the time, we were very happy about that.

Senator ISAKSON. We were.

The CHAIRMAN. As you said, times change. Right?

Secretary DUNCAN. That was 12 years ago.

The CHAIRMAN. That's exactly right.

Senator Sanders.

STATEMENT OF SENATOR SANDERS

Senator SANDERS. Thank you, Mr. Chairman. If it's OK, I'd like to move the subject discussion just a little bit.

Mr. Secretary, I have been extremely, extremely disappointed about the Administration's current approach to competitive grant programs—I think you and I have chatted about this in the past—

primarily programs like Race to the Top. And I don't want any misunderstanding. I understand fully the serious problems that urban America has and we have to address that. I am absolutely supportive of putting significantly more money in education from preschool to higher education.

But I hope that you understand that it's not just urban America that has serious problems, that we have kids in Vermont and in rural America who are struggling in their schools and who want the opportunity for a decent education and to go to college, where we in Vermont and all over rural America also experience a major crisis in terms of preschool education. So let me just discuss for a moment the Race to the Top program, and I hope everybody hears this. And it's not a question of one State fighting another State. We're all in this together.

But here are the facts as I understand it, and if I'm wrong, I would like you to correct me. Eleven States and the District of Columbia have received nearly $4 billion Race to the Top money, which is a very significant amount of money. Let me name them off. This is 11 States—some of us believe Washington, DC, should be a State—10 States plus Washington.

There are 50 States in America. New York receives: $700 million; Florida: $700 million; Tennessee: $500 million; Ohio: $400 million; Georgia: $400 million; North Carolina: $400 million; Massachusetts: $250 million; Delaware: $100 million; Hawaii: $75 million; Rhode Island: $75 million; and DC: $75 million. Great. Vermont: 0; Iowa: 0; Wisconsin: 0; and ET cetera. Minnesota: 0.

So my point is——

Senator ROBERTS. What about Kansas? Are we zero?

Senator SANDERS. You're not at zero, but you didn't get any money.

Secretary DUNCAN. Let me just for the record correct—Minnesota has, in fact, received significant Race to the Top money. Wisconsin has received significant Race to the Top money. Other folks have, just to be clear.

Senator SANDERS. On early childhood, compared to this kind of money? All right. Well, how many States, in fact, did receive money?

Secretary DUNCAN. Through Race to the Top, I don't have the total in front of me. About half—maybe half or a little less than half of the Nation's States received money through Race to the Top. That's one area. We've also done lots of Promise Neighborhood work, and we've done lots of work with district——

Senator SANDERS. In terms of the percentage of money that went out, States may have received some money. Is it fair to say that a relatively small number of States received the bulk of the money?

Secretary DUNCAN. Yes. That's a pretty fair statement.

Senator SANDERS. And the point that I want to make here—and, again, this is not against New York. They have their problems. Everybody else has their problems. We're all in this together. Here's what my concern is. As I understand it, three-quarters of the Nation's most populous States receive Race to the Top money while more than three-quarters of the least populous States didn't receive anything.

And I want to give you an example of what the problem is. The problem is that if you are a large State, a California or a New York State, you'll have the educational bureaucracy that can submit and work on enormously long and complicated application forms, as I understand it. Again, I'm not picking on New York State. But New York State submitted an application for which it received $700 million. Their application was 450 pages long with an appendix of 1,200 pages.

The State of Vermont, for example—and I don't think it's dissimilar in Wyoming and in other low population States—does not have the resources to put together an application like that for every Federal education program. Our agency of education in the State of Vermont has 185 employees and, as we understand it, does not have very many grant writers at all. New York has something like 2,600 employees and dozens of grant writers.

The point being if I am asking people to fill out and submit enormously complicated applications in order to get a grant, small States with small departments of education are not going to get the money, and I think that that is exactly what happens. I've gone on too long.

But I do want to ask you this. Are you mindful that rural America has serious educational problems, that we have towns that are very, very poor, that our kids deserve justice? Are you going to pay attention to that issue?

Secretary DUNCAN. Let me answer in a few different ways. First of all, absolutely to your last question. And, obviously, coming from Chicago, I did not grow up, by definition, in a rural community, and I've tried to spend a disproportionate amount of my time traveling rural America and learning. I've been to dozens and dozens of rural communities in States around the Nation, including a remote village in Alaska without heat and running water. I've spent a lot of time on Native American reservations.

I am acutely aware of the real challenges in rural America. We've seen not just through Race to the Top but through the Promise Neighborhood work and the district competitions—we've seen significant investments in rural communities that are very, very important. And, again, just to be clear on facts in terms of Race to the Top and other things, we've seen a number of small States, including Delaware and Rhode Island, be very, very successful.

But I think your basic premise is can a guy from an urban area relate and understand and really work hard in rural communities. I give you my absolute commitment that I will continue to do that.

Senator SANDERS. Look, of course you can. It's not a question of whether you, personally, can. The question is the facts are the facts. As I understand it, the bulk of the money is going to large urban States.

Secretary DUNCAN. Well, larger States in Race to the Top received more money. But, again, you had small States like Rhode Island and like Delaware and like DC which received grants.

Senator SANDERS. I would conclude by saying I think you've got to pay more attention, financially, not you, personally—you can go wherever you want, but what matters is the checks that are coming in to the States.

Secretary DUNCAN. I think that's a fair point. And, again, I would just encourage you to look not just at Race to the Top. That's a piece of it. Look at what we've done through the Investing in Innovation fund. Look what we've done in the Race to the District fund. Look what we've done with School Improvement Grants. Look what we've done with the Promise Neighborhood initiative. And we have tried very, very hard to make sure those resources are reaching rural and remote communities.

Senator SANDERS. And I look forward to discussing this with you further. Thank you.

The CHAIRMAN. Thank you, Senator Sanders.

Senator Roberts.

STATEMENT OF SENATOR ROBERTS

Senator ROBERTS. Thank you, Mr. Chairman, and I want to thank you and Senator Alexander for working so hard to get an authorization bill out, and I hope we can get that done.

And thank you, Mr. Secretary, for coming up. I know you're a very busy man. It's not often that I'm in full agreement with Senator Sanders, but I agree with his commentary. He was in a colloquy there with Senator—what is your name, sir?

[Laughter.]

I'm giving him a hard time. He and I have a thing about Jack Benny, and that's a completely different subject. At any rate, we were country before country was cool, and we didn't receive any money, either, Bernie. And I would like to join you in that respect.

Mr. Secretary, my State has created a statewide commission consisting of educators, school board members, representatives from educational organizations, higher education institutions, and, as you can see, I'm reading from a list here. But it's the best we have in regards to education in Kansas, including Emporia State University, which you visited, and I appreciate your coming there. That is a teacher learning center, and we produce a lot of very fine teachers there.

But we're in regulatory purgatory, sir. We had the Kansas Association of School Boards come in, and to a person, Democrat, Republican, Independent, or whatever, the politics didn't matter. It was the fact that they said, "Please, the Race to the Top right now and trying to get past a conditional waiver is a race to regulations." And we don't have much time.

This morning, I was talking to an old friend about another matter, and he said, "Please call my son. He's up in"—I'm not going to name the county. I don't want to name the county for fear that somebody's going to descend upon them. But, at any rate, they were having such a difficult time with Principal III. That's the one with the principal and teacher evaluation.

He says, "We're doing fine up here. We're trying to meet the criteria as best we can according to the State. But the State says that they're not going to have a waiver, anyway, so what are we doing?" So they don't have enough folks to really address this problem. We have enough problems just getting good teachers to teach good kids. And one thing about Vermont and Kansas is that we have fine teachers and small schools, basically not that overcrowded, and so we can really get the job done.

My question to you is that of the six criteria, can you work with us on our statewide commission? We are conditional now. We think we can meet the criteria. We think we can do the job. And I don't know where we are on that, but I would hope that you could at least find a waiver and not make us conditional. I mean, conditional is just treading water.

Secretary DUNCAN. I'm happy to work with you. I think Kansas is in good shape. I'll be happy to give any details there, but Kansas——

Senator ROBERTS. Work with the Governor, former Senator and now Governor Brownback, and Diane DeBacker. She's the Commissioner of Education in Kansas. They both are dedicated to this, trying to meet the criteria to get a waiver. But that poses a whole different thing.

According to this particular county superintendent, he says, "I'm the superintendent here." And I told him I was going to be meeting with you or at least have the privilege of having you before us. And he indicated—he said, "Well, you know, tell Secretary Duncan I'm the superintendent. He isn't." Those are pretty strong words.

Secretary DUNCAN. Again, the application comes from the State. I'd be happy to talk to that particular person, but I'd be happy to talk to the State superintendent as well. And I think the dialog needs to be between that local superintendent and the State to make sure they're aligned.

Senator ROBERTS. Well, he's having a lot of dialog with him. He's not having much success, and he's just upset that there's too many regulations to put up with.

Secretary DUNCAN. We're happy to followup on that.

Senator ROBERTS. You know, he's of the opinion that local control is best control, and not top down. And so I just want you to know there's a lot of angst out there. There's a lot of concern. I know my dear friend, Senator Isakson, in Georgia has got much lower blood pressure on this than I do, and that you're working fine with Georgia. And if you can just work with Kansas, I would appreciate it.

Secretary DUNCAN. Yes, sir.

Senator ROBERTS. Thank you very much.

The CHAIRMAN. Thank you, Senator Roberts.

And now Senator Bennet.

STATEMENT OF SENATOR BENNET

Senator BENNET. Thank you, Mr. Chairman.

Mr. Secretary, it's good to see you. I want to start at a time when this town is beset by the dysfunction you described earlier—and there are a lot of people who come here that either don't accomplish anything or blame the dysfunction for not accomplishing anything—to say to you thank you from the bottom of my heart for everything you've done and for your extraordinary leadership of this department. If it weren't for you, because of the inability of—not this committee, by the way, Mr. Chairman. I want to thank you and the Ranking Member for setting an example.

But if it weren't for you, 75 percent of our children in this country who are now having the benefit of these waivers wouldn't have the benefit of these waivers. If it weren't for you, 40 States that want to get out of stuff that doesn't make any sense to them

wouldn't have been able to get out of this stuff that doesn't make any sense to them.

To be clear, I am a huge believer in flexibility, not just at the State level, not just at the district level, but at the school and the classroom level, at the kid level, which is where it matters. And you couldn't wait for this body to do this work. You know, anybody who spends time with a kid that's marooned in a failing school or in a neighborhood of failing schools or in a city or, to Bernie's point, in a town of failing schools wouldn't wait for the excuses of this Congress to act, and we can't wait to act.

I agree—and Lamar Alexander and I have worked on this. I agree that we're not regulating properly in this area as a general matter. But I think we have a vital national interest in setting a level of expectations and then giving people the flexibility to do the work they need to do at the local level. You've heard me say before when I was superintendent, I used to wonder why people in Washington were so mean to our kids and our teachers. And I realize now that they're not mean, but they're distracted by other things that are a lot less important than the education of our kids.

You have managed time and time again to lift this up, and I just want to say how much I, for one, appreciate it. I wish we were doing our work as a Congress, but we're not. So, I guess the question I have for you—oh, I have one other thing I wanted to say about this in terms of flexibility. I also applaud you for those billions of dollars that you have managed to unshackle from rules and regulations that make no sense to people that are actually teaching our kids and leading our school buildings and allow people at the local level to make decisions about how to use that money. I think we should do much more of that from here rather than less of that.

Because of the rules we've written, this Congress has written, and because of the way States fund their schools, we are one of three countries in the OECD that spends more money on wealthy kids than we do on poor kids. That's a joke if you care about closing the achievement gap, which everybody says they do. That's ridiculous, and we haven't fixed that problem.

I guess what I would ask you, Mr. Secretary, is if we don't get this reauthorization done—and I'd like to get it done. I'd like to work with you to get it done. I'd like to transform the way we think about K–12 education in this country. But until we do that, I'd just like to ask you what's next, and how can we support you in the work that you're doing?

Secretary DUNCAN. Well, first of all, I just want to publicly say how much I appreciate your leadership and thoughtfulness, and when and if this body moves toward reauthorization, I hope they listen closely to you, because I know you'll be listening closely to what's going on in Colorado and around the country and come to this again with that sense of humility.

I think the best answer to that question will probably come from the next panel, from the State superintendents who are doing the real work every single day. I think my job and my team's job is to be a great partner to States and to districts and to listen, to learn, to challenge where we have to challenge, to shine a spotlight on success where that's happening.

One small area to think about—we talked about the flexibility we provided around title I money, moving that out of Washington bureaucracy and moving that out to districts. One area I've talked a lot about with this body and with both the Chair and the Ranking Member is the relatively lack of effectiveness of title II money, professional development money, which goes to teachers, and it's supposed to help teachers do the extraordinarily hard and complex work that they do every single day. And when I talk to teachers around the country about the $2.5 billion investment we make each year, and you double that or more at the State and local level, they usually laugh or cry. They're not feeling that.

If we're serious about attracting and retaining great talent and supporting that great talent, how we make sure—again, we have existing resources. While we all fight for more—and the tremendous inequities is a battle we have to take on and leadership is going to be huge. But at the same time we're doing that, we have to be accountable for existing resources.

One specific example was can we be much more creative around title II dollars so that teachers are getting the support they need, whether they're 25 years old or 55 years old. But our job going forward is to listen to States, listen to districts, empower them to close these achievement gaps, reduce dropout rates and increase graduation rates, and make sure those high school graduates are truly—not lying to them—truly college- and career-ready.

Senator BENNET. I'm out of time. But, Mr. Chairman, the Secretary, I think, raises such an important point. Again, because of our inability to focus on our kids, 22 percent of whom are living in poverty in this country right now—almost a quarter of the children in this country are living in poverty. Our inability to focus on them and continuing to allow a comprehensive solution to our debt and our deficit to elude us is resulting in our hacking away at discretionary spending that we need to invest in the next generation of Americans.

And in a time of scarcity, I think we should be thinking not just about how we make the dollars in your agency more flexible. But, Mr. Chairman, I think we should be thinking about how these Federal dollars, whether they're Department of Education dollars, HHS dollars, Veterans dollars, actually are able to be used at the local level to support our kids in a comprehensive way. Our kids don't live in the silos of the bureaucracy in Washington, DC, and it's time for us to recognize that.

Thank you.

The CHAIRMAN. Thank you, Senator Bennet.

Years ago, Jonathan Kozol wrote a book called *Savage Inequalities*. I recommend it highly. I'm sure you probably have read it. It came out back in the 1980s if I'm not—maybe late 1970s or early 1980s. And that book was instructive for me, because I never realized before—you know, you mentioned that we're one of three OECD countries that spend more on wealthy kids than poor kids. Why is that? Because elementary and secondary education funding is based on property taxes. Where do you get the money? Where there are rich people, the rich areas.

I've challenged people—I've said, "Where is it in our U.S. Constitution that it says that elementary and secondary education is

to be funded on the basis of property taxes?" Now, some States have done equalization formulas, and that helps. In 1965, that's why we did the Elementary and Secondary Education Act, to try to overcome that, to try to put some additional resources out there to meet that inequality, that savage inequality that Jonathan Kozol spoke about.

Well, we aren't doing a very good job of it, quite frankly, for a number of reasons. But when you mentioned that, I said we have to stop and think. Is this the best way to fund education in America?

With that, I'll turn to Senator Paul.

STATEMENT OF SENATOR PAUL

Senator PAUL. Thank you, Secretary Duncan, for coming. And I think one of the interesting things about education and the evolution of the ideas on education, particularly over the last decade or so, is that you have an interesting coalition between limited government conservatives, the teachers' union, and people on the far left. We now distrust the Federal Government as far as being in charge of government. In my State, I signed a letter with the Democratic Governor of Kentucky to the Administration asking for a waiver. I'm all in favor of the waiver process.

But there's a lesson from the waiver process. It's that the Federal Government has failed. The Federal Government is unable, really, to judge teachers. Teachers have figured this out also, that the Federal Government is too far away from them to be an adequate judge of whether they're good teachers, whether you have good principals, whether you have good superintendents, and that local control is better.

So there's an important philosophical concern here. And I know with the waivers you've attached other Federal requirements which doesn't particularly suit me, but I think it's better than what we have, which is a box that nobody liked living within. I think innovation helps. I think competition helps. I know you're trying to do that with some of the Race to the Top. But, really, the ultimate competition will come when we attach the dollars to the child.

We had a GI bill after World War II, and we let the money go where the ex-soldiers wanted to go. If we had that in our country, you would totally transform education, and the good schools would thrive, but based on local decisions, on consumer decisions of what is a good school and what is a bad school. People call this school choice. Some call it vouchers. I simply say it's a decision that you're allowing to go with the parents and the children. We have this in a limited fashion in some ways, but you could totally transform and improve education if you'd let the dollars flow with the child.

What we're having is—and you can look at education—it's not a lack of dollars, you know. We've doubled and tripled and quadrupled the amount per pupil that we spend. We've made classrooms smaller. When I talk to superintendents in Kentucky, they come to me and say, "Yes, but they tell me I have to spend 20 percent here and 20 percent here and 20 percent here." They need the freedom to decide where to spend their money.

All of these ideas are ideas of decentralization. They're an idea and a conclusion that the Federal Government has been an abject

failure in this, that No Child Left Behind was a mistake, and that what we need to have is more local control of schools. What I'd like to know is what are your viewpoints toward school choice and letting parents decide where the best schools are?

Secretary DUNCAN. I'm a big supporter of school choice and competition within the public school system. I've not and will not support the voucher idea. I understand your point on that. Just at the end of the day, 90 percent of children in our country are going to attend public schools, and I want to make sure that children have a chance to attend a great public school, which is, again, the overwhelming majority of students.

If nonprofits, the business community, philanthropic organizations, you know, people who have accumulated some wealth, want to help on scholarships, I absolutely support all of that. But I think our job here and at the State and the local level is to create the best public school options possible for young people.

Two other quick thoughts—you have the benefit of, I think, an extraordinary State commissioner who's going to testify, giving his candid feedback on where we have been a good partner, where we have been in the way. I think that will be very instructive. And the final thing, just to challenge you a little bit, is I would continue to argue that as a country we need to invest wiser. And I talked about some of the investments that haven't been as wise, like the title II money.

But I want to really challenge you. I don't think we invest enough in education, particularly for disadvantaged children. The lack of access to high quality early childhood education is a big problem. The lack of access to AP classes and dual enrollment classes for young people who are trying to take that next step is a big problem.

Senator PAUL. But the reason why you——

Secretary DUNCAN. Let me just finish quickly. And the crushing cost of college today, not just in disadvantaged communities, but in the middle class—I think we, collectively—I'm not saying we at the Federal level, but we, collectively, need to do more to have the best educated population on the planet.

Senator PAUL. But my response would be the reason why you don't want to direct how much money goes to the disabled from Washington is—let's say I'm the superintendent of schools in northern Kentucky. And let's say one year I have a child who's a quadriplegic. It costs an enormous amount of money, probably, to take care of that child, and I want to. But the thing is one year I have five children who are quadriplegics, and the next year I don't.

The money needs to be based on what your needs are. And we shouldn't say 20 percent needs to be going to the disabled or that—you know, it needs to be based on the actualities on the ground, and we need to allow superintendents to decide how to spend their money, not us in Washington.

Secretary DUNCAN. I think, philosophically, we may be less at odds than you realize, and as a superintendent, I wanted that flexibility. And if you have a disabled child or a child with special needs, that money needs to follow the child.

The CHAIRMAN. I'd just like to say, Senator Paul, when you said that, under IDEA the money does, in fact, follow the student be-

cause of the IEPs that they have to have. If there's a student there and they have an IEP and then they're out of school, that money doesn't continue to keep flowing.

Senator PAUL. I'm for empowering those groups even more, letting them decide with the parents whether they should be involved in the testing. We've talked about that, whether they should automatically be in the testing, or whether the parents should have something to do with deciding whether their child can take the test. So I'm for empowering these local groups even more.

Secretary DUNCAN. Let me just push it once more and just be really clear, because, again, we're thinking of all these ideas. The money should follow the child, but we can't rest easy because the money follows the child. What are the outcomes for those children? What's actually happening for them? And if the money follows the child, and we wash our hands of it, and that child is not learning, be it a disabled child or a child who is an English language learner or a poor child or whatever it might be—if that child isn't learning, we can't sit back and say we've done our job.

The CHAIRMAN. Senator Baldwin is not here.

Senator Whitehouse.

STATEMENT OF SENATOR WHITEHOUSE

Senator WHITEHOUSE. Thank you, Chairman.

Thank you, Mr. Secretary, for being here with us. I was struck by the Ranking Member's comments about his desire to make sure that we get an ESEA bill redone, and I wanted to thank him for that. I look forward to working with the Chairman and the Ranking Member to do that. I, too, was proud of the work we did on the ESEA bill. I, too, was disappointed that there was no way to bring it up on the floor.

I hope that the changes that we've agreed to in the rules will free up a little bit some of the obstruction on the floor so that we have the ability to move to bills more rapidly and get to the process of amendment and negotiation and debate that is the heart of our legislative task. So check me off as a pro in that effort and not a con. I think it's really important that we do that, and I think that the ESEA bill that we passed gives us a really good starting point. I thank both of you for your commitment to doing that, and if there's anything I can do to make that more likely or to facilitate it, count me in.

My question to the Secretary arises from an interesting experience that I had fairly recently. A young man and his mother came in to visit with me, not having anything to do with education. It had to do with illness, frankly, and it had to do with the extraordinary gift that the young man had that allowed him to design a new way of treating the illness while still extremely young. He was just a remarkably gifted young person, and he was from Maryland.

So I said, "Well, hold on 1 second. You've got a Senator here from Maryland, and I want to go and get her and bring her out." And Barbara Mikulski from this committee came out, and we talked to him and his mom for a while. And before very long, the conversation with his mom had turned around to how difficult it was for her to cope with the educational needs of her extremely gifted child.

As you've pointed out, we focus an awful lot on the children in the middle who will affect the scoring. And I think we also focus considerable resources, perhaps not as many as we should—but there's a lot of attention and discussion on kids who have disabilities, on kids who come with language issues, on kids who bring issues that make them more challenged by school than other kids.

But I very rarely hear any discussion about kids who have extraordinary talent and extraordinary gifts and what the ways are that we can support them and their families. I was struck by the mother's remark, "It is as difficult for me to provide the supports that my son needs as it would be had he had a significant learning difficulty, because he's just as out of sync with the traditional program."

If we're going to go back to ESEA, have we done enough for that cohort of children and their parents in that bill, or is that something you would recommend us to take a deeper look at?

Secretary DUNCAN. I think we have to take a deeper look at all these things. I think it's a really important point, what do we do for gifted, talented, or advanced students. Again, this idea of moving away from a cut score to growth and gain, I think, creates a much better incentive structure. But that's the start of it. I'm really interested in seeing a lot more young people graduate from high school with college credit in their back pocket.

In some States—in Iowa, for example, my understanding is that 25 percent of high school students in Iowa graduate from high school with college credit. Governor Daniels in Indiana did a really interesting program where if you graduated from high school in 3 years, that fourth year of money that would have gone to your 12th grade education was converted to a scholarship to help pay for your first year of college.

So I think there's a lot of work around advanced placement, IB classes, dual enrollment, graduating early, you know, to make sure—for me, this is not just for the gifted children, although it would help them a lot. This is often, I think, a great dropout prevention strategy for students who are bright but not engaged and bored and could do better. I think this is absolutely an area where—are we creating the right incentives, not just K to 12, but, again, sort of K to 12 including higher ed, to make sure more and more students have a chance to learn at their own pace.

