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FIXING NO CHILD LEFT BEHIND: TESTING AND ACCOUNTABILITY

HEARING

OF THE

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

ON

EXAMINING NO CHILD LEFT BEHIND, FOCUSING ON TESTING AND ACCOUNTABILITY

JANUARY 21, 2015

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FIXING NO CHILD LEFT BEHIND: TESTING AND ACCOUNTABILITY

WEDNESDAY, JANUARY 21, 2015

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

The committee met, pursuant to notice, at 9:30 a.m., in room SD–430, Dirksen Senate Office Building, Hon. Lamar Alexander, chairman of the committee, presiding.

Present: Senators Alexander, Murray, Burr, Isakson, Collins, Murkowski, Scott, Roberts, Cassidy, Casey, Franken, Bennet, Whitehouse, Baldwin, Murphy, and Warren.

OPENING STATEMENT OF SENATOR ALEXANDER

The CHAIRMAN. I'm the chairman, and Patty reminded me she's the teacher, so we're going to start on time. Welcome.

The Senate Committee on Health, Education, Labor, and Pensions will please come to order. This morning we'll have a hearing on Fixing No Child Left Behind: Testing and Accountability. There's a lot of interest in this hearing. We've heard from people around the country ever since last week when we put a draft working paper up on the website, and we have a lot of people in the hall.

I would say to those in the hall who are not able to get in the room that we have an overflow room, which is Room 538, and you'll be able to listen to all of the proceedings. If someone would let those outside know that, then they'll have a chance to hear the witness testimony and the questions. We welcome them and we welcome everyone who is here.

Ranking Member Murray and I will each have an opening statement. Then we'll introduce our panel of witnesses. Then we'll have a round of questions. We'll ask our witnesses to summarize their testimony, please, in 5 minutes each, because the Senators will have lots of questions. I'll call on the Senators in order of seniority who were here at the time the gavel went down, and then after that, they'll go on the order of first come, first serve. We will conclude the hearing at noon or before if we get through earlier.

My opening remarks are going to take a little longer than normal since this is the first meeting of the committee in this Congress. I'll promise my colleagues I won't make a habit of that, and I'll keep my questions to the same 5 minutes that everyone else has.

First, some preliminary remarks about the committee itself. This committee touches almost every American. No committee is more

ideologically diverse and none is more productive than this committee. In the last Congress, 25 bills that came through this committee were signed by the president and became law—some very important. That's because Chairman Harkin and I worked to find areas of agreement.

I look forward to working in the same way with Senator Murray. She is direct. She is very well respected by her colleagues on both sides of the aisle. She cares about people. She's a member of the Democratic leadership, and she is result oriented. I look forward to that working relationship.

We're going to have an open process, which means, for me, every Senator, regardless of their party affiliation, will have a chance to participate, a full opportunity for discussion and amendment, not just in committee but on the floor. Our bills in the last Congresses never got brought up on the floor.

But this year, we want a result, and that means go to the floor, and that means further amendments, further discussion. That means 60 votes to get off the floor, so it will be a bipartisan bill. If it goes to conference, we know the President will be involved. We want his signature on our bills. All the way through, we're going to do our best to have input from everyone so we can get a result.

Now, the schedule. The schedule of the committee generally will start with unfinished business—first, fixing No Child Left Behind. This is way overdue. It expired more than 7 years ago. We posted a working draft last week on the website. We're getting a lot of feedback. Staffs are meeting, exchanging ideas. We'll have more weeks of hearings and meetings.

But we've been working on this 6 years. We've had 24 hearings over the last three Congresses on K through 12 or fixing No Child Left Behind. Almost all of the members of the committee this year were members last year. We hope to finish our work by the end of February and have it on the floor.

I would say to my colleagues it's important to do that so we can get floor time. It'll take a couple of weeks. No Child Left Behind took 6 or 7 weeks when it was passed in 2001, and we would like to have a full opportunity for debate and amendment.

Second is reauthorizing higher education. We've already done a lot of work on that in the last Congress. This is, for me, about deregulating higher education, making rules simpler and more effective, for example, the student aid loan form, so more students can go to college. We can finish the work that we started in 2013 on student loans. We can look at accreditation, and we can look at deregulation. The task force that Senators Mikulski, Burr, Bennet, and I formed on deregulation will be the subject of our hearing on February 24th.

As rapidly and responsibly as we can, we want to repair the damage of Obamacare and provide more Americans with health insurance that fits their budgets. Now, on this issue, we don't agree on party lines. Our first hearing is on a bipartisan bill on the 30 to 40 hour work week. Senators Collins, Murkowski, Manchin, and Donnelly have offered that. We will have a hearing tomorrow on that and will report our opinions to the Finance Committee.

Then some new business. Let's call it 21st Century Cures. That's what the House calls it, as it finishes its work this spring on that

issue. The president talked about it last night. He's also interested. I've talked to him about it.

In fact, he's interested in all three of these subjects that we talked about—fixing No Child Left Behind, finishing our work on higher education, and 21st Century Cures. I like that, because I like to find those areas of agreement, and we hope we can have a legislative proposal that he will be glad to sign. What we're talking about here is getting more medicines, devices, and treatments through the Food and Drug Administration more rapidly to help millions of Americans.

There will be more on labor, pensions, education, and health. These are major priorities, and that's how we will start.

The President has made major proposals on community colleges and on early childhood education. These are certainly related to elementary and secondary education, but we've always handled them separately. We can deal with the community college proposal as we deal with higher education. We'll have to talk about how we deal with early childhood education, because to do that in any kind of comprehensive way involves getting into Head Start and into the Child Care Development Block Grant that we dealt with in the last Congress.

As more of my colleagues are here today, I said I would not be as long in my opening statement in future meetings, but this is the first one.

Last week, Secretary Duncan called for the law to be fixed—No Child Left Behind. Almost everyone now seems to agree with him. It's more than 7 years overdue. We've been working on it for more than 6 years. When we started working on it—and we did this—Republicans and Democrats, Secretary Duncan—6 years ago, former Representative George Miller said, "Let's identify the problems. Let's pass a lean bill and fix No Child Left Behind."

Since then, we've had 24 hearings on K through 12 or fixing No Child Left Behind. In each of the last two Congresses, we've reported bills out of committee. I would say to my colleagues that Congress before last, it was mainly what one might call a Democratic bill, but I, Senator Enzi, and Senator Kirk all voted for it so we could get it to the floor and continue to amend it.

Twenty of the twenty-two of us on this committee were members in the last Congress when we reported a bill. Sixteen of the 22 of us who are members of this committee were in the previous Congress when we reported a bill, so we ought to know the issues pretty well.

One reason No Child Left Behind needs to be fixed is that it has become unworkable. Under its original provisions, almost all of America's 100,000 public schools would be labeled a failing school. To avoid this unintended result, the U.S. Education Secretary has granted waivers from the law's provisions to 43 States, including Washington, which has since had its waiver revoked, as well as the District of Columbia and Puerto Rico.

This has created a second unintended result, at least unintended by Congress, which had stated in law that no Federal official should, quote, "exercise any direction, supervision, or control over curriculum, program or instruction or administration of any educational program." That's the law today.

Nevertheless, in exchange for the waivers, the Secretary has told States what their academic standards should be, how States should measure the progress of students toward those standards, what constitutes failure for schools and what the consequences of failure are, how to fix low performing schools, and how to evaluate teachers. The Department has, in effect, become a national school board. Or, as one teacher told me, it has become a national Human Resources Department for 100,000 public schools.

At the center of the debate about how to fix No Child Left Behind is what to do about the Federal requirement that states, each year, administer 17 standardized tests with high stakes consequences. Educators call this an accountability system.

Are there too many tests? Are they the right tests? Are the stakes for failing them too high? What should Washington, DC, have to do with all this? Many States and school districts require schools to administer additional tests. Now, this is called a hearing for a reason. I have come to listen.

Our working draft includes two options on testing. Option 1 gives flexibility to States to decide what to do about testing. Option 2 maintains current law regarding testing. Both options would continue to require annual reporting of student achievement, disaggregated by subgroups of children.

Washington sometimes forgets—but Governors never do—that the Federal Government has limited involvement in elementary and secondary education, contributing only 10 percent of the bill. For 30 years, the real action has been in the States. I have seen this first hand.

If you'll forgive me for pointing it out, I was Governor in 1983 when President Reagan's Education Secretary issued "A Nation at Risk," saying, "If an unfriendly foreign power had attempted to impose on America the mediocre educational performance that exists today, we might well have viewed it as an act of war." Then the next year, Tennessee, after a long battle with the National Education Association, became the first State to pay teachers more for teaching well.

Then the next 2 years, 1985 and 1986, every Governor spent the entire year focusing on education—first time that ever happened in the National Governors Association. I was chairman of it then. Bill Clinton was the vice chairman. In 1989, the first President Bush convened a meeting of Governors in Charlottesville and established voluntary national education goals.

Then in 1991 and 1992, President Bush announced America 2000 to move the Nation voluntarily toward those goals, State by State, community by community. I was the Education Secretary then. Since then, States have worked together voluntarily to develop academic standards, develop tests, to create their own accountability systems, find fair ways to evaluate teacher performance, and have then adopted those that fit their States.

I know members of this committee must be tired of me talking until I am blue in the face about a national school board. I know that it is tempting to try to fix classrooms from Washington. I also hear from Governors and school superintendents who say this:

> "If Washington doesn't make us do it, the teachers union and opponents from the right will make it impossible for us to have higher standards and better teachers."

I understand that there can be short-term gains from Washington's orders, but my experience is that long-term success can't come that way. In fact, Washington's involvement, in effect, mandating Common Core and certain types of teacher evaluation, is creating a backlash, making it harder for States to set higher standards and evaluate teaching. As one former Democratic Governor told me recently, "We were doing pretty well until Washington got involved, and if they'll get out of the way, we'll get back on track."

So rather than turn blue in the face one more time in front of my colleagues, let me conclude with the remarks of Carol Burris, New York's High School Principal of the Year. She responded last week to our committee draft in the following way:

> "I ask that your committee remember that the American public school system was built on the belief that local communities cherish their children and have the right and responsibility within sensible limits to determine how they are schooled.
>
> "While the Federal Government has a very special role in ensuring that our students do not experience discrimination based on who they are or what their disability might be, Congress is not a national school board. Although our locally elected school boards may not be perfect, they represent one of the purest forms of democracy that we have.
>
> "Bad ideas in the small do damage in the small and are easily corrected. Bad ideas at the Federal level result in massive failure and are harder to fix."

This is Carol Burris, New York's High School Principal of the Year.

She concludes with this:

> "Please understand that I do not dismiss the need to hold schools accountable. The use and disaggregation of data has been an important tool that I use regularly as a principal to improve my own school. However, the unintended, negative consequences that have arisen from mandated, annual testing and its high stakes uses have proven testing not only to be an ineffective tool, but a destructive one as well."

Senator Murray.

OPENING STATEMENT OF SENATOR MURRAY

Senator MURRAY. Thank you very much, Chairman Alexander, for holding this hearing today. I especially want to thank all of our witnesses who are here with us.

This is my first committee meeting as Ranking Member of the HELP Committee, so I want to start just by acknowledging our former chair, Senator Tom Harkin, and commend his many years of service on this committee that really is a committee that touches every American life. He was a tireless advocate for those without a voice, and he is going to be missed, as we all know.

I also want to acknowledge and congratulate our new chairman, Senator Alexander. I look forward to working with you as well. We've had a number of conversations, and as we both adjust to our

new roles, I think we do have one belief that we mention every time we talk, and that is we think working together, this committee can really get some exciting work done in the coming 2 years. Talking to our colleagues on this dais, I'm very excited about what we can all do together in the coming weeks and months.

I am ready to get to work, especially on an issue as important as the topic of this committee hearing: education. In fact, this is the issue that got me into politics in the very first place. Throughout my career, first as a preschool teacher, and then on a school board, in my own State senate in Washington, and here in the U.S. Senate, I have been committed to making sure that every child, every child, has someone fighting for them and their future.

Serving on this committee, I am looking forward to making college more affordable and reducing the overwhelming burden of student loans, expanding access to early learning, and making sure the voices of students and parents are heard in the policymaking process. Of course, in the coming weeks and months, I will be especially focused on working to fix the broken No Child Left Behind law, and that, of course, is what we're talking about today.

Nearly everyone agrees that we need to fix No Child Left Behind. The law set unrealistic goals for schools across the country and then failed to give them the resources they needed to succeed. We can't turn our back in the process on measuring students' progress or simply let schools and States off the hook for failing to provide a quality education to all of their students, especially because we have seen some successes since 2001 when Congress enacted No Child Left Behind.

Our graduation rate has increased by 10 points. Among students with disabilities, regular diploma graduation rates have increased by more than 12 percent, and dropout rates have decreased by more than 17 percent. Achievement gaps have declined among African-American and Latino students. The Federal Government does have an important role and a productive role to play in making sure that assessments and accountability work for our kids.

Assessments also help parents and communities hold their schools accountable. If a school is failing students year after year, parents and communities deserve to have that information and be assured that the school will get the resources it needs to improve. I know there are a number of parents here in this audience today and out in the hall who would agree with that.

When it comes to our Nation's largest Federal investment in K through 12 education, it would be irresponsible to spend billions in Federal taxpayer dollars without knowing if the law is making a difference in student lives. Many of my colleagues demand evidence and accountability in other Federal programs and I hope they agree that we need it with education as well.

For those reasons, I would be very concerned about any attempt to eliminate annual statewide assessments, just as I would be very concerned about any attempt to roll back accountability to make sure we're delivering on our promise of a quality education for all.

Now, 13 years after Congress passed this law, we should use the research and the best practices and the lessons we've learned to fix No Child Left Behind. I've heard from so many parents and teachers, as well as community members, in my home State of Wash-

ington about the ways the current system doesn't work when it comes to testing. We can and should encourage States and districts to reduce redundant and low quality tests.

Because we have a national interest in making sure all students get an excellent education, we do need Federal oversight to make sure our system is working for every child. That means offering the resources for improving professional development and for expanding access to high-quality learning opportunities to help our struggling schools so we don't consign some kids to subpar education. While we carefully consider changes to assessments and accountability to give States and districts the flexibility they do need, we can't forget our obligations to the kids who too often fall through the cracks.

I've laid out my priorities for fixing this broken law, and I know Chairman Alexander has put his priorities out in the discussion draft. I hope we can now begin conversations about a truly bipartisan approach in the HELP Committee to fix this broken law. I know the members on my side are very anxious to begin work and continue the long tradition of this committee in tackling tough problems in a bipartisan fashion.

Fixing No Child Left Behind should not be a partisan issue. It should be one that we work on hand-in-hand, not as Democrats and Republicans, but as Americans. This is an issue that is not about politics. It's about what is best for our kids. In our country, we do believe that every student should have access to a quality public education regardless of where they live or how they learn or how much money their parents make. That vision is a big part of what we mean when we talk about America, what makes our country great.

Other countries in the world are investing in education. They are working every day to get it right for their students. China, India, and others—they think they can beat us in the classroom. We know better. We know we can win this, and we know that we have to for students back in my home State of Washington, for our economic future, and for our shared vision of an American dream.

We can't afford to turn back the clock on the promise of quality education for all. We cannot be the generation that drops the ball on that noble goal, and I will continue to fight to bring quality education to all of our students.

Thank you, Mr. Chairman, and I look forward to the panel discussion.

The CHAIRMAN. Thanks, Senator Murray. As we will always try to do, we'll try to have a bipartisan agreement on witnesses. We were able to do that today, and we'll ask Senator Warren and Senator Bennet to introduce two of the witnesses, and I'll introduce the other four.

Senator WARREN. Thank you, Mr. Chairman. I am pleased to introduce Dr. Marty West, an Associate Professor of Education at the Harvard Graduate School of Education and Deputy Director of the Harvard Kennedy School's Program on Education Policy and Governance. Dr. West studies education policy and reform and its impact on student learning and development. He has authored many articles on the subject, including many pieces on No Child Left Behind.

Last year, Dr. West worked for this committee as Senior Education Policy Advisor to Chairman Alexander. I know there are areas where we agree and areas where we disagree, but I'm always very happy to welcome witnesses from Massachusetts to testify before this committee.

Thank you, Dr. West, for being here today.

The CHAIRMAN. Senator Bennet.

STATEMENT OF SENATOR BENNET

Senator BENNET. Thank you, Mr. Chairman. I want to thank you and the Ranking Member for holding this hearing. I've often said that if we had a rally to keep No Child Left Behind the same on the Capitol steps, there's not a single person in the country that would come to that. We are 8 years overdue. We are long overdue.

I'm honored this morning to introduce my friend, Tom Boasberg, the Superintendent of the Denver Public Schools. Tom joined DPS as the Chief Operations Officer in 2007 while I was superintendent, and then was unanimously appointed superintendent in 2009 by a grateful school board who no longer had to deal with me. Before joining DPS, Tom served as group vice president of Level 3 Communications, where he was responsible for the company's mergers and acquisitions and strategic partnerships.

Prior to Level 3, he was a legal advisor to Reed Hundt, Chairman of the Federal Communications Commission. At the FCC, he helped establish the E-Rate program. Tom began his career as a junior high school English teacher in Hong Kong's public schools. He claims to speak fluent Mandarin and Cantonese, and since I can't speak either, I have no idea whether that's actually true or not.

[Laughter.]

Today, Tom oversees the largest school district in Colorado with 185 schools with an enrollment of more than 90,000 students and 13,000 employees. When I left Denver Public Schools to come to the Senate in 2009, I said that if I've done a decent job, Tom will do an even better job, and there's no doubt that has been the case.

Under Tom, Denver Public Schools has ranked at the top of the State's largest districts in student growth for 3 consecutive years. In 2005, Denver was dead last.

Just last year, Denver Public School students eligible for free and reduced lunch had stronger academic growth than non-free and reduced lunch students statewide in math and writing. DPS's non-free and reduced lunch students showed more growth than their State counterparts in math by eight points. On top of that, Denver's English language learners have outperformed the States. Tom also happens to be responsible for educating my three daughters.

As we begin to talk about reauthorizing ESEA, we need to hear the voices of those who are fighting every day to improve our kids' education. Tom Boasberg, in my view, is at the top of that list.

Tom, thank you for being here today, and we're all looking forward to hearing your testimony.

Mr. Chairman, thank you for including me in this.

The CHAIRMAN. Thank you, Senator Bennet. I think that boils down to he cleaned up after you left. Is that how that——

[Laughter.]

Senator BENNET. You can't even know half of the truth.

The CHAIRMAN. We're delighted to have you.

Now, let me just mention the other witnesses, and then we'll turn to them. Mr. Paul Leather is here. He is deputy commissioner of education in New Hampshire. Mr. Wade Henderson is here, who has testified before this committee before. He is chief executive officer of the Leadership Conference on Civil and Human Rights and the Leadership Conference Education Fund.

Ms. Jia Lee, fourth and fifth grade special education teacher of the Earth School, New York City. Mr. Stephen Lazar, social studies and English teacher, Harvest Collegiate High School in New York City.

We have your testimony, and we've read them. At least, I have. We ask you to summarize your testimony in 5 minutes, because we have a lot of interested Senators who would like to ask you questions. If you don't mind, there's a clock that will show you when 5 minutes is up, and I'll use the gavel.

Why don't we start with you, Dr. West, and go right down the line? Then we'll go to questions from the Senators.

STATEMENT OF MARTIN R. WEST, Ph.D., ASSOCIATE PROFESSOR OF EDUCATION, HARVARD GRADUATE SCHOOL OF EDUCATION; DEPUTY DIRECTOR, PROGRAM ON EDUCATION POLICY AND GOVERNANCE, HARVARD KENNEDY SCHOOL; AND NON-RESIDENT SENIOR FELLOW, BROOKINGS INSTITUTION, CAMBRIDGE, MA

Mr. WEST. Thank you. Chairman Alexander, Senator Murray, members of the committee, thank you for the opportunity to appear before you today. I'd like to begin by congratulating the committee on putting the reauthorization of the Elementary and Secondary Education Act at the very top of its legislative agenda for the 114th Congress.

Nothing is more important to our Nation's future than ensuring that we provide all children with the opportunity to reach their full academic potential. Congress can't do that on its own, but it can help by addressing the very real shortcomings of the most recent reauthorization, No Child Left Behind, and restoring the predictability with respect to Federal education policy that State and local officials need to carry out their work.

As you move forward with this important work, however, I would urge you not to lose sight of the positive aspects of No Child Left Behind. Above all, the law's requirement that students be tested annually in reading and math in grades three through eight and once in high school has provided parents, teachers, and other citizens with detailed information about students' performance in these foundational subjects and, therefore, the extent to which they have mastered skills that are prerequisites for other educational goals.

This information has called attention to achievement gaps along lines of race, ethnicity, and class across entire States and within specific schools. It has ushered in a new era in education research, and it has made it possible to develop new indicators of schools' performance based on their contribution to student learning.

Research confirms that by requiring States that had previously not implemented school accountability systems to do so, No Child Left Behind worked to generate modest improvements in student learning, concentrated in math and among the lowest performing students, precisely those on whom the law was focused. I say worked in the past tense, however, as the days when No Child Left Behind worked are behind us.