Much larger conversations have moved from seat time, which is how everything is based now, to competency. And if you can learn something at a much faster rate and progress at a much faster rate, that makes a lot more sense than sitting in the same class 5 days a week, you know, 9 months out of the year, when 3 months in that year, you know everything that's going to be taught.

Senator WHITEHOUSE. Well, my time is up. So let me just close by saying that I'm interested in this question. I'm not sure we've grappled with it adequately. I know that Senator Mikulski is keenly interested in it as well. If you have information or ideas that you want to get into this committee's discussion, please have your staff connect to my office.

Secretary DUNCAN. We'll do that. Again, to be real clear, a lot of the leadership isn't being provided by us. It's being provided by the States, and many of these States' waivers are doing some really,

really creative things to create the right incentive structure to create more of these opportunities. So we'll help.

Senator WHITEHOUSE. You've looked at it and analyzed it. That's what I'm looking to you for.

Secretary DUNCAN. Yes, sir.

The CHAIRMAN. Well, Mr. Secretary, this was a good morning, and I thought we had a really good exchange. I'll just say a couple of things in closing before we move to our next panel.

First of all, I just want to say to my good friend, Senator Alexander, I look forward to working with you on this. We are blessed that Senator Alexander brings a great deal of expertise and knowledge and background to this committee in education, and that really benefits us all.

I would say, Mr. Secretary, that we will continue to speak with you. We wanted this hearing, basically, to look at the waivers and what was happening out there. But as we move ahead—I know the President has spoken about this, and it's been a passion of mine for a long time. I know you've spoken about it. The question is how we start looking at early childhood education. I can remember the admonition of the committee that was set up, actually under President Reagan, when they issued their report—I keep talking about it—in 1992, 20 years ago, in which they said that we must understand that education begins at birth.

Somehow I think we have to understand that there isn't such a thing as preschool. There's education, but not preschool, and we have to think about how we can now begin to help States. We've had Head Start programs, but we've talked about aligning Head Start—of course, then, we did that. We started to do that in our bill that we worked on last year, aligning Head Start with the needs of the elementary schools.

Anyway, I look forward to working with you on finding what we can do to support more—I'm not going to say preschool—early childhood education in our ESEA bill. I look forward to more discussion on that with you.

Unless you have anything else to add, Mr. Secretary, thank you very, very much. We appreciate you being here and look forward to working with you as we move ahead on our reauthorization.

Secretary DUNCAN. Thanks so much for your leadership and for the opportunity.

The CHAIRMAN. Thank you, Mr. Secretary.

Our second panel—I'll introduce them as they take their seats. We have Kentucky Commissioner of Education Terry Holliday. Commissioner Holliday was selected by Governor Beshear for that post in 2009 and has since served with distinction. He has his bachelor's degree from Furman University, a master's degree from Winthrop University, and his doctorate from the University of South Carolina. Commissioner Holliday presently serves on the National Assessment Governing Board and was recently elected to lead the Council of Chief State School Officers for the 2013–14 school year.

Next we have Dr. John King, Commissioner of Education for New York State. A native of Brooklyn, NY, he earned his bachelor's degree from Harvard, a master's from Teachers College at Colum-

bia, a law degree from Yale Law School, and a doctorate from Teachers College.

Commissioner King co-founded Roxbury Preparatory Charter School in Massachusetts, has served as managing director at Uncommon Schools, a nonprofit charter management organization that operates schools in New York and in New Jersey, and has served on the Equity and Excellence Commission of the U.S. Department of Education. Commissioner King has served as New York State Commissioner of Education since May 2011.

Next is Mr. Andy Smarick from Bellwether Education Partners. He works on policies with the aim to improve education outcomes for low-income students. Prior to that, Mr. Smarick served as deputy commissioner of education at the New Jersey Department of Education, where he helped to secure a Race to the Top grant and an NCLB flexibility waiver for the State. He also helped to launch New Jersey's new teacher evaluation system.

Previously, he served as Deputy Assistant Secretary at the U.S. Department of Education and at the White House Domestic Policy Council during the second Bush administration. Mr. Smarick has also been the chief operating officer of the National Alliance for Public Charter Schools. He earned his bachelor's degree and master's degree in public management from the University of Maryland.

Last, we have Ms. Kati Haycock, president of the Education Trust. In 1990, Ms. Haycock founded the Education Trust as an advocacy organization focusing on increasing academic achievement for all students at all levels. Prior to that, she served as the executive vice president of the Children's Defense Fund, the Nation's largest children's advocacy organization. A native Californian, she earned her bachelor's degree from the University of California Santa Barbara and a master's degree from the University of California at Berkeley.

We welcome you all here. I read all your testimonies last evening, and they'll be made a part of the record in their entirety. We'll start with Dr. Holliday and then we'll work down. The clock says 5 minutes. If you go a little bit over, I don't get too nervous. But if it gets way over, then I'll start waving a pencil or something like that.

Dr. Holliday, welcome and please proceed.

STATEMENT OF TERRY K. HOLLIDAY, Ph.D., KENTUCKY COMMISSIONER OF EDUCATION, LEXINGTON, KY

Mr. HOLLIDAY. Thank you, and I apologize in advance if my voice cracks. I've been yelling at too many Kentucky ball games here lately. But we'll try to get through.

Chairman Harkin, Ranking Member Alexander, and Senator Paul, thank you for allowing me the opportunity to speak to the committee today about Kentucky's ESEA flexibility waiver. I'm honored to explain to you how we are best serving the students in Kentucky.

First, though, let me be clear that Kentucky and my fellow chiefs across the Nation support ESEA reauthorization first and foremost. We feel that only reauthorization gives us the long-range expectations of Federal accountability and the long-term sustainability of

our efforts to best serve the needs of children. With reauthorization, we can implement policies that address the requirements of the legislation with fidelity, knowing that we will not have to alter those plans for any reason other than their success in meeting the goal of getting our students to college- and career-readiness.

I also want to thank Secretary Duncan and President Obama for the opportunity to innovate and build a new college- and career-readiness-based assessment and accountability system in Kentucky through the waiver process, and I hope the waiver process will certainly inform reauthorization efforts and highlight the value of State flexibility. From the very beginning of No Child Left Behind, I have been an ardent supporter of the vision of the legislation. Every child should reach proficiency.

For too long, our schools had failed to meet the needs of many children who needed our help the most. However, as we can all agree, while the vision of No Child Left Behind was right, we lost something in the transition to details.

Given the challenges of implementation and the looming 2014 timeline of No Child Left Behind to reach 100 percent proficiency, the Council of Chief State School Officers convened a group of chiefs to develop a model for next generation accountability systems that would focus on college- and career-readiness.

This group was a natural progression to our successful work on the Common Core Standards. During this time, the Administration was also working on the waiver process, and we think both of those were working together along with the work this committee was doing.

The timing was right for Kentucky. In 2009, our General Assembly unanimously, unanimously passed major education reform called Senate bill 1 which required more rigorous standards, rigorous assessments, a balanced accountability system, and support for educators to implement the new system. Kentucky was one of the first States to apply for the waiver due to our State legislation, and the waiver enabled Kentucky to have a single accountability system rather than separate Federal and State systems.

Kentucky completed a waiver application that built on the key components of No Child Left Behind. We kept a focus on proficiency, achievement gaps, graduation rate, and annual progress. However, we moved to a more rigorous standard—college- and career-readiness for all children. Our State legislation had recognized the economic imperative of having more students graduate from high school that had achieved college- and career-readiness in addition to basic skills proficiency.

We're seeing some early signs of improvement. Our graduation rates have improved, and the percentage of graduates from Kentucky high schools who are meeting the college- and career-ready measure has improved from 34 percent in 2010 to 47 percent in 2012.

In closing, I again thank this committee for this opportunity, and I thank Secretary Duncan and President Obama for encouraging the State-level innovation that we are seeing in Kentucky and across the country. My request to this committee is very simple but very difficult to do. I hope you will move toward reauthorization as

soon as possible to provide concrete parameters for States for improving education systems to better serve students.

However, I strongly encourage the committee to provide those States that have demonstrated their commitment to accountability and college- and career-readiness for all students, through the waiver process, the ability to continue and grow that innovation through a flexible Federal law and additional funding flexibility that will support States as they work to make the vision of college- and career-readiness for all students a reality.

Thank you.

[The prepared statement of Mr. Holliday follows:]

PREPARED STATEMENT OF TERRY K. HOLLIDAY, PH.D.

SUMMARY

Commissioner Holliday and his fellow chiefs across the country support ESEA reauthorization because it gives States the long-range expectations of Federal accountability and the long-term sustainability of their efforts to best serve students. Reauthorization also allows State chiefs to implement policies that address the requirements of the legislation with fidelity.

Commissioner Holliday hopes that the waiver process will help inform reauthorization. He believes the vision that No Child Left Behind (NCLB) set of every child reaching proficiency is the right one, but unfortunately in its implementation there have been unintended consequences that have negatively impacted students.

As a result of action taken by Kentucky's General Assembly, the Commonwealth was one of the first to submit a successful ESEA waiver application. Kentucky's application built on the key components of NCLB like a focus on proficiency, achievement gaps, graduation rate, and annual progress, but also moved the Commonwealth to a more rigorous standard of college- and career-readiness for all students. Some of the key elements of Kentucky's ESEA waiver include:

- K–3 Program Review—This component measures every child's readiness for kindergarten based on common readiness expectations that providers can improve services to children.
- College- and Career-Readiness—The Commonwealth has partnered with businesses and institutions of higher education to clearly define and measure college- and career-readiness.
- Balanced system—The Program Review accountability measure uses the latest in performance-based assessments and project-based learning to measure student learning in order to move away from the limited focus on basic math and reading skills.
- Subgroup performance—By instituting an aggregate gap group, Kentucky has ensured that ALL schools have the responsibility for closing achievement gaps.
- Comparative data and transparency—Through the use of Kentucky's on-line report card, the citizens of Kentucky are able to see how their schools and districts are performing.

Although since instituting the Common Core State Standards, Kentucky saw a drop in proficiency rates, Commissioner Holliday believes these results are a more accurate measure of the college- and career-readiness of the students in the Commonwealth. In fact, Kentucky has already seen signs of improvement. From 2010 to 2012, the Commonwealth saw a 13-point increase, from 34 to 47 percent, in the percentage of college- and career-ready graduates.

Commissioner Holliday urges the committee to move to reauthorization as soon as possible but to recognize the progress some States have made through the waiver process and allow them to continue to grow on this innovation.

Chairman Harkin, Ranking Member Alexander, and Senator Paul, thank you for allowing me the opportunity to speak to the committee today about Kentucky's ESEA flexibility waiver. I am honored to explain to you how we are best serving the students in my State.

First, though, let me be clear that Kentucky and my fellow chiefs across the Nation support ESEA reauthorization first and foremost. We feel that only reauthorization gives us the long range expectations of Federal accountability and the long-term sustainability of our efforts to best serve the needs of students. With reauthor-

ization, we can implement policies that address the requirements of the legislation with fidelity, knowing that we will not have to alter those plans for any reason other than their success in meeting the goal of getting our students to college- and career-readiness.

I also thank Secretary Duncan and President Obama for the opportunity to innovate and build a new college- and career-readiness-based assessment and accountability system in Kentucky through the ESEA waiver process that I hope will inform reauthorization efforts and highlight the value of State flexibility in Federal law.

From the very beginning of No Child Left Behind (NCLB), I have been an ardent supporter of the vision of the legislation. EVERY child should reach proficiency. For too long, our schools had failed to meet the needs of many children who needed our help the most. However, as we all can agree, while the vision of NCLB was right, we lost something in the translation to details. NCLB had some unintended consequences. Among these were:

- Wide variation in standards and proficiency levels across States.
- A focus on "teaching to the test".
- Loss of a balanced approach to education with reductions in the arts, physical education, science and other critical subject areas.
- A focus on "bubble kids" who were close to passing State tests and not providing support for gifted/talented students or low-performing students.
- Confusion of parents with different systems for State and Federal accountability that often reported contradicting results.

Given the challenges of implementation and the looming 2014 timeline of NCLB to reach 100 percent proficiency, the Council of Chief State School Officers convened a group of chiefs to develop a model for next generation accountability systems that would focus on college- and career-readiness. This group was a natural progression to the successful work of the Common Core Standards. During this time, the Administration was also working on the waiver process for States who wanted to create innovative accountability systems.

The timing was right for Kentucky. In 2009, our General Assembly had unanimously passed Senate bill 1, which required more rigorous standards, rigorous assessments, a balanced accountability system, and support for educators to implement the new system. Kentucky was one of the first States to apply for the ESEA waiver due to our State legislation.

Kentucky completed a waiver application that built on the key components of NCLB. We kept a focus on proficiency, achievement gaps, graduation rate, and annual progress. However, we moved to a more rigorous standard—**college- and career-readiness for all students.** Our State legislation had recognized the economic imperative of having more students graduate from high school that had achieved college- and career-readiness in addition to basic skills proficiency.

Let me highlight a few elements of our waiver request:

- K–3 Program Review—This component measures every child's readiness for kindergarten based on common readiness expectations. Through this component, we ensure early childhood providers use the information to improve services to children. Also, we ensure that schools are ready for children and help all children reach success in reading and math by the end of third grade.
- College- and Career-Readiness—Perhaps the most innovative component of our system is the partnership with business and higher education to clearly define college- and career-readiness and have measures in place that track progress of individual students, schools and districts. In grades 3–8, we have built an assessment system that measures college/career-ready standards and reports on the progress of individual students, classrooms, schools and districts toward the goal of college/career-readiness for all students. At the 8th, 10th, and 11th grade levels, we have added end-of-course assessments and independent college/career-ready assessments that provide college/career-readiness measures accepted by colleges and businesses.
- Balanced system—Our accountability system supports the concept of the whole child. It was very important to our General Assembly that we provide opportunities for students to excel in arts/humanities, career and technology, physical education and health, world languages, and writing/research programs. Our Program Review accountability measure uses the latest in performance-based assessments and project-based learning to measure student learning and student opportunities in these areas. This ensures we have a balanced approach to accountability rather than a limited focus on basic math and reading skills.
- Subgroup performance—Kentucky continues the focus on individual subgroup performance as required by NCLB; however, due to low student counts in some schools for some subgroups, we found that many Kentucky schools were not being

held accountable for closing achievement gaps. Through our new accountability system, we have ensured that ALL schools have the responsibility for closing achievement gaps through an aggregate gap group even if they have small counts for individual subgroups. The use of the aggregate gap group allows for the inclusion of students otherwise missed due to the low number of students in a single subgroup. To make sure that individual subgroups are not being overlooked, we set ambitious performance targets for all subgroups and use these targets to drive interventions, and require that schools improve the performance of the subgroup that led to their identification.

• Comparative data and transparency—Through the use of our on-line accountability school and district report card, the citizens of Kentucky are able to see how their school or district is performing compared to other schools or districts. Also, citizens are able to see the annual targets for improvement of their school and district in proficiency, gap, graduation rate, and college/career-readiness.

The results from our accountability model have certainly been catching the attention of many States. With our first assessment of the Common Core Standards, we saw drops in proficiency rates of between 20 percent to 30 percent in language arts and math. However, we are not shying away from these results; in fact, we embrace these as a more realistic view of the percentage of our students who are making progress toward reaching the most important goal of college- and career-readiness. These results also are very much in alignment with the National Assessment of Education Progress.

Additionally, we are seeing some early indications of improvement. Our graduation rates have improved and the percentage of graduates who are college- and career-ready has improved from a baseline of 34 percent in 2010 to 47 percent for the Class of 2012.

In closing, I again thank the committee for this opportunity to speak, and thank Secretary Duncan and President Obama for encouraging the State-level innovation that we are seeing in Kentucky and across the country. My request to the committee is very simple. I hope you will move toward reauthorization as soon as possible to provide concrete parameters for States for improving education systems to better serve students. However, I strongly encourage the committee to provide those States that have demonstrated their commitment to accountability and college/career-readiness for ALL students, through the waiver process, the ability to continue and grow that innovation through a flexible Federal law and additional funding flexibility that will support States as they work to make the vision of college/career-readiness for ALL students a reality.

The CHAIRMAN. Thank you, Dr. Holliday, for a very good statement.

Dr. King.

STATEMENT OF JOHN B. KING, Jr., Ed.D., NEW YORK COMMISSIONER OF EDUCATION, SLINGERLANDS, NY

Mr. KING. Good morning, Chairman Harkin, Senator Alexander, and members of the committee. Thank you for the opportunity to testify on New York's experience during application for and implementation of our ESEA waiver.

In 2009, our State Board of Regents adopted an ambitious reform agency focused on what matters most, what teachers teach, standards and curriculum, and how they teach it, assessments, data systems, teacher and principal evaluations. In 2010, the State Education Department was awarded nearly $700 million in Race to the Top, and our application was firmly aligned with the key components of the Regents reform agenda.

The principles of the waiver regarding implementation of college- and career-ready standards and assessments and its strategies to promote great teachers and leaders were well-aligned with initiatives we already had underway. In short, the waiver was for New York an opportunity to accelerate our ongoing education reform efforts.

Our work to implement college- and career-ready standards has been extensive. As you know, we are one of 46 States to adopt the Common Core, and our Board of Regents has actually mapped the Common Core back to pre-K readiness for the Common Core standards as well. The department is providing our schools with the tools and training resources they need to implement the Common Core, and for the first time, developing P–12 English language arts and mathematics curricula has free and optional resources for educators.

Our *engagenewyork.org* Web site, which has had over 11 million page views, provides access to an unprecedented range of professional development materials for educators throughout New York. We've also leveraged our Race to the Top resources to deploy local teams of experts in curriculum assessment and data analysis in support of this work.

In 2010, New York enacted a statutory framework for a more rigorous teacher and principal evaluation system and updated that law in 2012. The law requires school districts and local collective bargaining units to establish evaluation plans approved by the department in accordance with the law.

The evaluation system is based on multiple measures of how educators support student learning, including student performance outcomes as well as observations of teaching practice by trained evaluators. It is designed to provide our educators with regular, meaningful feedback to support continuous improvement. Beyond affirming and accelerating our work on college- and career-ready standards and the new evaluation system, the waiver also gave us the opportunity to strengthen and refine our accountability system.

The central component of our waiver is the opportunity to recognize schools in which students are making good progress toward meeting standards of college- and career-readiness, as opposed to focusing exclusively on absolute performance. We have set new, realistic, and ambitious trajectories for schools and districts to demonstrate they are increasing the percentage of students who are on track to college- and career-readiness while closing achievement gaps among student groups.

In fact, under our waiver application, we've actually raised the standards for our high schools to focus not just on students passing high school assessments in English, math, science, and social studies, but on students achieving scores that indicate that they are prepared to succeed in credit-bearing college-level courses. We've also developed metrics to ensure that we are seeing progress for our students with disabilities and English language learners.

While we were able to leverage the waiver in support of our reform efforts, it's important to emphasize that we share Kentucky's commitment and the Secretary's commitment to the notion of reauthorization of ESEA. But as you move forward in that work, here's a couple of important recommendations.

One is to emphasize early learning. The evidence is overwhelming. It is much more effective to give a student a high quality early education start than it is to close achievement gaps later through costly remediation. There is also an opportunity in reauthorization to look at how funds are allocated and spent, particu-

larly those funds that are allocated to professional development, as the Secretary discussed earlier.

I want to emphasize again the greatest impact of the waiver for New York was an opportunity to accelerate our reform agenda. One illustration of that, quickly—there's a school in New York City in Brooklyn, called Pathways in Technology Early College High School. It is a SIG-funded—a School Improvement Grant-funded—turnaround school with a predominantly black and Latino male student population. They are succeeding in a rigorous STEM curriculum.

Through a partnership with the City University of New York and IBM, P-Tech students will be able to leave school not only with a high school diploma and strong training in STEM subjects, but with an associate's degree in a growing field and a first opportunity in line for a job at IBM. That is what college- and career-readiness looks like. That is what our Regents reform agenda is focused on. That's how we're leveraging our Race to the Top resources. And that is how our waiver is helping us to move our reform agenda forward in New York.

Thank you for the time. I look forward to your questions.

[The prepared statement of Mr. King follows:]

PREPARED STATEMENT OF JOHN B. KING, JR., ED.D.

Good morning Senator Harkin, Senator Alexander and members of the committee. My name is John King, and I am the Commissioner of Education for New York. Thank you for the opportunity to testify on New York's experience during application for, and implementation of, our Elementary and Secondary Education Act (ESEA) Waiver.

STATE CONTEXT FOR REFORM

I would like to give you some brief context for how it was that New York arrived at an ESEA Waiver that maintains rigorous expectations for student performance and aligns our accountability system with a comprehensive reform agenda designed to achieve college- and career-readiness for all students.

Over the past 10 years, the New York State Education Department (SED) has implemented a State accountability system that closely tracks the Federal Title I accountability system codified in the current No Child Left Behind (NCLB) reauthorization of ESEA. New York used Adequate Yearly Progress (AYP) determinations as the basis for accountability identification and intervention and moved schools and districts along the NCLB improvement, corrective action, and restructuring continuum. We strengthened the system further through integrating into it our State Schools Under Registration Review program, which predated NCLB and allows the Commissioner to directly prescribe interventions in chronically low performing schools, including recommending to the Board of Regents revocation of a school's registration and school closure.

New York strongly supports many policy constructs in the original NCLB accountability system, particularly the concept of annual assessments of students in English language arts and mathematics, a focus on, and attention to, graduation rates, the disaggregation of subgroup performance and measures intended to address the gap in student performance among different groups of students, and a commitment to public reporting of, and accountability for, results.

However, more than 10 years into identifying schools for improvement and intervening in them, we know that the NCLB accountability system does not work well enough to engender the kind of profound improvements we seek in our struggling schools. In recent years, significant challenges with the system have emerged in New York and across the Nation.

New York availed itself of the flexibility opportunities that were provided by the U.S. Education Department (USED) over the years. We were the first State to adopt a Performance Index and use cohort measures to track high school performance, and we were one of nine States to be approved to implement a Differentiated Accountability Pilot. However, New York was finding it increasingly difficult to keep its

ESEA accountability system well aligned with the bold agenda for educational reform that the Board of Regents [1] established in 2009.

When the waiver initiative was announced, New York was eager to take advantage of the opportunity. The waiver's principles regarding implementation of College and Career Ready standards and assessments and its strategies to promote great teachers and leaders were well aligned with initiatives we already had under way. In addition, the ability to re-conceptualize our accountability system to better support our reform agenda was welcomed across the spectrum of educational stakeholders in New York.

THE REGENTS REFORM AGENDA

In 2009, the Board of Regents embarked on a Reform Agenda to ensure all our students graduate high school ready to succeed in college and careers. The key components of the Regents Reform Agenda are:

- Implementing College & Career Ready standards and developing curriculum and assessments aligned to these standards to prepare students for success in college and the workplace;
- Building instructional data systems that measure student success and provide information to teachers and principals so they can improve their practice in real time;
- Recruiting, developing, retaining and rewarding effective teachers and principals; and
- Turning around the lowest-achieving schools.

In 2010, New York was awarded nearly $700 million in the Race to the Top (RTTT) competition. The State's educational community came together in an unprecedented partnership to support the Board of Regents comprehensive application, which was firmly aligned with the four key components of the Regents Reform Agenda.

We recognized that teachers and school leaders need a system of comprehensive support to increase student achievement, particularly in the lowest-achieving schools. Our application leveraged the State's share of RTTT to implement several key initiatives to build the capacity of educators statewide to directly support new standards, assessments, curricula and professional development resources, improved teacher and principal preparation, evaluation, and support, data driven instruction, and mechanisms to turn around our lowest-achieving schools.

After a year of training and preparation, New York's schools began to implement the most ambitious education reforms in our history. While there have certainly been challenges, we have made significant progress toward meeting our goals, and we are confident that the Regents Reform Agenda, which underlies the implementation of RTTT, will build the capacity of school districts to ensure that students graduate our schools ready for college and careers.

COLLEGE & CAREER READY STANDARDS

New York is one of 45 States plus the District of Columbia and Department of Defense schools to adopt the Common Core. As you know, these standards are the first to be ***backmapped*** grade-by-grade from the skills a student needs at high school graduation to be ready for college and career all the way back to kindergarten. The Regents have further mapped these standards back to pre-kindergarten.

Although in New York curriculum and professional development have traditionally been a local school district responsibility, SED is providing our schools with the tools and training resources they need to implement the Common Core, and we are—for the first time—developing P–12 English language arts and mathematics curricula as free and optional resources for educators.

In addition to these resources, we have created *EngageNY.org*, a Web site we developed that provides access to the unprecedented range of professional development materials we provide on each critical component of the Regents Reform Agenda, including many materials dedicated to classroom implementation of the Common Core. To date, we have had more than 11 million page views on *EngageNY.org*, and the site has become a model for the Nation.

We have also leveraged RTTT to deploy Network Teams—teams of local experts in curriculum, assessment, and data analysis—to build capacity to sustain the re-

[1] New York's State Education Department is governed by an independent Board of Regents comprised of 17 members elected by the legislature, with 13 members elected from each of the State's Judicial Districts, and 4 members elected at-large.

forms. Network Teams work in close partnership with districts and schools to build the capacity of educators around our school-based initiatives.

Beginning in Spring 2012, SED launched the Bilingual Common Core Initiative to develop new English as a Second Language and Native Language Arts Standards aligned to the Common Core. As a result of this process, we are developing New Language Arts Progressions and Home Language Arts Progressions for every Common Core Standard in every grade.

We are also changing how teachers and principals are certified to ensure that new educators have the skills required by the Common Core and today's diverse classrooms. For example, we have adopted a new performance-based certification exam modeled on National Board Certification and we are designing new and more rigorous Content Specialty Tests aligned to the Common Core to assess new teachers' mastery of knowledge in the content areas they will be teaching.

TEACHER AND LEADERS

In the context of our successful 2010 RTTT application, New York enacted a statutory framework for teacher and principal evaluations, which we called Annual Professional Performance Reviews (APPR). The law required school districts and local collective bargaining units to establish local evaluation plans in accordance with guidelines established in law. In 2012, a new, more rigorous teacher and principal evaluation system was enacted that built on the structure of the 2010 evaluation law. Teachers and leaders evaluated under the evaluation system receive composite scores on a 100 point scale, which includes 20 percent for student growth on State assessments; 20 percent for student performance on locally selected measures; and 60 percent for other sources of evidence, such as observations, rubrics, and parent/student surveys.

Two key features of our evaluation system are:

- The evaluation system is based on multiple measures of how educators support student learning, including student performance outcomes as well as observations of teaching practice by trained evaluators; and
- It is designed to provide educators regular, meaningful feedback to support continuous improvement.

Districts and collective bargaining units must negotiate evaluation plans, and plans compliant with the evaluation law and regulations are approved by the Department after a thorough review. In addition, a provision in last year's State budget made increases in State aid to school districts—which amount to approximately 4 percent—subject to SED approval of a negotiated APPR plan.[2] By January 17, 2013—the deadline for plan approval—685 out of 691 districts, more than 99 percent of the State's school districts, had complied and now are beginning implementation of an evaluation system. Unfortunately, the State's largest school district, New York City, was one of six districts that did not meet the deadline. The Governor and legislative leadership have committed to empower SED to resolve the differences between labor and management to establish a default evaluation system for New York City if a negotiated agreement cannot be reached.

While challenging to implement in this fiscal environment, we believe there are opportunities for districts to better align use of title IIA funds to support teacher and principal effectiveness in the context of the evaluation system and for implementation of the Common Core.

NEW YORK'S ESEA WAIVER

When SED sought approval from the Regents to submit an ESEA flexibility Waiver application, we did so not seeking to decrease the levels of accountability for districts and schools, but rather to ensure that interventions and supports would be anchored to the more rigorous standard of college- and career-readiness.

As described previously, the Reform Agenda adopted by the Regents had already begun to address many of the principles that the Secretary and U.S. Education Department established for approval of a waiver. For example, we had adopted and had an implementation plan for College & Career Ready standards, and the State's new teacher and principal evaluation system included student growth as a significant factor.

As SED began to prepare the Waiver, the Regents adopted 10 key Guiding Principles to inform development of the application:

[2] The 2013–14 proposed State budget includes a provision that would continue to tie increases in State school aid to approval of a teacher and principal evaluation plan.

• ***Accountability Based on College and Career Standards:*** Ensure that all school districts are making acceptable progress toward having all students achieve college- and career-ready standards;

• ***Measures Aligned to the Common Core:*** Base accountability on a broad set of measures aligned to the Common Core standards, including proficiency and growth in English language arts, mathematics, and graduation rates;

• ***Use of Both Student Achievement and Growth:*** Use determinations of both student growth and proficiency to measure teacher, principal, school, and district performance;

• ***Fair, Accurate and Meaningful Data:*** Report data in a way that is clear and meaningful to educators, parents, and the public;

• ***Identification of High and Low-Performing Schools:*** Identify, in addition to focus and priority schools, other schools in need of improvement as well as schools that are highest performing and high progress;

• ***Effective Interventions and Supports:*** Enable substantial positive change, including dramatic changes in teaching and learning and school culture in the lowest performing schools;

• ***Timely, accessible and actionable reporting:*** Students, families, educators, principals, policymakers, and the public should be provided information that can be used to identify and replicate best practices, recognize and correct deficiencies, and continuously improve performance;

• ***Addressing Unique Circumstances:*** Set standards of accountability that recognize on a case-by-case basis, consistent with provisions of ESEA, the special circumstances of students, schools, and districts;

• ***Alignment of Accountability Across Levels:*** Align aspects of the accountability system across all levels—from student, to school staff and principal, to district accountability, including the superintendent and school board; and

• ***Single Unified System:*** Support a single unified system designed to ensure that all students can achieve college- and career-ready standards.

I want to focus now on some key components of the Waiver application.

Alignment in the Accountability System

At the end of the last school year, New York sunset the prior accountability continuum of schools and districts in improvement, corrective action, and restructuring based on failure to make Adequate Yearly Progress. We welcomed the ability to take this action because too many schools were identified for intervention under the NCLB system. We believe that half of all schools in the State would have been captured in accountability status based on 2011–12 results, and by the end of next year, nearly all schools in the State would have been identified. Identification of such a large number of schools would have made SED's efforts to support school improvement too diffuse to be meaningful.

Pursuant to the waiver, we adopted USED's school performance categories and identified 5 percent of the schools in the State as Priority schools and 10 percent as Focus schools. Priority schools are the lowest performing in the State based on combined English language arts and mathematics performance that are either not showing improvement or have had graduation rates below 60 percent in previous years. SED will require these schools to implement whole school reform and re-design approaches that fully incorporate Federal school turnaround requirements. Although the ESEA waiver requires that the percent of schools identified as Priority and Focus be based on the total number of title I schools in the State, we chose to identify a larger number of schools by basing our computation on the total number of title I and non-title I schools in the State.

One unique element of New York's waiver is our identification of "Focus Districts," which are those districts in the State that either have the lowest achieving students or the lowest graduation rates for a particular student group. Districts with one or more Priority schools are automatically designated Focus districts. Within these districts, Focus schools are those that are lowest performing or have the lowest graduation rates for subgroups for which the district was identified. By grouping and targeting these districts, we can direct supports to the districts and foster systemic change.

SED used an RTTT grant program to further support the schools identified through the Waiver as needing support and interventions. The Systemic Supports for District and School Turnaround grant provided opportunities for SIG districts or districts with Priority Schools to partner with support organizations to build district-level support structures, build district capacity to implement turnaround plans, and streamline existing turnaround efforts.

New York continues to make performance of English language learners and students with disabilities a cornerstone of its accountability system. We have made sev-

eral revisions to how we incorporate the performance of these groups into our accountability system, including, for example, aligning our ESEA and Individuals with Disabilities Education Act (IDEA) accountability systems so that districts that are Focus Districts for the students with disabilities subgroup are also identified as Districts in Need of Assistance or Intervention under IDEA.

Student Growth

In addition to streamlining the State's accountability system and eliminating the previous identification categories, the Waiver application provided us the opportunity to expand our definition of AYP and AMO to add student growth measures, rather than only absolute performance, and enabled us to recognize schools in which students are making good progress toward meeting standards of college- and career-readiness.

Prior to the waiver, schools and districts were held to the standard of having all students proficient on State assessments in English language arts and mathematics by 2014. The Waiver allowed us to set new realistic timelines and ambitious trajectories for schools and districts to demonstrate they are increasing the percentage of students who are on track to college- and career-readiness while closing achievement gaps among student groups.

At the elementary and middle school level New York has replaced the 2013–14 "proficiency for all" standard in English language arts and mathematics. By school year 2016–17, our goal is to reduce by 50 percent the percentage of students in each subgroup who are not proficient—as measured against a college and career standard—or not on track to becoming proficient within 3 years or by grade eight, whichever is earliest. While each subgroup has a different starting point based on its 2010–11 baseline performance, the lower the starting point of a group, the greater the percentage of students who must be moved from not meeting a college- and career-ready standard to meeting or being on track to meet this more rigorous standard.

New York has developed growth metrics for elementary and middle level English language arts and mathematics for students with disabilities and English language learners that allow the State to determine how well districts and schools are performing with these populations compared to statewide averages. We also continue to make AYP determinations for these groups of students—so if a school fails to make AYP for three consecutive years for the same disaggregated group on the same accountability measure the district must develop a Local Assistance Plan for the school to improve the group's performance. Our Waiver also raises the bar at the high school level for the performance students with disabilities must achieve in order for districts to be credited under the accountability system.

Before the Waiver, New York identified schools and districts without regard to whether students were showing sufficient growth. We are now able to distinguish schools in which student rates of proficiency are low but student annual growth rates are high. This allows the State to better and more intensely target the schools that need interventions the most. In addition, by using the more rigorous college- and career-readiness standards, we are holding our schools and districts to higher expectations and we are focusing on those schools and districts that are not graduating students who are prepared to succeed in the 21st century global economy.

School and Principal Accountability

The Waiver gave us the opportunity to incorporate growth into our judgment about school performance at the elementary and middle school level. By doing so, we can achieve greater alignment between accountability decisions we make about schools and our use of growth as part of our principal evaluation system.

Absent this change, our institutional accountability would have been a status model (i.e., whether students are achieving proficiency) while the State component of the principal evaluation system would have been based entirely on a growth metric, creating greater possibilities for divergence in our judgments about principals and the schools they lead.

Flexibility

The Waiver provides districts with the flexibility to redirect resources to implement whole school reform models in the State's Priority schools and increased flexibility to implement effective extended learning time programs in collaboration with community partners.

In addition, SED eliminated previous rules for set-asides and replaced them with new set-asides. The new rules require districts to set-aside between 5 and 15 percent of their Federal allocations for titles I, IIA and III (if identified for the performance of English language learners) to provide State approved programs and services, and an additional 1 percent to support parent involvement and engagement activi-

ties in Priority and Focus schools. While districts may choose to offer Supplemental Education Services (SES), the waiver allows districts to redirect these funds to implement a broad array of programs in Priority and Focus schools, with a particular emphasis on Extended Learning Time opportunities in Priority schools.

Alignment to Other Key Reform Efforts

The approved Waiver is closely aligned with the Regents Reform Agenda and our RTTT grant. Because of this close alignment, the provisions of the Waiver provided another critical tool to help New York achieve its goal of graduating students college- and career-ready.

As I have described, two key areas of alignment are implementation of the college- and career-readiness standards and teacher and principal evaluations. SED was able to further leverage these initiatives through the Waiver. For example, we removed the requirement that all students must be proficient in English language arts and mathematics by 2013–14, and we recalibrated high school metrics so that proficiency could be defined as achieving not merely the standards for high school graduation, but rather the standards for college- and career-readiness.

In addition, SED leveraged the Waiver's teacher and principal evaluation requirements to complement work already underway. Along with the requirement enacted in the State budget that tied State school aid increases to approved negotiated evaluation plans, we have similar requirements on RTTT and other funding opportunities.

Another key leverage point was the creation of a new, common, and robust schools and district review process connected to a single tool, the Diagnostic Tool for School and District Effectiveness, which compares a school and district's practices to the optimal conditions of learning. We appoint Integrated Intervention Teams each year to conduct onsite diagnostic district and school reviews of selected Priority and Focus schools.

The flexibility Waiver application gave New York the opportunity to clarify and reinforce accountability expectations for the State's public charter schools. We used the Waiver to make clear that public charter schools operate under strict performance charter contracts with their authorizers, and that they will be publicly identified for performance like all other traditional district schools in the State. Under the NCLB accountability system, many State education agencies and authorizers across the country have allowed public charter schools to evade accountability for low performance by moving low performing charters through a progressive identification system, allowing for "school improvement plans," and executing multiple, often conflicting, compliance-based monitoring and oversight events. New York utilized the Waiver to codify that State authorizers hold their schools accountable against rigorous outcomes-based academic and operational performance standards and that failing public charter schools in the State cannot hide in the State accountability system. The National Association of Charter School Authorizers cited New York State as a national leader in public charter school accountability and as a national resource for other States as they draft their ESEA waiver applications.

The integration of our reform efforts with the waiver has provided us yet another tool to improve teaching and learning opportunities. This was possible because the Waiver application was developed across agency offices to better ensure that our Waiver was internally aligned with all other key priorities. Senior cabinet officers from my offices of Accountability, School Innovation, Curriculum, Instruction and Assessment, and Higher Education all worked to ensure that we produced a coherent, forward leaning, comprehensive accountability plan that allows New York to concentrate investments in our neediest schools and communities while also celebrating successes in places where things are excelling or making meaningful progress.

NEXT STEPS

While New York was able to leverage the Waiver to support and accelerate ongoing reform efforts and our RTTT work, the Waiver is not a substitute for full reauthorization of ESEA. There are larger issues that have not been addressed, particularly with regard to how funds are allocated and spent. However, the answer is not to sunset the Waiver; the Waiver should be used as the starting point for full reauthorization.

I also urge you to consider how to integrate early learning into reauthorization. The evidence is overwhelming: it is much more effective to give a student a high-quality early education start than it is to close achievement gaps later on through costly remediation. The returns on the investment are also significant: a 2004 study found that every dollar invested in pre-kindergarten programs produces $7 in taxpayer savings through reduction of remediation, special education, welfare and

criminal justice services.[3] Early learning needs to be a key component of our strategy to help close achievement gaps and turnaround low-performing schools.

CLOSING

Thank you for the opportunity to testify. Before I take your questions, I want to emphasize again that the greatest impact of the Waiver we received in May 2012 was to allow SED to accelerate our reform efforts by closely aligning the Waiver to our existing Regents Reform Agenda and RTTT efforts.

We have made a new set of promises to our students through the Waiver, and we will work hard to live up to those promises so that they can graduate high school ready to succeed in college and careers.

Thank you and I am happy to take your questions.

The CHAIRMAN. Excellent testimony. Thank you, Dr. King.

Mr. Smarick.

STATEMENT OF ANDREW R. SMARICK, M.P.M., PARTNER, BELLWETHER EDUCATION PARTNERS, LAWRENCEVILLE, NJ

Mr. SMARICK. Thank you so much, Mr. Chairman, Senator Alexander, members of the committee. My name is Andy Smarick, and I work for a nonprofit called Bellwether Education Partners. Prior to that, I served at the New Jersey Department of Education as a deputy commissioner. So I'm here both wearing a policy analyst hat but also as a recovering State policymaker.

My testimony here, but also what I presented to you in writing, is designed to do one thing, in particular, to answer what I think is a straightforward but very difficult question, which is based on what we know of ESEA about NCLB and now the waivers. How do we do everything possible to get the next reauthorization right or as close to right as humanly possible?

Specifically, how do we return power to the States but at the same time make sure that student achievement continues to grow and that the achievement gaps continue to shrink? Given my time that I've spent at the State Department of Education—and, recently, my view has been informed by that—I've been away from Washington, DC, for quite some time, and most of my time has been spent on NCLB implementation. What does this mean for kids or teachers or school districts and so forth?

Now that I'm back in the Washington, DC world, doing this policy analysis, I'm much more acquainted with the sense of urgency over the timelines of reauthorization and so forth. And I think this explains, in my testimony, why I've put myself on this uncomfortable island, to be honest. I'm struck that I am suggesting in my testimony that we consider tabling reauthorization for the time being, and I know this puts me at odds with lots of people I respect, members of this committee, many advocacy groups, the National Governors Association, and on and on.

So let me try to explain how I got to that tentative recommendation. As a leader in the State Department of Education, I was constantly told by people in the field that AMO, AYP, was in need of improvement status, on and on, not only is just Federal intrusion, but it's stopping us from doing the work that we need to do. So when the opportunity for flexibility under NCLB came to us in

[3] Belfield, Clive R. (2004) *Early Education: How Important Are the Cost Savings to the School System Research Briefing. New York, NY: Teachers College, Columbia University.*

New Jersey, our Governor and State chief decided we were going to give this a shot.

Most States, I think, that I talked to did it for the exact same reason. Their educators were telling them, "NCLB is a burden. You have to get this off our back and help us get some relief from it." At that time, based on where I was sitting, I gave very little thought, quite frankly, to these bigger philosophical issues about the expansiveness of the waiver or the additional things that were put into it. I was just writing a proposal.

The actual workings, from my point of view, of the waiver process were not ideal, and I get into some of that in my testimony. But the process did lead, without any question, to more flexibility for my State and many of the States that I've talked to. And, more importantly, it enabled us anew in New Jersey to build a brand new accountability system, including brand new interventions.

As a State policymaker, I realized that that was an imperfect solution, that long-term, what we needed to do was a reauthorization. That's right. That's proper and enduring. We only had this for 2 years, and that was always on our mind.

But now that I'm back in the policy world, something has really struck me as I have looked at all of these different waivers and their provisions, and that is how different and how promising they are. For the most part, this diversity is very, very good, from my point of view. The laboratories of democracy, like the Senator brought up, are hard at work. They are making these plans aligned with what is needed in their communities to meet local conditions.

And I'm not quite sure that most people realize how much meaningful innovation is actually in these plans—super subgroups, the possible takeover of districts or schools that aren't working. There's some worthwhile material in there. But, more importantly, I think, from a lot of our points of view, K–12 is now back in the hands of State leaders like it hasn't been for the past decade.

The final piece of my thinking goes back to 12 years ago when I was a young house aide for the House of Representatives and NCLB was coming down the pipe. And I remember talking to my boss and others, and there was a consensus based on two points, it seemed. One, there was a limited, too limited, Federal accountability for so much money we were spending; and, second, that there was this gaping achievement gap that the States at that point weren't able to solve. And that seemed to galvanize people, and that's what led to NCLB.

Getting back to the beginning of my testimony, my concern is that unless we get ESEA right or as close to it this time, I worry about being back here in 5, 6, 7 years and having the exact same pre-NCLB debate, where people say, "ESEA isn't right. States haven't done this correctly. We have achievement gaps and so forth. Let's take more power away from the States." I'm trying to guard against that.

Those are the factors that led me to where I am right now. That's why my testimony focuses on these very unglamorous things and—I'm sorry. I'm talking like a State policy guy again. Policy implementation, policy evaluation—that's why I talk about these things, about evaluating what the State plans actually look like, what they

actually deliver. And, most importantly, do States have the bandwidth, the capacity to do what they've promised to do?

Now, I understand fully—and I'm not comfortable that this position butts up against what a lot of people on this committee view as your primary responsibility right now, which is immediate reauthorization of this law, taking back the authority over this law, as it ought to be. And I cannot disagree at all that that should be a priority.

I'm thinking that perhaps some sort of optimal outcome at this point is a combination of using this committee's authority to reauthorize this law as quickly as possible, but simultaneously realizing that there's much to be learned from these waivers that are doing relatively remarkable things and making sure that we have the time to do the necessary course corrections so we can learn from them and move forward.

So, sincerely, thank you for having me here and listening to a contrarian view on a very important issue.

[The prepared statement of Mr. Smarick follows:]

PREPARED STATEMENT OF ANDREW R. SMARICK, M.P.M.

SUMMARY

When assessing the waivers in particular and ESEA reauthorization proposals more generally, Congress should consider the former alongside the motivations behind the passage of the No Child Left Behind Act. Both the waivers and the next iteration of ESEA should strike a careful balance between restoring predominant authority over K–12 schooling to State leaders and ensuring that academic achievement gains, particularly among disadvantaged students, continue.

Congress should delay reauthorization of ESEA until lessons can be learned from the implementation of State plans articulated in successful waiver applications. This will require vigorous research by the U.S. Department of Education and perhaps other Federal entities. There is enormous variation among these State plans, and if the next ESEA reauthorization is to have legs, it must be informed by the successes and failures of the various initiatives undertaken over the next several years.

Congress should move the Federal Government's role in K–12 education toward outcomes and away from inputs. This has implications for the Administration's flexibility initiative, such as its provisions on educator evaluations, and for the underlying statute (e.g. HQT, restructuring strategies).

Because of the likelihood of the Federal Government's reduced role in K–12 accountability in the years to come and SEAs' preoccupation with the implementation of a wide array of other essential reforms, Congress should provide short-term financial support to State departments of education. This will help ensure that State plans are fully implemented.

Finally, Congress should empower the Department to withhold all Federal funds from persistently failing schools. These funds should support the creation of new high-quality schools designed to serve students in the affected communities. This "new-school/replacement" strategy should take the place of current "turnaround" initiatives that have been shown repeatedly to fail far more often than succeed.

Thank you Mr. Chairman and members of the committee for having me here today.

By way of brief introduction, my name is Andy Smarick, and I am a partner with Bellwether Education Partners, a national nonprofit organization dedicated to accelerating the achievement of low-income students by cultivating, advising, and placing a robust community of innovative, effective, and sustainable change agents in public education reform and improving the policy climate for their work.

I've worked for the Maryland State legislature, a Member of the U.S. House of Representatives, the White House Domestic Policy Council, as a Deputy Assistant Secretary at the U.S. Department of Education, and most recently as the Deputy Commissioner of the New Jersey Department of Education.

Let me begin with a quick summary of my recommendations, and then explain how I arrived at them and how they might be brought about.

First, I suggest that Congress delay further ESEA reauthorization proceedings until at least 2015.

Second, to inform the next iteration of ESEA, Congress should, for the next 2 to 3 years, invest significantly in the research arms of the U.S. Department of Education [and the Congressional Research Service (CRS) and the Government Accountability Office (GAO) if necessary] and task them with intensively studying the consequences of the waivers.

Third, to maximize the likelihood of successful implementation of State plans, Congress should, for the next 2 to 3 years, invest in expanding the capacity of State Education Agencies (SEAs) to build, maintain, and improve high-quality accountability systems.

Finally, Congress should consider strengthening the Administration's approach to addressing the needs of students in the Nation's lowest-performing schools.

BACKGROUND: NCLB AND THE WAIVERS

Analyzing the ESEA waivers and deciding how best to move forward, in my view, is as challenging as any education policy matter facing Federal policymakers because it inevitably forces us to make firm judgments about the proper place for the Federal Government in K–12 schooling.