As the law's 2014 deadline for all students to be performing at grade level approached, its accountability system became unworkable. Far too many schools were identified as underperforming and the system lost its most critical asset, its credibility.

Recent concerns have also been raised about the amount of time students now spend taking standardized tests. We lack systematic data on the amount of time students nationwide spend taking those tests, nor do we know how much would be optimal. A handful of recent State and district level audits suggest that students spend about 1 percent to 3 percent of the year taking standardized tests, a figure that sounds appropriate given the value of the information they provide.

But we also know that some schools test far more than this and that too many schools devote excessive time to narrow test preparation activities in an attempt to avoid federally mandated sanctions. The concerns voiced by parents and educators in these schools are legitimate.

But eliminating annual testing requirements is not necessary to address these concerns. Indeed, it would only make them harder to do so. It is not necessary because federally mandated annual State tests generally account for less than half of test-taking time, just 32 percent in a recent Ohio study. The rest of test-taking time in Ohio is devoted to State and district mandated tests and to new tests developed to implement the teacher evaluation system the State was forced to adopt under the Obama administration's ESEA waiver program.

It would make matters more difficult because the most important flaw of the No Child Left Behind accountability system is its reliance on the level at which students are performing at a single point in time as a measure of school performance. Achievement levels are a poor indicator of school quality as they are heavily influenced by factors outside of a school's control.

This approach, which is all that is possible under a grade span testing regime, judges schools based on the students they serve, not on how well they serve them. Performance measures based on growth and student achievement over time, which are only possible with annual testing, provide a fair, more accurate picture of schools' contribution to student learning.

Why did Congress design such a system back in 2002? One key reason was that many States did not test students annually, and those that did were often unable to track the performance of individual students over time. That situation has now changed, thanks to No Child Left Behind and related Federal investments in State data systems. It would be ironic and, in my view, unfortunate if in seeking to fix No Child Left Behind Congress were to recreate the conditions that led to the adoption of an ill-designed accountability system in the first place.

Eliminating annual testing would have other negative consequences. It would all but eliminate school level information about the learning of student subgroups. It would sharply limit the information available to parents making choices about the school their child attends, whether through open enrollment or charter school programs. Third, it would prevent policymakers and researchers from evaluating the effectiveness of new education programs when, as is typically the case, the appropriate research design depends on knowledge of students' recent achievement.

My main recommendation, therefore, is to maintain the law's current annual testing requirements while restoring to States virtually all decisions about the design of their accountability systems, including how schools and teachers are identified as underperforming and what should be done to improve their performance. The Federal Government has a critical role to play in ensuring that parents and citizens have good information about their schools' performance.

At the same time, the Federal Government lacks the capacity to design an accountability system that is appropriate to the needs of each State and has a poor record of attempting to dictate the required elements of efforts to improve underperforming schools. By focusing on improving the transparency of information about school performance and resources, Congress can build on the successes of No Child Left Behind while learning from its failures.

Thank you, and I look forward to your questions.

[The prepared statement of Mr. West follows:]

PREPARED STATEMENT OF MARTIN R. WEST, PH.D.

Chairman Alexander, Senator Murray, members of the committee, thank you for the opportunity to appear before you today. My name is Martin West. I am an associate professor of education at the Harvard Graduate School of Education and a nonresident senior fellow at the Brookings Institution. Over the past 15 years, I have conducted my own research on test-based accountability systems, reviewed the research of others working in this area, and consulted with State and Federal policymakers on the design of accountability policies.

I would like to begin by congratulating the committee on its decision to put the reauthorization of the Elementary and Secondary Education Act at the top of its legislative agenda for the 114th Congress. Nothing is more important to our Nation's future than ensuring that all American children have the opportunity to reach their full academic potential. Congress cannot do that on its own, but it can help by addressing the very real shortcomings of the most recent reauthorization, No Child Left Behind (NCLB), and restoring the predictability with respect to Federal policy that State and local officials need to carry out their work.

My testimony aims to inform this effort by providing information on:

1. The validity of test scores as measures of student learning;
2. The effects of NCLB's testing and accountability requirements, both overall and in schools identified as in need of improvement; and
3. The implications of eliminating the law's annual testing requirements.

I conclude with recommendations on how to address NCLB's most serious flaws while building on its most important contribution: the provision of far greater transparency about the academic achievement of American students. The law's requirement that students be tested annually in math and reading in grades 3–8 and once in high school, and that the results be reported by school and disaggregated by student subgroup, has provided parents, teachers, and other citizens with essential information about students' performance in these foundational subjects—and therefore the extent to which they have mastered skills that are prerequisites for other educational goals. This information has called attention to gaps in achievement along lines of race, ethnicity, and class across entire States and within specific schools; it has ushered in a new era in education research; and it has made it possible to

develop new indicators of schools' performance based on their contribution to student learning.

My principal recommendation is therefore to maintain the law's current requirement that States test students annually in math and reading in grades 3–8 and at least once in high school, while restoring to States virtually all decisions about the design of their accountability systems, including how schools and teachers are identified as under-performing and what should be done to improve their performance.[1]

THE VALIDITY OF TEST SCORES AS MEASURES OF STUDENT LEARNING

Test-based accountability is premised on the notion that student test scores in core academic subjects are valid indicators of student learning that matters for valued long-term outcomes. That is, policymakers are generally not interested in boosting math and reading test scores per se, but only insofar as those test scores predict outcomes such as post-secondary success and adult earnings. It has long been known that student performance on low-stakes tests are strong predictors of individual labor-market success and, in the aggregate, of national economic growth rates (see, e.g. Johnson and Neal 1996; Hanushek and Woessmann 2008). Only recently, however, have researchers been able to examine the predictive power of the kinds of tests administered by States and school districts in low-and high-stakes settings. Two new studies in this area are particularly instructive.

Chetty, Friedman, and Rockoff (2014) link math and reading test scores from New York City students in grades 3–8 to Internal Revenue Service records for the same students as they became adults. The tests were administered on an annual basis to all New York City students but were not at the time used to hold teachers or schools accountable for their performance. The study shows that being assigned to a more effective teacher, as defined by her past impact on other students' test scores, has a positive impact on the likelihood that students will attend college and on their earnings at age 28, as well as on other variables such as the likelihood of avoiding teenage pregnancy (for girls) and whether the student is saving for retirement. The magnitude of these relationships is impressive. For example, being assigned to a teacher in the top–5 percent in terms of her success in raising student test scores, as opposed to an average teacher, increases a child's lifetime income by roughly $80,000. These results clearly highlight the importance of teacher effectiveness in shaping student outcomes. As important, they confirm that a teacher's impact on test scores accurately predicts her impact on more distant outcomes, at least when those tests are low-stakes.

Deming, et al. (2014), in turn, use data from Texas to examine the predictive validity of gains in test scores induced by the State's high-stakes school accountability system. They find that high schools responded to the threat of being assigned a very low rating by increasing their students' achievement on high-stakes tests. At age 25, these same students were more likely to have completed a 4-year degree and have higher earnings. Deming, et al. also find that schools pressured to earn a higher rating responded not by improving achievement, but by classifying more low-scoring students as students with disabilities in order to exempt them from the accountability system; these same students suffered large declines in their post-secondary attainment and earnings. Overall, their results therefore illustrate not only the predictive validity of accountability-induced gains in student test scores, but also the critical importance of designing accountability systems carefully in order to avoid unintended consequences.

In sum, evidence confirms that the scores that students receive on standardized tests administered in schools are strongly predictive of later life outcomes that are of great value to those students and the Nation. Moreover, gains in test scores that result from interventions such as being assigned to a particularly effective teacher or attending a school facing accountability pressure also predict improvements in adult outcomes. Of course, teachers and schools also contribute to student outcomes in ways that are not captured by test scores and therefore harder to measure (see, e.g. Jackson 2012). However, information on school performance that does not include data on student learning as measured by tests that are comparable statewide would be badly compromised.

[1] My testimony draws in part on research conducted jointly with Matthew Chingos, Mark Dynarski, and Russ Whitehurst of the Brookings Institution and published in Chingos and West (2015) and Whitehurst, et al. (2015).

THE EFFECTS OF NO CHILD LEFT BEHIND'S TESTING AND ACCOUNTABILITY REQUIREMENTS

With the No Child Left Behind Act of 2002 (NCLB), Congress for the first time required States accepting Federal funds through title I to put into place consequential test-based accountability systems. In particular, States were required to adopt challenging content standards in math, reading, and science; test students annually in math and reading in grades 3–8 and once in high school; report the share of students performing at proficient levels in each subject (disaggregated by student subgroup); and intervene in schools where students overall or within a specific subgroup failed to exceed statewide performance targets. States had to raise these targets over time in line with the goal of having all students achieving at proficient levels in core academic subjects by 2014.

Evaluating the impact of NCLB's testing and accountability requirements is difficult, as the law required all States to implement the same basic policies. Although student achievement in grades 4 and 8 as measured by the National Assessment of Educational Progress (NAEP) has risen since the law's enactment, this trend could be driven by other factors. NCLB did not come from nowhere, however: Roughly half of States had established consequential test-based accountability systems in the 1990's, and many NCLB requirements were based on elements of those systems. Insight into the law's effects can therefore be gleaned by comparing the States required by NCLB to implement test-based accountability systems for the first time to those that already had such systems in place and were thus less affected by the law's requirements.

Taking this approach, two independent teams of scholars (Dee and Jacob 2010; Wong, Cook, and Steiner 2011) find that NCLB's testing and accountability provisions have generated modest improvements in student achievement as measured by the NAEP in States required to implement test-based accountability systems for the first time. The gains in achievement have been concentrated in mathematics, as opposed to reading, and among the low-performing students that were most directly affected by the law's accountability system. These findings are consistent with earlier research indicating that States adopting consequential test-based accountability systems in the 1990's improved more on the NAEP than did other States (Carnoy and Loeb 2002; Hanushek and Raymond 2005). Both sets of studies are noteworthy in that they document gains on the low-stakes NAEP and therefore should not be influenced by schools facing pressure to improve students' performance on a specific test.

A second approach to examining NCLB's effects has been to study the law's effects on schools at risk of being identified by States as in need of improvement and on schools so identified and subjected to various interventions. In the only nationally representative study of this kind, Reback, Rockoff, and Schwartz (2014) find that attending a school at risk of being identified as in need of improvement had positive or neutral effects on students' achievement on low-stakes reading tests, no clear effects on their achievement on low-stakes math and science tests, and positive effects on their enjoyment of learning in those subjects. Several studies conducted in specific States or school districts have also found that students enrolled in schools not making Adequate Yearly Progress (and therefore placed at risk of sanction) made greater than expected gains on their State test (see, e.g., Springer 2008; Krieg 2008; Ladd and Lauen 2010; Neal and Schanzenbach 2010; Hemelt 2011). Neal and Schanzenbach (2010) and Krieg (2008) find that these improvements were concentrated among students on the margin of proficiency—so called "bubble kids" (Booher-Jennings 2005)—suggesting that schools may have shifted their instructional energies away from students performing at much higher or lower levels. Studies of the effects of actual sanctions for under-performing schools required under NCLB provide a more mixed picture. Anh and Vigdor (2014), however, find positive effects on student achievement in schools forced into restructuring with leadership or management changes.

In sum, the best available evidence indicates that NCLB has generated improvements in student learning, concentrated in math, among the Nation's lowest-performing students—precisely those on whom the law was focused. These gains have been relatively modest in size, however, far short of the rate of improvement required to bring all students to a reasonable definition of proficiency by 2014.

As the law's deadline for universal proficiency approached, the NCLB accountability system therefore became unworkable, with a majority of schools in some States identified as under-performing. In response, the Obama administration, through its ESEA Flexibility Program, offered States limited flexibility with respect to the design of their accountability system in exchange for complying with new requirements in areas such as teacher evaluation and school turnaround models.

While the appropriateness and aspects of the design of this State waiver program are hotly debated, the acute need to address the shortcomings of NCLB's accountability model is not in dispute.

It is also important to acknowledge evidence of the unintended consequences of the NCLB accountability system. For example, research has clearly shown that test-based accountability can result in a narrowing of the curriculum to focus on tested subjects at the expense of those for which schools are not held accountable. Consistent with this, the initial implementation of NCLB was associated with large increases in the amount of instructional time elementary school teachers reported spending on reading and declines in the coverage of history and science (West 2007). Harder to track systematically is the law's effects on other aspects of classroom practice. Yet some evidence suggests that heavy handed test-based accountability policies can promote rote, teacher-directed instruction and encourage schools to focus narrowly on test-preparation skills rather than ensuring that students are exposed to a curriculum rich in academic content.

These tendencies may be strongest in schools with high minority and low-income populations, which typically face the strongest pressure to improve (Diamond and Spillane 2005).

Important concerns have also been raised about the amount of time students now spend taking standardized tests. Unfortunately we lack systematic data on the amount of time students nationwide spend taking standardized tests and how this changed with the implementation of NCLB and related Federal policies. Nor do we know the amount of test-taking time that would be optimal. A handful of recent district- and state-level analyses suggest that students are scheduled to spend 1–3 percent of the school year taking standardized tests, depending on the grade level, a figure that sounds appropriate given the value of the information they provide and evidence that taking tests can support learning (Lazarin 2014; Teoh et. al. 2014; Nelson 2013; Ohio Department of Education 2015). That said, we also know that these official figures likely understate the true amount of instructional time teachers lose as a result of testing, that schools in some districts test much more than these averages, and that far too many schools devote excessive time to narrow test-preparation activities in an attempt to avoid federally mandated sanctions. The concerns now being voiced by parents and educators in these situations are legitimate.

IMPLICATIONS OF ELIMINATING ANNUAL TESTING REQUIREMENTS

Eliminating annual testing requirements is not necessary to reduce over-testing where it exists, however. Indeed, doing so would only make it harder for States to address the flaws of the NCLB accountability system and develop new ones that provide good information on schools' contribution to student learning and set realistic targets for improvement. It would also have other important negative consequences.

Eliminating annual testing is unnecessary because the annual tests in math and reading (and grade-span testing in science) currently required under NCLB typically account for less than half of the total amount of time students spend taking standardized tests. For example, a recent testing audit conducted by the Ohio Department of Education (2015) found that NCLB-mandated tests are responsible for 32 percent of testing time in that State. Another 26 percent of testing time is devoted to new assessments developed to implement a teacher evaluation system the State adopted as a condition of receiving a waiver through the Obama administration's ESEA Flexibility Program. The remaining 42 percent of testing time is devoted to tests required not by the Federal Government, but by the State or local school districts.

The most important flaw of the accountability system States are required to use under No Child Left Behind is its exclusive reliance on student performance levels as a measure of school performance. Under that system, whether a school makes Adequate Yearly Progress is determined primarily based on the share of students who are proficient in math and reading in a given year—a level-based measure of student achievement. Yet the level at which students perform at a given point of time is a poor indicator of school quality, as student achievement is heavily influenced by factors outside of a school's control. Measures based on the amount students learn from 1 year to the next can provide a more accurate gauge of schools' contribution to student learning (Deming 2014). These kinds of measures are only possible, however, when students are tested in adjacent grades.

In a recent analysis (Chingos and West 2015), Matthew Chingos of the Brookings Institution and I used roughly a decade of student test scores from all public elementary schools in North Carolina and Florida to compare how schools would look if they were judged based only on their average test scores in a single grade—as

might be the case under a grade-span testing regime—to how they can be judged using measures based on year-to-year growth in student test scores. The analysis yielded two important conclusions.

First, growth measures do a far better job of identifying the schools that contribute the least to student learning. For example, North Carolina students in the bottom-15 percent of schools in terms of average scores learn only about a third of a year less in math than the statewide average, whereas the difference for students in the bottom-15 percent of schools in terms of growth is more than half a year of learning.

Second, judging schools based on test score levels has a punishing effect on schools serving disadvantaged students, which are often identified as underperforming even when their students are learning more than students elsewhere. For example, 56 percent of North Carolina schools serving predominantly low-income students would be classified as bottom-15 percent based on their average scores, whereas only 16 percent would be labeled as such based on their growth. Accountability based on grade-span testing judges schools based on the students they serve, not how well they serve them.

Using average test scores from a single year to judge school quality is therefore unacceptable from a fairness and equity perspective. One possible alternative to growth-based measures is to use a single year of test data, such as would be available under a grade-span testing regime, but adjust it based on student demographics. In other words, schools serving students who tend to score lower, such as low-income and minority students, would be compared to schools serving similar student bodies rather than all schools in the State. Using demographic adjustments is an unsatisfying alternative for at least two reasons, however. First, it provides less accurate information about schools' contribution to student learning. Second, making demographic adjustments implicitly sets lower expectations for some groups of students than for others.

In addition to preventing the development of better and fairer measures of school performance, eliminating annual testing would have other negative consequences.

First, it would all but eliminate school-level information about the learning of student subgroups, as testing only a single grade within each school often results in sample sizes for groups such as English learners or blacks that are too small to generate reliable information for the school as a whole (Whitehurst and Lindquist 2012).

Second, it would sharply limit the information available to parents making choices about the school their child attends, whether through open-enrollment programs in traditional public schools or under charter school programs. School choice is empty without valid information on school performance, and how much schools contribute to student learning is the most important information parents need to know.

Third, it would prevent policymakers and researchers from evaluating the effectiveness of new education programs when, as is typically the case, the appropriate research design depends on knowledge of students' recent achievement. By hampering our ability to learn about what's working, jettisoning annual testing could slow the overall rate of improvement in student achievement over time.

A key reason Congress in 2002 required that States use a school accountability system based on student achievement levels was that many States were not yet testing students annually and those that did often lacked the capacity to track the performance of individual students over time. That situation has now changed, thanks to No Child Left Behind and related Federal investments in State data systems. It would be ironic and, in my view, unfortunate if, in seeking to fix No Child Left Behind, Congress were to recreate the conditions that led to the adoption of an ill-designed accountability system in the first place.

RECOMMENDATIONS

1. Maintain the law's requirement that States test all students annually in math and reading in grades 3–8 and at least once in high school using tests that are comparable statewide.

The Federal Government has a critical role to play in ensuring that parents and citizens in States accepting Federal funds have good information about their local schools' performance, and good information requires the data that come from annual testing using assessments that are comparable statewide. States should continue to be required to gather this information and to report on it disaggregated by student subgroup as a condition of receiving title I funds.

To ensure that this requirement does not interfere with the ability of States to develop new forms of assessment, including competency-based assessments that are not tied to a specific grade level and are administered at varying times during the

school year, Congress may wish to consider developing a pilot program for a small number of States doing innovative work in this area. However, such a pilot should be designed so as to provide rigorous evidence as to how the information it generates compares to that generated under an annual testing regime.

2. Return to States virtually all decisions about the design of their accountability systems, including how schools and teachers are identified as under-performing and what should be done to improve their performance.

The Federal Government lacks the capacity to design a single accountability system that is appropriate to the needs of each State, and has a poor track record when attempting to dictate the required elements of efforts to improve under-performing schools. States should be required to develop their own systems of school accountability and improvement, provided only that those systems are based in part on student achievement data from tests that are comparable statewide and, in the case of high schools, 4-year adjusted cohort graduation rates. Federal accountability requirements, if included, should be limited to schools that fail at basic functions, i.e., elementary and middle schools in which a significant percentage of students do not acquire even basic competencies in reading and math, or high schools where a significant percentage of students do not graduate.

3. Require the publication of timely, accurate school-level spending data.

Consistent with the Federal role in increasing transparency about educational performance, Congress should condition the receipt of title I funds by schools and districts on the timely disclosure of comparable measures of per-pupil spending at the level of the State, district, and school. This recommendation, which is included in the current discussion draft, would build on the school-level expenditure reporting mandated as a one-time requirement under the American Reinvestment and Recovery Act of 2009 and would improve the accuracy and facilitate the broader dissemination of that information. By requiring that school spending reports reflect actual teacher salaries rather than district-wide salary averages (the common practice in district financial reporting), it could serve to highlight within-district disparities in spending and create pressure on school districts to address them. It would also permit the generation of performance measures that provide information on the relative return-on-investment for educational spending across districts and schools.

4. Continue to require that States participate in the National Assessment of Educational Progress (NAEP) exams administered bi-annually.

With States continuing to select their own academic standards and tests and provided with new flexibility with respect to the design of their accountability systems, the NAEP will continue to serve as an essential audit of the performance of State educational systems, enabling advocacy organizations and ordinary citizens to push for improvement. A "Secretary's Report Card" to Congress and the public on the educational performance of the Nation and each State, as proposed in the current discussion draft, is an attractive new mechanism for heightening competition among States to lift all students to high levels of achievement.

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The CHAIRMAN. Thank you, Dr. West, for excellent testimony and for coming very close to 5 minutes.

Mr. Leather.

STATEMENT OF PAUL LEATHER, DEPUTY COMMISSIONER, NEW HAMPSHIRE DEPARTMENT OF EDUCATION, CONCORD, NH

Mr. LEATHER. Chairman Alexander, Senator Murray, and members of the committee, thank you for inviting me to testify about testing and accountability in the Elementary and Secondary Education Act. I'm Paul Leather, Deputy Commissioner of Education of the New Hampshire Department of Education.

In New Hampshire, we are working to explore what the next generation of assessments might look like beyond an end-of-the-year test. We have coordinated with the Council of Chief State

School Officers on its priorities for reauthorization. These priorities contain three important ingredients that are in line with the work we are doing.