And although ESEA is approaching its 50th birthday, I'm not sure we've reached clear conclusions about where Uncle Sam should be involved, and, when he is, what his precise role ought to be.

Accordingly, and because we are still so early in the implementation phase of the waivers, I'm encouraging, at least for the short-term, patience, study, and a focus on thoughtful execution of State proposals rather than sweeping assessments of these plans or swift action on ESEA reauthorization.

My approach to analyzing the waivers and determining what should come next begins by acknowledging two sets of competing truths.

I believe that decisions about K–12 policy should remain primarily in the hands of State leaders and those they designate to execute the day-to-day work of primary and secondary education, i.e. districts, other LEAs, and schools.

Moreover, the longer I'm involved in this work, the more I become convinced that the Federal Government is quite limited in what it is actually able to accomplish with regard to what matters most—student learning. Of course, Congress can create programs and appropriate funds, but neither translates so easily into improved achievement.

That lesson has been part of my maturation in this work; my default setting now reads something like: "When it comes to K–12 schooling, a modest Federal Government should be constrained and a wise Federal Government even more so."

This is largely why I strongly supported my State's efforts to earn an ESEA waiver about a year ago.

But there's significant weight on the other side of the scale—facts that my conservative ideology can't ignore. The decades of the 20th century when States were ascendant and the Federal Government cast a rather small shadow over schools—I'll call this "the pre-NCLB era-—were not an unmitigated success, especially for our most disadvantaged boys and girls.

It's hard to pinpoint a year when we became aware that our primary and secondary results were not what we hoped. President Lyndon Johnson, in a 1964 speech explained that helping urban schools would be a pillar of the Great Society. He said, "Poverty must not be a bar to learning, and learning must offer an escape from poverty."

Several years later, the famous Coleman Report showed that our schools weren't able to fully compensate for "out-of-school" forces, like poverty and parental education, meaning that demographics were all but tantamount to destiny.

Early in his term, President Nixon sent a similar message to Congress: "The outcome of schooling—what children learn—is profoundly different for different groups of children and different parts of the country . . . We do not have equal educational opportunity in America."

This thread continues to this day. Our two most recent presidents have spoken similarly, with the former lamenting the "soft bigotry of low expectations" for underserved students, and the latter, in his first inaugural, saying that "our schools fail too many."

Implied or explicit in all of the above is our Nation's concern that for at least half a century now, low-income and minority boys and girls have not been getting from their assigned public schools everything they need to succeed throughout life.

This "achievement gap" would be tragic in any country, but it's doubly so in a nation that rightfully prides itself on freedom, opportunity, egalitarianism, and social and economic mobility.

Many of us became increasingly averse to keeping Uncle Sam on the bench while, decade after decade, disadvantaged kids lagged behind their more affluent peers.

This, combined with the fact that during this period the Federal Government was spending tens of billions of dollars every year without seeing the return on investment taxpayers deserved and students needed, led me, more than a decade ago, while a young aide to a Member of the House of Representatives, to encourage my boss to vote for the No Child Left Behind Act.

Though in some corners, it is now verboten to mention the acronym "NCLB" unless it's followed by a laundry list of criticisms, I think President Bush and the Senators and Representatives who supported NCLB deserve credit. The law did a great deal of good. I hope that fact is never lost.

But the law made some important mistakes, for example focusing solely on attainment instead of student progress and dictating inputs like the "Highly Qualified Teacher" provisions and restructuring interventions. Others have also argued that NCLB identified entirely too many schools as underperforming.

The waivers provide relief on these fronts. And, more generally, they reflect the large and growing support for my first set of arguments—the seeming consensus that the Federal Government should, for philosophical and pragmatic reasons, be light-touch when it comes to our schools.

Accordingly, the waivers have significant appeal. I know from my time in a State department of education that there seemed to be a collective sigh of relief from the field when our flexibility application was approved.

And to be clear, you can count me among the ranks of those who support the flexibility exercise in concept.

However, I'm a bit concerned that we've been so focused on reestablishing an arms-length relationship between Uncle Sam and our schools, that we may have lost sight, of the second, countervailing set of facts.

That is, the pre-NCLB era was an age of yawning achievement gaps and inadequate accountability for Federal funds. NCLB didn't appear, out-of-the-blue and uninvited, on the national scene; it was a response to conditions that many of us felt intolerable. Too many disadvantaged kids *were* being left behind.

Congress, State leaders, and the public may now believe that the pro-State-authority arguments outweigh the pro-NCLB arguments. But I want to argue that they don't make the pro-NCLB arguments disappear. I'd like to encourage you to keep those pro-NCLB arguments in mind as you assess the waivers and, more importantly, as you restart work on ESEA reauthorization

This leavening of the current "devolve-power" zeitgeist, I think, will put the Administration's actions into perspective, help us sort out the strengths and weaknesses of the waiver process and the waivers themselves, and suggest a path forward for reauthorization.

So the rest of my testimony, including the recommendations I ultimately offer, flow from the conclusions I draw when I consider the entire NCLB-waiver enterprise alongside the very good reasons Congress had for passing NCLB in the first place.

STATES RECLAIMING K–12 AUTHORITY

First, Congress inserted the Federal Government into K–12 schooling the way it did back in 2001 because too many States lacked content standards, failed to sufficiently assess student performance, inadequately disseminated performance information to parents and the public, failed to identify the most underperforming schools, were unable to successfully close achievement gaps and improve performance in long-failing schools, and provided too few options to kids desperately in need of alternatives.

Given these facts, is Uncle Sam's tactical withdrawal—as mapped out by this flexibility initiative—appropriate? Or put another way, can the Congress of 2013 trust the States to deliver results in ways the Congress of 2001 did not?

My answer to most of these questions is a cautious "yes."

NCLB required States to adopt content standards, develop and administer assessments, and disaggregate and publicize results. More so than a decade—but certainly not unanimously—these practices are considered important parts of a public education accountability system.

Moreover, nearly all States have signed on to the Common Core State Standards and one of the associated testing consortia. Though there is much difficult work between where we currently stand and full implementation of these standards and as-

sessments, the States' work to date suggests fidelity to high standards, tough assessments, public reporting, and accountability.

The waiver application required States to continue along this path; and while many aspects of ESEA reauthorization are still undecided, Congress's recent actions suggest it intends to continue requirements related to standards, assessments, and disaggregated reporting.

So in these areas, I'm encouraged by what States might accomplish with their renewed authority.

But with regard to a number of other matters that precipitated NCLB's passage, I have misgivings about the intersection of some States' paths and the Administration's road to flexibility.

To take a quick step back, some might be of the mind that the Administration's flexibility initiative amounted to a *de facto* reauthorization of ESEA. Two-thirds of States have overhauled their systems of reporting and accountability. Ten States are already approaching the 1-year anniversary of their approvals. States have reset AMOs using new formulas, they've jettisoned the core notion of AYP, they've stopped putting schools in improvement status, and many have brought Supplemental Educational Services, NCLB choice, and HQT to an end.

So the landscape created by the waivers is certainly different than the one conceptualized by NCLB. I suspect this is cause for more than a little consternation.

But if we're to focus on the future, I think we are well served by seeing the waivers as having provided an invaluable opportunity to learn lessons from America's "laboratories of democracy."

I am, therefore, persuaded to think of the waiver strategy as an information-gathering "pre-reauthorization" that will ultimately result in a sturdy ESEA that returns to States their rightful authority over K–12 schooling.

In other words, the lessons of NCLB seem to have convinced some in Congress that Federal oversight of schools should be on the wane. This is an outline for reauthorization. But the devil is in the details. The real question is, "What exactly should this look like in practice?"

What we learn from the State-based experiments generated by the waivers will help provide that answer.

My primary concerns about what comes next are: first, pre-NCLB, some States did not use their authority to significantly improve student achievement; second, some States continued to consistently lag behind even during the more centralized NCLB era, a problem that might be exacerbated under the waivers; third, a great number of schools deserving scrutiny are not captured by the three Federal categories (Priority, Focus, and Reward); fourth, we cannot be sure that States' proposed interventions for troubled schools will generate the improvements we need; and fifth, the Nation's very lowest-performing schools may continue to fail, and the boys and girls assigned to them will not have alternatives.

I am not suggesting that States will purposely be bad actors on any of these matters. In fact, I believe that we have more reason to be optimistic than ever before that States are positioned to do quite well.

We have a number of exceptional State superintendents who have the knowledge and backbone to advocate for and implement vital reforms. A new generation of enthusiastic reformers with a laser focus on improving student performance and closing the achievement gap populate our schools and school systems and the many nonprofits that support them. The demands of our changing economy and international competitiveness seem to have galvanized business leaders, Governors, and State legislators.

But in the past, the best of intentions have not always led to the results we need. Moreover, some States' track records and some State proposals on issues like closing achievement gaps should give us pause.

I'm cognizant that some might argue that States have the right to control their schools as they see fit. Period. And this means States' identifying struggling schools as they choose, delivering interventions as they deem best, and using their own discretion to decide whether to provide other options to kids. These matters are simply not the Federal Government's business, some might contend.

Though this roughly aligns with my political philosophy, I just can't bring myself to agree with this articulation. My intellectual purity ends at the water's edge of the best interest of disadvantaged kids. I couldn't recommend a long-standing waiver policy much less an ESEA reauthorization that would allow student learning to slide backward, achievement gaps to grow, and/or the continued assignment of kids to failing schools.

I'm not saying that these things will necessarily happen in one or more States that receive a waiver. But we should be mindful that they could. Along these lines,

I believe the Department made a wise decision by making the waivers time delimited, so it could pull the plug should problems emerge.

But it will be difficult to rescind flexibility once it has been granted; States will have put significant work into their new systems, and their LEAs and schools will have become accustomed to the new rules.

I hope that future waivers and the next version of ESEA will be constructed so that such steps backward are minimized. But at this point, given our lack of knowledge about how the waivers will play out, we simply don't know how to do that.

So that's why my *first recommendation* is to delay reconsideration of ESEA reauthorization until 2015 at the earliest and use the next 24–36 months to vigorously study the waivers and their effects.

The new State plans raise more questions than imaginable. They differ in countless ways, and after reviewing many of them, I can't tell you, at this point, which model is best. In fact, given that none of these plans have been fully implemented, much less brought about measurable results, we just have no idea which elements of which plans are going to serve kids well.

My *second recommendation* is to turbo-charge for at least the next 2 years, the research arms of the U.S. Department of Education, namely the Institute for Education Sciences (IES) and the Policy and Program Studies Service (PPSS). They should be directed—and further funded if needed—to study the waivers and their effects and help Congress draw conclusions about what the information gleaned means for an improved ESEA. If our research needs exceed the Department's capacity, I'd recommend that Congress engage the Government Accountability Office and/or the Congressional Research Service, as well.

Consider just a few of the different tacks States are taking:

• States are using a wide array of methods to measure school performance and assess whether achievement gaps are closing. This is a more complicated exercise than it might appear. One researcher, for example, has found that how a State weights growth and attainment influences which level of school (i.e. elementary, middle) is primarily identified as the lowest performing.

• There appear to be cases where a State has one method for identifying low-performing schools for the purposes of the waiver and another method for generating school-level grades.

• Some States, like Tennessee, believe the best State approach is to work through districts; New Jersey, where I worked, on the other hand decided that school-based reforms were likelier to influence achievement.

• A number of States have created "A–F" grading systems, with Florida's system most well known. Connecticut and Massachusetts are creating new performance indices.

• Some States are giving scoring bonuses in school rating systems for making gains with the lowest-performing students. Indiana and Massachusetts are also giving weight to improvements made with *high*-performing students.

• There are different ways of deciding which schools are most troubled—how do you combine overall achievement scores with achievement gaps, subgroup performance, growth scores, graduation rates, and so on?

• Maybe the biggest deviation from NLCB is several States' decision to create a so-called "super subgroup," which considers all low-performing kids together instead of categorizing them, for reporting and accountability purposes, by race or parental income.

• There are different ways of addressing persistently failing districts: some State plans contemplate putting such districts in State receivership; other States intend to take over individual schools within these districts.

• States vary significantly in how they will work with schools that don't fit into Priority, Focus, or Reward status—what some call "unidentified schools." How closely are they monitored? When will States intervene?

• Though I'm opposed to requiring educator evaluation reforms via ESEA, the lessons from the States' responses to the waivers will have much to teach us about title II and the Teacher Incentive Fund.

• And then there is the laundry list of questions related to interventions. What do States plan to do when schools develop huge achievement gaps, fall into the bottom 5 percent of all schools, or have too few advanced students? Some like Kentucky promise to develop regional support offices. Others plan to offer resources through the central State office. And there are countless other permutations.

Two or three years from now, we will know much more. I believe these real-world lessons should inform the next reauthorization.

• We may find that every State plan approved by the Department produced terrific results. But it's likelier that some plans will yield remarkable improvements,

some plans will be good or fair, and a few will produce outcomes that we regret. It's almost certain that in every State plan some elements will work better than others.

• The super-subgroup approach may lift our most underperforming kids. Or it may prove to mask the low performance of some groups.

• "A–F" systems may produce the kind of information policymakers and parents need. But it's also possible that they inevitably produce oversimplified answers to an inherently complex question: How is this school performing?

Some might say that decisions on these matters should be left wholly to State leaders. I do think that Uncle Sam needs to hand back to the States much of the power he accumulated during the NCLB era.

But I suggest that our operating philosophy be more along the lines of President Reagan's adage "trust but verify" and less like "declare victory and go home." That is, we should divest Uncle Sam, but we should do so prudently.

I think we should be humble enough to admit that as a nation we were unsatisfied with the student achievement results of the pre-NCLB era. We have to guard against a reflexive return to the policies and conditions that produced those results.

Precipitate action on reauthorization could lead to similarly distressing results for kids, and then we'd find ourselves back here in a decade discussing another round of expanded Federal K–12 powers because—critics will charge—the States couldn't deliver. That's to be avoided if at all possible.

If we embrace a "measure twice, cut once" mentality over the next 2 to 3 years, we can learn a great deal from the States and build a smart, robust ESEA that stands the test of time.

INPUTS VERSUS OUTCOMES

The second set of conclusions I draw when considering the waiver enterprise in the context of NCLB relates to federally required "inputs" versus "outcomes." I think the Federal Government generally erred the most under NCLB when, rather than telling States what was expected and allowing them to determine how best to get there, prescribed precisely what the States ought to do. In this area, I think of the HQT provisions, the interventions prescribed under restructuring, and the rules for how to determine if a school is "in need of improvement."

I think the waiver application process veered in this direction on occasion. For example, I'm a very strong advocate for State-level reform of educator evaluation policy. But this is an input—a strategy we suspect will lead to better student outcomes—not a result. I think including educator evaluation reform in the waiver application may have been a bridge too far.

I think the Administration did an exceptional job on this policy with Race to the Top. Thanks to its inclusion in that application, we've seen more changes in educator evaluation policy in the last several years than I frankly thought possible.

But that was a voluntary competitive grant program—Congress's way of encouraging States to pursue a particular suite of reforms in exchange for potential funding. That strikes me as wise Federal policymaking. If Congress believes strongly enough in a reform that it is willing to allocate scarce Federal resources to a voluntary competitive grant program, that can have the effect of changing State policy and practice without forcing the hand of State leaders.

I think the Administration may have also gone too far in the direction of input-management during its negotiations with States over their final waiver submissions. To me at least, it doesn't feel exactly right when State officials need to seek the permission of Federal officials to construct a Common Core-implementation timeline or a rollout strategy for the various components of a new educator evaluation system.

To be fair, a reasonable response from the Administration on this score would be that they were simply playing on the field constructed by NCLB. They were adhering to the law's principles on the achievement gap and Federal oversight of State activities related to troubled schools.

They might say that had they *not* conducted such negotiations they would've been left with the binary option of simply voting up or down applications, which would've infuriated States in the down column. Or the Department could have simply rubber stamped all applications that came over the transom and then been susceptible to charges of giving too much leeway to States whose activities still needed to be monitored assiduously during the transition from NCLB to the next ESEA era.

My preference during both this waiver period and the subsequent new-ESEA era is to have the Federal Government focus almost exclusively on outcomes—meaning both that States would have significant flexibility for accomplishing agreed-upon goals and that the Federal Government would act swiftly and forcefully when re-

sults are not achieved. In the latter case, this would include an increased willingness by the Federal Government to withhold formula-based Federal funds from persistently poor-performing States, LEAs, and schools, and to make these entities ineligible for competitive grant programs.

SEA CAPACITY

My third conclusion is that the Federal Government, even absent a reauthorization in the near-term, should provide financial support to States during the waiver era to ensure that the States have the capacity to fill the vacuum caused by the removal of Federal oversight. There is a stark difference between the NCLB era and the seemingly imminent State-ascendant era, and a smart transition phase is necessary.

It is important to remember that most States are currently overwhelmed with education reform implementation. I can't emphasize strongly enough just how much new and difficult work has been heaped on SEAs over the last 5 years.

In addition to their historical responsibilities over distributing State and Federal funds, monitoring Title I and IDEA compliance, credentialing educators, and more, they've now been placed in charge of the most important new initiatives of this era: Common Core implementation, transitioning to the new common assessments, overhauling educator evaluations, improving educator preparation programs, expanding and improving choice options, and on and on.

While they've been tasked with more and more, many SEAs have seen their budgets shrink because of this lingering period of fiscal austerity. State chiefs were already struggling to triage, with each initiative demanding more attention and resources than are available.

The waivers have only increased the demands on SEAs. As the Federal Government pulls back from accountability, SEAs will need to fill the void—but many State leaders will find themselves asking, "Fill it with whom?"

Policy implementation is not the most glamorous subject. But if we want this era's reforms to succeed, we have to remember that someone has to carry them out. My concern is that if we don't take this seriously, we'll look back 10 years from now and marvel at the huge delta between the aspirations of the laws we passed and the results they achieved.

My *third recommendation* is to establish a short-term "ESEA Transition" fund that will help States staff up to pick up the slack as Uncle Sam looses his grip on the reins. States will ultimately need to take full financial responsibility for their new accountability systems. But over the next 24 months, while they budget for the future, they will need help building and disseminating their new school report cards, staffing their new regional offices, delivering interventions, and much more.

With so many competing priorities, State chiefs, without additional support, will find themselves constantly robbing Peter to pay Paul. A short-term financial investment in SEA human capital could play a powerful role in ensuring that waiver plans succeed and that States have the ability to advance student learning and close achievement gaps while the Federal Government stands down in this area.

ADDRESSING THE LOWEST-PERFORMING SCHOOLS

My final conclusion related to the intersection of NCLB and the waivers relates to the Nation's lowest performing schools. NCLB placed a priority on addressing the needs of students in these schools by requiring that the schools undergo "restructuring" after persistent low performance and by providing their students with additional education options.

Restructuring, however, did not accomplish its goal of bringing dramatic change to these struggling schools. In hindsight, however, this should not have come as a surprise.

A large and growing body of evidence shows that the Nation's lowest performing schools remain low-performing despite a wide array of interventions. In just the last few years, Tom Loveless of Brookings found that over the course of 20 years only 1.4 percent of the schools he studied from the bottom quartile of performance made it to the top quartile.

In a study for the Thomas B. Fordham Institute, David Stuit found that only 1 percent of schools made it from the bottom quartile to the top half of performance.

Just last week, a newly released report from Stanford University found that even among charters—which should have more degrees of freedom than other public schools—89 percent of schools in the lowest quintile of performance after 3 years in existence would remain in the bottom quintile thereafter.

Because major improvements of our lowest-performing schools are so rare, it is virtually impossible to say with any degree of certainty which strategies are the

right ones to employ. In fact several years ago the U.S. Department of Education released a study on school turnaround efforts and found that it couldn't firmly recommend one or more approaches because it could not identify any sufficiently rigorous studies finding that "specific turnaround practices produce significantly better academic outcomes."

Add to this the Administration's release, late last year, of a graph showing depressing initial results from the multi-billion dollar School Improvement Grant (SIG) program. After a year of using the Department's preferred turnaround models, nearly 40 percent of schools receiving SIG funding had *lower* reading scores. Another 49 percent saw only "single-digit" reading gains.

I firmly believe that a reasonable inference from this evidence, and the many similar studies that came before, is that the Federal Government cannot depend on "turnarounds" of our most troubled schools to provide the number of high-quality seats our disadvantaged students so desperately need.

This lesson is especially relevant to the waiver's approach to "Priority" schools, the Nation's most persistently underperforming schools. States are required to intervene in these schools using strategies aligned with the Federal Government's "turnaround principles."

Said simply: with enormous evidence that school turnarounds are not a scalable strategy for meeting the needs of our most at-risk students and data showing that the Department's four preferred SIG strategies backed by $5 billion produced discouraging results, I find it hard to make the case that a waiver application ought to require States to use another set of federally approved "turnaround principles" with their other low-performing schools.

A new approach is warranted.

My *fourth recommendation* is for Congress to give the Department new authority in this area. The Department should continue to require waiver-seeking States to identify their lowest-performing schools; but it should not tell States what to do with them. States should have full discretion in crafting and administering such interventions.

Instead, following the outcomes-not-inputs approach, Congress should empower the Department to withhold all Federal funding, including title I, from any such school that remains persistently underperforming after the application of State-determined interventions.

Withheld funds should then be aggregated and made available to States on a competitive basis to support the creation of new schools—under new operators and governance conditions—serving the affected communities.

This would facilitate the replacement of the Nation's chronically failing schools via a "new-schools strategy." My preference would be for these Federal funds to be administered through the Federal Charter School Program, subject to all of its current rules and priorities.

If, however, Congress chooses to require no alterations to the Department's waiver application until a full ESEA reauthorization is complete, I would encourage exhaustive research on SIG results, including the timely release of school-level data, and the effectiveness of State interventions in Priority schools.

CONCLUSION

I believe that the Administration's ESEA waiver initiative has given Congress the opportunity to vigorously study State accountability plans and their influence on student learning. This will hopefully lead to a new ESEA that generates improved student results and finds the right balance between State authority and Federal oversight.

By delaying reauthorization and providing a short-term boost to both Federal research and SEA capacity, Congress has the opportunity to return K–12 authority to the States while ensuring that the progress made during the NCLB era is continued.

The CHAIRMAN. I assure you, Mr. Smarick, I, for one, appreciate provocative thinking. I don't mean provocative—making people think differently is what I'm talking about. You understand what I meant, getting people to think differently. Thank you very much.

Ms. Haycock.

STATEMENT OF KATI HAYCOCK, M.A., PRESIDENT, THE EDUCATION TRUST, WASHINGTON, DC

Ms. HAYCOCK. Chairman Harkin, Senator Alexander, Senator Bennet, my name is Kati Haycock. I'm president of the Education Trust. Thank you for the opportunity to be with you this morning.

Because so much of the conversation so far has functioned on the sort of perverse effects of the law in latter years and getting this back into the hands of the States, I think it's important to start, actually, by reminding us, as you did, Chairman Harkin, why in 2002 you made such sweeping changes to school accountability. It's important to remember that after decades of hiding the underperformance of some groups of children under school-wide averages, you required States to report the performance of all groups of children and to evaluate their schools by how successful they were in moving all groups forward.

And that requirement, the requirement for the first time to educate all children to the same State standards, is why this law was considered such a huge landmark by the disabilities community, by the civil rights community, and by others whose children had for too long been hobbled by low expectations. And even though the law's critics believe it brought about a much-needed focus on disadvantaged kids, we supported Secretary of Education Duncan's decision to grant waivers for the same reason that many of you did, that there was an increasing number of perverse effects of the law and no reauthorization.