First, it would continue to support annual assessments of student performance to ensure every parent receives the information they need on how their child is performing, at least once a year. Second, it would allow States to base students' annual determinations on a single standardized test or the combined results from a coherent system of assessments. Third, it gives States the space to continue to innovate on assessment and accountability systems through a locally designed assessment system, so important when the periods of authorization can last 10 years or longer.

We are working in collaboration with four New Hampshire school districts to pilot competency-based assessment systems, Sanborn Regional, Epping, Rochester, and Souhegan High School. We are intent on broadening expectations from the simple recitation of knowledge and facts to also applying knowledge and skills in authentic settings while fostering work study practices such as persistence and creativity. That is why we have emphasized Performance Assessments for Competency Education, or PACE, which is what we call our pilot project.

There are several key components in our pilot: the development of statewide model competencies that describe the knowledge and skills that all students are expected to master; use of a personalized competency-based approach to instruction, learning, assessment, and awarding credit; and the use of common and local performance-based assessments of competencies throughout each school year, in tandem with grade span, Smarter Balanced assessments of State standards in math and English language arts.

I am submitting for the record a detailed summary of all the steps we are taking to ensure comparability, reliability, and validity of these assessments as well as a brief description of the demographics of the participating districts.

[The information referred to was not available during time of press].

Second, we support annual determinations based on a coherent system of State and local multiple assessments. Rather than relying on just one State summative assessment to make this determination, we combined a series of assessment results throughout the year to make that annual determination.

Over the last year, there has been a crescendo of voices across the country raising the concern of over-testing. We believe that the over-testing issue has arisen because there has been a disconnect between local and State assessments. I have sat through many local school board meetings where the superintendent explains to the board the State test results and their meaning and then separately describes their local assessments, which they see as more directly tied to instructional improvement.

These two sets of assessments and two accountability systems overlap and in some cases are redundant. Our PACE pilot braids these two systems together. The result is less assessment overall with a more coherent system that still provides benchmark information the State and districts need without sacrificing much deeper, more actionable information at the classroom level.

Third, because of our work advancing a competency.based learning model, we understand the importance of creating freedom to innovate. We have been working on this system for 3 solid years, starting with intensive professional development to raise the assessment literacy of our teachers. We are not ready to take it statewide, but we hope to in the future.

In New Hampshire, the live-free-or-die State, we believe that it is essential that local educational leaders help build the new system through their innovative efforts. It is the combination of State and local creative collaboration that has helped us build a new, stronger, more effective assessment and accountability system.

We applaud the draft version's section K that allows for a locally designed assessment system in Option 2. However, we also believe that Congress should establish parameters in the reauthorization to ensure that innovative, locally designed systems do not result in a step backward for students. Federally, we would expect that assurances of technical quality and breadth and depth of assessments necessary be put in place.

Within a State, local districts wishing to innovate should be able to demonstrate that they will continue to focus on college or career outcomes and are committed to improving the achievement of educationally disadvantaged students. They should maintain a clearly described internal accountability process and have the leadership necessary to effect a substantive change process.

With these parameters in place, we believe that educational improvements and innovative designs will flourish throughout the life of the coming reauthorization. We in New Hampshire greatly appreciate the opportunity to have our innovative educational practices considered by the committee. We look forward to the future with a speedy reauthorization of a much-improved Elementary and Secondary Education Act.

Thank you.

[The prepared statement of Mr. Leather follows:]

PREPARED STATEMENT OF PAUL LEATHER

SUMMARY

Chairman Alexander, Senator Murray, and members of the committee, thank you for inviting me to testify about testing and accountability in the Elementary and Secondary Education Act.

I am Paul Leather, Deputy Commissioner of Education of the NH Department of Education.

In NH, we are working to explore what the next generation of assessments might look like, beyond an end-of-the-year test.

We have coordinated with the Council of Chief State School Officers on its Priorities for ESEA Reauthorization. These Priorities contain three important ingredients that are in line with the work we are doing:

- First, it would continue to support annual assessments of student performance to ensure every parent receives the information they need on how their child is performing, at least once a year.
- Second, it would allow States to base students' annual determinations on a single standardized test, or the combined results from a coherent system of assessments.
- Third, it gives States the space to continue to innovate on assessment and accountability systems, so important when the periods of authorization can last 10 years or longer.

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- Use of common and local performance-based assessments of competencies throughout each school year, in tandem with grade span Smarter Balanced assessments of State standards in math and English Language Arts.

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Third, because of our work advancing a competency-based learning model, we understand the importance of creating freedom to innovate. We have been working on this system for 3 solid years, starting with intensive professional development to raise the assessment literacy of our teachers. We are not ready to take it statewide, but we hope to in the future.

In NH, the "Live Free or Die" State, we believe that it is essential that local educational leaders help build the new system through their innovative efforts. It is the combination of State and local creative collaboration that has helped us build a new, stronger, more effective assessment and accountability system.

We also believe that Congress should establish parameters in the reauthorization to ensure that innovative pilots do not result in a step backward for students. Federally, we would expect that assurances of technical quality, and breadth and depth of assessments necessary be put in place.

Within a State, local districts wishing to innovate should be able to demonstrate that they will continue to focus on college and/or career outcomes, and are committed to improving the achievement of educationally disadvantaged students. They should maintain a clearly described internal accountability process and have the leadership necessary to affect a substantive change process. With these parameters in place, we believe that educational improvements and innovative design will flourish throughout the life of the coming reauthorization of ESEA.

We in NH greatly appreciate the opportunity to have our innovative educational practices considered by the committee. We look forward to the future with a speedy reauthorization of a much improved Elementary and Secondary Education Act.

Chairman Alexander, Senator Murray, and members of the committee, thank you for inviting me to testify about testing and accountability in the Elementary and Secondary Education Act.

I am Paul Leather, Deputy Commissioner of Education in the New Hampshire Department of Education.

First, let me commend the committee for moving forward quickly on reauthorization. Thirteen years after it was signed into law, No Child Left Behind is well overdue for renewal and has not kept up with major changes in States and school districts. I applaud you for your quick action. It will help States and schools immensely.

New Hampshire is a leading State in our thinking about the future of student assessment systems and accountability. We are a small State, but sometimes that is where the most innovation happens. I am excited about the work we have done and continue to do on behalf of our students.

We are working with several school districts to explore what the next generation of assessments might look like, beyond an end-of-the-year test. We are being methodical and careful as we roll this out in four pilot districts because we want to ensure that our assessment and accountability systems still gives accurate information to teachers, parents and students.

Based on the work we have done in our State and what we have seen happening in States across the country, we were pleased to coordinate with the Council of Chief State School Officers on its Priorities for ESEA Reauthorization. These Priorities contained three important ingredients for a stable, Federal law going forward that is in line with the work we are doing in New Hampshire:

- First, it would continue to support annual assessments of student performance to ensure every parent receives the information they need on how their child is performing, at least once a year.
- Second, it would allow States to base students' annual determinations on a single standardized test, or the combined results from a coherent system of assessments throughout the year.
- Third, it gives States the space to continue to innovate on assessment and accountability systems, so important in a rapidly developing time in educational history, when the periods of authorization can last 10 years or longer.

I want to give a bit more detail on each of these aspects of the Priorities and how they align with our work in New Hampshire. Before I do that, I want to take a moment to thank the Chairman for including States' perspectives in the draft discussion bill. I believe that the draft is a good starting point for reauthorization.

We, as State leaders in education, support annual assessments of students. We in New Hampshire support having an annual assessment requirement. Through a system with annual assessments, we promote equity, transparency, accountability, and high expectations for all students.

In New Hampshire, we are working in collaboration with four school districts to pilot competency-based assessment systems, Sanborn Regional in Kingston, NH, Epping, Rochester, and Souhegan High School in Amherst, NH. In Competency Education, we are intent on broadening the expectations of learning from the simple recitation of knowledge and facts, to also apply knowledge and skills in authentic settings, while fostering work study practices, such as persistence and creativity, as a part of this work. That is why we have emphasized complex Performance Assessments for Competency Education, or "PACE," which is what we call our pilot project. Through a multi-year quality review process and continued technical support from the State and its partners, these pilot districts will help refine this innovative model. In addition, through existing professional development opportunities and networked cohorts of additional districts such as our Quality Performance Assessment cohorts, the State will support a pipeline to help all districts build capacity to lead this transformation statewide.

There are several key components in our Pilot model that we believe will achieve better results for all students:

- Development of statewide model competencies that describe the knowledge and skills that all students are expected to master before they exit the K–12 system.
- Use of a personalized, competency-based approach to instruction, learning, assessment, and awarding credit. In 2005, we eliminated the Carnegie Unit as the basis for awarding credit toward a diploma.
- An intense focus on ensuring that each student has meaningful and multiple opportunities to demonstrate competency that promotes equity for all student groups and every student.
- Use of performance-based assessments of competencies, in tandem with Smarter Balanced assessments of State standards in math and ELA. This way we can ensure students are gaining the same knowledge and skills across districts. This would also allow us to track and report the progress of students, schools, districts, and educators.
- State sponsored scoring calibration and large scale moderation professional development and monitoring, including expert and peer review and back-reading of assessment tasks.
- Explicit involvement of local educators and community members and other experts in designing, implementing, and scoring the new assessment and accountability system.

• Strong commitment both at the local and State level for technical quality, policy and practical guidance, and professional development.

This is a different way of doing things, and presents many challenges and opportunities. In fact, it is hard work. It is not an effort that should be taken lightly. We in New Hampshire have put in the years of effort and design work necessary to develop the system and believe it is a strong path forward for many of our students, teachers and school districts. I am submitting for the record a detailed summary of all the steps taken and the work we will do to ensure comparability, reliability and validity of these assessments, as well as a brief description of the demographics of the participating districts.

However, just because we are piloting this system in several districts does not mean we as a State want to move away from our current annual tests. We believe it is critical to measure students at least once a year on their academic performance. In fact, through the competency-based system, we measure students more frequently throughout the year—in ways that are much more embedded in classroom work. Over the last year, there has been a crescendo of voices across the country raising the concern of over-testing. Let's be clear, 90 percent or more of the "testing" that occurs in schools is under the control of the teacher and the school district. Weekly quizzes, unit assessments, mid-terms, final exams, lab reports, etc. are all "tests" used by teachers to inform parents, grade student work, and most importantly, when done right, used to improve instruction and learning for students. We believe that the over-testing issue has arisen because there has been a disconnect between these local assessments used to improve learning and State and district "external" tests used for monitoring and accountability. I have sat through many local school board meetings where the Superintendent explains to their Board the meaning of the State test results, and then separately describes their own local assessments, more directly tied to curricular and instructional improvement. There are two sets of assessments and two accountability systems going on that overlap and in some cases are redundant. Our PACE Pilot has been designed to braid these two assessment and accountability systems together. The result is less assessment overall as redundancies between local and State assessments are eliminated. However, in this more coherent system we still provide benchmark information the State and districts need without sacrificing much deeper, more actionable information at the classroom level.

Second, we would like to see a statement in the law that supports annual determinations based on a coherent system of State and local multiple assessments. At the end of every year, we need to communicate with parents and students about how students and schools are performing in a clear, transparent way. Our PACE model does that. Rather than relying on just one summative assessment to make this determination, we combine a series of assessment results throughout the year to make that annual determination. This is flexibility States have not had before. We would welcome this flexibility, which would create opportunities for other States in the future.

Third, because of our work advancing a competency-based learning model that is more personalized and student-centered, we understand the importance of creating freedom to innovate, where some districts and schools who have demonstrated their prior work and readiness are given the opportunity to help all of us advance the overall system. In No Child Left Behind there is a provision for a "local assessment option" that allows States to offer a local assessment system in select school districts in place of the State assessment system. However, a close reading of the Standard and Assessments Regulations and the Department's Peer Review Guidance makes clear that what should have been simply parameters turned into "road blocks." The current local assessment option requirements are as or more onerous than the requirements for a statewide assessment. In the 13 years since the law has been enacted, we can count on one hand with fingers left over the number of States that have successfully taken advantage of this "option." My point here is that moving forward we should be clear about the differences between parameters and road blocks. We were highly encouraged to see pilot programs outlined in CCSSO's Priorities and in the Chairman's draft discussion bill. We welcome this flexibility to have pilots actually addressed in the law to clarify that innovation and research in improved models is a necessary part of our system.

The reason New Hampshire has become a leader in innovative assessment and accountability models today is because we have been working to bring this idea to fruition for 3 solid years, starting with intensive professional development to raise the assessment literacy of our teachers. We are not ready to take it statewide yet, but we hope to in the future, if it demonstrates improved performance over the next couple years. I will say that any model—in order to truly be successful—must be led by and supported by the State. However, in New Hampshire, the "Live Free or

Die" State, we also believe that it is essential that local educational leaders help build the new system through their innovative efforts. It is this combination of State and local creative collaboration that has helped us build a new, stronger, more effective assessment and accountability system.

For these reasons, we believe that Congress should establish parameters in the reauthorization to ensure that innovative pilots do not result in a step backward for students. First, at the Federal level, we would expect that assurances of technical quality, and breadth and depth of assessments necessary to adequately assure that the requirements of a fully realized State system will be put in place. These systems should promote equity, transparency, disaggregation, and comparability for the purposes of making annual determinations at the school level. There should also be an expectation of readiness to implement a plan at the State level that ensures innovation with fidelity with the necessary supports for local districts and schools and an evaluation of lessons learned. These parameters are necessary to protect the Federal interest in effective uses of limited Federal funds.

Second, local districts wishing to pursue innovative assessment systems should be able to demonstrate to States that they will continue to focus on college and/or career outcomes, and are committed to improving the achievement of educationally disadvantaged students. They should maintain a clearly described internal accountability process supported by the local board of education, the commitment of resources to ensure the plan's success, and the district and school leadership necessary to lead a substantive change process. They should demonstrate evidence of readiness to innovate, and the educational capacity to design, implement, support, and sustain the new system, if proven successful in advancing learning for students. With these parameters in place, we believe that educational improvements and innovative design will flourish throughout the life of the coming reauthorization of ESEA.

We in New Hampshire greatly appreciate the opportunity to have our views, and our innovative educational practices, considered by the committee in the ESEA reauthorization process. We look forward to the future with a speedy reauthorization of a much improved Elementary and Secondary Education Act.

The CHAIRMAN. Thank you, Mr. Leather.

Mr. Boasberg, welcome.

STATEMENT OF TOM BOASBERG, SUPERINTENDENT, DENVER PUBLIC SCHOOLS, DENVER, CO

Mr. BOASBERG. Thank you very much for this opportunity to be with you here this morning. My name is Tom Boasberg. I'm superintendent of the fastest growing school district of any city in this country, the wonderfully diverse Denver Public Schools.

We have seen remarkable progress in the last decade under reforms started by my predecessor, Senator Bennet, at a time when he had a job with truly complex and challenging public policy issues to grapple with. In that time, we have increased our number of graduates by over 1,000 students a year. We've increased our on-time graduation rate for our African-American and Latino students by over 60 percent.

We've decreased our dropout rates by over 60 percent, and we've grown from a school district with our students having the lowest rate of year-on-year of student progress of any major district in the State to being now the district for 3 years in a row where our students on a student-by-student basis are demonstrating the highest rate of yearly academic progress.

As a result, our enrollment is booming as our families come back to and stay in our schools. In the last 7 years alone, our enrollment has increased by a remarkable 25 percent. Nevertheless, we continue to have significant achievement gaps between our students based on income and race and ethnicity, and we are determined to eliminate those achievement gaps.

One key to our progress is our refusal to be imprisoned by the ideologically polarizing debates and false conflicts that we often see around us. We need to focus on what works for our kids. We can't be stuck in an either-or world. The needs of our kids, over 70 percent of whom qualify for free and reduced lunch, are simply too great.

What does that world look like? It's a world where we can dramatically improve our district-run schools, unleash the creative energy of our teachers to open innovative new schools, and at the same time welcome high performing charter schools. It's a world where both district-run and charter schools work together as public schools to drive greater equity in our community.

It's a world where we do measure the progress of our kids in literacy and math every year to see whether they are on track in these key areas to graduate from high school prepared for college and career. It's also a world where we care deeply about nurturing and developing the whole child, expanding opportunities for arts and music, deepening interest in history and science, and nurturing our kids' physical, social, and emotional growth.

There does not need to be a conflict here. In fact, to the contrary, our experience has shown us that schools that most emphasize a broad curriculum and promote creativity and critical thinking are the ones that actually do best in helping develop their students' literacy and numeracy abilities.

For example, when we went to Denver voters 2 years ago for a tax increase, the first thing we asked for was funding to increase arts, music, and sports. As a parent of three kids, Noah, Ella, and Calvin, and as superintendent for 90,000, do I care about seeing the progress my kids make every year in literacy and math? Yes, of course, I do. Of course, at the same time, I care deeply about their opportunities in creative arts, in social sciences, in sports, and their personal growth as members of our community.

I do believe that annual measures of progress for our kids in literacy and math are vital. At the same time, as I have advocated in our State, we need fewer and shorter tests. For example, I do not see why we cannot have good measures of student progress that are limited to no more than 3 or 4 hours combined time for literacy and math per year or less than one-half of 1 percent of students' total annual classroom time. We as a State need to eliminate the other State tests that have been added in recent years that are unrelated to the law before this committee today.

The new generation of assessments do a good job at helping us understand how our children are progressing in literacy and math. This transparency of how kids are doing is vital, vital for students, for parents, and for teachers. Likewise, having annual data about students' growth is vital to see what is working best in our schools.

Transparency and the holding of clear high standards are important for all kids, but they are particularly important for our kids in poverty and our kids of color. Historically, too many of our most vulnerable students have not been held to the high standards that will enable them to compete for and succeed in college and the knowledge-intensive careers in today's economy, and it is absolutely essential that we do so.

That is why accountability is also vital here, not accountability in a blaming or punishment sense, but accountability to recognize and see what is not working, and then to make the necessary changes in the extraordinarily high stakes work we are all committed to, to help our children and families break out of poverty, to help all kids realize the potential they are born with.

As we celebrate this week the birthday of Reverend Martin Luther King, Jr., I hope that we can help all of our kids live in the "both-and" world that they deserve.

[The prepared statement of Mr. Boasberg follows:]

PREPARED STATEMENT OF TOM BOASBERG

Chairman Alexander, Ranking Member Murray, members of the committee thank you for inviting me to testify today. My name is Tom Boasberg, and I am superintendent of the fastest growing school district in any city in the country, the wonderfully diverse Denver Public Schools (DPS).

Let me tell you a little about my district. Today, we have a little over 90,000 students, with over 70 percent qualifying for free or reduced price lunch. Two fifths of our students are English language learners, and over three quarters are students of color. Our children come from a diverse set of circumstances, but they all have one thing in common: they want a great education and the chance it will give them to succeed in life.

In DPS, we have seen a remarkable progress in the last decade under the reforms and improvement efforts begun by my predecessor, Michael Bennet. In that time, we have increased our number of high school graduates by a thousand, increased the on-time graduation rate for African-American and Latino students by 60 percent, decreased our dropout rate by over 60 percent, and have gone from the district with the lowest rate of year-on-year academic growth among major districts in the State to, for the last 3 years, the highest. The gaps between our middle class students and students in poverty and between our white students and students of color, however, have moved very little, and we are acutely aware of how much more progress we need to make for our kids.

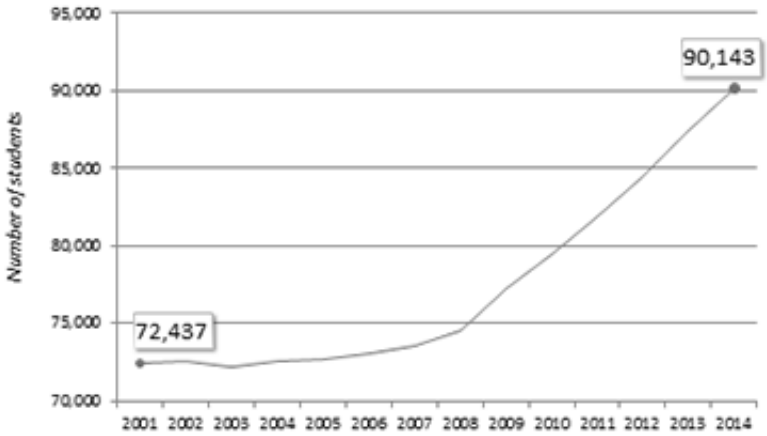
As a result of the improvements in our schools, our enrollment is booming as families come back to and stay in our schools. In the last 7 years alone, our enrollment has grown by a remarkable 25 percent, far higher than the growth in school-age population in the city.

DENVER PUBLIC SCHOOLS (DPS)

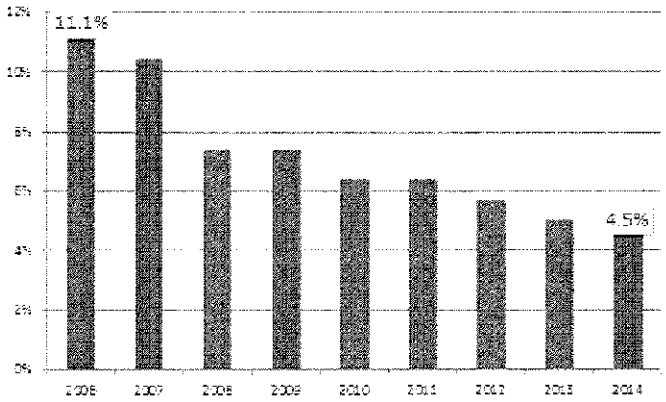
The Students We Serve:

- Enrollment: 90,143
- Languages spoken: 140
- Poverty rate: 70%
- Race/ethnicity:
  - Hispanic 57%
  - White 22%
  - African-American 14%
  - Asian 3%
  - More than two races 3%
  - Amer. Indian/other 1%
- English learners: 39%
- Students with special needs: 11%

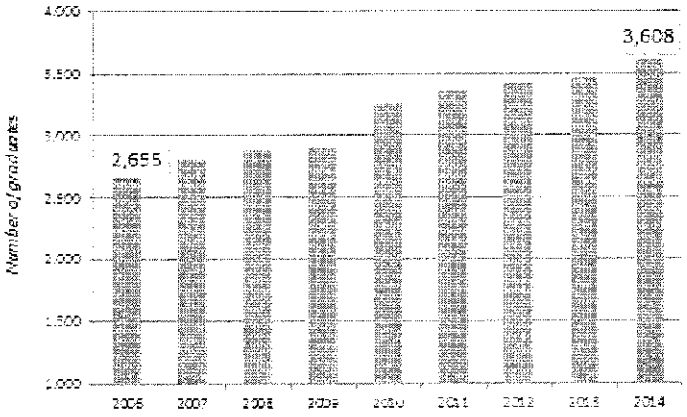
DPS enrollment growth 2001-2014

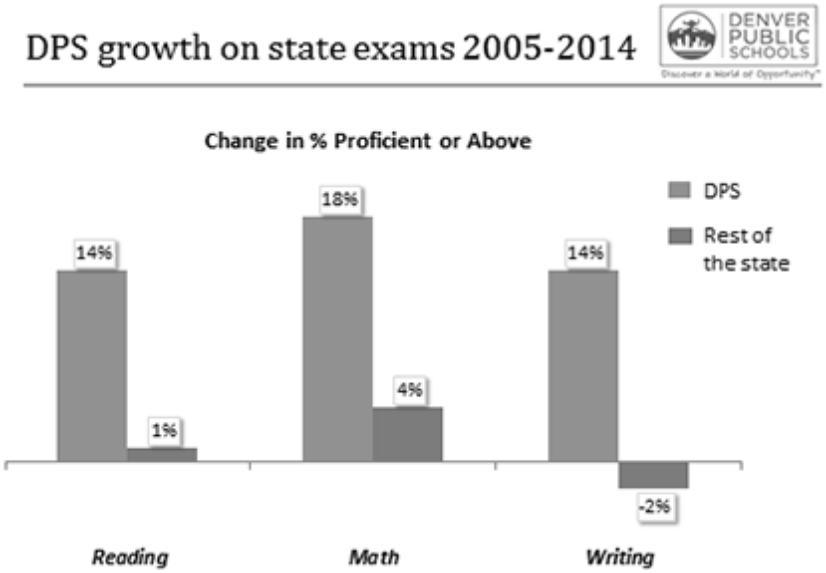


DPS drop-out rates 2006-2014



DPS total graduates 2006-2014





One key to our progress is our refusal to be imprisoned by the ideologically polarizing debates and false conflicts that we often see around us. We focus on what works for kids.

We cannot be stuck in an either/or world. The needs of the children we serve are too great and the stakes for their success too high.

What does that world look like? It's a world where we can dramatically improve our district-run schools, unleash the creative energies of our teachers to open innovative new schools, and at the same time welcome high-performing charters. It's a world where both district-run and charter schools work together to drive greater equity in our community.

It's a world where we do measure the progress of our kids in literacy and math to see whether they are on track in these key areas to graduate from high school prepared for college and career.It's a world where we care deeply about nurturing and developing the whole child—expanding opportunities for arts and music, deepening interest in history and science, and nurturing our kids' physical, social, and emotional growth.

For example, 2 years ago, when we went to Denver voters for a local tax increase, the first thing we asked for was funding dedicated to expanding arts, music and sports in our schools. We are very proud that Denver has the largest parent-teacher home-visit program in the country to strengthen vital ties between home and school.

There does not need to be a conflict here. In fact, to the contrary, our experience has shown us the schools that most emphasize a broad curriculum and promote creativity are the ones that actually do best in helping develop and grow their students' literacy and numeracy abilities.

As both a parent of three kids and superintendent for 90,000, do I care about seeing the progress my kids make every year in literacy and math? Yes, of course, I do. I care that their progress is measured against a meaningful benchmark aligned to where they need to be to be on track for success in college and career. This ensures that they and all children in our State are held to the same high standards. Our future economy and civic leadership in Colorado depend on our graduating students who are ready to work in our knowledge-based economy and lead our community. This makes having high expectations for their achievement and measuring their progress toward that achievement all the more important.

At the same time, both with my own three kids and all kids in DPS, I care deeply about how they do in the classroom on the projects and work assigned by their teachers. I care deeply as well about their opportunities in the creative arts, in social sciences, in sports, and their personal growth as members of our community. It does not have to be either/or.

While I do I believe that annual measures of progress for our kids in literacy and math are important, I have also advocated in our State that we need fewer and

shorter tests. For example, I do not see why we cannot have good measures of student progress that are limited to no more than three to 4 hours combined time for literacy and math per year—or less than one-half of 1 percent of students' total annual classroom time. We as a State also need to eliminate the other State tests that have been added in recent years that are unrelated to the law before this committee today.

The new generation of assessments does a good job at helping us understand how our children are progressing in literacy and math. They measure high-order thinking skills, and ask students to solve complex problems and demonstrate the knowledge and skills they will need for college and careers.

It is important that kids and their parents know how they are doing in mastering these critical skills—just as teachers need the information to tailor and individualize their instruction for their students. This transparency, in short is vital, and it is vital that all involved get this information at least annually.

Without annual data, we cannot effectively measure the growth, the progress our kids are making. Seeing how much kids are growing is equally important for the high-achieving student who wants to keep moving forward as it is for the low achieving student who needs to see the progress he or she is making to catch up.

Likewise, having annual data about students' growth is necessary to see what is working best in our schools—to understand the effectiveness of academic initiatives and to share the best practices we are seeing in our classrooms and schools where kids are making the most progress.

Transparency and the sharing of best practices are important for all kids, but they are particularly important for our kids in poverty and kids of color. Historically, too many of our most vulnerable students have not been held to the high standards that will enable them to compete for, and succeed in, college and the knowledge-intensive careers in today's economy.

That is why accountability is also vital here. Not accountability in a blaming or punishment sense but accountability to see what is not working for kids and to make the necessary changes in the extraordinarily high-stakes work we are all committed to—to help children and families break out of poverty, to help all kids realize the potential they are born with.

As we celebrate this week the birthday of Rev. Martin Luther King, Jr., I hope that we can help all our kids live in the "both-and" world they deserve.

Thank you for your time and I look forward to answering your questions.

The CHAIRMAN. Thank you.

Mr. Henderson.

STATEMENT OF WADE J. HENDERSON, PRESIDENT AND CEO, LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS AND THE LEADERSHIP CONFERENCE EDUCATION FUND, WASHINGTON, DC

Mr. HENDERSON. Good morning, Chairman Alexander, Senator Murray, and members of the committee. As you've noted, I'm Wade Henderson, president and CEO of the Leadership Conference on Civil and Human Rights, the Nation's leading civil and human rights coalition with over 200 national organizations working to build an America as good as its ideals.

I'm also the Joseph L. Rauh, Jr., Professor of Public Interest Law at the David A. Clarke School of Law, University of the District of Columbia. In addition, I serve as the vice chair of the board of trustees of the Educational Testing Service, the Nation's premier testing assessment nonprofit corporation.

Thank you for inviting me here today to testify on the reauthorization of the Elementary and Secondary Education Act. The civil and human rights community has long seen education and voter participation as the twin pillars of our democracy. Together they help to make the promise of quality and opportunity for all a reality in American life.

We welcome the opportunity that this important and timely hearing provides to look at ways that we can improve ESEA and

ensure that each and every child, regardless of race, national origin, gender, sexual orientation, disability, or zip code, receives the best education that this great nation can provide.

Senator Murray, thank you for acknowledging the parents who have come in from around the country—States like Washington, Colorado, Tennessee, Minnesota, Delaware—to have their voices amplify the concerns that we reflect in our testimony today.

Now, significantly, this year, we mark the 50th anniversary of ESEA, which was a pillar of President Lyndon Johnson's war on poverty. Congress recognized then and has for the past five decades that children living and going to school in poverty, and especially those living in concentrated poverty, need more, not fewer resources than their more advantaged peers.

Today, we speak with one voice on behalf of all of our children, girls and boys, students of color, students not yet proficient in English, those who have disabilities or are homeless or migrant, those in the criminal juvenile justice system, and those living in foster care, living on the streets, or living in the shadows. We speak with deep concern and growing alarm about increasing child poverty, the persistent low achievement of students with disabilities, and the growing income inequality in our Nation, particularly as they are reflected and reinforced by grotesque disparities in resources available to high and low poverty schools.

Education is even more important today than ever before. A high school diploma is not just enough to access the jobs of today and tomorrow. Students now need postsecondary education or further training after high school. We cannot ignore the fact that State and local school financing systems have been unfair and inadequate.

We know that money spent wisely can and will make an enormous difference in the ability of high poverty schools to prepare our students for college and career. We also know that money spent on high-quality preschool is one of the best investments we can make. That's why a group of more than 20 national organizations created a set of principles which call on Congress to maintain and improve strong accountability requirements of ESEA.

Our approach to accountability is straightforward and sensible. First, ESEA must continue to require high-quality annual statewide assessments for all students in grades three through eight and at least once in high school that are aligned with and measure each student's progress toward meeting the State's college- and career-ready standards.

Next, statewide accountability systems must expect and support all students to make enough progress every year so that they are on track to graduate from high school, ready for college and career. States must set annual district and school targets for grade level achievements, high school graduation, and closing achievement gaps for all students, including accelerated progress for each major racial and ethnic group, students with disabilities, English language learners, and students from low-income families, and evaluate schools and districts on how well they meet these targets.

Third, States and school districts need to improve data collection and reporting to the public on student achievement and gap closing, course completion, graduation rates, per pupil expenditures, opportunity measures like pre-K and technology, and school cli-

mate indicators including decreases in the use of exclusionary discipline practices, use of police in schools, and student referrals to law enforcement. This data must be tabulated by all of the categories I've listed previously, but notably disability, gender, race, and national origin.

I want to conclude by expressing very serious concerns, Mr. Chairman, with your proposal as it is currently written. We have great respect for you. The proposal, as we understand it today, is detailed in our written testimony, and it needs to be, we hope, addressed.

Now, the bill as a general matter bends over backward to accommodate the interests of State and local government entities that have both failed our children and avoided any real accountability for their failures. The Federal Government must continue to hold States and school districts accountable for the degree to which they are improving education for all students, especially students who have been underserved by the system for far too long.

Congress must not pass an ESEA——

The CHAIRMAN. Mr. Henderson, you're well over your time.

Mr. HENDERSON. I'm over, sir. I will bring it to a conclusion. Thank you for the opportunity to be here, and I look forward to your questions.

[The prepared statement of Mr. Henderson follows:]

PREPARED STATEMENT OF WADE J. HENDERSON

SUMMARY

This year we mark the 50th anniversary of ESEA, which was a pillar of President Lyndon Johnson's War on Poverty. Congress recognized then—and has for the past five decades—that children living and going to school in poverty, and especially those living in concentrated poverty need more, not fewer, resources than their more advantaged peers.

Today, we speak with one voice on behalf of all our children.

Education is even more important today than ever before. A high school diploma is just not enough to access the jobs of today and tomorrow. Students now need postsecondary education or further training after high school.

We cannot ignore the fact that State and local school financing systems have been unfair and inadequate. We know that money spent wisely can and will make an enormous difference in the ability of high-poverty schools to prepare our students for college and career. We also know that money spent on high-quality preschool is one of the best investments we can make.

Outline of the civil rights principles:

- High-quality annual, statewide assessments;
- Statewide accountability systems; and
- Improved data collection and reporting, disaggregated.

Expressing serious concerns with the Chairman's ESEA bill as it is currently written.

There is room for improvement in the law, but our moral imperative and global responsibility is to provide the best possible education that we can for each and every child.

Good morning, Chairman Alexander, Senator Murray and members of the committee, I am Wade Henderson, president and CEO of The Leadership Conference on Civil and Human Rights, a coalition of more than 200 national organizations charged with the promotion and protection of the rights of all persons in the United States. I am also the Joseph L. Rauh, Jr. Professor of Public Interest Law at the David A. Clarke School of Law, University of the District of Columbia. In addition, I am a member of the board of the Educational Testing Service and currently serve as vice chair.

Thank you for inviting me here today to testify on the reauthorization of the Elementary and Secondary Education Act (ESEA). We truly hope that the final update of ESEA is a bipartisan bill. The leadership of this committee has tremendous professional experience as educators and education leaders. We look forward to working with you and your staffs as this process moves forward.

The civil and human rights community has always seen education and voter participation as the twin pillars of our democracy. Together, they help to make the promise of equality and opportunity for all a reality in American life. We welcome the opportunity that this important and timely hearing provides to look at the ways that we can improve ESEA and ensure that each and every child, regardless of race, national origin, gender, sexual orientation, disability or ZIP code, receives the best education that this great Nation can provide.

Sixty-one years ago in *Brown* v. *Board of Education*, a unanimous Supreme Court underscored the importance at that time of equal educational opportunity:

> Today, education is perhaps the most important function of State and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the State has undertaken to provide it, is a right which must be made available to all on equal terms.[1]

Since *Brown*, all three branches of our national government have acted affirmatively to promote equal educational opportunity and to eradicate racial and other forms of discrimination in schools.[2] Significantly, the ESEA was enacted *50 years ago* in 1965 and was a pillar of President Lyndon Johnson's War on Poverty. Congress recognized then—and has for the past five decades—that children living and going to school in poverty, and especially those living in concentrated poverty need more, not fewer, resources than their more advantaged peers.

Education is even more important today, and our children need more of it to succeed in life. As President Obama, Secretary Duncan and most of us recognize, a high school diploma is just not enough to access the jobs of today and tomorrow. Students now need postsecondary education or further training after high school. A reauthorized ESEA must be based on a set of core principles for high standards, equal learning opportunities, honest measurement and effective accountability. These principles are summarized in the attached statement from more than 20 national organizations speaking for millions of children and parents/guardians across the country who want nothing but a fair chance to achieve the American dream. Today, we speak with one voice on behalf of all our children—girls and boys, students of color, students not yet proficient in English, those who have disabilities or are homeless or migrant, those in the criminal or juvenile justice systems, and those living in foster care, living on the streets, or living in the shadows.

We speak with deep concern about the growing income inequality in our Nation, particularly as it is reflected and reinforced by grotesque disparities in resources available to high- and low-poverty schools. We cannot ignore the fact that State and local school financing systems have been unfair and inadequate. As the Equity and Excellence Commission Report to the Secretary of Education described, gaps in opportunities and outcomes start long before children enter the schoolhouse door, "But instead of getting deadly serious about remedying that fact—by making sure such students are in high-quality early childhood and pre-K programs, attend schools staffed with teachers and leaders who have the skills and knowledge to help each student reach high standards, get after-school counseling or tutorial assistance or the eyeglasses they need to see the smart board—the current American system exacerbates the problem by giving these children less of everything that makes a difference in education."[3]

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[1] *Brown* v. *Board of Education of Topeka*, 347 U.S. 483 (1954).

[2] See, e.g., *Bob Jones University* v. *United States*, 461 U.S. 574 (1983) ("Over the past quarter of a century, every pronouncement of this Court and myriad Acts of Congress and Executive Orders attest a firm national policy to prohibit racial segregation and discrimination in public education.")

[3] Commission on Equity and Excellence, U.S. Department of Education, For Each and Every Child—A Strategy for Education Equity and Excellence, Washington, DC, 2013, available at *http://www2.ed.gov/about/bdscomm/list/eec/equity-excellence-commission-report.pdf*.

We speak with growing alarm about the persistent low achievement of students with disabilities—across all student subgroups and demographic categories—who will face alarming rates of poverty, unemployment, underemployment, incarceration, and institutionalization if we do not honor our commitments under the IDEA, the ADA, Section 504, and ESEA to provide educational opportunities and services that allow them to reach their full potential.

Finally, Mr. Chairman, we must speak truth to the fact that even as the Nation continues to recover from the recession, child poverty has persisted and is actually increasing. As the Southern Education Foundation recently reported, for the first time, the majority of students in the Nation's public schools are growing up in low-income families.[4] More of our students are students of color, more of them are just beginning to learn English, and many enter school with a significant word deficit.

These demographic realities have vast implications for this committee's challenge to rewrite ESEA. Title I used to be seen as a way to add time and services for a minority of students, those from poor families needing remedial help with basic skills. With the exception of dead-end, low-paying jobs, our modern labor market is increasingly inhospitable to those who come with only basic literacy and math skills. Today's good jobs demand levels of hard and soft skills, knowledge, as well as formal education and training that go far beyond a standard high school diploma. Increasingly, they require competence in the STEM subjects, science, technology, engineering and mathematics—subjects that are not even taught in many schools, and are in woefully short supply in schools with higher concentrations of poverty.

These new data paint a stark portrait of the "new normal" in public schools, on which we base our principles and recommendations. As Steve Suitts, an author of the Southern Education Foundation's student population studies wrote:

> No longer can we consider the problems and needs of low income students simply a matter of fairness . . . Their success or failure in the public schools will determine the entire body of human capital and educational potential that the Nation will possess in the future. Without improving the educational support that the Nation provides its low income students—students with the largest needs and usually with the least support—the trends of the last decade will be prologue for a nation not at risk, but a nation in decline . . .

COLLEGE AND CAREER READY STANDARDS

What is needed at the national level, first and foremost, is a relentless focus on preparing all students for college and career. This means requiring States participating in title I to set and maintain academic standards for all students that are aligned with what they will need to succeed in postsecondary education and careers that will pay a family supporting wage.

The standards, whether the Common Core or other comparable standards, must be implemented as well and as successfully in both high-poverty and lower-poverty schools. It is no longer sustainable for our Nation, or any State, to maintain dual systems of public schools—one for the privileged and another, vastly inferior, for communities of color and the poor. States—which under our Federal system have primary responsibility under their own constitutions for educating their children—must be required to meet these obligations by ensuring that all students, regardless of ZIP code, English proficiency levels, race, gender or disability, have an equal opportunity to meet the standards. This must include providing early childhood education, particularly for low-income children and those with disabilities. States must also provide updated technology, effective and qualified teachers, curriculum aligned with the standards, and supports and services needed by English learners, pregnant and parenting students, and students with disabilities. Finally, States should ensure that all schools maintain a safe and healthy school climate with inclusionary discipline best practices.

It is not an inappropriate intrusion on State sovereignty for Congress to assert these urgent national interests in equity and excellence and make these demands on States as a condition for receiving Federal education dollars.

FUNDING AND TARGETING

The Federal Government must also increase and continue to target resources to disadvantaged and vulnerable populations, including those living in concentrated poverty, those learning English, Native students, homeless students, and those in foster care or the juvenile or criminal justice systems. The Federal Government should fully fund both title I and IDEA, and it should also provide incentives for

[4] *http://www.southerneducation.org/Our-Strategies/Research-and-Publications/New-Majority-Diverse-Majority-Report-Series/A-New-Majority-2015-Update-Low-Income-Students-Now.*

States to address inequities in their systems of school finance. It should also retain, improve, and fund School Improvement Grants (SIG). For example, these grants' allowable uses, where an analysis of school needs support these uses, should include creating magnet schools, inter-district transfers, community schools, and expanded learning time models. We acknowledge the prerogative of local authorities to open and close facilities and to determine student assignments, provided they do not run afoul of Federal non-discrimination obligations. School closings, however, in and of themselves do not improve students' instruction and learning. As such, they should not be permissible under SIG, unless in connection with a plan to reassign students to schools that will provide demonstrably better instruction and learning.

ASSESSMENTS

Federal investments are unlikely to result in meaningful gains unless they are accompanied by unequivocal demands for higher achievement, higher graduation rates, and substantial closing of achievement gaps. Similarly, States must ensure that their school districts and schools are able to, and in fact are, meeting academic and high school graduation standards. This is why it is so important that ESEA continue to include strong requirements for assessments and accountability. In other words, public agencies, officials and employees are all accountable for our children's and Nation's future. Accountability is a core civil rights principle, and it is indispensable to advancing our collective interest in providing equal opportunity, reducing poverty, and maintaining our country's competitiveness and national security.

The Leadership Conference and more than 20 national organizations have called on Congress to maintain and improve strong accountability requirements in ESEA. Our approach to accountability is straightforward and sensible.

First, high-quality, statewide annual **assessments** are needed. It is imperative that parents, teachers, school leaders, public officials, and the public have objective and unbiased information on how their students are performing. ESEA must continue to require *annual*, *statewide assessments* for all students (in grades 3–8 and at least once in high school) that are aligned with, and measure each student's progress toward meeting, the State's college- and career-ready standards.