But I want to be clear that our support for the idea of reauthorization shouldn't be confused with enthusiasm about how the process worked out. As we look across the approved waiver plans, here's what we see in four, what I hope are quick points.

First, the goals. As you know, many educators and others decried the goals you set in NCLB, that 100 percent of kids be proficient by 2014, as unrealistic or not based on real data. So in its waiver guidelines, the Department actually gave States two options that were based on real data or said, "Choose your own equally ambitious set of goals." It's important for you to know that that approach really works, that States, in fact, adopted good solid stretch goals that were based on real data, and you can feel good about that approach.

The second point that's important to understand, though, is that when it came to building their school rating systems, though some States made progress against those goals matter, the vast majority actually didn't. You have examples like Minnesota and Tennessee, where performance against those goals actually counts in the school rating. But many States actually created rating systems where those goals you required them to sit out on the side. Progress may be reported someplace, but actually doesn't count in school ratings.

Third, what about the super subgroups? Some States, as you know, took what could be a tweener approach, right, by creating a super subgroup and then sort of baking results of that group into their school rating system. As you know from previous testimony, there are some advantages to that super group approach, that is, more of the kids that you named in NCLB actually count and more schools are accountable for them.

But there are also risks, and it's important to understand that some States actually undercut the impact of the super subgroups by actually giving extra points for the progress of kids who were not in the super subgroups. So the details of these systems actually matter.

Third, most State plans in improving their lowest performing schools, now called priority schools, are a huge step forward from NCLB. The plans are much more serious and detailed than previous plans, and the criteria for exiting priority status are better as well. I think you can feel good about those.

Finally, transition issues. States were actually asked to address a variety of transition issues in their plans, including transition to the new Common Core assessments and transition of students with disabilities from the modified assessments and modified standards to the new ones. I think there are reasons to worry about the lack of detail there.

In short, I want to be clear. We still support the waiver process. We think there are some very important innovations, but there are also some reasons to worry. But, mostly, when we step back from the overall process and look at what it produced, we mostly wonder what I suspect many of you probably wonder as well, and that is how is it that this process moved the ball forward so much further in our lowest performing schools, but arguably took a step backward in the message to the other 85 percent of our schools that you actually had to succeed, not just for some of your children, but for all of them.

That occurred, I think, largely for two reasons. First is because the Department of Education's waiver guidelines invited that difference. They actually required States to be aggressive about their lowest performing schools. They required them to set stretch goals for all groups of children, but then they invited them not to actually make those goals meaningful for the vast majority of their schools. And when it came down to it, States basically did what they were required to do and nothing more.

The second thing, though, that's important to understand is that there is a process that occurred. There were lots of idea sharing among States. But, in reality, ideas about how to weaken the focus of accountability on disadvantaged kids actually spread rapidly across the States, while some of the very interesting and important innovations that States came up with on how to make accountability really matter for disadvantaged kids actually failed to go viral in anywhere near that same way.

Now, obviously, as data come in, you'll know a lot more in the next year or two about the effectiveness of these systems. But should you get around to reauthorizing before that, you ignore those two lessons at our collective peril.

Thank you so much.

[The prepared statement of Ms. Haycock follows:]

PREPARED STATEMENT OF KATI HAYCOCK, M.A.

Chairman Harkin, Senator Alexander, and members of the committee, thank you for providing me with the opportunity to share with you some initial observations on the State-proposed, Department-approved No Child Left Behind (NCLB) waiver plans.

My name is Kati Haycock and I am President of The Education Trust. The Education Trust is a nonprofit advocacy organization that promotes high academic achievement for all students at all levels—pre-kindergarten through college. Our goal is to close the gaps in opportunity and achievement that consign far too many young people—especially low-income students and students of color—to lives on the margins of the American mainstream.

Whether the NCLB waivers represent progress on—or backsliding from—a national commitment to closing gaps and raising achievement is a critical question, and I appreciate this opportunity to provide The Education Trust's thoughts on that issue. Given time constraints, I will focus just on the accountability provisions.

NO CHILD LEFT BEHIND AND WAIVERS

First, a little context.

In 2002, NCLB ushered in sweeping changes to school accountability. Though accountability had previously been left largely to the States, broad dissatisfaction in Congress with the slow pace of educational improvement—especially for the groups of children for whom Congress provided States with supplemental funding—led you to step in with a new framework designed to set schools on a path to get all their students to "grade level" by 2014.

Moreover, instead of permitting them to measure progress as they always had—based on school-wide averages—you required States to report performance for all groups of children and to evaluate schools by the progress of every group they serve. That requirement—that schools are expected to teach *all* their students to the same State standards—is why NCLB is considered such a landmark law by the disability community, the civil rights community, and others whose children have, for so long, been compromised by lower expectations.

Virtually all observers—including critics of the law—applaud the new focus it brought on improving the achievement of the groups of children who had lagged behind, including low-income students and students of color, English Language learners, and students with disabilities. NCLB wasn't perfect, though, and over time, even the law's staunchest supporters acknowledged a growing number of perverse effects, especially in the years after it was scheduled to be reauthorized.

Like many other organizations, we'd hoped that reauthorization would provide an opportunity to strengthen certain provisions of the law, while also addressing its weaknesses. Both alone and in concert with civil rights, education reform, disabilities, and business organizations, we put forward a set of reauthorization recommendations to Congress.

But when, after multiple attempts, it was clear that Congress couldn't reach agreement on how best to renew the law, we supported Secretary of Education Duncan's decision to grant States waivers of some NCLB accountability provisions. The potential consequences to the equity movement of not granting more flexibility—including permanently marginalizing Federal accountability requirements—were, in our estimation, more severe than the dangers inherent in a waiver process.

Along with many other organizations, we provided feedback on the waiver requirements and guidelines, including extensive data analyses that served as the underpinnings of the "cut the gaps in half" accountability option. Several Ed Trust staff members, myself included, also served as peer reviewers.

WAIVERS: SOME QUESTIONS, WORRIES

Our support for the Secretary's decision to grant waivers should not, however, be conflated with enthusiasm about either the final waiver guidelines or the waiver plans that were actually approved. There were certainly areas of great strength in both the Department's guidance and in some States' plans, but there were also decisions that should trouble all those who understand—as you do—that our future as a nation depends on developing the minds of *all* our children.

In the end, what will matter—of course—is whether we speed progress in raising achievement and closing the long-standing gaps that have separated too many young Americans from their more advantaged peers.

But it's not too early to draw some lessons from this experience as you look forward to reauthorization. The essential question: When given more flexibility, do States preserve the focus of the law, while mitigating its growing problems?

As we look across the approved waiver plans, here is what we see.

1. *Setting Achievement Goals*

Many educators and others decried the 100 percent-of-kids-proficient-by–2014 goal as unrealistic and "not based in real data." So, in its waiver guidelines, the Department gave States two options that *were* based in real

data, but also allowed them to pick something "equally ambitious." This approach seems to have worked, and well.

Close to half the States that received waivers chose some version of the cut the gap in half achievement goal, an idea that originated at Ed Trust after extensive analysis of data from multiple States to identify rates of improvement and gap-closing that meet the "ambitious and achievable" test.[1] This goal requires improvements for all groups of students, but promotes gap-closing by demanding faster improvement from those groups that start farthest behind.

Only Arizona chose the 100 percent proficiency by 2020 goal, while Louisiana is maintaining the NCLB goal of 100 percent by 2014.

Among States that selected to develop their own, "equally ambitious" goals, some chose to benchmark against achievement in their top-performing schools. For example, Colorado and Wisconsin have identified performance in the schools currently in the top 10 percent of achievement statewide and set a goal that all schools, and all groups, would get to that level of performance within 6 years. In those States, getting all schools to the level of the current top performers would represent improvement overall and meaningful gap-closing. This is a practice worth consideration by other States, especially when they make the transition to new assessments.

In the end, though, I think you can feel good about this approach: States mostly set goals you can be proud of—in some cases, depending on the rigor of their assessments, these are even more ambitious than those in NCLB. And they set goals for every student group that you asked them to worry about when you passed NCLB.[2]

2. *Making Goals for All Groups of Students Matter, or Not*

When it came to building their school ratings systems, however, some States made performance against these goals matter, but most didn't.

Minnesota, for example, adopted ambitious goals—overall and for every group of children—and is taking performance against those goals seriously. The percentage of students overall and student groups making their cut the gap in half achievement goals is a meaningful component of the "Multiple Measure Rating" at the center of the State's new accountability system. Tennessee, too, holds districts accountable for meeting gap-closing goals.

But many States created systems in which the goals for raising achievement and closing gaps exist "on the side." Progress may be reported—somewhere—but it doesn't count as a core part of the accountability system. This means that, in a State like New Mexico, a school can get an "A" grade even if it consistently misses goals for, say, its students with disabilities, its Native-American students, or its English-language learners.

This latter set-up sends a terrible message for teachers and parents about what, or who, matters and makes gap-closing goals next to meaningless. This is very definitely a step backward from the civil rights commitment embedded in NCLB.

3. *Replacing Sub-groups With Super Sub-groups*

Some States took what could be a "tweener" approach, by creating a "super sub-group," then "baking" the performance of the super sub-group into their school ratings systems. There are some advantages to this approach, but there are also risks. And, once again, some States undercut the potential advantages of using super sub-groups by either how they constructed those groups or by how they weighed their results in the system.

There are two criticisms of NCLB accountability to which super sub-groups might be an answer. First is that schools with small numbers of students in any group often escaped responsibility for that group of students. Second is a perception among some educators that the law brought about a "check-box" approach to accountability, where a red mark in only one of 40-odd boxes could result in a "failing" label. By creating a larger super sub-group, generally composed of either the lowest per-

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[1] For more information on the rationale and data supporting the cut the gap in half goal framework, see The Education Trust, *Getting it Right*: *Crafting Federal Accountability for Higher Student Performance and a Stronger America*, September 2011.

[2] For graduation rate goals, however, the picture is murkier. The Department of Education didn't explicitly ask States to identify their graduation-rate goals for students overall or groups of students. Fortunately, some States did articulate goals. For example, Arkansas, Connecticut, Delaware, Georgia, and Maryland used versions of the cut the gap in half framework to set graduation-rate goals for students overall and for student groups. Many States, however, didn't clearly articulate their graduation-rate goals.

In response to concerns about the lack of graduation-rate accountability raised by advocates, particularly advocates for students with disabilities, the Department recently clarified that, for those States that were not expressly approved for new grad-rate goals in their waiver application, the original Adequate Yearly Progress (AYP) goals imposed under NCLB still hold. This was an important, if overdue, step.

forming students in the school or a combination of some or all NCLB-subgroups, States could address both concerns.

Certainly, there are risks inherent in the use of super sub-groups. When the super sub-group is composed of low-performers, educators could lose sight of the fact—as they often did, frankly, with NCLB—that we will never close achievement gaps if we focus only on moving the bottom performers up. When the super sub-group is composed of some or all of the NCLB-named groups, the risk is that improvement of the whole will mask flat or declining results for one or more constituent groups.[3]

But there are also advantages in going the super sub-group route, including simplicity. And in most States, the number of schools now subject to accountability for special populations has increased, as has the number of students "counted" in these systems.

I want to emphasize here, however, that the details of these approaches matter, because States can appear to be emphasizing performance of a super sub-group, while actually undercutting it.

Florida and Indiana, for example, each has a super sub-group based on the lowest performing 25 percent of students in a school. In Florida, super sub-group learning gains count for a quarter of an elementary school's letter grade. And, as an additional safeguard, schools that would otherwise get an A, B, or C can lose a full letter grade if not enough students in the super sub-group make learning gains.

In Indiana, on the other hand, super sub-group performance can get washed out. Super sub-group growth counts for "bonus points" toward a school's A–F grade, and schools can also earn an equal number of "bonus points" for growth among the top-performing 75 percent of students, even if their low performers don't grow. This means that schools can accomplish what they need to under the State's accountability system—raise their grades by two letters by 2019–20—even if the students in the lower performing super sub-group don't make their growth target and gaps between low and high performers widen.

So will super sub-groups advance or harm the effort to close longstanding gaps between groups? In truth, only time—and data—will tell. Certainly, it can be argued that more students from the NCLB-named groups are now included, and more schools are subject to special accountability for the students in those groups. That said, the eagerness of States to embrace this innovation—though almost unheard of outside of Florida pre-waivers, the practice has spread like wildfire since—has clearly not been accompanied by parallel enthusiasm to adopt any of the innovative ways a few States put protections in place on their super sub-group system to assure that all groups benefit. Nor, frankly, was there much enthusiasm for weighting results from the super sub-group anywhere near as strongly as groups were weighted in NCLB. Both of these trends say a lot.

4. *Getting Serious About Low-Performing and Big-Gap Schools*

Most State plans for improving their lowest performing schools—now called "'Priority Schools"—are steps forward. They are serious and detailed, and the criteria for exiting priority status are serious, too. Some States also put forth thoughtful plans for improving "Focus Schools," or schools with especially large gaps or especially low performance by subgroups.

The plans for improving Priority Schools stand in stark contrast to those required under NCLB, which labeled schools that missed one goal for one group the same as schools that failed to serve all their groups every year, sending all of them down the same, formulaic "improvement path."

Saying the plans are better, though, doesn't mean they are as good as they should be. There are at least three aspects of the work on Priority Schools that warrant attention.

First, while the Department's required turnaround principles rightly include ensuring that Priority Schools have effective teachers and leaders—who, after all, can imagine successful improvement efforts without them—few approved State plans actually tackle this issue head on. Florida is one exception, with very explicit criteria that could be a model for other States. For example, districts in Florida can only employ teachers in Priority Schools if they meet several criteria, including at least a satisfactory evaluation rating. To work at a Priority School in Florida, principals must have a record of increasing student achievement in similar schools. But again, some State plans were approved without serious attention to this issue.

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[3] Interestingly, Nevada and Wisconsin have a promising approach to balancing the benefits and risks of super sub-groups. These States employ a super sub-group comprised of low-income students, students with disabilities, and English learners only as a "backup" when there are fewer than 10 students in one of these groups in a school.

Second, despite our long track record as a country of investing money and energy into low-performing schools but not acting when results don't change for students,[4] many State plans don't spell out a clear course of action for Priority Schools that, even after receiving resources and support, prove unwilling or unable to improve. In Maryland and Georgia, for example, not meeting priority exit criteria only brings more improvement planning. Fortunately, a few States stepped up and took this on. Michigan and Tennessee, for example, are following Louisiana's lead and developing State-run turnaround zones for Priority Schools that, after receiving support and intervention, still don't improve. Others, like Colorado, have set explicit timeframes for Priority Schools to undergo significant governance changes or, in some cases, to close altogether.

Third, while NCLB provided students attending schools that failed to meet their performance targets for two consecutive years with a right to transfer to another school, the Department of Education's waiver guidelines did not require States to guarantee that right even for students in the lowest performing schools. Consequently, most didn't. Regardless of where you sit on the importance of school choice for students in general, it is hard to conclude that this decision shouldn't be revisited.

Thus, while approved plans for our lowest performing schools represent marked improvements from what occurred in most States under NCLB, we are still not where we need to be.

One final point about accountability.

5. *Including Non-Test Measures in Accountability Systems*

Though States were invited to include in their waiver systems measures beyond tests and graduation rates, very few did so.

This is surprising, because there is near universal agreement on the need to look at multiple measures of college- and career-readiness, especially at the high school level. Moreover, this was also an opportunity—though, admittedly, one fraught with danger—for States to begin to broaden beyond the State-administered tests that have inspired so much opposition.

The good news here is that the States that took advantage of this opportunity did so in ways that should mollify those who worried that they would water down the purposes of the law with non-academic indicators.

In Idaho, for example, schools are held accountable for student participation and success in advanced coursework such as AP, IB, or dual enrollment, as well as their performance on the ACT, SAT, COMPASS, or ACCUPLACER college-placement tests. Kentucky is holding schools accountable for the percent of students who are college- or career-ready, as measured by EXPLORE in middle school and ACT, Work Keys, ASVAB, several Kentucky assessments, and industry certification in high school. Nevada is looking at a number of college- and career-ready indicators, including remediation rates in State colleges.

These are all good measures, and worthy of consideration by other States.

But even when these important college- and career-ready indicators have been included, too often State systems look only at overall performance, ignoring wide gaps between groups.

6. *Taking Care of Transition Issues*

Though States were asked to address certain key transitions in their waiver plans, they generally did not do so in detail.

The Department of Education's waiver guidance asked States to explain how they were transitioning to college- and career-ready standards and assessments. Although many States have lengthy plans, two elements were often missing: how States will ensure all teachers have access to aligned instructional support materials, and how States will communicate with the public about the new standards.

Further, although they were invited to do so, few States proposed plans for transitioning their accountability systems once the new college- and career-ready assessments come online. Nor did most provide any details on their plans—required by the waiver guidelines—to transition students with disabilities being assessed on modified achievement standards using the alternate assessment to the general assessment.

WAIVERS AND ESEA REAUTHORIZATION

As is evident in this testimony, we have questions about some of the Department's decisions—both in issuing its waiver guidance and in approving waivers. We also

[4] The Education Trust-West, *Learning Denied*: *The Case for Equitable Access to Effective Teaching in California's Largest School District*, January 2012.

have questions about why States made some of the decisions they made; about why, when given the chance, they so often built accountability systems that didn't make progress against goals really matter for all schools.

However, when you step back from the details and look at the big messages from these new systems, you may wonder: How did we move the ball forward around our lowest performing schools, but arguably step backward in our messages to the other 85 percent of our schools that they had to serve all groups of children well? Largely for two reasons:

- First, because the Department of Education's waiver guidelines demanded the former and invited the latter, and States did basically what they were asked to, and no more; and,
- Second, because ideas about how to weaken the focus of accountability systems on underserved students spread rapidly across States during the waiver application process, while the very interesting proposals some States made to *strengthen* such a focus failed to go viral in nearly the same way.

As data develop in future years, we'll know a lot more about the impact of these new systems. But should you reauthorize before that happens, we ignore these two lessons at our collective peril.

Before I conclude, I want to reiterate: The questions we have raised today should not be taken to mean we think the Secretary was wrong—given the congressional deadlock and mounting potential marginalization of NCLB's accountability system he faced—to undertake the waiver process. Nor do we think that the bills reported out of this committee and the House Education and Workforce Committee, lacking as they did accountability systems with goals, progress targets, consequences, and serious turnaround requirements, would have been better.

We do think that the innovations launched through the waivers will teach us a lot about what is important in accountability systems. But we hope that as soon as data suggest glaring problems in any State for any of the groups named in NCLB, State leaders will step up and make necessary changes. And if they don't, we hope that the Secretary of Education will live up to his promise to step in and demand changes.

Thank you.

The CHAIRMAN. Thank you all very much.

Ms. Haycock, are you agreeing with Mr. Smarick that we should put this off, or with Dr. King and Dr. Holliday, basically saying we should reauthorize ESEA soon so that they have stability and know what we're going to do out into the future? I kind of got that at the end there.

Ms. HAYCOCK. You'll decide when is best to reauthorize. I'm not going to presume to do that. What I do want to say is what we don't want to do is jerk either States or, frankly, schools around. So if you do reauthorize as quickly as you hope to, it gets really important to be conscious of the transition that most schools and most States are about to go through with the movement to new standards and to build in enough flexibility in the construct that it doesn't jerk people around.

The CHAIRMAN. Thank you.

Mr. Smarick, you said in your testimony about NCLB that "The law did a great deal of good. I hope that fact is never lost." And then you went on to say that before NCLB, "Too many disadvantaged kids were being left behind." Ms. Haycock, in her testimony, said that that's why NCLB is considered such a landmark law by the disability community, the civil rights community, and others whose children have for so long been compromised by lower expectations, and that NCLB brought them in and said that schools are expected to teach all their students to the same State standards.

Is that what you were referring to when you said that it did a great deal of good?

Mr. SMARICK. I think it did several things good, but that is among the highest of them, yes.

The CHAIRMAN. About the disaggregation, so we know what——

Mr. SMARICK. Exactly.

The CHAIRMAN. I just wanted to make that clear.

I wanted to ask both Dr. King and Dr. Holliday—one of the issues that has come up is the issue of graduation rates. I don't think either one of you mentioned that. But, anyway, how are graduation rates included in both your States' accountability system? And are they an effective measure of success? In other words, I'm not saying they should be the sole determinant. But is it part of the accountability system?

The reason I ask that is we heard Secretary Duncan say that 25 percent of our kids are dropping out. So if you don't measure graduation rates, then you're not measuring the school's effectiveness of reaching those kids and keeping them in school. So what's happening in your two States?

Dr. King.

Mr. KING. We've maintained the role of graduation rates in our overall accountability system and in identifying the priority schools where we're focusing the most attention. We focus on those schools that have chronically low graduation rates, below 60 percent, and compelling those schools to think in very different ways about how to organize school, partly with the knowledge that in those schools where students are dropping out, it's often because they are disengaged with school.

The CHAIRMAN. What's your intervention? What intervention do you have?

Mr. KING. We are leveraging the School Improvement Grants to insist that schools either redesign the school with a new focus, like the technology school that I described, or requiring them, at a minimum, to rethink how they evaluate the performance of the adults who work in the school, so to implement the evaluation system and ensure that their principals and teachers are getting good feedback on whether or not they're helping students grow.

We have a long history in New York of having fairly strong State authority to intervene. And we've been very clear with our districts that if they are not able to make significant progress in these schools, they risk that we will revoke the registration of the school and close them.

The CHAIRMAN. Dr. Holliday.

Mr. HOLLIDAY. Same process. It's in our school report card, our district report card. We're holding districts responsible for graduation rates which moves beyond what we've done before. Also, with the low performing priority schools that are below 60 percent, we do a very in-depth needs assessment at the State level to determine curriculum, instruction, interventions, and go all the way down the list. And then we provide a full-time math coach, literacy coach, and principal coach in those buildings, and I think you've seen some of our SIG schools recognized for the tremendous progress that they're making.

Now, not all are making that, because we still come up against resistance with certain districts who won't allow the innovation that we need. And I do have the same takeover capability in Kentucky.

The CHAIRMAN. I have some followup questions. My time is out.

Senator Alexander.

Senator ALEXANDER. Thanks, Mr. Chairman. This has been very helpful to me.

Thanks to the four of you for coming and for your thoughtful comments, and the Secretary was helpful, too. It's interesting that we really skipped a generation in terms of reauthorizing the Elementary and Secondary Education Act. This last 5 years should have been the reauthorization period, and we should be looking at whatever the new generation should be.

As I think about it, I look back over the 10 years and think, well, at least most all of us agree that the great contribution of No Child Left Behind was the new reporting system for children so we have a better understanding of a great many children, their lack of progress or progress, that we didn't before, and we all want to keep that and use that and make sure we improve on it and understand that.

I think the thing that's happened over the last 5 years that's, to me, most interesting is what the States have done. I mean, this is a culmination of 25 or 30 years of effort that's included Common Core standards, and then curriculum, and then working together to develop tests, and then working most recently with accountability systems and performance standards, and then the hardest part, which is teacher evaluation, and trying to relate that pay to outstanding performance by teachers, which is the hardest part of it all to me.

The combination of events have caused States to make enormous progress. When the waiver became available, it fit into that opportunity, it seems to me, and that made a good difference. I advised our Governor when he asked, "Grab the waiver and take it for all you can get." And what he was able to do was pass a number of important changes with the State law and get some broad flexibility from the Federal Government, because what Secretary Duncan wanted to do was approximately what we wanted to do, anyway, and off they've gone.