Local assessments should only be used to supplement the State assessments, but not for ESEA accountability purposes. They cannot be a credible substitute for statewide assessments, because there is no way to ensure comparability of local assessments across a State. Civil rights organizations are also concerned about incentives for lowering standards on local assessments and the added assessment burden on classroom time.

To ensure fairness, the assessments must meet prevailing, widely accepted professional psychometric standards and be valid and reliable measures of student progress. They must meet other requirements now in title I, including the requirement to disaggregate and report results.

States must continue to provide appropriate accommodations for English learners, who should be exempt only for their first year attending school in the United States. ELLs should also be assessed in the language and form most likely to yield accurate information on their knowledge and skills.

In addition, States must provide appropriate accommodations for students with disabilities. States also must limit alternate assessments based on alternate achievement standards only to students with the most significant cognitive disabilities, up to 1 percent of all students; terminate assessments based on modified achievement standards; and prohibit the use of Individualized Education Programs (IEPs) to measure academic achievement under ESEA.

We believe that 90 percent of students with disabilities should be taking the general assessment with or without accommodations as appropriate. This is supported by state-reported data showing that most students receiving special education services have reading or math disorders, speech impairments, physical impairments, attention issues, or emotional challenges; only a small number have the type of intellectual disabilities that significantly impact their cognition and ability to learn at pace with their peers. When students take the general assessment, are taught to State standards, and provided the supports and services they are *entitled to under the law* and need to graduate with a regular diploma, a world of economic opportunity opens for them.

You will certainly hear from those who will argue that it is somehow acceptable to set much lower expectations for students with disabilities, perhaps in some cases because schools have not been provided with the staff support necessary to provide the proper services and accommodations. It is not acceptable. In fact, it is both unlawful and unconscionable. There is absolutely *no reason* to allow schools unchecked discretion to assign students with disabilities to the alternate assessment on alter-

nate achievement standards because in most States, this automatically takes students out of the general curriculum and off track for a regular diploma. There is also evidence that an alternate assessment may lead to increased segregation for students with disabilities.

Finally, we all recognize that many high-poverty schools do not have the technology in place to properly administer computer-based assessments. We believe that, during a transition period, alternatives to computer-based assessment should be provided to students in schools that have not yet provided them with sufficient access to, and experience with, the required technology.

ACCOUNTABILITY

Next, effective **statewide accountability systems** are needed. State accountability systems must expect and support all students to make enough progress every year so that they are on track to graduate from high school ready for college and career. States must set annual district and school targets for grade-level achievement, high school graduation, and closing achievement gaps for all students, including accelerated progress for subgroups (each major racial and ethnic group, students with disabilities, English language learners, and students from low-income families), and evaluate schools and districts on how well they meet the targets.

States and school districts must diagnose the causes of low achievement or graduation rates and identify barriers to improvement. They must then employ effective remedies to eliminate these causes and barriers and improve instruction, learning, and school climate (including, e.g., decreases in bullying and harassment, use of exclusionary discipline practices, use of police in schools, and student referrals to law enforcement). Remedies for students enrolled should be implemented in any school where the school as a whole, or any subgroup of students, have not met the annual achievement and graduation targets or where achievement gaps persist. The remedies must be effective both in improving subgroup achievement and high school graduation rates as well as in closing achievement gaps.

Third, States and school districts need to improve **data collection and reporting.** Public disclosure, robust data collection and reporting systems, and transparency are all important civil rights values. States and LEAs must improve data collection and reporting to parents and the public on student achievement and gap-closing, course completion, graduation rates, school climate indicators (including decreases in use of exclusionary discipline practices, use of police in schools, and student referrals to law enforcement), opportunity measures (including pre-K and technology), and per-pupil expenditures. Data must be disaggregated by categories in Sec. 1111(b)(3)(C)(xiii) of Title I, and cross-tabulated by gender. Data should also be further disaggregated by English proficiency levels as well as by Asian national origin subgroups.

Members of Congress in both houses and both parties are being bombarded with messages from those who do not share our unwavering insistence that this body—and every legislature and school board across the country—do every last thing possible to level the playing field and provide the opportunities to learn and excel that all students, all families, and all communities deserve—and that our Nation cannot thrive without.

You will hear countless naysayers claim that the assessment and accountability porvisions of ESEA, enacted first in 1994 and later strengthened with passage of No Child Left Behind in 2001, have been nothing but a failure and a burden on schools. This is simply not true. Since the imposition of the Federal requirement for annual tests, full public reporting, and serious accountability for the results of every group of children, achievement among black, Latino, and low-income students has improved. On the longest standing national examination—the NAEP Long Term Trends Exam—these groups have improved faster than at any time since 1980. Indeed, African-American and Latino 9-year olds now perform as well in math as their 13-year old counterparts did in 1973.

Taking a closer look at the last 15 years, our most vulnerable students have shown progress on a range of important measures. For example:

- Between 2000 and 2013, the percentage of the Nation's low-income fourth graders reaching proficient or advanced levels in math nearly quadrupled, and the percentage without even basic math skills fell by more than half.
- Gaps in reading achievement separating African-American eighth graders from their White peers narrowed by nearly a quarter between 1998 and 2013.
- The percentage of students with learning disabilities graduating with a regular high school diploma grew from 57 percent in 2002 to 68 percent in 2011.
- The percentage of Latino students enrolling in college immediately after high school has increased from 49 percent in 2000 to 69 percent in 2012.

These numbers represent real differences in the life trajectories of young people. These gains are not good enough. We still have more work to do to ensure that all young people graduate high school ready for college and the workplace. We must remain mindful that:

• Nearly half of African-American and Latino 4th graders struggle with basic reading skills.
• Just 20 percent of low-income eighth graders score proficient or above in math.
• One in four Latino ninth graders won't graduate 4 years later. For African-American and Native students, the figure's closer to one in three.

These priorities related to assessment and accountability are not the only priorities of The Leadership Conference. You will be hearing from us in the weeks ahead on other issues that are also critically important. In the meantime, I want to highlight several urgent needs, all related to whether efforts to improve student outcomes will succeed or flounder.

First, no child should be afraid to go to school or be made to feel ashamed of who he is or what she believes. Every student deserves to attend school in a safe, inclusive environment free from bullying, harassment and discrimination, all of which contribute to high rates of absenteeism, dropout, depression and other adverse health consequences, and academic underachievement. Current Federal education law lacks an express focus on issues of bullying and harassment, and the protections against discrimination are incomplete. We urge the committee to include these measures in the ESEA bill:

• The Safe Schools Improvement Act would require school districts to adopt codes of conduct specifically prohibiting bullying and harassment, including on the basis of race, color, national origin, sex, disability, sexual orientation, gender identity, and religion.[5]
• The Student Non-Discrimination Act would prohibit public schools from discriminating against a student on the basis of sexual orientation or gender identity, expanding the list of currently protected classes.

Second, Congress should fully fund title I. Many of the problems Congress is trying to address—including massive resistance to change—might have been averted if Congress had actually faithfully implemented the law that it passed, which was supposed to raise funding title I from $13.5 billion in 2002 to $25 billion in 2007. While title I was fully funded in 2001, with appropriations at 100 percent of authorized levels, by 2007, it was down to 51 percent of authorized levels. The title I appropriation reached only $14.4 billion in 2015 and the chairman's proposal would cap it at $14.9 billion through 2021. This stagnation in title I funding occurred while the percentage of poor children in public schools skyrocketed (since 2000 from 38 percent to 51 percent, according to the Southern Education Foundation report).

I would like to conclude my testimony by commenting briefly on Senator Alexander's proposals regarding assessment and accountability and on Senator Murray's principles for reauthorization.

We are encouraged that several provisions in Senator Alexander's bill touch on some of the civil rights' groups core principles, including: a focus on college-readiness, the requirement for States to set standards, administer annual assessments (in Option 2) and disaggregate results, and statewide accountability systems based on State standards. Under the bill, States would be required to identify and differentiate among schools based on student achievement, subgroup performance, and achievement gaps. Graduation rates—4-year adjusted cohort rate and extended-year adjusted rate—would also be included. States and school districts would be required to assist title I schools identified as needing academic achievement. The proposal also preserves the 95 percent assessment participation requirement for all student subgroups. The report cards would also include actual per pupil expenditures.

Of course, the devil is in the details, and the bill falls short with respect to our principles in several ways, including but not limited to:

First, as a general matter, the bill bends over backward to accommodate the interests of State and local government entities that have both failed our children and avoided any real accountability for their failures. Rather than use the power of the Federal purse and the Equal Protection Clause to leverage better policies and performance from the States in educating our most vulnerable children, the bill would allow States to water down standards; to maintain grossly inequitable and inadequate school financing schemes; to repurpose title I dollars to serve otherwise ineli-

[5] *http://www.hrc.org/resources/entry/safe-schools-improvement-act.*

gible students; and to settle for a "nice try" rather than real results in closing gaps in achievement and high school graduation rates. Here are just a few examples:

- The bill would eliminate the requirement for achievement, gap-closing and graduation rate targets for subgroups of disadvantaged students and remedies when the targets are not met.
- The bill subverts the purpose of college- and career-ready standards by, for example:
  - Using instead the term "college- or career-ready" which could easily result in low-income students and students of color being tracked into less rigorous vocational programs rather than providing them the skills needed to succeed in a rigorous career training program.
  - Requiring that the standards align only with the entrance requirements of *one* institution of higher education in the States, rather than a more meaningful standard set by a public university system governing board.
- The bill would allow States—under political pressure from special interests—to depart from statewide assessments, or to dilute the results of those assessments, by using local assessments for State accountability purposes. The bill even authorizes funds in the Federal program intended to improve State assessments to be diverted to develop local assessments.
- The bill's options would also allow States—under political pressure from special interests—to depart from assessing students annually and to revert to a weaker system of "grade span" assessment and accountability.
- The bill would codify the current regulatory option for an alternate assessment for students with the most severe cognitive disabilities, but fails to limit its use to 1 percent or fewer students, thereby creating perverse incentives for schools to funnel more challenging students into low-level academic tracks.
- The bill weakens the requirement that school districts ensure that low-income and minority students are not taught at higher rates than other students by inexperienced or unqualified teachers, and it eliminates the parallel requirement at the State level.
- The bill would eliminate parents' right to transfer their children from low-performing schools to successful schools and makes it a local option.
- The bill's authorization levels are completely inadequate. Title I's authorization would be fixed at $14.9 billion for the life of the bill—a sum that is $10 billion lower than the $25 billion authorized for 2007, the most recent year specified in the law.
- The bill eliminates "maintenance of effort."
- The bill's "portability" provisions would dilute targeting of Federal funds to the schools with the highest concentrations of poor students and thereby compromise the ability of these schools to improve.
- The bill further hampers school improvement efforts by eliminating rather than improving the School Improvement Grant (SIG) program, which has directed $500 million per year to the lowest-performing schools—usually the bottom 5 percent—for comprehensive whole-school reform, including increased learning time and school restructuring.
- The bill's block-granting of title IV and the elimination of vital programs—such as the 21st Century Community Learning Centers, Promise Neighborhoods, the AP program, and school counselors—will harm children. When programs are both consolidated and cut, and they each have legitimate purposes, the winners and losers will be determined by who has more political influence, not what programs are best for underserved children.
- Finally, there is no proposal for a dedicated funding stream for early childhood education programs, which are urgently needed for young children with disabilities and those living in poverty.

Second, at a time when we need more leadership than ever from the national government, and when taxpayers are demanding more transparency and results from government, the bill would allow Federal dollars to keep flowing to States with virtually no meaningful accountability for the spending nor effective oversight from the Secretary of Education. For example:

- The bill sets a far lower standard of review for Federal approval of State plans than for State approval of school district plans. Rather than place the burden on States to convincingly explain how their plans would work, the bill would require the Secretary to provide "research" demonstrating the plan would not work, along with a hearing, before rejecting the plan.
- By requiring approval within 45 days, the bill foolishly limits the capacity of the Secretary and the Department of Education to conduct a robust peer review of State plans and to have a process that ensures that each State's plan meets the

statute's requirements. Scrutiny of assessments, evidence of standards, reporting on "supplement not supplant" provisions, etc., are all weakened under this bill.

With respect to Senator Murray's proposals, we applaud the commitment to early childhood education, and to making sure that when States and districts accept Federal money, they use it to produce academic gains for students.

The Leadership Conference and our member organizations will provide additional comments and recommendations on the legislative proposals in the coming weeks. We encourage the leadership and members of the committee to continue to work across the aisle to improve our public schools and to reauthorize ESEA. We look forward to further discussion with you and members of the committee.

Thank you for your consideration.

Attachment

SHARED CIVIL RIGHTS PRINCIPLES FOR THE REAUTHORIZATION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT—JANUARY 2015

1The United States has played a historic and critical role in promoting educational opportunity and protecting the rights and interests of students disadvantaged by discrimination, poverty, and other conditions that may limit their educational attainment. For more than five decades, Congress has consistently recognized and acted on the need to promote fair and equal access to public schools for: children of color; children living in poverty; children with disabilities; homeless, foster and migrant children; children in detention; children still learning English; Native children; and girls as well as boys. Much progress has been made, but educational inequality continues to quash dreams, erode our democracy, and hinder economic growth. **This Federal role must be honored and maintained in a reauthorized Elementary and Secondary Education Act (ESEA), which must ensure the following:**

I. Each State adopts college- and career-ready State standards and provides:

All students a fair and equal opportunity to meet these standards, including:

- Access to early childhood education for economically disadvantaged children and those with disabilities (ages birth to 5 years).
- Equal access to qualified and effective teachers and core college-prep courses.
- Equal access to technology including hardware, software, and the Internet.
- Safe and healthy school climate with inclusionary discipline best practices.
- Supports and services needed by English learners and students with disabilities.

• Protections for the most vulnerable children, e.g., those in juvenile or criminal justice systems, those in child welfare systems, pregnant/parenting students, and foster, homeless, and migrant youth.

Annual, statewide assessments for all students (in grades 3–8 and at least once in high school) that are aligned with, and measure each student's progress toward meeting, the State's college- and career-ready standards, and

• Are valid and reliable measures of student progress and meet other requirements now in Sec. 1111(b)(3) of Title I.[1]

• Provide appropriate accommodations for English learners, who should be exempt only for their first year attending school in the United States.

• Provide appropriate accommodations for students with disabilities.

• Limit alternate assessments based on alternate achievement standards only to students with the most significant cognitive disabilities, up to 1 percent of all students; terminate assessments based on modified achievement standards; and prohibit the use of Individualized Education Programs (IEPs) to measure academic achievement under ESEA.

• Allow, during a transition period, alternatives to computer-based assessment for students in schools that have not yet provided them with sufficient access to, and experience with, the required technology.

II. Federal dollars are targeted to historically underserved students and schools.

• Title I is used to provide extra (supplemental) resources needed by high-poverty schools to close achievement gaps and improve student outcomes.

• States, districts and schools serving the highest-need student populations receive more funding than others.

• Targeted funding is provided to meet the needs of the most vulnerable children including youth in juvenile and criminal justice systems; Native American children; English learners; and foster, homeless, and migrant students.

III. State accountability systems expect and support all students to make enough progress every year so that they graduate from high school ready for college and career.

• States set annual district and school targets for grade-level achievement, high school graduation, and closing achievement gaps, for all students, including accelerated progress for subgroups (each major racial and ethnic group, students with disabilities, English language learners, and students from low-income families), and rate schools and districts on how well they meet the targets.

• Effective remedies to improve instruction, learning and school climate (including, e.g., decreases in bullying and harassment, use of exclusionary discipline practices, use of police in schools, and student referrals to law enforcement) for students enrolled are implemented in any school where the school as a whole, or any subgroup of students, has not met the annual achievement and graduation targets or where achievement gaps persist. The remedies must be effective both in improving subgroup achievement and high school graduation rates and in closing achievement gaps.

IV. States and districts ensure that all title I schools encourage and promote meaningful engagement and input of all parents/guardians—regardless of their participation or influence in school board elections—including those who are not proficient in English, or who have disabilities or limited education/literacy—in their children's education and in school activities and decisionmaking. Schools communicate and provide information and data in ways that are accessible to all parents (e.g., written, oral, translated).

V. States and LEAs improve data collection and reporting to parents and the public on student achievement and gap-closing, course-completion, graduation rates, school climate indicators (including decreases in use of exclusionary discipline practices, use of police in schools, and student referrals to law enforcement), opportunity measures (including pre-K and technology), and per-pupil expenditures. Data are disaggregated by categories in Sec. 1111(b)(3)(C)(xiii) of Title I,[2] and cross-tabulated by gender.

VI. States implement and enforce the law. The Secretary of Education approves plans, ensures State implementation through oversight and enforcement, and takes action when States fail to meet their obligations to close achievement gaps and provide equal educational opportunity for all students.

Submitted by:

The Leadership Conference on Civil and Human Rights; American-Arab Anti-Discrimination Committee; American Association of University Women; Association of University Centers on Disabilities; Children's Defense Fund; Council of Parent Attorneys and Advocates; Disability Rights Education and Defense Fund; Easter Seals; The Education Trust; Gay, Lesbian & Straight Education Network; League of United Latin American Citizens; Mexican American Legal Defense and Educational Fund; NAACP; NAACP Legal Defense and Educational Fund; National Center for Learning Disabilities; National Council of La Raza; National Disability Rights Network; National Indian Education Association; National Urban League; National Women's Law Center; Partners for Each and Every Child; Southeast Asia Resource Action Center; TASH; United Negro College Fund.

Contact: Nancy Zirkin, executive vice-president, The Leadership Conference on Civil and Human Rights, *Zirkin@civilrights.org*, (202) 466-3311.

ENDNOTES

[1] This section includes requirements to ensure the quality, fairness and usefulness of the statewide assessments. For example, they must assess higher-order thinking skills and understanding; provide for the inclusion of *all* students (including students with disabilities and English language learners); be consistent with professional and technical standards; objectively measure academic achievement, knowledge and skills; and provide information to parents, teachers, principals, and administrators so that they can address the specific academic needs of students.

[2] This section requires assessment results

> "to be disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged."

[**Editor's Note:** Due to the high cost of printing the attachment entitled, "Achievement and Attainment Trends (Education Trust, 2015)" is maintained in the committee files.]

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

Ms. Lee.

STATEMENT OF JIA LEE, FOURTH AND FIFTH GRADE SPECIAL EDUCATION TEACHER, EARTH SCHOOL, NEW YORK, NY

Ms. LEE. Thank you, Chairman Alexander and Senator Murray, for your vision and for this opportunity to offer my remarks regarding the impact of testing and accountability on our public school children. I am also a parent of a sixth grader, an 11-year-old, and so I speak to you both as a public school parent and as a teacher.

I want to provide some context that I've learned about the current educational policies, and they are driven by business. The use of competitive, performance-based practices have long been assumed to motivate workers. Microsoft, Expedia, and Adobe Systems are just some of the companies who adopted stack ranking, the now infamous practice of applying rewards, consequences, and rankings based on performance.

These same business advisors have informed many of our Nation's biggest districts, including mine. In the past few years, these businesses have abandoned this practice, because they have proven to have disastrous effects on collaboration, problem solving, and innovation. What was bad for business has been disastrous for public education, a field already plagued with recruitment and retention challenges.

I've worked in different schools. Some of them, through no fault of their own, have become increasingly data-driven as opposed to student-driven. I am fortunate currently to be working in a public school that was founded on the principles of whole child education,

where we teachers collaborate to develop curriculum and create relevant assessments. It is the antithesis of stack ranking.

This year, our fourth and fifth graders are immersed in a study we call Rights and Responsibilities. Students develop questions around the origins of the United States, the Constitution, and discuss the complex struggles and progresses we have made as a Nation. These are 8- to 10-year-olds. My class decided to divide themselves into groups to study three different perspectives from the colonial era—the Native peoples, the European colonists, and the African slaves. They are the researchers.

My integrated co-teaching classroom consists of students with disabilities, or I should say, all abilities, and they work in heterogeneous groups to present their understandings through a variety of mediums. They are learning how to learn, developing lifelong skills: researching, analyzing information from multiple sources, collaborating with others and sharing what they've learned in creative and thought-provoking ways. They are the stewards of their learning, guided by their interests and passions.

I share this not as a best practice, but to emphasize the importance of fostering learning environments that value a culture of trust, diversity, and autonomy, not a focus on test preparation. Teachers' working conditions are inextricably tied to students' learning conditions.

When parents and educators have voiced concerns, they've been accused of coddling. I want to challenge that assumption. The great crime is that the focus on testing has taken valuable resources and time away from programming, social studies, arts and physical education, special education services, and ELL programs.

At my school, we no longer have a librarian, and our parent association works full-time to fund the needed arts and music programs that are not covered by our budget any longer. We are one of the lucky schools. What about schools where parents must work to just survive? There is nothing more painful to watch or be forced to be complicit with than the minimalizing that is happening in our schools.

Teachers, students, and parents are finding themselves in a position of whether or not to push back or leave. Who is left to receive these tests and accompanying sanctions? Who are the children receiving scripted curricula while losing recess, physical education, and other enrichment programs?

Last year, over 50 percent of our parents at our school refused to allow their children to take the New York State Common Core assessments, what we now have known nationally as opting out. We were not alone.