They've got 6 or 7 years now, and going back to what Ms. Haycock has said, the last thing we'd want to do is interrupt the progress of those States that are making progress, because they're on a course. All this takes a lot of time. It's like getting a train moving, and we want to take full advantage of it.

I want to direct my question, really, to any of you, but start with Dr. Holliday or Dr. King. Assuming we can reauthorize ESEA—and we really should do that. I mean, it'll take 2 years to get it into effect, even if we do a good job. But how much instruction do you want from Washington now that you've gone through your own work on standards, curriculum, tests, and accountability systems? How specific do you want the Federal Government to talk to you about what performance standards should be, how to erase achievement gaps?

Do you really want district superintendents coming up here asking permission to create this growth system or that growth system? Do you want specific criteria for teacher evaluation that are as specific as are in the waivers? I have a bias about that myself. But let me ask you about that. Let me start with the Chief State School

Officers because of the enormous amount of work you've done in these areas.

Mr. HOLLIDAY. Yes, sir. I believe the Chiefs Accountability Task Force, nine principals, would be a great starting place for reauthorization. Forty-four States signed onto that, and the other six, I think, are in various stages with that.

Senator ALEXANDER. Without interrupting too much, you used the words, concrete parameters in flexibility. I mean, the real guts of our discussion here when we get down to it will be between those who say we've got to have parameters set in Washington about exactly what a teacher evaluation system is, about what performance standards must be, about defining the achievement gap, because we can't trust the States to do that. My bias is to go the other way, using as evidence most of what's happened in the last few years, especially the last 2 or 3 years.

Mr. HOLLIDAY. I think I'm a balance between both positions. I want to protect the children that need our protection. I want to protect disadvantaged children. I want to ensure we have a balanced system so that health, physical education, art, music, and career and technical education are not put aside to focus solely on bubble kids with math and reading. I think we've got enough lessons learned about the unintended consequences, and then the guiding principles that the chiefs supported, and then the advocacy groups like Kati's who say, "Look, we've got to make sure we protect this."

But with teacher evaluation, I've got two great teachers right behind me who serve on a State committee for developing teacher evaluation systems. I think you've got to give a little flexibility to States to do it with teachers rather than to teachers.

At the end of the day, I think moving toward a higher standard of college- and career-readiness with comparability and research required to show that your States' outcomes are comparable to other States, rather than what went wrong before, that we had no comparability with State results. But with NAPE, you've had the gold standard that showed you that some States had rigorous standards that were college- and career-ready, and some States did not.

I think those components of rigor and research and comparability we would all want. And that's what it means by saying, "Here's the outcomes we want. You've got this flexibility at the State level."

Senator ALEXANDER. Mr. Chairman, my time is up. The only thing I would say back to that is unless you're careful, you're going to get your performance standards, your teacher evaluation systems, your achievement gap requirements, exactly what a growth model ought to be, all written here by somebody instead of in the State office in Kentucky. I don't think you want that. I don't want that in Tennessee, and that's what I'm getting at.

The CHAIRMAN. Thank you, Senator Alexander.

Senator Bennet.

Senator BENNET. Thank you, Mr. Chairman.

And thank you to the panel. That was great testimony. I'm struck, Ms. Haycock, by your comment, because there's a venerable condition in school reform in this country where you hire a superintendent, the superintendent is there for 2½ years, the scores go up a little bit, and somebody else hires that superintendent to go

to another district. Or you hire a superintendent, and 2½ years later the scores are not going up, and that superintendent moves on to a smaller district someplace.

Then the new person comes in in either case, and the easiest thing for them to do is rip out all the curriculum that the previous superintendent developed because it's a way of announcing that they've done something. And the problem with this is you never get or rarely get into a path of continuous improvement, and that is very wearing on our teachers. It's very wearing on our kids and our principals.

I applaud the work that you have done in your States, and I'm aware of what you're doing. I think that we are beginning to see there and in Colorado the chance for continuous improvement.

I think the caution is a very important one, Mr. Chairman, because the last thing we want to do is interrupt that. But if there's an opportunity to build on it, then we ought to be able to do that.

I also can't tell you how much I look forward to working with the Ranking Member on this reauthorization, because I think that in the ideal world, at least from my perspective, where we would be is we'd be saying we have a set of outcomes that we would expect people to be able to manage toward, and that's really what we're going to say about this. I don't think we're all the way there yet, and I think that we've learned that there are some elements of things that make it more likely than not that we'll succeed.

And having the knowledge that those things are being done, not necessarily drafted in this town, but that those things are being done may be an important proxy for a world where everybody knows what is actually going to lead to student outcomes that we want and to a world where we are actually seeing those outcomes rather than the devastating outcomes we're seeing for too many of our kids in this country. I look forward to our having that conversation to see where we can strike that balance.

I had a question for Dr. Holliday and Dr. King. In the work that you're doing, to think about the continuum from early childhood through K–12, through higher ed—and we are, as well, thinking about that—and in a world where we really are—and the Secretary mentioned trying to drive our young people to have, as he said, in their back pocket college credit before they leave, which is a huge step forward for, among other things, college completion, which needs to be a goal.

I just wonder whether if you were writing this legislation, thinking about the reauthorization of the Higher Education Act, the K–12 Act, what we're doing in Head Start and ECE, are there things, if you could wave a magic wand, that we ought to think differently about here? Because for you, it's a continuum. For us, it's different bureaucracies and different silos that may or may not be leading where we want to go.

Mr. KING. Two suggestions. One is I think a lot of the breakdown that we see in our States is between the K–12 system and the higher education system, where the K–12 system is pointing toward one set of assessments and outcomes, and then higher education has a whole different set of assessments that they use to decide whether or not students can engage in credit-bearing course work. If there are ways to incentivize or even compel K–12 systems

and higher education to agree on what college- and career-readiness looks like so that students can learn that in 10th or 11th grade and get their remediation in high school before they get to college, I think that would be a huge value to the country and to those students.

In New York, in our 2-year institutions, more than 50 percent of entering students are in at least one remedial course, paying college prices for high school courses. That is a huge problem.

Similarly, I think that early childhood is another place where transitions matter a lot. Building systems where every child has access to high quality early childhood service, and that service is evaluated against student readiness for school, I think, is critical. We have too many early childhood providers who are essentially doing babysitting rather than preparing students for school.

And too often, the schools and the early childhood providers aren't talking to each other. So if there are ways to both ensure States provide that high-quality early childhood preparation but then connect it to K–12, that would be immensely valuable as well.

Mr. HOLLIDAY. I would agree with both of those things. And I think our State legislation, Senate bill 1, would give you an example of how to make higher ed and K–12 work together. The only two pieces I would add would be related to title II teacher preparation programs and teacher support and training programs. If we could have good clear parameters at the national level for teacher preparation, that might help us out.

The CHAIRMAN. Dr. Holliday, another round here. Dr. King mentioned in his testimony about early childhood education. I think you may have heard me say something to Secretary Duncan about that, also. Has the Council of Chief State School Officers weighed in on this at all? Have you talked about early childhood education?

Mr. HOLLIDAY. Absolutely. We think it's a foundation of our success, and we're worried that—like in Kentucky, we just had to move back from 150 percent poverty level serving assistance for childcare. We had to move back to 100 percent due to budget cuts and Federal funding cuts and the potential of sequestration.

The CHAIRMAN. Have you all looked at what sequestration might do to your schools and your States?

Mr. HOLLIDAY. I send it out once a week.

The CHAIRMAN. Do we have it?

Mr. HOLLIDAY. I'm sure Senator Paul gets it quite regularly.

The CHAIRMAN. Do we have it? I was just asking my staff if we have it. But I'd like to know what you're looking at and what the effect of sequestration would be on your schools.

Mr. HOLLIDAY. About 9 percent, and the title I schools that have the highest poverty levels would be impacted even more. We're looking at like over 100,000 kids losing services. We're looking at over 3,000 educators losing their jobs.

The CHAIRMAN. Are you talking about nationally?

Mr. HOLLIDAY. No, sir. I'm talking about just in Kentucky.

The CHAIRMAN. I assume the Council of Chief State School Officers has some data for the Nation as a whole.

Mr. HOLLIDAY. Yes.

The CHAIRMAN. I just wanted to make sure.

Dr. King, what would the impact be in your State of sequestration?

Mr. KING. It's similar. And I believe CCSSO has a State-by-State analysis of what the impact would be.

The CHAIRMAN. I'll have to look at that.

Ms. Haycock, I had one last thing that I wanted to ask you. I had asked Dr. King and Dr. Holliday about the graduation rates. I wanted to ask you about that, also. Is this a problem? Have you looked at what we do in terms of—what certainly could mask low graduation rates for subgroups of students?

Ms. HAYCOCK. Yes. As you know, Senator, there was a glitch in the waiver process, and some States submitted graduation rate goals and some didn't. That's now been fixed. But the problem of some States not looking at goals by group remains. That's something to attend to in the future.

The CHAIRMAN. Thank you.

Let me ask, I guess, both Dr. Holliday and Dr. King, maybe—I understand, I get how you look at college-ready, and then you factor it back through high school and elementary school. I can get that. How did you do career-ready and factor that back? Now, you mentioned one school in particular. But how did you address that in Kentucky, because you were one of the leaders in that?

Mr. HOLLIDAY. Yes. Career-ready has two sides to it, actually three, but we can only measure two right now. One is the academic skills that they need, and the academic skills they might need in some careers is the same as college. But in some careers, they're very different. They're more technical reading, technical math, technical writing.

So we have academic measures that we added for career-ready. We added WorkKeys, we added armed services vocational aptitude battery at the 50th percentile, working with the Pentagon to set that. But then we also require the technical skills, industry certifications that are nationally recognized. I know New York, Georgia, and a lot of States are doing this similar work for career-ready.

Serving on the National Assessment Governing Board, I can tell you that 12th grade NAPE can probably correlate very strongly the proficiency cut score with college-ready. But we can't make that same statement about career-ready, because it's much deeper, much more nuance, and requires kids to be course completers in these courses, like a STEM course area or aviation or aeronautics.

The CHAIRMAN. When you developed your State plan, you must have sat down with a lot of different stakeholders. And I assume for career-ready, you sat down with what, the business community? I mean, who—community colleges? How did you do that?

Mr. HOLLIDAY. All of those. The Association of Manufacturing was a big push for this, and the State Chamber were great partners in developing this.

The CHAIRMAN. How about you, Dr. King? What did you do in New York?

Mr. KING. Very similar. One of the things that we tried to build into our waiver was in the schools that we call our reward schools, the schools whose success or progress we're recognizing, building in recognition for successful enrollment of students in career and technical education where they leave with an industry certification as

well as their high school diploma. And when we build our State-approved career and technical education programs, we require a partnership with the business community and we also require a partnership with a higher education institution so that students have the opportunity to articulate into those programs.

The CHAIRMAN. When you say higher education, are you including community colleges in that?

Mr. KING. Exactly right.

The CHAIRMAN. Because my own view on this is that not every kid that goes through high school needs to or perhaps is best suited to go to some 4-year liberal arts school. But they can do other things, and community colleges, to a good extent, are there for them for that type of technical degree. But, obviously, they need to be brought up to that standard before they graduate from high school.

Mr. KING. That's right. And part of what we try to convey is that for our students who are in career and technical education programs, what they need is to begin to be exposed to those community college level courses. In our State, most students who are completing that career and technical education credential are also leaving with multiple college credits, which they might apply to a 2-year degree or they might just apply to demonstrate to an employer that they've gotten the right training.

One thing we see is that our high-poverty, high-need students tend to perform at higher levels when they're enrolled in those career and technical education programs than demographically similar students who don't have access to those programs.

The CHAIRMAN. In closing, I'd just be interested in any recommendations, again, that you would have to this committee, even if we should address it or if we should address it in ESEA, on how we would address—I get the college-ready and career-ready. How should we address that, if we should address it?

Mr. KING. Absolutely. That school that I mentioned, P-Tech—one thing that they did with IBM was actually work with IBM engineers to map the skills that students need to succeed when they become engineers at IBM. And they're actually using that to inform their high school curriculum. I think we need to do a lot more of that, trying to map backward—what does a high school student need to know in order to go on to success in a career?

The CHAIRMAN. I don't mean to beat this around any longer. But, yes, we think about careers in the computer field, the computer-aided designs, all the new things that we have to learn. But have you tried to get a plumber lately on a weekend—and how much it costs? I mean, I can't believe—there are jobs out there that require some technical ability, obviously, sure. But they don't require that high level of expertise that you might expect going to work for an IBM, for example.

Mr. SMARICK. Senator, could I add one thing to that?

The CHAIRMAN. Go ahead.

Mr. SMARICK. In New Jersey, we had a career-ready task force to look into some of these very issues. And two of the things that came out of that that were most surprising for me are the enormous rates of remediation at the community college level, even

among some of the districts that are the highest performing, that we didn't expect to see.

And the second is their views on what end-of-course and end-of-year assessments ought to look like in high school, different than what might be intuitive to some people working in high schools or the K–8 atmosphere. It was an initiative that was even more important after we did it than we thought leading into it.

The CHAIRMAN. The remediation rates are unconscionably high. Thank you very much.

Senator Alexander.

Senator ALEXANDER. Thank you, Mr. Chairman, for the college- and career-ready. It sounds like we're getting some distinction between career-ready and college-ready. In some of the testimony 2 or 3 years ago, I was trying to press witnesses—are they the same, everybody going to college? That's obviously not true. Everyone is not going to college, at least immediately, and there's some difference between a career path and a college path.

So it will be helpful to us to have your experience with that so that we don't write anything into a reauthorized law that interferes with the ability of States to experiment with that and take it where it needs to go. I know in Tennessee, the Governor is moving his attention from K through 12, where he spent a lot of time in the last 2 years, to higher education, and he's finding that one of the biggest needs is to create opportunities to train workers for very good automotive jobs that have come to our State. They have plenty of those jobs available and not enough workers available who are trained.

That's obviously a career path that we need to focus on. It's not the same as a college path. It may be that both require a very good comprehensive result in high school. It probably does mean that. So that will be very helpful.

Dr. King, let me ask you a little bit about teacher evaluation. One of the things we've got to decide in the reauthorization is how intrusive to be in the Federal law or Federal regulations about teacher evaluation. I've got my own strong biases based on about 30 years of being battered by it.

Tennessee started in 1984 with the first program to pay teachers more for teaching well. And it was sort of the Model T, but from all the work that was done there, including starting to relate student achievement to teacher performance and then that to pay scales, has come the work that's been done and the ability of the State to receive Race to the Top money and to move ahead, as Secretary Duncan said, in making some real progress with teacher evaluation.

But it's really hard to do, I mean, even with 30 years of experience. Everybody says, "Well, it's easy to tell good teachers from bad teachers." Well, you know, everybody knows a good teacher when you see one. But if you want to set up a system that's fair to teachers, it's really hard to do.

My strong bias is that it's so hard to do and takes so much buy-in from local communities, teachers, and that there's so many different ways to do it that we need to be very careful here about defining concrete parameters, to pick up a word, about exactly what we mean by teacher and principal evaluation. We want to create

an environment to encourage it and we want to make progress toward that. I believe it's the holy grail of education.

So I go from being a Governor who was probably the leading advocate at the time for relating teacher pay to teacher performance to being a very big skeptic here about how much we can actually do here in the law or in the department where people are tempted to put their fingers on everything and say, you know, "We think you ought to do it this way or that way."

Now, you're in the middle of trying to deal with a new teacher evaluation system in New York, and you've had some problems with it. The mayor of New York City, as I understand it, doesn't think too much of it. You're going through what people always go through.

What would your advice be to us about how we can do the best job of creating an environment in which you're more likely to succeed in helping New York develop a system of teacher and principal evaluation that relates performance to student achievement?

Mr. KING. Well, I think you're right. It is a challenging thing to implement. It requires significant culture change in schools and districts to do evaluation well. I think it would be helpful in a potential reauthorization to set a few clear bright-line parameters and then to give States flexibility to adapt those parameters to their context.

In terms of what those bright-line parameters should be, I think one has to be the inclusion of student performance. I think the general public assumes that all evaluation systems would take into consideration whether or not students are learning. But we know that that has often not been the case. So inclusion of student performance, I think, should be an absolute minimum.

The evaluation system playing a role in decisionmaking about employment, whether it's about tenure decisions or promotion decisions or salary decisions, in some form, I think, is critical so that the evaluation system is not just a compliance exercise but has meaningful consequences.

I think another bright-line parameter is real transparency about the data. One thing that we're seeing even in our initial implementation is that teacher talent is inequitably distributed. And there are schools that consistently have the weakest teachers, and the result is that it has an impact on the student performance, not surprisingly. So just as data transparency was critical to, I think, the contribution of No Child Left Behind for student accountability and accountability for schools for delivering for students, we need transparency around the data on teacher and principal evaluation.

The final point is to make sure that States align their professional development work with those evaluations. For the evaluation system to be meaningful, it has to translate into feedback that helps people get better. So whether it's title II-A spending or the investments we're making in teacher and principal preparation, those should be aligned to the evaluation systems that States are implementing.

Senator ALEXANDER. Well, just to be the devil's advocate, you're a great big State. Why can't you do that yourself? Why do you need Senator Harkin and me to tell you to do it? We only give you 10 percent of your money.

Mr. KING. Two reasons. One is I think that the teacher and principal standards need the benefit of a national priority on linking evaluation to student performance. It should be clear to everyone that if you enter the profession of teaching——

Senator ALEXANDER. Well, isn't it clear to you? I mean, why do I have to come from the mountains of Tennessee to tell New York that that's good for you? Why can't you decide that for yourself?

Mr. KING. I think it's more that Congress is saying that's good for the country for all teachers and principals.

Senator ALEXANDER. Well, why is Congress smarter than you are? You're the education commissioner for the State of New York. You're supposed to know what's going on.

Mr. KING. I think we're doing a good job in New York.

Senator ALEXANDER. Well, then, why don't you do it?

Mr. KING. And we are.

Senator ALEXANDER. Why do you need us to tell you?

Mr. KING. Again, I think it's about saying as a country that we believe that teacher and principal performance matters.

Senator ALEXANDER. But as a country, you've just gone through a whole series of exercises where States have together created common standards, common curriculum. They've created accountability systems. They've created tests. They've done a pretty good job of that. And it's just mystifying to me why anybody thinks that—national, to me, doesn't mean Federal. National, to me, means States working together. That's just my own view.

And I think we're more likely to get where we want to go if we have this explosion of creativity from communities and States, a lot of which I've seen in the last 10 years. And I fear that we'll get in your way, because we'll define it a little bit, and then they'll send it over to the department, and an enthusiastic person will define it a little bit more, and then you'll come back and complain to us about that, and I'll say, "Well, you asked for it."

Mr. KING. I share your concern. I think, probably, where we disagree is maybe what's the right floor, and I think the role of the reauthorization is to set the right floor. Just as it's important to set the right floor around accountability for the performance of subgroups, students with disabilities, English language learners, ET cetera, I think it's important to set the right floor around teacher and principal evaluation and ensure that States really do hold the adults accountable in schools for student outcomes.

Mr. SMARICK. We actually went through an example in New Jersey that exactly agrees with the point that you're making. We were dealing with a pilot of a teacher evaluation that was completely driven by our State, and at the same time, the State legislature was trying to create a new tenure law that would deal with teacher evaluation.

We had a lot of balls up in the air at the exact same time, trying to get our teachers on board, trying to have an evaluation done on our pilot program, at the same time we're negotiating with the State legislature on the law. And then the waiver provisions came in and set a new set of timelines. It was a new set of complications.

And we, internally, in the department, were trying to navigate all of this, saying people in Washington, DC, don't fully appreciate all of the things that we're trying to deal with here in our State.

We're trying to get this done. We're aligned on the mission. But people in Washington, DC, just can't have an appreciation for all the conditions that we're dealing with here.

I mean, someone might have the best of intentions at the Department of Education about a timeline being 2013, 2014, implementation of X or Y. But that might not necessarily hue with what's best in the State.

Senator ALEXANDER. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Alexander.

Any last things from anyone here on observations or anything like that?

Well, thank you all very much. This has been a great panel, and you've given us a lot to think about. And I've asked you to give us some other information in terms of that career-ready and how we deal with that.

The CHAIRMAN. I'll just say in closing that we have gained valuable information from all of you. I think the Federal role, from my viewpoint, in education is to ensure that our Nation's most vulnerable children are not forgotten. Nearly half a century after the original passage of the Elementary and Secondary Education Act, these children remain our charge.

I look forward to working together to ensure our Federal efforts and investments are met with willing partners in the States and local districts to meet our common goal of high quality education for all students from all sectors of society, including rural. Again, I thank our witnesses, I thank Ranking Member Alexander, and I request that the record remain open for 10 days for members to submit statements and additional questions to the record.

The committee will stand adjourned. Thank you very much.

[Additional material follows.]

ADDITIONAL MATERIAL

PREPARED STATEMENT OF SENATOR BALDWIN

Thank you, Chairman Harkin and Ranking Member Alexander. I want to add my own thanks to you, Secretary Duncan, for being here with us today. As a new member of this committee, I want you all to know how eager I am to work on education issues and bring the voices of Wisconsin educators, students, parents, and administrators to our important work here in Washington, DC.

I believe that every child deserves a high quality, free, K through 12 education. Similar to my views on health care, I believe a quality education is the basic right of every American. Luckily, I represent a State where providing our children a strong foundation to succeed is a value we all share.

I realize that actually doing this important work is a little more complicated. No matter how dedicated our teachers are, a high quality education demands we address issues like poverty, racial isolation, access to early childhood education, health care, the availability *and* stability of high quality teachers, before and after school programs, wrap-around services—the list goes on. Educating our children is challenging work, but one of the most important efforts we are undertaking to compete and win in the global economy.

Because it's such a high priority, I do believe very strongly that waivers are not an adequate long-term strategy and comprehensive reform of No Child Left Behind is necessary. Chairman Harkin and Ranking Member Alexander—I look forward to working with you both in the coming months on this undertaking.

I am heartened to hear about your progress with the waiver program, Secretary Duncan, and look forward to learning more about the flexibility effort and how it has progressed in Wisconsin.

As you know, we were granted a waiver in July 2012 and just finished our Stage One review. From what I've heard from education stakeholders in my State, the implementation of the waivers is going as well as could be expected—but people are nervous.

My sense is that there's a deep desire for honest-to-goodness reforms and an openness at all levels to try to understand the new requirements and move quickly.

I do think Wisconsin educators are worried that the changes they are making now may not be sustained in the long term—and long term, sustainable change is what will really make a difference in the lives of our students.

Mr. Chairman, I'd like to submit this letter sent to me by Wisconsin ASCD's for the record. Secretary Duncan, I'd like to ask my staff to provide yours with a copy, as well, so you can hear at least some of the feedback we've received from Wisconsin education stakeholders on the waiver process so far. It's my hope that we can continue this conversation moving forward.

Thank you.

WISCONSIN ASCD,
THIENSVILLE, WI 53092,
February 6, 2013.

Hon. TAMMY BALDWIN,
U.S. Senate,
Washington, DC 20510.

Re: Committee on Health, Education, Labor, and Pensions Hearing on Thursday, February 7 to examine the Early Lessons of State Flexibility Waivers

DEAR SENATOR BALDWIN: As we discussed last week when we met with you, the waiver plans are not adequate substitutes for ESEA reauthorization, which is 5 years overdue. Although they provide some relief from NCLB's onerous accountability requirements, the waivers have created a patchwork system of temporary fixes and do not provide the stability and continuity that our education system needs. This process is not the preferred way to set Federal education policy.