I want to remind folks that the Latin root of assessment means to sit alongside. Until we have teachers and policymakers sitting alongside and getting to know our students and our classrooms in deep and meaningful ways, we cannot fully understand the State of public education. I sit here as a sole female, and this is a field dominated by women. No corporate-made multiple choice test will give you that data.

Last year, I decided that I am obligated and accountable to my students and their families, and that is why, as a teacher of conscious, I will refuse to administer tests that reduce my students to

a single metric and will continue to take this position until the role of standardized assessments are put in their proper place.

We just celebrated the life of Martin Luther King, Jr. In his letter from a Birmingham Jail, King affirms that "one has a moral responsibility to disobey unjust laws." He quotes St. Augustine who said "an unjust law is no law at all." As long as education policy continues to be shaped by the interests of corporate profiteering and not the interests of our public school children, we will resist these unjust testing laws.

I am hopeful that we can sit alongside each other and do the hard work of answering the questions most central to our democracy: What is the purpose of public education in a democratic society? How can we ensure that all children receive an enriching and equitable education? How do we support teachers and schools in carrying out their missions to educate all?

I want to thank you, and I appreciate all of your coming questions.

[The prepared statement of Ms. Lee follows:]

PREPARED STATEMENT OF JIA LEE

Thank you Chairman Alexander and Senator Murray for this opportunity to offer my remarks regarding the impact of No Child Left Behind's testing and accountability provisions on our public school children. I thank you for your vision and for this opportunity. I have an 11-year-old son in sixth grade, so I speak to you as both a public school parent and a teacher.

Business practices are informing education policy, so I would like to start there. The use of competitive, performance based practices have long been assumed to motivate workers. Microsoft, Expedia and Adobe Systems are just some of the companies who adopted stack ranking, the now infamous practice of applying rewards, consequences and rankings based on performance. These same business advisors informed many of our Nation's biggest school districts, including mine. In the past few years, businesses have abandoned this practice because they have proven to have disastrous affects on collaboration, problem solving, and innovation. The high exodus of workers seen in these businesses are attributed to stack ranking (Oremus, 2013). Studies, including those sponsored by the Federal Reserve Bank, find that incentive-based practices only work for the most menial tasks that do not require critical thinking (Ariely, et al., 2005). What was bad for business has been disastrous for public education, a field already plagued with recruitment and retention challenges. Educators with valuable experience are leaving the profession in droves and enrollment in teacher preparation programs is abysmal.

Furthermore, multiple choice, high-stakes tests have reliably padded the profits of education corporations, draining public tax dollars but have been unreliable in measuring the diversity of students' capabilities and learning. The use of those same tests in evaluating teachers is, simply put, statistically invalid. The American Statistical Association has warned,

> "The VAM scores themselves have large standard errors, even when calculated using several years of data. These large standard errors make rankings unstable, even under the best scenarios for modeling."

In New York State, the tests change every year, and the cut scores shift. The results are norm-referenced, ensuring a stack ranking of students with approximately 50 percent below the curve. We are playing a dangerous game with our children's futures and public education, cornerstones of our democracy. As a special and general education teacher, I have seen these tests incite anxiety and can provide numerous examples of times when students stated that all they accomplished throughout the year meant nothing.

When parents and educators voice concerns, they have been accused of coddling. I want to challenge that assumption. The great crime is that the focus on testing has taken valuable resources and time away from programming in social studies, the arts and physical education. At my school, we no longer have a librarian and our parent association works full time to fund needed arts programs that are not provided for in our budget. We are one of the lucky schools. What about schools where parents must work just to survive? I know schools that no longer have money

for basics such as soap for the bathrooms. There is nothing more painful to watch or forced to be complicit to than the minimalizing that is happening in our schools. Teachers, students and parents find themselves in a position of whether or not to push back or leave. Who is left to receive these tests and accompanying sanctions? Who are the children receiving scripted curricula while losing recess, physical education, music and civics lessons? It is our students from the most marginalized communities. A current study by the Southern Education Foundation finds that more than 50 percent of our public school children are living in poverty, an all time high in fifty years (Layton, 2015). Black and Latino students live disproportionately at or below the poverty line, and it is no accident that we are faced with the most segregated school system in history, with a disproportionate number of school closures happening in the poorest communities—all at the hands of using invalid metrics. It is what pushes me past my comfort zone and to speak out.

I have worked in different schools, some of which, through no fault of their own, have become increasingly data driven as opposed to student driven. I am fortunate to currently work in a public school that was founded on the principles of whole child education, where we, the teachers, collaborate to develop curriculum and create relevant assessments. It is the antithesis of stack ranking.

This year, our fourth- and fifth-graders are immersed in a study we call Rights and Responsibilities. Students develop questions around the origins of the United States, the Constitution, and discuss the complex struggles and progress we have made as a Nation. My class decided to divide themselves into groups to study three different perspectives from the colonial era—the Native people, European colonists and the African slaves. They are the researchers, using primary and secondary sources to learn about key events, figures, and cultural and political ideas. My integrated co-teaching class consists of students with disabilities, or I should say, all abilities, and they work in heterogeneous groups to present their understandings through a variety of mediums: creating art pieces, choreographing original dance pieces, presenting timelines, developing maps, conducting process dramas, and giving oral reports. They are learning "how" to learn, developing lifelong skills: researching, analyzing information from multiple sources, collaborating with others and sharing what they've learned in creative and thought-provoking ways. They are the stewards of their own learning, guided by their interests and passions. I share this not as a best practice but to emphasize the importance of fostering learning environments that value a culture of trust, diversity, and teacher autonomy not a focus on test preparation. Teachers' working conditions are inextricably linked to students' learning conditions.

Last year, over 50 percent of the parents at our school refused to allow their children to take the NYS Common Core aligned ELA and Math tests and we were not alone. The Latin root of assessment is to "sit alongside." Until we have teachers and policymakers "sitting alongside" and getting to know our students and our classrooms in deep and meaningful ways, we cannot fully understand the State of public education. No corporate made multiple-choice test will give you that data. Last year, I decided that I am obligated and accountable to my students and families, and that is why, as a conscientious objector, I will not administer tests that reduce my students to a single metric and will continue to take this position until the role of standardized assessments are put in their proper place. Along with two other teachers at my school, we formed Teachers of Conscience, a position paper and call to action at local levels.

We just celebrated the life of Martin Luther King, Jr. In his *Letter From a Birmingham Jail*, King affirms that "one has a moral responsibility to disobey unjust laws." He quotes St. Augustine who said "an unjust law is no law at all." As long as education policy continues to be shaped by the interests of corporate profiteering and not the interests of our public school children, we will resist these unjust testing laws. It is time to abandon faulty business assumptions in public education. We are experiencing a historic resistance to high stakes testing. Chicago Public Schools just voted to back away from PARCC assessments and another State joins the nine who have already withdrawn from the assessment consortium. Let us abandon stack ranking of our children and schools. We need future generations to explore problems that have far more complex solutions than a multiple choice test. Let us do the work of teaching and help us hold our State officials accountable for delivering on funding, as promised through the Elementary and Secondary Education Act.

I am hopeful that we can sit alongside each other and do the hard work of answering the questions most central to our democracy: What is the purpose of public education in a democratic society? How can we ensure that all children receive an enriching and equitable education? How do we support teachers and schools in carrying out their missions to educate all? Thank you.

ENDNOTES

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The CHAIRMAN. Thank you, Ms. Lee.

Mr. Lazar.

STATEMENT OF STEPHEN LAZAR, ELEVENTH GRADE U.S. HISTORY AND ENGLISH TEACHER, HARVEST COLLEGIATE HIGH SCHOOL, NEW YORK, NY

Mr. LAZAR. Senator Alexander, Senator Murray, and distinguished members of this committee, it is an honor to testify before you all today. I come as a proud National Board certified public high school teacher. I teach at Harvest Collegiate High School in New York City. My students, who are listening to us now—and who I need to remind to study for their history test tomorrow—represent the full diversity of our city.

I'm also embarrassed to say I was a teacher who every May until last would get up to apologize to my students. I would tell them,

> "I have done my best job to be an excellent teacher for you up until now. For the last month of school, I'm going to turn into a bad teacher to properly prepare you for State Regents exams."

We would then repeatedly write stock, formulaic essays and practice mindless repetition of facts so that they could be successful on their State exams. I did this because standardized tests measure the wrong things. I did this because the stakes for my students forced me to value 3 hours of testing over a year of learning. I did this because the standardized test was the only way for my students to demonstrate their learning to the government.

Right now, the Federal incentives in education are wrong. Because of this, too many schools are designed, in large part, as my May was, to get students to do well on a one-time test, whereas schools should organize themselves around student learning.

Making the test the curriculum harms all students, but it does the most harm to those with the lowest skills. When I taught seniors in the Bronx, I worked with the highest performing students to help prepare them for college. We read philosophical works ranging from Kant to Nozick and wrote and revised college level essays.

At the same time, I worked with the lowest performing students who had yet to pass the State tests. With them, we did mindless test prep. Even though I was really good at it, getting 100 percent of those students to pass their exams in my final year of doing it, I was doing the students no favors.

I think to this day about T., a senior who could hardly write and struggled to read. Sure, she passed the test, but she was still not

ready for the community college work she encountered that fall. When we focus our efforts only on helping struggling students jump over the hurdle of mandated exams, the learning and opportunity gap widens.

My current school, Harvest Collegiate, is a member of the New York Performance Standards Consortium, a group of 48 schools that offer an alternative model. We use a more rigorous assessment system than the State exams. Within Consortium schools, high stakes assessments are not an on-demand test, but a college level, performance-based assessment. Students complete real and authentic disciplinary work, giving them a significant advantage over others once they enter college.

The Consortium is widely successful, with graduation and college success rates far exceeding the rates for all New York City public schools. Models like the Consortium need to be able to exist and expand within any reauthorized ESEA bill.

Now, despite its many well-known flaws, No Child Left Behind did include some important features that should not be abandoned. Its desegregation of student achievement data has put a much needed spotlight on how the education of American youth is negatively affected by economic and social inequality. That is why I believe that a stance that is opposed to any ESEA requirements for student assessment is misguided.

Yes, every student must count, especially our students with the greatest needs. We can do this without testing every kid every year. We could use grade span testing for elementary and middle school, as we already do in high school. We could even go a step further and use the representational sampling technique of the NAEP, universally considered to be the gold standard of educational assessment in the United States.

I support the position of my union, the AFT, that in reauthorizing the ESEA, Congress should remove the high stakes from mandated tests, limit the number of tests used for accountability purposes, and allow schools to use more sophisticated and useful assessment tools such as performance assessments. To do this requires a better balance of government's role in education with that of local decisionmaking.

Federal and State governments need to recognize that the best educational decisions for students are made by those who possess the fullest and deepest understanding of their needs. Educators' voices need to be the loudest in making the decisions of what is tested, how students are tested, and when students are tested.

Senators, my students, my colleagues, and I are all encouraged and inspired that Congress is putting serious thought into how to improve the education of all our Nation's students. It is time to fix our broken system of testing and accountability.

[The prepared statement of Mr. Lazar follows:]

PREPARED STATEMENT OF STEPHEN LAZAR

SUMMARY

Right now, the Federal incentives in education are wrong. Too many schools are designed, in large part, to get students to do well on a one-time test. We need to reverse that hierarchy so that schools can organize themselves primarily to help students learn.

Our first problem is the limited tools for assessing what students know and can do. Most federally mandated tests are one-time tests that privilege multiple-choice questions over authentic performances of students' knowledge and skill. Teachers learn little from these exams that can lead to better instruction and increased learning, especially when they are given at the end of the year. To assess what students need to know and be able to do to be successful in college, career and citizenship, we need more-sophisticated assessments.

But even if we can improve the tools, when the stakes of testing are high, students do not get what they need. In all too many cases, the test becomes the curriculum. Making the test the curriculum harms all students, but it does the most harm to those with the lowest skills.

Many have voiced concerns that to remove annualized testing of every student means many students, particularly those who are poor, black or brown, will fall through the cracks. These concerns must be addressed. Schools need to know how we're doing, and the parents of our students and the community at large need to know that we are successfully educating our students. This can look very different from current testing regimens.

My school is part of the New York Performance Standards Consortium, a group of schools that can serve as a model for the rest of the country and must be protected in a newly authorized ESEA. The consortium consists of 48 schools that use a more rigorous assessment system than the New York Regents exams and see results significantly superior to peer schools.

Despite its many well-known flaws, No Child Left Behind did include some important features that should not be abandoned. Its disaggregation of student achievement data has put a much-needed spotlight on how the education of American students is negatively affected by economic and social inequality. That is why I believe a stance that is opposed to any ESEA requirement for student assessment is misguided.

To do this requires a better balance of the Federal Government's role in education with that of local decisionmaking. The Federal Government's role is to ensure that American students receive a high-quality education that meets their needs. Federal and State governments need to recognize that the best education decisions for students are made by those who are closest to them—those who possess the fullest and deepest understanding of their needs.

We must ensure that every student is counted. We can do this without testing every kid, every year. Under the current law, we use grade-span testing for high school. If grade-span testing works for high school accountability—and I have yet to see a single proposal that says we need to adopt annualized high-stakes testing in high school—why isn't it good enough for elementary and middle schools?

We could even go a step further to remove the burdensome time demands of standardized testing, which takes time away from student learning. The National Assessment of Educational Progress (NAEP), universally considered to be the "gold standard" of educational assessment in the United States, does not test every student.

The fundamental purpose of testing and assessment is to inform and improve teaching and learning, so that every student can be successful in school. When we use testing as a high-stakes vehicle for sanctions and punishments, we undermine that purpose and harm American education. When standardized exams replace a rich curriculum in driving instruction, the quality of our education suffers. It is time to fix a broken system of testing and accountability. It is time to do so with the inclusion of teachers' voices in the process.

Senator Lamar Alexander, Senator Patty Murray and distinguished members of the Senate Committee on Health, Education, Labor, and Pensions, it is my honor to testify before you today on the reauthorization of the Elementary and Secondary Education Act (ESEA), and to share with you the perspective of a classroom teacher on how the ESEA should address the issue of testing and assessment.

I am a proud New York City public high school teacher. Currently, I teach both English and U.S. history to 11th-grade students at Harvest Collegiate High School in Manhattan, a school I helped found with a group of teachers 3 years ago. I also serve as our dean of Academic Progress, overseeing our school's assessment system and supporting student learning schoolwide. My students, who are listening to us now—and who I need to remind to study for their test tomorrow—represent the full diversity of New York City. Over 70 percent receive free or reduced-price lunch; 75 percent are black and/or Latino; 25 percent have special education needs; and the overwhelming majority are immigrants or the children of immigrants.

After receiving my undergraduate degree and teacher certification at Brown University, I began my career not far from here in Fairfax County, VA, at Hayfield High School. I moved to New York 10 years ago at the behest of my then fiancée, where I completed a master's degree in African-American studies at Columbia University. I then taught for 5 years at the Bronx Lab School and a year at the Academy for Young Writers in Brooklyn before starting Harvest Collegiate in 2012.

I am a National Board Certified teacher who was twice elected by my colleagues to serve as their union chapter leader. I have helped lead the development of local performance assessments in New York City to be used for teacher evaluation, developed prototype tasks for the Smarter Balanced Assessment Consortium, and am currently writing model 11-grade United States history curriculum units for the New York State Social Studies Toolkit. I speak to you today not only as a teacher who cares deeply about his students, but as one who is evidence that teachers are capable of and willing to impact the larger education world beyond our classrooms.

Most important, however, I am a teacher who got an email from Brandy in the middle of her freshman African-American Studies seminar at Lehman College complaining that without me, "there's no one around anymore to ask me the all-annoying questions about my beliefs or passions." I'm the teacher to whom Genesis wrote,

> "Thank you for an amazing unforgettable 4 years. You were the first teacher to ever be true with me and point out my flaws. You made me realize that everything we do, whether it be academics or decisions in life, has a greater purpose than we intend them to have."

To whom Robert wrote,

> "I remember one time you told me that I had all the right tools to become a strong leader. I just want you to know if that's true, it is because you helped install those tools."

To whom Rosio wrote,

> "Many teachers at this school have cared for me, but Steve has been the one to take time and to look after me and guide me in the right direction since day one."

To whom Tyree, after finally passing a State standardized test on his fourth try wrote, "Thank you so much. You pushed me to the top." I am now proud to call Tyree, a graduate of Sarah Lawrence College, a colleague at Harvest Collegiate.

Despite these accomplishments, I am a teacher who every May, until last year, would get up and apologize to my students. I would tell them,

> "I have done my best job to be an excellent teacher for you up till now, but for the last month of school, I am going to turn into a bad teacher to properly prepare you for State Regents exams."

I told my students there would be no more research, no more discussion, no more dealing with complexity, no more developing as writers with voice and style. Instead, they would repeatedly write stock, formulaic essays and practice mindless repetition of facts so that they could be successful on the State Regents exams in English and history. Every year, I sacrificed at least a month of my students' learning, and I'm sad to say, it worked. My students always performed 10–20 percent above city averages on the exams.

I did this because standardized tests measure the wrong things. I did this because the stakes for my students, and more recently for me, forced me to value 3 hours of testing over a year of learning and development. I did this because the standardized test was the only way for my students to demonstrate their learning to the State and Federal Governments. My incentives were all wrong.

Ted Sizer, the Brown and Harvard professor whose book *Horace's Compromise* made me decide to become a teacher 15 years ago, emphasizes the need to get the incentives right for schools to work well. Students need clear and relevant goals. Teachers need autonomy and accountability for helping students progress toward those goals. Sizer made clear that when we get the incentives right, schools flourish.

Right now though, the Federal incentives in education are wrong. Too many schools are designed, in large part, to get students to do well on a one-time test. We need to reverse that hierarchy so that schools can organize themselves primarily to help students learn. I applaud this committee for the work it has done to begin to get the incentives right. As a teacher, I hope to offer some further insight into the negative effects of our current system of testing, and offer some lessons from my school and others like it about what can work better.

Our first problem is the limited tools for assessing what students know and can do. Because of the demands of testing every student every year, and the psychometric demands of high-stakes assessments, most federally mandated tests are a one-time assessment that privilege multiple-choice questions over authentic dem-

onstrations of students' knowledge and skills. Teachers learn little from these exams that can lead to better instruction and increased learning, especially when they come at the end of the year. As I would prepare my students for the New York State Regents exams in both English and history, I learned that a student's score on the test could shift by 15 points in either direction, depending on the version of the test I used and how the student was doing on that day. For an average student, that's a range that includes both the mastery level and failure. How a student does on one test only really tells me how the student did on that test on that day; to know anything of value, with validity and reliability, I need multiple measures over time which can help me understand what my students know and can do.

Standardized tests can only measure certain things. They work well for basic skills, such as reading comprehension and simple computations. However, to assess what students need to know and be able to do to be successful in college, career and citizenship, we need more-sophisticated assessments. Although not perfect, the Common Core, Next Generation Science standards, and the C3 Social Studies Framework clearly articulate the skills students need. To cite one example of many, Common Core Writing Standard 7 demands that students "conduct short as well as more sustained research projects to answer a question (including a self-generated question) or solve a problem."

This standard cannot be assessed through an on-demand test; rather, students will actually need to perform research over extended lengths of time and be assessed for their ability to do so.

But even if we can improve the tools, when the stakes of testing are high, students do not get what they need. In all too many cases, the test becomes the curriculum. A former colleague of mine who coaches science teachers for a well-known charter school observed teachers using the year-end test as the only motivation for students to learn science. This is science! If the only reason students believe they need to know science—or any subject, for that matter—is the test, America is in trouble.

Making the test the curriculum harms all students, but it does the most harm to those with the lowest skills. When I taught seniors in the Bronx, I worked with the highest-performing students who had already passed all their exams to help prepare them for the rigorous reading and writing they would face in college. We read philosophical and theoretical works ranging from Kant to Rawls to Nozick, and wrote and revised college-level argumentative essays. Though the Common Core was a far-off whisper at that point, my course far exceeded its demands, even if all my students could not yet meet them.

At the same time, I worked with the lowest-performing students who had yet to pass the New York State Regents. With them, I focused on mindless repetition of the facts that make up most of the Regents, and combined it with writing formulaic, timed essays that bore little resemblance to any real academic, civic, or career-based writing. I was really good at it, getting 100 percent to pass their exams in my final year leading Regents prep.

But I was doing my students no favors. I think to this day about T., a second-semester senior who could hardly write and struggled to read. In "Regents Prep Class" I worked with her on rote memorization rather than improving the reading, writing and thinking skills she would need for the rest of her life. The incentives were all wrong; sure, she passed the test, but she was still not ready for the community college work she encountered that fall. When we focus our efforts only on helping struggling students jump over the hurdle of mandated exams, the learning and opportunity gap widens.

I also think about how arbitrary it is to get a passing grade on these exams. J., a student with special needs, didn't graduate on time because he ran out of time on the test. He was one point short on a Regents exam, and still had an entire essay to go. Had he had time to write just one sentence of that essay, he would have passed and graduated. J. was ready to graduate, but because there was not one more minute for him in June, he had to wait until August to finally succeed.