As the cornerstone of Federal K–12 education policy, ESEA needs to be reauthorized by Congress this year to provide the stability and long-term vision our education system needs. The offer of waivers from the challenging NCLB requirements was a welcome relief, but this new set of Federal requirements presents its own implementation challenges, including strain on staff capacity and resources. The requirements to develop educator evaluation and school improvement systems fail to recognize the unique circumstances or existing and needed support structures of each school and district.

From Laurie Asher, Superintendent, School District of Laona: While the waiver for Wisconsin is a work in progress and has some good things like multiple measures, it also is very weak in the data for high school and cannot be used either for school improvement or understanding how well a school is doing. For my school district, which is very small, we only got one score out of the four—attendance. We did not have enough students to rate in the ACT or gap areas. This may have made our score lower and shed a negative light on our district. The other concern about the waiver is that we will put our financial and personnel resources both at the State and district level into using this data and meeting these goals. When NCLB is reauthorized, if it has other guidelines, we will have to change our practices yet again, creating more confusion and negative feelings due to the lack of consistent legislation.

Waiver requirements are another set of considerations educators must deal with as they work to implement any number of Federal and State initiatives, some of which are duplicative, overlap, compete with each other, or are out-of-sequence. These initiatives include Race to the Top, Common Core State Standards implementation, and the work of two different assessment consortia. From Fran Finco, Superintendent, School District of Onalaska: The number of waivers and the timeframe in which we are expected to have those in place is near impossible.

Many of these reforms have required State and local policy changes, but great uncertainty remains regarding the temporary nature of the waivers (lasting only 2 years) and the effect of ESEA reauthorization occurring over this same period.

From Holly Rottier, Assistant Superintendent, Kimberly Area School District: One of the areas of concern in the Wisconsin waiver is in regard to Teacher Effectiveness. The waiver requires that States implement a system that raises accountability for teachers. Wisconsin created a system that requires a consistent evaluation of teacher practice (50 percent) and use of test scores (50 percent). In creating this system, two broad concerns have arisen:

1. Erosion of high quality teacher evaluation: The nature of the systems developed to ascertain teacher effectiveness have caused more time to be used in cataloguing data instead of having the crucial post-observation coaching that we know makes a significant difference in a teacher's practice.

2. Inadequate availability of assessment data: In the haste of creating a system to hold teachers accountable, current assessment practices were not adequately considered. The high-quality assessment data we have for teachers to write Student Learning Objectives is most often focused around individual classroom units and benchmarks. This will provide microscopic data for accountability, but will do little to raise the level of classroom achievement.

Overall, the concern is that the system will take valuable time away from excellent teaching and evaluation practices. In my opinion, the solution would be to provide a framework of accountability so that districts can submit their own systems for approval (if they meet the criteria of the framework). This way they can remain accountable at a State level, yet focus on local needs and priorities in teacher eval-

uation and student learning. For those districts that are doing well, the current system stands to damage good practices instead of enhance them.

We urge you to continue to work with your colleagues in a bipartisan manner to complete ESEA reauthorization in 2013 so that schools, districts, and States can move ahead with planning for the coming school years without the uncertainty of a patchwork system of ESEA fixes and temporary waivers.

Thank you for your attention to this important education issue. Wisconsin ASCD is a non-partisan, non-union professional membership organization focused on teaching and learning. Our 700 members from around the State represent all levels and job roles in education.

DENISE PHEIFER,
Executive Director, Wisconsin ASCD.

RESPONSE TO QUESTIONS OF SENATOR MURRAY, SENATOR HATCH, AND SENATOR MURKOWSKI BY ARNE DUNCAN

U.S. DEPARTMENT OF EDUCATION, OFFICE OF LEGISLATION AND CONGRESSIONAL AFFAIRS,
WASHINGTON, DC 20202–3100,
June 7, 2013.

Hon. TOM HARKIN, *Chairman*,
Committee on Health, Education, Labor, and Pensions,
U.S. Senate,
Washington, DC 20510.

DEAR CHAIRMAN HARKIN: Thank you for your committee's followup questions from the February 7, 2013, hearing entitled "*No Child Left Behind: Early Lessons from State Flexibility Waivers*." Please see the enclosed document for responses to questions that members of the committee submitted.

If you have any issues or questions about our responses, please contact me at (202) 401-0020.

Sincerely,

GABRIELLA GOMEZ, *Assistant Secretary*,
Office of Legislation and Congressional Affairs.

SENATOR MURRAY

Question 1. All students need to graduate from high school college- and career-ready in order to be competitive in today's workforce. Therefore, accountability for graduation rates must be a substantial factor within State accountability systems. I am concerned that many States that have received waivers are not placing enough weight within their accountability systems on high school graduation.

Under the waivers, 12 of the approved States have created an accountability index in which the adjusted cohort graduation rate accounts for less than one quarter of the overall index. The end result is that a school's low graduation rate could either persist or make minimal progress and the school could still demonstrate improvement under the accountability framework.

In addition to a lack of meaningful emphasis on the overall graduation rate, this same, alarming trend also applies to low subgroup graduation rates. Eleven of the approved States have weak or no subgroup graduation rate accountability. Furthermore, two of these States limit the number of subgroups for which schools are held accountable. In these 11 states, a low subgroup graduation rate would fail to trigger intervention on its own.

In light of these concerns, what does the Department plan to do to ensure that schools are held accountable for increasing the graduation rates for all students?

Answer 1. I share your determination to help all students graduate from high school college- and career-ready. Preparing students to graduate from high school ready for college is the key to reaching the President's goal of the United States once again leading the world in college completion by 2020. Under ESEA flexibility, not only are States required to continue to comply with the 2008 graduation rate regulation, they are implementing greater accountability for graduation rates, and sooner, than under NCLB.

For example, under ESEA flexibility, States must identify all title I high schools with graduation rates below 60 percent over a number of years as priority or focus schools—these are the so-called "dropout factories" that account for about half of all dropouts in the country. And they must implement rigorous, targeted interventions

in all of those schools to address and correct the factors contributing to low graduation rates. For example, in Oregon, specific interventions include early warning systems to identify students at risk of dropping out and greater personalization of learning for students through smaller learning communities or Ninth Grade Academies.

Under NCLB, schools that did not make AYP as a result of low graduation rates could go for 5 years without being required to implement rigorous interventions, and even then, there was no requirement that the interventions be targeted to address the root causes of the low graduation rates. States that have received ESEA flexibility, on the other hand, will use graduation rate targets, including for subgroups, to drive incentives and supports in all title I schools that are not priority or focus schools. And unlike the one-size-fits-all interventions of NCLB, these supports will specifically address the root causes of low graduation rates.

We already are seeing a new emphasis on high school graduation in States and districts across the country. In fact, a number of States increased their graduation rate goal under ESEA flexibility, and none decreased it. I look forward to working with you to continue to reduce the dropout rate and increase graduation rates for schools and districts across the Nation.

Question 2. Will the Department be requiring amendments regarding State approaches to graduation rate accountability either now or upon renewal of the waivers?

Answer 2. Last November, the Department issued a letter to States on the uniform reporting of graduation rates, including State-by-State 4-year adjusted cohort graduation rates. That letter is available at *http://www2.ed.gov/policy/elsec/guid/secletter/121126.html*. We also made available to States and posted on our Web site at *http://www2.ed.gov/policy/elsec/guid/esea-flexibility/gradrate/index.html* a document highlighting some of the various ways States have emphasized graduation rate and related college- and career-ready indicators in their approved ESEA flexibility requests.

This is an example of our effort to establish an unprecedented, Department-wide system of monitoring, support, and technical assistance for States to help them increase their capacity to support districts and schools in implementing key reforms that will lead to improved student outcomes, including how graduation rate data can be effectively used to improve interventions. We will provide States with support that is directly relevant to their plan and needs. To support States in increasing their capacity to improve student outcomes, the Department will shift its monitoring process from a focus on compliance to one focused on outcomes and results.

Monitoring of States that have received ESEA flexibility is taking place throughout the school year and will include an assessment of the effectiveness of State implementation and the State-level systems that support implementation. This will assure that States are maximizing the impact of their plans for reform to improve educational outcomes for all students, including a focus on improving graduation rates. The information from monitoring, as well as requests from States, will be used to inform delivery of technical assistance.

The Department encourages each State approved for ESEA flexibility to continuously evaluate the effectiveness of its plan to improve outcomes for students. As a result, a State may want or need to amend its approved request, to ensure that it is meeting the goals of flexibility. We have developed a process for States that want to submit amendments, and have posted guidance on our Web site, which you can find at *http://www2.ed.gov/policy/elsec/guid/esea-flexibility/index.html*. During that process, we will maintain the same high bar we set during the approval process. So, amendments must meet the same principles as the original, approved request. And, we are posting all approved amendments on our Web site.

Finally, while State plans are for 3 years, the initial waiver period is only 2 years. In addition to ongoing monitoring and technical assistance, the Department plans, by early 2014, to assess State progress. Where flexibility is supporting improved instruction and student achievement, we will approve States for an extension.

Question 3. The Department's flexibility policy includes a very important provision to support improvement among the Nation's lowest performing high schools. Specifically, I applaud the Department's policy of requiring that high schools with a graduation rate below 60 percent be classified as priority or focus schools. I am concerned, however, that this requirement only applies to high schools that receive title I funding, and at the discretion of States, the policy may be applied to high schools that are eligible for, but do not receive, title I.

A number of approved waivers include promising plans for school improvement. Unfortunately, a significant number of low-performing high schools may never ben-

efit from these reform efforts because the requirement for reform is tied to a high school's title I status. High schools serve approximately 25 percent of students yet receive only 10 percent of title I funding. In addition, nearly 1,300 high schools with poverty rates at or above 50 percent are not classified as eligible for title I. The current mechanisms for measuring poverty are particularly inaccurate at the high school level. At least two States that have received waivers have attempted to address this issue. In New York, any high school, regardless of title I status, may be identified for intervention due to a low graduation rate. In Kentucky, the definition of "persistently low achieving school" includes low performing high schools with a poverty rate of at least 35 percent instead of linking "persistently low achieving" status solely to title I status.

By tying improvement requirements and support to title I status, many high schools may be overlooked twice by Federal education policy. First, high schools are less likely to receive title I funding than middle or elementary schools. Second, they are less likely to receive support for improvement because they do not receive title I.

What can the Department do to ensure that title I status does not serve as a barrier to low-performing high schools receiving much-needed intervention and support?

Answer 3. Under ESEA flexibility, many States developed systems of recognition, accountability and support that apply to all schools. Part of ESEA flexibility includes identifying all title 1-participating high schools with graduation rates below 60 percent over a number of years as priority or focus schools, and States can also identify such high schools that are title I-eligible as priority schools. Ten States expanded the definition of priority and focus schools to include all schools meeting the criteria for priority and focus school designation, regardless of title I status. Nineteen States also identified more than the required 5 and 10 percent of schools, respectively, as priority and focus schools.

Question 4. In your testimony you credit the No Child Left Behind Act for holding schools and States accountable for 100 percent of students. Given the ability for States to receive relief from several provisions of the No Child Left Behind Act including the accountability system and the waivers allow for States to aggregate subgroups into what is commonly referred to as "super sub-groups." Does the Department have a plan to ensure States do not water-down accountability by developing or reporting on "super sub-groups?" Please describe the plan.

Answer 4. The way in which we allowed States to use combined subgroups actually brightens the spotlight on subgroup achievement. States must continue to publicly report the achievement and graduation rates of each ESEA subgroup, separately. But, by combining subgroups, thousands more schools now are specifically accountable for the students in those subgroups than would have been before due to small sizes of subgroups at some schools. For example, a school with a small English Learner subgroup and a small students with disabilities subgroup was not held accountable for the performance of either of those subgroups under NCLB. By combining those subgroups, the State can ensure that more schools are held accountable for the success of all students. But we also didn't 't allow any State to use a combined subgroup without demonstrating how the State had protections in place to ensure that the use of a combined subgroup would not mask any particular subgroup's failure to meet performance targets.

Question 5. From looking at several of the waiver applications, it looks like States will have the flexibility to implement their own accountability system. This is a significant departure from the national accountability system under the No Child Left Behind Act. To meet accountability requirements under No Child Left Behind, several States lowered their standards or cut scores to allow enough students to pass the tests.

What actions has your Department taken to ensure high standards?

Answer 5. We have the same expectations for all students, regardless of background—that they graduate ready for college and a career. ESEA flexibility isn't about lower standards and expectations—it's about higher standards and expectations for all students and it's about making sure that those groups of students farther behind make more progress. In fact, NCLB's standards and expectations weren't high enough—the standard was "proficiency, " not college- and career-readiness. And as you note, some States chose to lower their standards and lowered the bar for accountability.

ESEA flexibility raised the bar to ensure that all States expect students to meet high academic Standards that will prepare them for success in college and career. We heard from States that wanted to raise standards but felt constrained by the rigidity of No Child Left Behind's 2014 timeline for 100 percent proficiency. Through

ESEA flexibility, we offered States waivers of certain provisions of law in exchange for the adoption of more rigorous standards. Every State that received a waiver has adopted college- and career-ready standards and provided the Department with a detailed plan for implementation of those standards.

In addition, States and districts wanted to create more nuanced and targeted accountability systems, but were constrained by NCLB 's inflexible school identification and intervention requirements. Under ESEA flexibility, States received waivers of some of NCLB's accountability requirements, on the condition that States develop systems that would target resources to the lowest achieving schools and those with the greatest achievement gaps, but also ensure that, in all other title I schools, achievement and graduation rate data, including for subgroups, be used to drive the supports and interventions necessary to improve outcomes for those students.

SENATOR HATCH

Question 1. How does the Department of Education plan to transition State flexibility agreements if Congress reauthorizes ESEA with significantly different requirements?

Answer 1. The hard work of States is informing our reform efforts at the Department. I hope that work also will inform your efforts as the committee works on reauthorization. We remain committed to working with the committee on a strong, bipartisan reauthorization, including on how best to transition from ESEA flexibility when such reauthorization occurs.

Question 2. How will the Department of Education work with ESEA Flexibility Waiver-approved States to renew or extend flexibility authority if Congress does not reauthorize ESEA in the coming months?

Answer 2. The initial period for ESEA flexibility for most States with approved requests is through the end of the 2013–14 school year. We hope that Congress is able to pass a strong, bipartisan reauthorization bill, but if that does not happen by the end of the initial period of ESEA flexibility, the Department may extend that flexibility. Requests for an extension of ESEA flexibility would present an opportunity to assess what is working best and what needs improvement in States' flexibility plans. We would measure a State's progress against its plan and review what we've learned through monitoring as part of that decision.

Question 3. On which principles of the ESEA Flexibility Waiver do you think there would be consensus between both the Department of Education and the States as the most valuable in the reauthorization of ESEA?

Answer 3. Through ESEA flexibility, we have worked closely with States to create a new Federal-State partnership to empower States and school districts to design State and local reforms to improve academic achievement and increase the quality of instruction for all students. As a result, States are able to tailor their approach to meeting a high bar of excellence and better target their efforts to meet the individual needs of each school, teacher, and student to increase educational outcomes for all students.

Question 4. How does the Department of Education plan to change its monitoring procedures to focus more on student achievement and less on traditional compliance processes?

Answer 4. At the Department, we are establishing a Department-wide system of monitoring, support, and technical assistance for States to help them increase their capacity to support districts and schools in implementing key reforms that will lead to improved student outcomes. We will provide each State with support that is directly relevant to its plan and needs.

This process builds on the working relationships that we have developed with States during the flexibility approval process. To support States in increasing their capacity to improve student outcomes, the Department will shift its monitoring process from a focus on compliance to one focused on outcomes and results. Monitoring of States that have received ESEA flexibility is taking place throughout the school year and will include an assessment of the effectiveness of State implementation and the State-level systems that support implementation. This will assure that States are maximizing the impact of their plans for reform to improve educational outcomes for all students, including a focus on improving graduation rates. The information from monitoring, as well as requests from States, will be used to inform delivery of technical assistance.

Question 5. If Congress reduces Federal funding to States, how does the Department plan to provide additional flexibility to minimize the disruption of services that enhance student achievement?

Answer 5. Reducing funding for key ESEA programs, whether through a sequester or as part of the regular annual appropriations process, will only make this important work harder.

In particular, sequestration would cut title I and would hinder State and local efforts to transition to college- and career-ready standards and implement efforts to get effective and highly effective teachers and principals to the students that need them most. At the same time, I am confident that all of the approved States will continue to be able to fully implement their flexibility plans now that sequestration is underway.

In general, States approved for ESEA flexibility are better positioned than other States to effectively manage available resources when budgets are tight, impart because they already are moving away from the inefficient dual Federal/State accountability systems that arose under current law.

SENATOR MURKOWSKI

Question 1. Mr. Secretary, I am aware that Alaska applied for a waiver in September 2012 and is hoping for some final decision from your department soon. In fact, they were scheduled to have a conference call yesterday. Can you tell me if Alaska's application has been approved, and if not, what the timeline might be for a final decision?

Answer 1. Alaska's request was approved on May 20, 2013.

Question 2. The Alaska Department of Education has told me that in their many discussions with your staff, and I quote,

> "The waiver process has involved exchanges of ideas from the SEA and the U.S. Department of Education, however in many cases it appears very clear what the Department will approve and the negotiation process is mostly about bringing a State to apply for what is allowed. While there are parts of the Alaska application that are unique to Alaska, the waiver process itself is designed to implement those elements that have been advocated by the current administration of USED."

Can you tell me, based on this input, how the waiver process is not merely replacing one set of one-size-fits-all Federal requirements with another?

Answer 2. The law requires that waivers improve the quality of instruction and increase student achievement. From my experience in Chicago and my conversations with State and local leaders, principals and teachers, and parents and students around the country, I firmly believe that to meet that standard, a State needs to commit to ensuring that all students graduate from high school prepared for college and career, that schools are held accountable for the performance of all students and all subgroups, and that there is an effective teacher in every classroom and an effective principal in every school.

So far, 37 States and the District of Columbia have put forward innovative, forward-thinking reforms that meet that high bar. But, as evidenced by the approved requests, those States have met the bar in very different ways. Each State that has received flexibility under the law has done so by tailoring its proposal to its unique needs and those of its districts, schools, teachers, and students.

Question 3. You and I have spoken during previous hearings about the four turnaround models that the Administration has proposed—and through which this waiver process is mandating—for school improvement. You have noted that you spent a short time in Hooper Bay, a community with challenges that is many air miles from any other community. I have noted the challenges of finding effective principals and teachers to live and work in challenging, isolated communities and the lack of other alternatives like charter management companies or closing the only school within hundreds of air miles. What, in your view, is the solution when none of the four turnaround models will work in such a community?

Answer 3. Before 2009, efforts under NCLB focused predominantly around tinkering around the edges, and chronically low-performing schools could avoid rigorous interventions to dramatically change how students in poor performing schools are being served. We believe that this Administration's efforts under the School Improvement Grants (SIG) program give districts and communities the support they need to put the conditions in place for their struggling schools to succeed, and to tailor the models to their needs. We created an online School Turnaround Learning Community Rural Schools Group that helps support this work and allows rural

schools to share ideas, successes, and challenges with their peers. According to data recently released by the Department, SIG schools in small towns and rural areas showed achievement gains in the first year of the program similar to those of urban and suburban schools. But, we don't claim that the program is perfect, and as we continue to implement SIG, we want to hear from policymakers and educators at all levels about how we can improve the program.

Additionally, under ESEA flexibility, States are required to identify 5 percent of the lowest performing schools as priority schools for turnaround. These schools can implement one of the four SIG models to meet this requirement or the schools can implement interventions aligned with ESEA flexibility's "turnaround principles" which provide schools with more flexibility in designing rigorous interventions that meet the needs of the school and community.

Question 4. Mr. Secretary, some have criticized No Child Left Behind because it allowed States to adopt their own standards, saying that has resulted in a patchwork of standards across the Nation—some States with high standards and some with low ones. With the 27 waivers now approved, and possibly more to come, has that resulted in a patchwork of accountability standards across the Nation? If so, how is that helpful to parents, such as military parents, who may move from State-to-State and need to determine whether the schools will serve their students well?

Answer 4. ESEA flexibility is providing parents with more meaningful information about their children's schools. NCLB 's "yes/no, one-size-fits-all" system may have seemed easy to understand, but it wasn't giving parents accurate information and it wasn't helping principals and teachers to improve their schools. Under ESEA flexibility, States and districts must still include all the same performance data on easily understandable report cards and States must publicly identify their lowest performing schools and schools with large achievement gaps or low subgroup performance. The difference is that parents now have a more accurate picture of their school's performance that is based on more than just test scores and the knowledge that interventions taking place in the school are targeted to the needs of their students.

Transparency has been, and continues to be, a focus of flexibility. We required States to consult with stakeholders, including parents, in the development of their flexibility requests, and they are continuing to do that, to make sure parents and community members understand the new systems. We want to make sure not only that parents can understand the information that States and districts are providing, but we also want to make sure—and this is the difference under ESEA flexibility—that information is actually giving parents an accurate picture of their school's performance.

The adoption by States across the country of college- and career-ready standards and the transition to those standards is especially valuable to military families as they move from State to State. These families can now expect their children to benefit from consistently high standards no matter where their school is located.

Question 5. These waivers have required States to identify the very high achieving schools, the 10 percent of schools with big achievement gaps or low graduation rates, and the 5 percent of schools that are really struggling. What about the middle of the pack school that may be struggling to educate one subgroup in a State that has lumped all the subgroups together into one super group? Or the school that is just doing a middle of the road job of preparing students for their future? Do you worry about the children who attend those schools that will never receive district or State intervention to improve?

Answer 5. We have maintained a very strong focus on subgroups of disadvantaged students. For everything we do at the Department, including ESEA flexibility, our touchstone is better outcomes and college- and career-readiness for all students. Every State developed an accountability system that sets ambitious but achievable performance targets for all students and all subgroups and reports progress against those targets in all schools.

States identified their lowest performing schools and their schools with the largest achievement gaps as priority and focus schools for rigorous, targeted interventions. By asking States to focus the most attention on these schools, we are encouraging States and districts to provide more time, resources, and attention to the schools that need it the most. These schools disproportionately serve the subgroups we are all concerned about: students with disabilities, low-income students, minority students, and English learners.

But we also required every State to look at how subgroups are performing in all of their title I schools and to consider student academic performance, graduation rates, and other data to drive incentives and supports based on the needs of stu-

dents. Many States went further, requiring identification for more rigorous interventions if an individual subgroup does not meet performance targets over time. This allows States to be strategic and thoughtful in identifying and implementing interventions, to ensure that every low-performing subgroup and school is receiving the level and type of intervention needed to improve.

Question 6. Alaska, as you may know, developed its own standards that are very closely aligned with the Common Core. Those standards were developed with input by both the University of Alaska and State industry. The University has certified that a high school graduate proficient in those standards will be prepared for success as a freshman. In addition, the Council of Chief State School Officers has certified to the Department that the Alaska standards are aligned to the Common Core. Yet, Alaska has waited for 5 months to gain the Department's permission to join the Smarter Balanced Assessment Consortium (SBAC). The longer that permission is delayed, the longer it will take to implement assessments that are built on Alaska's new standards. When can Alaska expect to receive permission to join the SBAC?

Answer 6. Alaska submitted information to the SMARTER Balanced consortium that its content standards are substantially identical to those in the SMARTER Balanced States, and based on this information, the SMARTER Balanced governing board agreed to allow Alaska to join the. consortium.

Question 7. If 21st Century Community Learning Center funding is used in certain waiver States to extend the regular school day, what is your plan to ensure that students in those States retain access to high quality afterschool activities that supports their academics, provides enrichment, and ensures that the children are safe until their parents are home from work?

Answer 7. We believe that high-quality, enriching afterschool activities are an essential resource for schools, students, and families. The Department is currently working to address your question through public guidance on the extended learning time requirements under the 21st Century Community Learning Center program. That guidance will soon be made available on our Web site.

RESPONSE TO QUESTIONS OF SENATOR MURRAY AND SENATOR MURKOWSKI
BY TERRY K. HOLLIDAY, PH.D.

SENATOR MURRAY

Question 1. You stated that in Kentucky's waiver request ambitious targets were set for all subgroups and these targets will be used to drive interventions. What intervention methods will be executed for schools that are unable to meet these targets for subgroups?

Answer 1. To see the specific details of interventions in Priority Schools (lowest achieving) and Focus Schools (achievement gap issues) that are contained in Kentucky's ESEA waiver, go to the following link: *http://education.ky.gov/comm/UL/Documents/Revised%20Approved%20KY%20ESEA%20flexibility%20waiver%20Sept%2028%202012%20final%20version%20mam.pdf* (Priority Schools found on pages 68–75 and Focus Schools found on pages 75–80).

Highlights of how the Kentucky Department of Education is approaching interventions in these schools are described below:

- As part of Unbridled Learning: College- and Career-Readiness for All system, we have included a comprehensive school and district planning process that is complimentary to the accountability process. Every school is required to compose and submit to the State through an online system a Comprehensive School Improvement Plan and every district must submit a Comprehensive District Improvement Plan. All plans must address the areas of weakness identified by the assessment data, including meeting the subgroup targets. Kentucky Department of Education staff provides technical assistance with these ever-evolving plans. More on the school and district planning process can be found at: *http://education.ky.gov/school/csip/Pages/default.aspx*.
- Additionally, *KRS 158.649* already requires that Kentucky school districts intervene when schools do not meet their targets for subgroups through collaboration around the planning process that must include aligned, research-based activities focused on improvement.
- The Kentucky Department of Education is using the Federal School Improvement Grant (SIG) process for all three tiers of schools to capture best practices in order to make successful strategies available to all schools and districts.
- Kentucky's *educational recovery program* that places educational recovery teams in the lowest performing schools is focused on building sustainable, repeatable sys-

tems in schools and classrooms. The Kentucky Department of Education is in the process of identifying schools to serve as hubs as part of the SIG process that will act as regional labs for best practices, partnering with universities and regional cooperatives to assist schools to help their students based on what their data shows.

• Kentucky is publicly reporting all data including subgroup performance data to ensure there is no "masking" of the performance of any group. Transparency of data through the school and district report cards is a mechanism that shines the light on subgroup performance for the public and offers a valuable tool to schools and districts to use in analyzing their data and informing the contents of school and district improvement plans. Examples (screenshots) of what can be seen relative to subgroup performance from a district report card in the area of achievement, gap and college- and career-readiness are ***attached***. The full school and district report cards can be accessed: *http://applications.education.ky.gov/SRC/*.

• Currently *PD 360*, *Common Core 360* and *LiveBook 360* professional development resources and videos are available free to all public school educators in Kentucky through the *Continuous Instructional Improvement Technology System* (*CIITS*). This allows for professional development to be tailored to meet the needs of teachers and their students.

Question 2. In your testimony you stated that under the No Child Left Behind Act some schools in Kentucky were not being properly held accountable for closing achievement gaps due to the low number of students in a subgroup at a particular school. In response the Kentucky Department of Education established a new accountability system to ensure all schools are held responsible for closing achievement gaps through the use of an aggregate gap group. How will these aggregated gap groups be formed?

Answer 2. **Kentucky created a Non-Duplicated Gap Group as one of *two* measures to hold schools accountable for closing achievement gaps.** To calculate the combined student Gap Group, non-duplicated counts of students who score proficient or higher and are in the student groups are summed. This yields a single gap number of proficient or higher students in the Student Gap Group, with no student counting more than one time, and all students in the included groups being counted once. The percent of students performing at proficient and distinguished in the Non-Duplicated Gap Group is reported annually. The "N" count (number of students reported) is based on total school population, not grade-by-grade enrollment, **thus causing almost every school in Kentucky to have a focus on gap groups**. While all individual groups are disaggregated and publically reported, the Gap category of the accountability model includes only the percent of students in the combined Non-Duplicated Gap Group scoring at the proficient and distinguished levels.

However, Individual Gap Groups are not lost in the new Kentucky model. The Kentucky Department of Education recognizes the issue of potential masking of individual gap group scores even though all gap groups are reported. To address this issue, a section has been added to another State regulation (*703 KAR 5:225, School and District Accountability, Recognition, Support and Consequences*) that requires the Kentucky Department of Education to identify all individual gap groups that perform significantly below the average of all students. All schools with gap groups underperforming in the third standard deviation (commonly called 3 Sigma) face State consequences. Schools in the Distinguished, Proficient and Needs Improvement categories can be flagged for the State consequences for underperforming individual gap groups. The Kentucky Department of Education uses the 3 Sigma model to eliminate the masking of low-scoring groups and will conduct ongoing data analysis to determine if the model needs adjusting.

The school and district report cards are the vehicle for publically reporting all data, including subgroup data. These can be accessed at: *http://applications.education.ky.gov/SRC/*. Additionally, examples (screenshots) of what can be seen relative to subgroup performance from a district report card in the area of achievement, gap and college- and career-readiness are ***attached***.

SENATOR MURKOWSKI

Question 1. If you had been given complete autonomy to rate your schools and provide assistance for school improvement, how would your plan differ from what was approved by the Department?

Answer 1. In general, Kentucky was able to create a balanced accountability system that measures not only reading and mathematics but also arts/humanities, practical living (health, physical education and career and technical education), writing, science, social studies and world language. The ESEA flexibility waiver from No Child Left Behind requirements also allowed significant funding flexibility.

The only topic I would want more autonomy on as a State is standardized testing. Standardized testing, while important for accountability, is not the measure that will most improve teaching and learning. Formative assessment has much greater potential to measure student learning and improve instruction. As commissioner, I would like the flexibility to monitor growth of students not only through limited standardized summative testing but also through formative assessments that measure deeper learning and the skills that will be required for the global workforce. Providing States with this flexibility yet holding them accountable for graduation rates and college- and career-ready rates would open up significant innovation in P–12 education and greatly improve workforce readiness.

Question 2. Your waiver plan includes a "Super Subgroup" that you call a Student Gap Group. As I understand it, schools will no longer be held accountable for the individual proficiency rates of the following groups of students: African-American, Hispanic, Native American, Special Education, Economically Disadvantaged, and Limited English Proficient students. Do I understand your plan correctly, and if so, how will you hold schools accountable if one or more of these groups is not doing well but their low achievement is masked by other subgroups or the All Students group? How will parents know if a school is not providing a good education to one of these groups?

Answer 2. The understanding stated in the question found above is incorrect. **Kentucky uses *two* methods to ensure schools have incentives to close the achievement gaps for underperforming groups**. First, Kentucky uses a Non-Duplicated Gap Group model (Super Subgroup). By combining all traditionally underperforming students into one group, Kentucky can guarantee that 99 percent of the schools in Kentucky must pay attention to achievement gaps of all students. This happens because schools can no longer hide small numbers of gap group students who in the No Child Left Behind model weren't counted.

Second, Kentucky recognized the tradeoff of the super group model and created a secondary method to focus on individual gap group scores. Individual Gap Groups are not lost in the new model. The Kentucky Department of Education recognized the issue of potential masking of individual gap group scores even though all gap groups are publically reported. To address this issue, a section has been added to another State regulation (*703 KAR 5:225, School and District Accountability, Recognition, Support and Consequences*) that requires the Kentucky Department of Education to identify all individual gap groups that perform significantly below the average of all students. All schools with gap groups that are significantly underperforming face State consequences. Schools in the Distinguished, Proficient and Needs Improvement categories can be flagged for the State consequences for underperforming individual gap groups. The Kentucky Department of Education uses this model to eliminate the masking of low scoring groups and will conduct ongoing data analysis to determine if the model needs adjusting.

Parents are able to see through the school and district report cards the gap achievement rates for all individual groups and see labels to indicate a school has a gap problem either with the Super Subgroup or with the individual gap groups. Click on the following link to access the school and district report cards: *http://applications.education.ky.gov/SRC/*. Also, examples (screenshots) of what can be seen relative to subgroup performance from a district report card in the areas of achievement, gap and college- and career-readiness are ***attached***.

High School College/Career Ready																
			College Ready		Career Ready						College and/or Career Ready					
Category	Number of Graduates - Students with High School Diploma or Certificate of Attainment		Number College Ready[1]		Number Career Ready Academic[2]		Number Career Ready Technical[2]		Number Career Ready Total[2]		Non-Duplicated Total[2]		Percentage of graduates (high school diploma or certificate of attainment) College and/or Career Ready		Accountability Points with Bonus[4]	
Level	District	State	District	State	District	State	District	State	District	State	District	State	District	State	District	State
All Students	156	43,116	74	18,741	48	5,480	27	7,483	23	3,413	85	20,343	54.5	47.2	59.3	51.8

High School College/Career Ready																
			College Ready		Career Ready						College and/or Career Ready					
Category	Number of Graduates - Students with High School Diploma or Certificate of Attainment		Number College Ready[1]		Number Career Ready Academic[2]		Number Career Ready Technical[2]		Number Career Ready Total[2]		Non-Duplicated Total[2]		Percentage of graduates (high school diploma or certificate of attainment) College and/or Career Ready		Accountability Points with Bonus[4]	
Level	District	State	District	State	District	State	District	State	District	State	District	State	District	State	District	State
Male	72		28		19		8		5		30		41.7		44.4	
Female	84		46		29		19		18		55		65.5		72.0	
White (Non-Hispanic)	148		72		45		27		23		83		56.1		61.1	
African American	***															
Hispanic																
Asian																
American Indian or Alaska Native																
Native Hawaiian or Other Pacific Islander																
Two or more races	***															

READING - Performance Level

	Number Accountable 100 days enrolled		Percent Novice		Percent Apprentice		Percent Proficient		Percent Distinguished		Percent Proficient/Distinguished		Percent Bonus		NAPD Calculation	
Level	District	State	District	State	District	State	District	State	District	State	District	State	District	State	District	State
Elementary School	546	152,121	21.6	26.3	29.1	25.7	31.3	31.4	17.9	16.6	49.3	48.0	0.0	0.0	63.9	60

Achievement - Reading - Elementary School - Performance Level

	Number Accountable 100 days enrolled		Percent Novice		Percent Apprentice		Percent Proficient		Percent Distinguished		Percent Proficient/Distinguished	
Grade	District	State	District	State	District	State	District	State	District	State	District	State
03	199	50,977	21.6	24.7	33.7	25.8	29.6	32.2	15.1	17.2	44.7	49.4

Achievement - Reading - Elementary School - Grade - 03 - Performance Level

	Number Accountable 100 days enrolled		Percent Novice		Percent Apprentice		Percent Proficient		Percent Distinguished		Percent Proficient/Distinguished	
Group	District	State	District	State	District	State	District	State	District	State	District	State
Male	106	26,000	20.8	27.6	41.5	26.6	27.4	31.0	10.4	14.7	37.7	45.7
Female	93	24,970	22.6	21.7	24.7	25.0	32.3	33.5	20.4	19.8	52.7	53.3
White (Non-Hispanic)	191	40,954	21.5	21.7	34.0	25.4	29.8	34.0	14.7	18.9	44.5	52.9
African American	***	5,330		44.9		27.1		21.7		6.4		28.0
Hispanic		2,513		32.4		29.8		28.1		9.6		37.8
Asian	***	784		16.1		19.0		34.7		30.2		64.9
American Indian or Alaska Native	***	73		28.8		30.1		27.4		13.7		41.1
Native Hawaiian or Other Pacific Islander		38		21.1		31.6		21.1		26.3		47.4
Two or more races	***	1,285		28.9		29.6		28.6		13.0		41.6
Migrant		120		40.0		35.8		20.0		4.2		24.2
Limited English Proficiency	***	1,804		39.0		33.0		22.8		5.3		28.0
Free/Reduced-Price Meals	135	31,025	29.6	32.3	40.0	28.8	21.5	28.7	8.9	10.2	30.4	38.9

Reading - Percentage Proficient/Distinguished - Gap Targets

Level	Target Type	2012 District	2012 State	2013 District	2013 State	2014 District	2014 State	2015 District	2015 State	2016 District	2016 State	2017 District	2017 State
Elementary Schoo	Delivery Target	39.1	37.5	45.2	43.8	51.3	50.0	57.4	56.3	63.5	62.5	69.6	68.8
	Actual Score	39.1	37.5										

Gap - Reading - Percent Proficient/Distinguished - Elementary School
In addition to Reading, targets are also presented separately by level and student group.

Group	Target Type	2012 District	2012 State	2013 District	2013 State	2014 District	2014 State	2015 District	2015 State	2016 District	2016 State	2017 District	2017 State
White (Non-Hispanic)	Delivery Target	49.3	51.3	54.4	56.2	59.4	61.0	64.5	65.9	69.6	70.8	74.7	7
	Actual Score	49.3	51.3										
African American	Delivery Target		27.5		34.8		42.0		49.3		56.5		6
	Actual Score		27.5										
Hispanic	Delivery Target		37.1		43.4		49.7		56.0		62.3		6
	Actual Score		37.1										
Asian	Delivery Target		63.7		67.3		71.0		74.6		78.2		8
	Actual Score		63.7										
Limited English Proficiency	Delivery Target		23.4		31.1		38.7		46.4		54.0		6
	Actual Score		23.4										
Free/Reduced-Price Meals	Delivery Target	38.6	37.0	44.7	43.3	50.9	49.6	57.0	55.9	63.2	62.2	69.3	6
	Actual Score	38.6	37.0										
With Disability	Delivery Target	26.3	26.8	33.7	34.1	41.0	41.4	48.4	48.8	55.8	56.1	63.2	6
	Actual Score	26.3	26.8										
All Students	Delivery Target	49.3	48.0	54.4	53.2	59.4	58.4	64.5	63.6	69.6	68.8	74.7	7
	Actual Score	49.3	48.0										

RESPONSE TO QUESTIONS OF SENATOR MURRAY AND SENATOR MURKOWSKI
BY JOHN B. KING, JR., ED.D.

SENATOR MURRAY

Question. How has incorporating both title I and non-title I schools in your computation to identify the percentage of schools that are "priority" and "focus," been beneficial in accurately targeting the schools in your State that need the most support?

Answer. The Board of Regents has long had a policy that low-performing schools, regardless of whether they receive or do not receive title I funds, should be identified, provided support, and held accountable for gains in student achievement. By basing the number of Focus and Priority schools on the total number of schools in the State, we were able to meet the ESEA waiver requirements in terms of the

number of title I schools that had to be identified while also identifying comparably low-performing non-title I in which our State regulations require similar interventions occur. Thus, this strategy allowed us to create a unified accountability system for all schools in the State, both title I and non-title I.

We note, however, that if a State chooses to identify non-title I schools as Priority and Focus Schools, it would be helpful if that State could receive a waiver to allow Title I School Improvement funds 1003(a) and 1003(g) to be used in these schools.

SENATOR MURKOWSKI

Question 1. If you had been given complete autonomy to rate your schools and provide assistance for school improvement, how would your plan differ from what was approved by the Department?

Answer 1. The waiver's principles regarding implementation of College and Career Ready standards and assessments and its strategies to promote great teachers and leaders were well aligned with initiatives the New York State Education Department (SED) already had under way. It is possible, however, that we may have considered: (1) making determinations about our schools in a manner that even more closely aligned our principal evaluation growth scores and school growth measures, and (2) revising our methodology for identification of Focus Schools within Focus Districts so that it was not driven by the need to identify a fixed percentage of schools.

We may have also sought to create a more unified system of accountability among title I, title III and IDEA.

Finally, we may have considered revisions to the way in which SED and school districts invest School Improvement and title IIA funds to better focus them on building the core competencies of the district to support implementation of Common Core aligned curriculum and instruction in their schools.

Question 2. You noted in your written testimony that New York used Race to the Top funds to create a statutory framework for a new teacher and principal evaluation system under which local collective bargaining efforts were required to establish evaluation plans that met the requirements of the law. This included basing 20 percent of the evaluations on State assessments, 20 percent on local measures, and 60 percent on other evidence such as observations and surveys. Have all of New York's school districts achieved collective bargaining agreements based on these requirements? If not, what are the snags? If so, what have you learned so far about teacher and principal quality and what have districts done with that information?

Answer 2. New York State law requires that SED approve teacher and principal evaluation plans, which in New York are called an Annual Professional Performance Review (APPR) plans. A provision in the 2012–13 New York State budget required that school districts have an approved APPR plan by January 17, 2013 in order to be eligible for the scheduled State aid increase. Districts that did not have an approved APPR plan by this deadline would forfeit their portion of the scheduled aid increase. A similar and permanent change in law has been proposed in the 2013–14 State budget.

By January 17, 2013, 685 out of 691 districts—more than 99 percent of the State's districts—had complied and are now beginning implementation of the evaluation system. Since then, two more districts have been approved. Unfortunately, New York City—the State's largest school district—is one of the four remaining districts that failed to meet the deadline. However, the Governor and legislative leadership have committed to empower SED to resolve the differences between labor and management to establish a default evaluation system for New York City if a negotiated agreement cannot be reached by June 1, 2013.

Despite successful adoption of evaluation plans by the vast majority of districts statewide, there are, and will continue to be, snags along the way. For example, labor and management issues contributed in part to the failure of some of the districts that do not yet have an approved APPR plan. Even districts that are implementing plans will surely face snags because rigorous and comprehensive APPR plans will require significant changes in teacher and principal practice.

Since 2012–13 is the first year in which all principals and teachers will be evaluated, it is very early in the process to discuss lessons learned. However, based on our review of student growth data from the 2011–12 school year, which we have available statewide for teachers of English language arts and mathematics in grades 4–8 and their principals, we observe, not unsurprisingly, that there are significant variations in the distribution of effective teachers and principals, as measured by growth in student performance, in schools and districts across the State. We have heard consistently that the development of APPR plans and their implementation

are promoting very important conversations in districts across the State about what good teaching is and how it should be assessed and supported.

RESPONSE TO QUESTIONS OF SENATOR MURKOWSKI BY KATI HAYCOCK, M.A.

Question 1. You noted your concern here today, and presumably as a waiver plan peer reviewer, about State plans that would water down accountability for individual subgroups. Yet, some plans that would do so were approved. What was the Department's reaction when you shared your concerns during the peer review process?

Answer 1. All peer reviewers agreed, as a prerequisite to participating in the process, not to discuss the peer review decisionmaking process publicly. That said, I can tell you unequivocally that peer reviewers in the round in which I participated were never discouraged in any way from offering critical feedback. Indeed, the Department staff who supported the process encouraged us to express any and all concerns we had in writing and we did exactly that.

Question 2. When you came to Anchorage for the Mayor's Education Summit in 2011, you noted the data that despite a narrowing of our achievement gaps, Alaska's performance in reading was at the bottom compared to other States and that math performance was at about the middle. You prescribed high expectations and increased teacher quality as remedies. In your view, will the parameters laid down by the Department for States' waiver plans fully address the needs of Alaska's schools?

Answer 2. As noted in our recent paper, *A Step Forward or A Step Back? State Accountability in the Waiver Era*, States have taken a number of different approaches to key accountability issues, including setting ambitious, achievable goals for raising achievement and closing gaps between groups; incorporating performance against those goals into school rating systems; taking meaningful action in the lowest-performing schools; and ensuring that all schools, not just the lowest-performing ones, have both the incentive and support to improve.

In its still-pending waiver proposal, Alaska has adopted the ambitious, achievable goal of reducing by half the percentage of students not meeting standards, overall and for each group. Performance against those goals, however, does not factor into the State's 1–5 star school rating system. This means that it's possible for a 5-star school to be missing goals for low-income students, Alaska Natives, or students with disabilities, for example. A different look at the year-to-year growth of these groups does get factored into the rating system, but counts for very little. And, each group's growth counts for only 3.5 percent of a school's 1–5 star rating.

Alaska's lowest-performing or "Priority" schools will receive coaching and technical assistance, but there are no clear provisions for ensuring that these schools have the best teachers. For those schools that are not among the lowest-performing in the State, the only required activity is improvement planning. That means that 85 percent of schools and the students in them may not be getting the support or incentive they need to improve.

If implemented well, new college- and career-ready standards—as required in the Department's waiver parameters—will ensure that all students are held to high expectations. But successful implementation of the standards requires that teachers and principals are provided with ample support. Alaska's application provides some details about supports linked to the new standards for curricular alignment and changes to instructional practices—a promising one is to provide school leaders with tools to evaluate the quality of standards implementation at the classroom level. However, it appears that the State is leaving the development of instructional materials up to individual districts and teachers instead of capitalizing on State capacity and economies of scale to develop and provide high-quality resources that help teachers effectively teach the standards.

To increase teacher quality, we must first know how effective our teachers currently are and identify their areas of strength and weakness. ED's waiver parameters are much more likely to provide this knowledge than the evaluation systems currently in place in most districts, particularly due to the requirement to include a measure of student learning growth. At the time of Alaska's waiver application, some details about its proposed evaluation system were still outstanding, but our understanding is that Alaska's State Board of Education recently approved the use of multiple types of student learning data as one element of the new system. While Alaska's application indicates that evaluation results will be used to provide development to low performing teachers, it is silent about how else evaluation results will be used, such as ensuring that all students have access to effective teachers, or in decisions to retain or promote teachers. Alaska is not planning to fully implement

the new system until the 2016–17 school year. If it stays with this timeline it will not be in compliance with the requirements of the waiver application.

Question 3. How long do you think it will take for data to be available from approved waiver States that will inform reauthorization of ESEA?

Answer 3. States that received waivers in the first round of approvals last winter have already released their first set of data under their new accountability systems. The remaining States should release their initial results this summer. That data as well as the subsequent data that will be released annually should inform the reauthorization of ESEA.

Question 4. You noted in your opening statement that given time constraints you would only focus on Education Trust's thoughts about the accountability provisions in the waivers. What thoughts do you have on other elements of the waivers?

Answer 4. In addition to the accountability provisions, States' waiver applications also addressed teacher quality, and standards. In terms of teacher quality, we have looked at States' plans with an eye toward design, implementation and use of evaluations as well as how they addressed equitable access to effective teachers. The results are mixed, but most of our concerns focus not on design, but rather on implementation, use and equitable access. The States that received waivers designed and adopted evaluation systems that reflect the requirements of the application, which were similar to the Race to the Top competition requirements. The larger questions we saw focused on how thoughtful States had been about plans to implement these systems, including the timeframe for implementation and the phase-in of the system, and the use of the system. For example, few States discussed using the results of their evaluation systems, once implemented, to ensure that all children had equitable access to an effective teacher. Further, few States discussed how they were going to use their systems to support teachers and increase effectiveness. Finally, we are concerned that as States move to implement systems and it proves difficult there could be a watering down of rigor to the point that the systems may no longer align to the initial waiver requirements.

In terms of standards, most State plans emphasized the initial adoption of college- and career-ready standards, but are vague about how States will ensure that these standards are implemented in a way that translates to increased student achievement. Specifically, few States outline specific plans for alignment between the content of teacher-preparation programs and the new standards. Also, some States plan to place the development of teacher instructional supports on the shoulders of individual districts, even though most districts do not have the capacity to do this work well.

[Whereupon, at 12:55 p.m., the hearing was adjourned.]

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