Annualized tests taken at the end of the school year do not provide teachers and schools with the information we need to best serve our students. We need information about what students can do on real, authentic tasks. Can they make sense of a newspaper story, use it to inform their views, and detect the bias within so that they can become informed voters? Can they write a speech, so that, if 1 day they are given the chance to testify before a city council or the U.S. Senate HELP Committee, they are prepared to do so? Can they develop complex questions about the world and use historical, logical and scientific modes of analysis and research to answer them? We need actionable information about what our students know and can do. That information is useless to me in June: I need it early in the fall, when I

am plotting out the instruction my students will receive over the course of the school year.

Many have voiced concerns that to remove the annualized testing of every student means that many students, particularly those who are poor, black or brown, will fall through the cracks. These concerns must be addressed. Schools need to know how we're doing, and the parents of our students and the community at large need to know that we are successfully educating our students. In my school, we need to constantly check to make sure all our students are learning. We need to do this through analysis of individual learners and groups to ensure we are providing every one of our students with the quality education that is necessary if they are to escape poverty, establish a productive and meaningful career, and function as active and informed citizens in our democracy. To do this well, systems need to be built at the school and district level.

Educators on the frontlines in America's public schools can't do this work all on our own. To educate students with the greatest needs well, we need resources and supports that only government can supply. Fifty years ago, the Federal Government recognized its responsibility in this regard and enacted the ESEA into law, providing crucial title I funds for the education of students living in poverty. As Congress reauthorizes the ESEA in 2015, I ask you to keep foremost in your mind the historic equity mission of this legislation, and ensure that our schools receive the resources and supports we need to educate all of our students well.

At my current school, Harvest Collegiate, we serve students who are representative of the New York City public school population. This means our students are relatively evenly spread from being some of the best in the country to coming to our high school at second- or third-grade levels. We not only need to ensure that all students learn, but also that those students who come to us with lagging skills and knowledge are accelerated toward our high standards, even when they begin far from those standards. We do this through quarterly performance assessments, and we invest heavily in the time necessary to analyze the data, and for teachers to use it to inform future planning, intervention and differentiation. This system has helped us ensure that, on average, students make more than a year of growth in the core disciplinary skills and habits of mind we assess. It has also kept us honest as we have real, timely information about which individual students, and which groups of students, are learning less than those around them. With this information, we can reprioritize resources, professional development, and lesson plans to better meet the needs of all students, particularly those with special education needs. This system works well because Harvest Collegiate is a collaborative school with a strong ethos of trust and community, and is part of New York City's PROSE schools, with freedom from some departmental and contractual regulations in order to adopt educational innovations.

Our formative assessment system is in large part possible because of our membership in the New York Performance Standards Consortium, a group of schools that can serve as a model for the rest of the country and must be protected in a newly authorized ESEA. The consortium consists of 48 schools that use a more rigorous assessment system than the Regents exams. Within the consortium, high-stakes assessments are not a one-shot, on-demand test, but a graduation-level performance-based assessment test, or PBAT. To graduate, consortium students complete PBATs in all four core disciplines, in addition to still taking the New York State English Regents. This is the work that is real and authentic to a discipline, and mirrors college work, giving consortium students a significant advantage over others once they enter college. Students write an analytical essay on a piece of literature for English, an argumentative social studies research paper, conduct or extend a science experiment, and demonstrate problem-solving at higher levels of mathematics. In all areas, students are also required to defend their work orally as well as through written products. These PBATs are evaluated by at least two teachers at the students' school as well as an outside evaluator to ensure the reliability and validity of the process.

As opposed to top-down standardized assessments that threaten teacher morale and professionalism, the consortium uses a bottom-up system, which develops teachers' professionalism and commitment to students. Teachers develop specific tasks that arise from the overlap between the curriculum and student interests. We are supported in this work through extensive professional development at our school, which is primarily teacher run. It should be no surprise then that the teacher turnover rate for teachers with less than 5 years experience at consortium schools is only 15 percent, compared with 26 percent at charter high schools and 58 percent across all New York City high schools. These results are in spite of the fact that consortium teachers do more work and bear more responsibility than conventional teachers. We design more challenging curriculum and tasks for students. Right now,

my students are sharing oral histories that they conducted of immigrants to the United States and comparing those with the experiences of immigrants throughout U.S. history, which they have researched. We collaborate with our peers, both in our school and across the consortium, far more than most other teachers. We also serve as external evaluators to ensure other schools maintain our high standards for students, and evaluate other schools' assignments and work at our annual moderation study. This is the combination of autonomy and accountability that Sizer called for, which allows us to recruit and retain teachers of extraordinary quality for our students.

This leads to better results for students. The consortium graduation rate exceeds that of the overall New York City public schools. And a study conducted by Dr. Martha Foote ("Keeping Accountability Systems Accountable," *Phi Beta Kappan*, January 2007) shows that he consortium has "a proven record of producing graduates who go on to successful undergraduate careers." Eighty-five percent of consortium graduates attended colleges rated competitive or better according to Barron's *Profiles of American Colleges* and persisted in college at rates higher than the national average. All this was accomplished despite the fact that the consortium schools' pool of students include more students living at the poverty level, a higher percentage of Latinos and English language learners, and a higher percentage of students with lower English and math skills than the overall NYC public high school population.

While consortium graduation rates exceed NYC averages across the board, the difference is most staggering for the most-challenged populations: In consortium schools, the graduation rate for English language learners is 69.5 percent, compared with 39.7 percent citywide; the rate for students with special education needs is 50 percent, more than double the 24.7 percent citywide rate. Moreover, graduates of consortium schools are better prepared for college than their peers. For the cohort of 2008, the consortium's persistence rate at 4-year colleges was 93.3 percent, compared with 74.7 percent nationally. At 2-year colleges, consortium students persisted at a rate of 83.9 percent, compared with 53.5 percent nationally. These results arise from only one structural difference between our schools and others in the city: We do real, authentic performance assessments in place of standardized tests. Models like the consortium need to be able to exist, and thrive, within any reauthorized ESEA bill.

Despite its many well-known flaws, No Child Left Behind did include some important features that should not be abandoned. Its disaggregation of student achievement data has put a much-needed spotlight on how the education of American youth is negatively affected by economic and social inequality. Growing economic disparity has now left the majority of our public school students living in or near poverty, and we clearly do not do enough to help these students overcome the challenges that their economic condition places in the way of successfully completing their education. Racial and class segregation not only continue to plague American schools, but are actually on the increase. On the whole, students attending schools with segregated poverty and high concentrations of students of color do not receive the same quality of education as other American youth. At a time when education has become an increasingly important factor in a young person's opportunities for a better future and entry into the middle class, these stark inequalities doom far too many of our students with the greatest need to lives of economic, social and civic marginality. We cannot afford to turn a "blind eye" to that injustice.

That is why I believe that a stance that is opposed to any ESEA requirement for student assessment is misguided. We should be more careful and precise, more intelligent in our approach. We need to track how well our schools are serving our students with the greatest needs, so that States and local school districts can provide the supports and interventions struggling schools need to improve and help those students. The current NCLB regimen of annual high-stakes standardized exams provides only crude and inadequate measures of student achievement. Basing high-stakes decisions about the futures of students, teachers and schools on such limited assessments has done great damage. I support the position of my union, the American Federation of Teachers, that in reauthorizing ESEA, Congress should remove the high stakes from mandated tests, limit the number of tests used for accountability purposes, allow schools to use more sophisticated and useful assessment tools such as performance assessments, and schedule mandated assessments at a time that they would provide useful and actionable information on the academic needs of students.

To do this requires a better balance of the Federal Government's role in education with that of local decisionmaking. The ESEA was first enacted into law 50 years ago in an effort to address the many unmet educational needs of students living in poverty. The Federal Government's role is to ensure that American students receive a high-quality education that meets their needs. It seems clear that when setting

standards and evaluating success, the Federal Government needs to hold States, school districts and schools accountable for not perpetuating a "soft bigotry of low expectations." Federal and State governments need to recognize that the best educational decisions for students are made by those who are closest to them, those who possess the fullest and deepest understanding of their needs. Educators' voices need to be the loudest in making the decisions of what is tested, how students are tested and when students are tested.

To assess well, we also need the support of the Federal Government in developing and implementing new, better assessments. While the Smarter Balanced and PARCC consortia have done excellent work to this point in developing more meaningful assessments aligned with the Common Core, the cost of these exams makes the already challenging political climate even more treacherous. We need these exams to be less expensive, and the funding to make similar assessments aligned to the Next Generation Science standards and the C3 Framework. All of these assessments should then be available as options for school communities to choose, rather than being forced upon them by Federal or State mandates.

Despite their promise, the current implementation of Common Core-aligned tests has been extraordinarily uneven, with devastating consequences for students in places such as my home State of New York. Most schools, teachers and students have not been provided the supports and resources they need to reach the higher Common Core standards, but poorly designed and executed tests are still forced upon them with disastrous results for students. In California and other States that have provided the requisite supports and resources and used high-quality assessments, implementation has been more successful. The Federal Government should not mandate the high-stakes testing of every student in every grade, and neither should the States. School communities need flexibility and choice in the modes of assessment they choose for their students. Models such as the New York Performance Standards Consortium need to be encouraged to grow and flourish.

If we can develop a battery of better assessment tools, then the next shift I would ask this committee to consider is a rethinking of what is measured by assessments. Currently, students are scored in relation to an age-based standard. We need to shift our thinking toward a broader continuum of growth within a grade band. At my school, we get students who as ninth-graders are stronger than I was in 12th grade, and others who are reading at a third-grade level. Therefore, we assess students on a continuum that can capture their growth throughout 4 years of high school. We should not be satisfied when strong students meet age-based goals at the beginning of the year, nor should we expect students who begin the year years away from those same goals to meet them that year. Again, what is useful about assessments for teachers and students is the knowledge they give us about what to do next. It makes no sense to give a 15-year-old who reads at a third-grade level a 10th-grade exam; we know the student will fail. Not only is this useless, but as a recent report from Columbia University's Teachers College points out:

> "for struggling students, repeatedly confronting demands for performance they cannot reach can undermine the motivation and confidence they must have to persist in school."

This is the effect of regular grade-based testing.

Our current system, in which struggling students who are not meeting standards in third grade are overwhelmingly not meeting standards in ninth grade, does not work. It makes no sense that high schools are expected to change the course of a student's previous 9 years of education in 4 years. NCLB actually penalizes high schools that work with struggling students for as long as it takes for them to meet standards and graduate: For school accountability, any student who takes more than 4 years to graduate appears on the high school's roll as a dropout. If our goal is truly to ensure that academic achievement gaps are closed, then we need to offer students and schools the time to do so. With that time, students can actually develop the skills of problem-solving and persistence that are crucial for future success. If we shift measurement, and therefore accountability, toward growth on authentic tasks, then we can actually have a real conversation about how to make that happen for all students.

While up to this point I have focused on flexibility and a shift toward assessing student placement on a continuum, at some point we do need standardized information about how schools and districts are doing. My brothers and sisters at Ed Trust and in the civil rights community are right to be concerned that students who are not tested are not counted. We must ensure that every student is counted. We can do this without testing every kid, every year. Under the current law, we use grade-span testing for high school. Believe me, even though the English test in my school isn't coming until junior year, every ninth-and 10th-grade teacher has it on his or

her mind as well. If grade-span testing works for high school accountability—and I have yet to see a single proposal that says we need to adopt annualized high-stakes testing in high school—why isn't it good enough for elementary and middle schools?

We could even go a step further to remove the burdensome time standardized testing takes from student learning. The National Assessment of Educational Progress (NAEP), universally considered to be the "gold standard" of educational assessment in the United States, does not test every student. Instead NAEP uses sampling, testing only a representative cross section of students, to see how well a State or a school district is performing. While getting school level data would require more students than are currently tested using NAEP, it would still be possible to use a similar representational sampling method to get key information about districts and schools. To test every student, every year, simply for the sake of school accountability is the very definition of government waste. Senator Alexander, Senator Murray and the other distinguished members of this committee, my students, my colleagues, and I are all encouraged and inspired that Congress is putting serious thought into how to improve the education of all of our Nation's students. Far too much of the current political discourse around education misses the most important part of schooling: teaching and learning. When you make decisions about the role of testing and assessment with the reauthorization of ESEA, I ask you to keep your "eyes on the prize" of how your choices will affect what takes place in our Nation's classrooms. The fundamental purpose of testing and assessment is to inform and improve teaching and learning, so that every student can be successful in school. When we use testing as a high-stakes vehicle for sanctions and punishments, we undermine that purpose and harm American education. When standardized exams replace a rich curriculum in driving instruction, the quality of our education suffers. It is time to fix a broken system of testing and accountability. It is time to do so with the inclusion of teachers' voices in the process. Thank you for allowing me to add my voice today, and I hope a reauthorized ESEA will formalize the inclusion of teachers' voices across the Nation.

The CHAIRMAN. Thank you very much. This has been an extraordinary variety of views. It's very helpful to us as Senators, and I thank Senator Murray and the staffs for working to have us presented with those different points of views.

Thank you, all of you. You get an A for sticking to 5 minutes. I thank you for that, and I hope we'll see the Senators do as well, as our time comes.

I will begin a period of questions. I'll take my 5 minutes, and then Senator Murray, and then after that, Senator Collins, Senator Warren, Senator Roberts, and Senator Bennet will be the first four, and we'll go based on first arrival. We will conclude the hearing by noon.

Let me start with you, Dr. West. You seem to be saying this—see if I've got it right—keep the tests, maybe make them more flexible; keep the disaggregation of the results; keep the accountability system but let the States create the accountability system. Have I got that about right?

Mr. WEST. That's about right. In my view, there's a clear Federal role to play——

The CHAIRMAN. Keep thinking about your answer and let me go to something else. Just to frame the question, we're talking about testing and accountability, and sometimes that gets off into educationese, and I have to refresh myself every 15 minutes about it even though I've been fooling with it for years.

The Federal Government, under No Child Left Behind, requires 17 annual standardized tests. Am I right about that?

Mr. WEST. That's correct.

The CHAIRMAN. Seven tests in math, seven in reading once each year in grades three through eight and once in high school. Then three tests in science, once in grades three through five, once in

grades six through nine, and once in high school. These are 17 tests that must be used by law as the primary means of determining the yearly academic performance of the State and each school district and school in the State.

But those aren't the only tests that kids take, and I think that's one spotlight we ought to put on today. I'd like for you to think about that—and other members—in answer to the question. For example, the Excellence in Education Foundation in Florida reported that in Florida, in addition to the 17 Federal tests, there are between 8 and 200 tests administered in schools each year on top of those tests. Those are administered by the State government and required by local government.

In Lee County, FL, which is Fort Myers, there were 183 State and local tests in addition to the 17 Federal tests, and when this report put the spotlight on the Lee County tests, they said, "Oh, well, maybe that's too many tests," and they've started giving fewer tests.

As we're talking about too many tests and what kind of tests, but certainly too many tests, I think I'd like to have your thoughts about whether the culprit is the Federal 17 tests or whether it's all the State and local tests. Or is it because of the high stakes in the Federal 17 tests that's causing the State and local governments to create so many local tests?

I think the most difficult issue we have to figure out is this testing and accountability issue. I mean, testing—goals, standards, tests, and then the accountability is really—what are the consequences? What is the definition of success on the tests? What is the definition of failure, and what are the consequences of failure?

Really, the debate is who decides that. Do we decide that here, or do States decide that there? I think I hear you saying Washington should keep those 17 tests and the disaggregation, but States should design the accountability systems.

Mr. WEST. That is, in fact, an accurate summary of my recommendation. As I said, we don't have great data on the amount of testing that's going on for various purposes everywhere around the Nation. The studies that have been conducted, like the one you referenced in the State of Florida, do suggest that the bulk of testing time is not devoted to the 17 federally mandated exams.

That being said, I do think a lot of those tests are adopted by schools in an attempt to prepare themselves for the federally mandated annual exams precisely because those exams carry so much weight with respect to how their schools are going to be treated by the accountability system. That accountability system sets up unrealistic expectations with respect to student achievement. Those expectations are most challenging for schools that serve students that face a lot of disadvantage outside of school.

The CHAIRMAN. Let me go on to Mr. Leather or Mr. Boasberg in my few remaining seconds.

Does New Hampshire and Colorado require a lot of extra tests in addition to the 17 Federal tests? Or do you and your local school district require a lot of extra tests as a result of the 17 Federal tests?

Mr. LEATHER. In New Hampshire, we just require the basic Federal expectation of the 17 tests, plus we have alternative assess-

ments for students with disabilities as well as students who are English language learners. That's what we do.

The CHAIRMAN. Mr. Boasberg.

Mr. BOASBERG. We as a State have adopted certain other tests in Colorado, and I and other superintendents in the State are urging that the State not require those additional tests beyond, again, annual testing in third through tenth grade in literacy and math plus the science tests.

The CHAIRMAN. Thank you.

Senator Murray.

Senator MURRAY. Mr. Henderson, since No Child Left Behind passed back in 2001, we have seen achievement gaps narrow for black and Latino students in both reading and math, according to the NAEP long-term trend data, and the dropout rate for those students has been cut in half. I wanted you to talk a little bit about what you saw as the role that the Elementary and Secondary Education Act's assessment and accountability provisions played in narrowing those achievement gaps and increasing graduation rates.

Mr. HENDERSON. It's a very important question, Senator Murray. Thanks for asking it. We have seen that the Federal Government's mandated requirements under ESEA, under No Child Left Behind, indeed, have helped to push greater accountability on the part of State systems to address the particular needs of poor students and often students of color, students with disabilities.

In the absence of those standards, we fear that there will be a rollback of requirements that are otherwise producing the positive results that you have identified. We have seen, for example, in the States that were given waivers under the previous law that, in many instances, those waivers have allowed those State systems to avoid the kind of meaningful accountability that actually drives the kind of change that you've talked about.

Senator Alexander, you mentioned, of course, the proliferation of tests at the State and local level, and that may well be true. I think the Federal requirements that are in place have been so important in producing the kind of high-school and career-ready graduation rates that are really important.

I started school when *Brown* v. *Board of Education* was first decided. I can assure you that here in Washington, DC, there was a tremendous absence of the kind of consistent standards that helped to produce the kind of change that we have seen and that Senator Murray has cited. In the absence of ESEA standards, I am convinced that there will be the use of title I funds for students who do not otherwise qualify and a step back from the Federal Government's commitment to ensure the positive results that Senator Murray cited. It makes a difference.

Senator MURRAY. Mr. Henderson, what improvements would you recommend as we reauthorize to make progress, to close that achievement gap?

Mr. HENDERSON. Certainly, I think that you have many schools that lack the kind of financial equity and commitment to students that either their State constitution requires or their common sense for purposes of producing positive results would require. I cite Senator Roberts' Kansas, which now has a Supreme Court decision, of

course, indicating that the State's funding of its schools is unconstitutional by Kansas' own constitutional requirement, and the result has been a significant lack of compliance on the part of the State and its ability to educate its students.

Senator Casey, I've seen the same thing in Pennsylvania, where the failure of the previous Governor to invest in resources to address the problem, the shortcoming in funding of schools, has been significant. In my judgment, these standards help to drive the kind of investments that States must make in their educational system to ensure that their students do meet the challenges of today and prepare to meet the challenges of tomorrow.

What I would hope is that there would be restrictions on the casual use of title I funding for students who are not eligible for title I and to require that those funds be used precisely for what they were intended, and that is to help the poorest of students.

Senator MURRAY. Thank you.

Mr. Lazar, you mentioned that your classroom, that is apparently watching you, is very diverse in terms of their backgrounds and learning styles and performances. How do high-quality assessments help you cater to your students' unique needs?

Mr. LAZAR. At my school, we've designed a fairly robust assessment system to use to help us get better. We designed tasks that are accessible to a range of learners but that allow a range of performances. This includes something like when we were studying the Declaration of Independence earlier. I gave students adapted readings from two historians that would be accessible reading to all students, and then they had to write an argument about what the Declaration of Independence really means.

That's a task that even somebody reading on a fourth grade level can say something intelligent about. My students who are doing better work now than I did, even a few years into college, are able to approach that task in a really sophisticated way. The key thing is how we use that information. We use that to inform what happens in our classrooms. We use that to inform how we professionally develop our teachers. Then we judge ourselves based on how students are doing in similar tasks later in the year.

We're measuring growth so that we're not just happy with some kids making progress. We're looking at all of our students, even the ones who are doing amazingly well, and ensuring that we are continuing to push them, as well as the students who are struggling.

Senator MURRAY. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Collins.

STATEMENT OF SENATOR COLLINS

Senator COLLINS. Thank you, Mr. Chairman. First, Mr. Chairman and Ranking Member Senator Murray, let me tell you what a pleasure it is to return to this committee after an absence of many years. Some people would say that I was here when we crafted No Child Left Behind, but remember I was very young then.

[Laughter.]

In 2005, former Senator Olympia Snowe and I, in response to a lot of concerns about the law, put together an NCLB task force to evaluate the impact of the law in Maine. We had parents, teachers,

educational specialists, superintendents, school board members, so it was really a broad group.

The task force identified several unintended consequences of the law's requirement for annual tests. They included increased test anxiety for students, loss of teaching time, misinterpretation of the meaning of schools classified as failing when they didn't make adequate progress, and the scapegoating of certain subgroups like special education students and English language learner populations.

Our task force concluded that States needed greater flexibility, and they recommended allowing States to measure student progress over grade spans, which has been mentioned by some of our witnesses today, and to track student growth over time. As we know, the current law measures schools grade by grade, essentially comparing this year's fourth graders with last year's fourth graders.

The approach that was recommended by our task force, known as grade span testing, essentially is looking at the same students and seeing whether they have progressed, which intrigues me. Before the No Child Left Behind law was passed, that was the approach used in Maine, and it allowed Maine to track the progress of individual students and gave teachers greater flexibility.

My question to each of you—and some of you have touched on this—is do you believe that giving States the flexibility to choose grade span testing, which is used now for science, would help resolve the concerns about over-testing that have been expressed? Or would the result be that we decrease accountability? If I could, I'll just start and go straight across with Dr. West.

Mr. WEST. I actually think it would be very difficult under a grade span testing regime to develop a fair system of accountability because, actually, with grade span testing, it becomes more difficult to look at the progress that individual students make over time. You're looking at their performance at a single point in time, at the end point of their time in a given grade, you know, configuration, elementary, middle, or high school.

At that point, you are focused on the level at which they're performing, which, as I said, is heavily driven by influences of factors outside of the school's control. Those types of systems end up having a punishing effect on schools serving low performing students and yielding very inaccurate information about the school's effectiveness.

Senator COLLINS. Thank you.

Mr. Leather.

Mr. LEATHER. I would add that we really need consistency. We need to make sure that every student and every parent receives annual information on how their child is performing academically. We do not want to go back to a system where parents really have to guess on the off year how their student is doing—are they meeting academic and other goals—and whether their school is working to improve outcomes for all students.

I would point you to some of the research that shows that if a year of ineffective learning occurs for a student—and there's lots of reasons why that could happen—the student falls behind, and their growth is really impeded in successive years. I think the more we keep track of how students are doing, the better off those students

are going to be and the better off their parents are going to be in terms of their expectations.

Mr. BOASBERG. Thank you, and I would echo Professor West's comments and agree with you, Senator, on your basic premise on the importance of growth, the importance of measuring the same students as they grow from one year to the next, because that is what's most relevant. It's not how this year's fourth graders did against last year's fourth graders. It's how did those students do from one year to the next.

You do need annual measurements in order to be able to see that growth from one year to the other, because to measure someone on how they did in fifth grade and then see again how they did in eighth grade, there is so much that intervenes to make that less worthwhile. That's equally important for high achieving kids as it is for low achieving kids.

If you're the parent of a kid who is a year ahead of grade level, you don't just want to be told, "Oh, that kid's at standard." That means that kid might have lost an entire year of learning. You want to see how much growth did that high achieving student make.

Likewise, with a low achieving student, those students need to catch up. And just to say, "Oh, they're still not at standard"—you want to know how much they have grown, how close have they gotten, are they on a trajectory, hopefully, within a short period of time, to get back on full track to be ready to graduate prepared for postsecondary. We do think without annual measurements, you simply can't measure growth in a meaningful way.

Senator COLLINS. Mr. Chairman, I note that I'm over my time. Could I have the rest respond for the record, if you want?

The CHAIRMAN. Yes, and let me give two answers to that. One is I appreciate you saying that, because if every Senator uses 4½ minutes and then says, "Now, what do you all think?" we'll be here all afternoon.

[Laughter.]

It's been done before, right? We do want to know what you think. So, yes, please send us your thoughts.

But I'd like to invite the other three witnesses—can you give a succinct answer and then supplement it later?

Senator COLLINS. Thank you.

Mr. HENDERSON. Mr. Chairman, thank you. I'll be very brief. I associate myself with the remarks of my colleagues who have already spoken about the importance of annual assessments as a way of determining progress. I would also mention there are collateral factors that affect the performance of students that we haven't talked about. Obviously, poverty is a huge issue for students who come to school under those circumstances.

We also have teachers who have misaligned with their ability to really impart education. We need teachers who are well-trained to go to schools that most need their services and assistance. There are other factors that, obviously, affect student performance, including school discipline that often runs amuck in terms of the interests of students. I'd like to amplify that, and I will submit additional comments.

The CHAIRMAN. Thank you, Mr. Henderson.

Ms. Lee.

Ms. LEE. Yes. This is assuming that these tests are able to measure what they purport to measure. I want to argue that teachers assess every day in multiple ways, and these standardized assessments that you speak of can only measure right or wrong type of questions, and the kinds of answers that we want our students to be able to solve are much more complex. To be able to quantify it, I think, is difficult.

Another point is that in New York State, at least, these tests have changed from year to year. The cut scores have changed from year to year, which makes them flawed and invalid. I just wanted to put that out there.

The CHAIRMAN. Mr. Lazar.

Mr. LAZAR. Senator Collins, I agree. What we do need to be focused on is growth, and not growth as to where this kid is in relation to where fourth graders are supposed to be, but where the student is compared to where they were. The thing I want us to be careful about is that it's the learning driving the assessment instead of the accountability driving the assessment.

I think we do need to assess regularly. Like Ms. Lee said, we assess our kids every day. I do think parents need information about how schools are doing year to year. I don't think the Federal or State government needs accountability attached to yearly tests. I think those should be used to inform practice, and if we do need to have Federal and State accountability based on some sort of assessment, let's have that be as small and as little intrusion into real learning as possible.

Senator COLLINS. Thank you.

The CHAIRMAN. Senator Warren.

STATEMENT OF SENATOR WARREN

Senator WARREN. Thank you, Mr. Chairman, and I'm looking forward to working with you and Ranking Member Murray on this committee this year.

The Federal Government provides billions of dollars every year to the States to support public education, and it's a lot of money. We should start with accountability, the accountability of the States that take this money. If the States are going to get Federal tax dollars to improve public education systems, then we need to make sure that those dollars are not being wasted, but that they're actually being used to improve education.

One of the reasons that Republicans and Democrats came together to pass No Child Left Behind in the first place was because the Federal Government had gotten really good at shoveling tax dollars out the door but not very good at improving student achievement.

There are a lot of problems with No Child Left Behind. According to the most recent National Assessment of Education Progress, over the past 12 years, both reading and math performance across the country has risen for all groups of students, poor children, wealthy children, urban children, rural children, minority children. They are all doing better. While we all agree that there need to be changes here, we need some basic accountability on the part of the

States to make sure that these billions of dollars in tax money are actually buying us a better education for our children.

Mr. Boasberg, you've reviewed the Republican draft proposal for reforming No Child Left Behind. Are you confident that the Republican draft proposal would ensure that the States who take the Federal dollars will be held accountable for improving student achievement?

Mr. BOASBERG. Thank you, and without speaking to details in the draft—that's obviously your prerogative—I do agree both as a taxpayer and as an educator that accountability is important, very important, and, again, accountability not in the blaming or punishment sense, but accountability in the sense of needing to make change, that when schools are failing and where kids aren't making the progress they need to, where they aren't graduating, there has to be accountability to make change.

That change is very difficult. It's politically controversial. It's messy. It's sensitive. There's resistance to it. It's essential that change happens to close our achievement gaps and to give our kids who have been disadvantaged the opportunities that they deserve. I do believe that accountability is very important.

Our system in Denver absolutely looks at student growth. It looks at disaggregated data. It also looks at important things like graduation rates, remediation rates in college, parent satisfaction—multiple measures. Some people have spoken on this panel about the importance of multiple measures that I agree with. But at the bottom, we do need to be accountable when kids aren't learning to make change.

Senator WARREN. As I read the Republican draft proposal, all a State would have to do to get Federal dollars is submit a plan with a bunch of promises with no proof that the promises are ever kept. The Department of Education would lose any meaningful tools to make sure that the States actually follow through on this.

Mr. Henderson, you've worked hard to make sure that those children who face the greatest hurdles have real educational opportunities. Do you see anything in this proposal that would make sure that the States who take this money actually end up helping the kids who need it most?

Mr. HENDERSON. Senator Warren, unfortunately, I do not. I think the bill now would allow—this draft would allow the States to repurpose title I funding to serve otherwise ineligible students and without any measureable accountability to ensure that students who are most in need get the support and resources they most deserve.

Interestingly enough, your point about taxpayer accountability was just reinforced within the last several days by the George W. Bush Institute which issued a report under the authorship of Margaret Spellings that talks about the importance of annual accountability for purposes of ensuring that dollars and tax dollars, indeed, are well spent.

From the standpoint of those who are concerned about the services provided, we think when you allow States to weaken standards—and we have seen, again, how States have used waivers to, in effect, create a *de facto* weakening of standards—we are deeply

concerned that the interests of every student—but the students we most represent—will not be adequately serviced.

Senator WARREN. I understand the need for flexibility, but if the only principle here is that the States can do whatever they want, then they should raise their own taxes to pay for it. Throwing billions of Federal dollars at the States with no accountability for the States for how they spend taxpayer money is not what we were sent here to do.

Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Warren.

I didn't welcome Senator Collins to the committee, which I should. We're delighted to have her back. She and Senator Cassidy are the only two new members of the committee this year. And you're not really new, as you mentioned.

Senator Roberts.

STATEMENT OF SENATOR ROBERTS

Senator ROBERTS. Thank you, Mr. Chairman. No. 1, I would observe that we have flipped the seating arrangement here as a brand new start. The lights are a little brighter. The heat is a little warmer. You can see what the majority used to enjoy.

[Laughter.]

But, basically, I observe that the minority is to your right, which is a little bit confusing, and we, sir, are to your left, which is seldom. At any rate, I just thought I'd make that observation.

I'd like to concentrate on the teachers, Jia Lee and Stephen Lazar. Thank you for your statements on behalf of teachers. Some years ago, way before Senator Collins, I was a teacher for 3 years. I worried about standard deviation. I had a principal who insisted in doing that. We finally had meaningful dialog, and I was free from that effort.

I have no idea how I could have done what you are doing right now with teaching X number of months the way you want to teach and seeing results, and then 1 month being, quote, "a dumb teacher." I think it was Jia who pointed out the mindless test preparation, et cetera. Thank you for your viewpoint.

Mr. Chairman, thank you for holding this hearing on testing and accountability. I'm pleased we're looking into this issue. I want to let everybody know—the witnesses—and thank you all for coming—this is a working draft. This isn't set in stone. That's why we have you here. It isn't a Republican view or a Democrat view. It is a bipartisan view, and it is a working draft. I think that should be emphasized.

I am concerned about the recent administration efforts to sidestep Congress on our congressional intent. There are a lot of strings attached to waivers to States. The waivers are not a waiver. They're only granted to States that agree to implement a preferred education process.

Now, Kansas has created a statewide commission. By the way, our Governor and our State legislature will handle that issue with the courts. They have before. I'm sure they'll do it again. That, I think, was brought up by Mr. Henderson.

But, at any rate, we created a statewide commission to develop and implement teacher and principal evaluations. It has been a comprehensive state-led approach to design a robust evaluation system. The Department of Education, I believe, is going beyond the statute in issuing conditioned waivers to force State adoption of policies.

Back in August of last year, Kansas agreed to the Department of Education's prescriptive requirements. They were informed that their ESEA flexibility request was fully approved, and they would no longer be labeled a high-risk status. I think that's a pattern we've seen nationwide, and it's clear to me that the administration has tried to coerce States to implement something called Common Core.

I introduced the Local Level Act to explicitly prohibit the Federal Government's role and involvement in that. My legislation would strictly forbid the Federal Government from intervening in a State's education standards and curriculum and assessments with the use of incentives, mandates, grants, waivers, or any form of manipulation.

I appreciate the chairman's Every Child Ready for College and Career Act draft. It is going in the right direction, I believe, in reducing the Federal footprint but still providing accountability. I look forward to continuing to work with the chairman to, hopefully, include my language in the final draft.

I just don't think Washington has any business dictating to States and school districts what is best for the students that they serve. My main objective for renewing and improving ESEA is to make commonsense changes to simplify the law and make it more flexible for States without sacrificing any accountability.

The question I have, basically, is does continued reliance on annual testing best strike the right balance? Or what is the most effective pared back version of accountability that still ensures a quality education for all, as well as fiscal stewardship?

Now, I've done exactly what the chairman said I would do, talk for 4 minutes and now 42 seconds. I'd like to ask Jia and Stephen if they would address that question.

Stephen—or Jia, you go first.

Ms. LEE. Sure. I definitely see the role of assessments at a larger level, but reviewing not at the State level. I do feel that the Federal role—in addressing Senator Warren's concerns—is to ensure that States are using tax dollars appropriately for public education. It hasn't happened in our State. Our State has not been held accountable to those Federal tax dollars.

But what I do feel is that there needs to be a balance of communication. If you were to ask me what my vision is, it's to create alongside educators, alongside district administrators, a system of communication that involves much more comprehensive assessments and ways of communicating information besides a single metric that can be very flawed. I just wanted to put that out.

Senator ROBERTS. Mr. Chairman, could I ask Stephen to summarize in 20 seconds or something like that?

Mr. LAZAR. I'll try to do less. We need better and more diverse assessments that are used primarily to help schools and teachers adopt and plan. We need to remove high stakes from those assess-

ments. We then need to limit accountability through the use of grade span or representational sampling.

Senator ROBERTS. I appreciate that.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Lazar gets the award for succinctness today.

Senator Bennet will be next, and then Senator Scott, if he is here, Senator Franken—well, let's just go to Senator Bennet and then we'll see who's here after that.

Senator BENNET. Thank you, Mr. Chairman. I hope that wasn't as reluctant as it sounded.

The CHAIRMAN. No.

[Laughter.]

Senator BENNET. I read last week—and others on the committee, I'm sure, did as well—that for the first time in the country's history, a majority of our public school children in this country are poor enough that they qualify for free and reduced lunch. That is a shameful situation that we find ourselves in, and when No Child Left Behind was passed, we couldn't say that. The majority of our children weren't that poor.

They are today, and, in my view, that's why this discussion is so important, because the attempt of No Child Left Behind was to create a system of accountability that disaggregated data and showed us how kids were performing by income and also their ethnicity, and it's demonstrated the huge achievement gap that exists in this country.

All of us have different policy issues that we focus on. In my mind, if you want to cure this problem of poverty in our country, the way to do that is by making sure people can read when they're in the first grade. That's the most important thing that we can do.

Senator Collins made an excellent point, I thought, earlier, which was that No Child Left Behind really asked and answered the wrong question, which was how did this year's fourth graders do compared to last year's fourth graders. Not only did it ask the wrong question, an irrelevant question, if you're a fourth grader becoming a fifth grader, but then there was high stakes accountability tied to that. That meant that States and local school districts and schools were responding to the wrong question by attempting to make changes, which, in the end, didn't do much for our kids.

The field has moved well beyond that. The people out in our communities and across the country have moved well beyond that. We're now asking and answering relevant questions rather than irrelevant questions. Part of that is because of waivers that we've been able to get.

But I wonder, Superintendent Boasberg, whether you could describe to the committee how you've used student growth measures to drive change in the school district. How has it informed the district's policies with respect to choice? I think we would benefit from understanding that, because this is bigger than just what's happening in a single classroom someplace. Also, could you hit the important distinction between growth and status for the committee?

Mr. BOASBERG. Thank you. I think that is the fundamental question. The former law just used to look at the percentage of kids that are proficient or at grade level, and as Professor West men-

tioned, that's more likely to predict where kids start than how much they're learning in school.

Where we have moved is looking at growth, which is how much progress does a student make from 1 year to the next. Again, that's equally important for high achieving students as it is for low achieving students. When you just measure status, i.e., are they proficient or are they at grade level, you're ignoring kids who are well above, and you're ignoring kids who are well below because it's unlikely their status will change from 1 year to the next.

But you want to see their growth. You want to see how much they are learning, and that's why the annual nature of assessments are so important. We do look first and foremost at growth, because, for example, we used to have schools where the students were relatively high status but their growth was low, and they coasted. They said, "Look, X percent of our kids are at grade level. We're going great. Congratulate us."

But kids weren't really doing that well. They were going into those schools doing well, and they were stagnating, or they were slowing down. When we began to measure growth and to disaggregate growth based on race, ethnicity, students with disabilities, that has shown a real light on how kids were actually doing.

Again, the important thing was not just to shine the light, but to say, "What are we going to do differently?" That's accountability. What are we going to change to see more growth?

I also think the growth data is absolutely essential for parents as well, because parents, again, want to see how much their student is going to grow. Now, parents, of course—I think the first thing they should do in looking at schools is to visit schools and visit classrooms to see if they have the kind of teaching in those classrooms—the kind that Ms. Lee and Mr. Lazar talked about, this wonderfully rich and deep teaching around critical thinking.

But it's also important, again, for parents to see the growth. We're very transparent about that, and that's published. Particularly, when you're in a district where parents do have choice, where you have charter schools and district-run schools, it's extraordinarily important that the community and parents get information about how much kids are growing.

Again, if you have a system that just says X percent of kids are proficient, you set up a set of essentially more hazard, a disincentive to take kids who are lower performing, because somehow that'll show you have X percent that are not at standard. When you look at growth, you equally then have that obligation and incentive to serve all kids and serve all kids well.

Therefore, particularly in an era of choice and accountability—for example, with charters, we have to make decisions about which charters to authorize, which charters to close. We've welcomed high performance charters. We've closed more low performing charters in Denver than the rest of the State has, combined, and that's really helped us. To encourage our growth as a district is, again, really to focus on the growth that schools are making from year to year and make sure that parents have that information about their kids and their schools.

Senator BENNET. I'm out of time.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Senator Burr.

STATEMENT OF SENATOR BURR

Senator BURR. Thank you, Mr. Chairman.

Thank you all for being here and sharing your knowledge and suggestions with us. I've got to admit that Senator Warren stimulated something in my mind, because I agree with her. Federal tax money should be held accountable.

If we said to a State, "OK. We're not going to take your tax money for education. We're going to let you keep it, and you figure out—you fund education," the first question I thought of was: How many States would take us up on that? The Federal Government gets out of my way. I get to decide how it's done.

Really, the important question that came to my mind was: How would they do it differently than they do it today if, in fact, we got out of the way but we didn't penalize them financially but we put the burden on them? I throw that out to you just as a thought to go through.

Here's my question, and it's extremely simple. I'm going to start at this end with Dr. West, and I'll end with Mr. Lazar, and it's a more simplified question than what Senator Collins asked. My kids, now adults, never tested well. It's probably genetic.

[Laughter.]

But they didn't test well. My question is this: Is it more important that we know what students know, or is it more important that we know students are learning?

Dr. West.

Mr. WEST. It's much more important if we're trying to think about the performance of the school system to focus on what students are learning, because that's what schools have more of an impact on. What students know at a given point in time is going to be heavily influenced by genetics, as you mentioned, perhaps, but by the family environment that they grew up in and a whole host of factors outside of the school's control. When we're thinking about accountability, it should be for student learning.

Senator BURR. Mr. Leather.

Mr. LEATHER. It's a conundrum, I think, to try to separate whether we need to know what a student knows versus whether they're learning. I don't see how you could go one way or the other. I think you need to know both. You need to know, in the end, if a student is ready to make use of knowledge——

Senator BURR. Mr. Leather, do you only reward a student for what they know, or do you reward a student if they're learning? I mean, I go back to No Child Left Behind, and it hadn't rolled out exactly like I envisioned when I worked closely with the Bush administration. Average yearly progress—that's not necessarily what you know. That's whether you're learning. Now, I think this got hijacked somewhere to where everything is about what they know. That's what the annual test is.

Mr. Boasberg.

Mr. BOASBERG. Sure. Again, I think those two are pretty linked. I think we emphasize how much students grow every year, how much they're learning. At the same time, that's to a standard. It's

very important that our kids graduate from high school ready for college or for career. That is a standard, and it's a clear and articulate standard, and it's important that we do everything to help our students and prepare our students and to have accountability and transparency. Are we graduating kids where they're prepared to succeed in college and in today's knowledge-intensive economy?

Senator BURR. Mr. Henderson.

Mr. HENDERSON. It's an important philosophical question. It assumes that students basically begin on an even playing field. I mean, part of the concern I have about the way in which the question is framed is that students who are poor, students of color, students with disabilities, students who are not proficient in English are often not given the resources that they need. Only through these assessments are we able to demonstrate that the State has failed to meet either its own constitutional obligation under State constitutional law, or whether they have failed to make the kind of progress that would allow them to continue doing what they're doing without interventions of the kind that the law now would require.

Part of the problem we have is that when States are given the kind of deference and the kind of latitude that they have, you see a weakening of standards. You see a failure to invest in communities most in need. You see a reinforcement of existing inequalities about how schools are funded. There is no way of reaching those problems because the State has no incentive to necessarily correct the problem other than to say, "Yes, the business community in the State wants to have a stronger graduating pool."

But leaders of the State are not held accountable by the failure to meet those standards unless the Federal Government steps in. I think the history of how the waivers have been used and how States have squirmed out of their responsibility reinforces that point.

Senator BURR. Ms. Lee.

Ms. LEE. Thank you. I want to start by saying, yes, I know many students who are brilliant but are poor test takers, and they go on to become brilliant people and go on to do amazing things. The test alone does not define their value nor their contributions to society. I want to emphasize the fact that these tests—again, they narrowly measure. They are narrow measurers.

I can test my students on basic skills and tell you—quantify that information, such as multiplication facts, spelling, things like that. When it comes to the kind of knowledge that we're talking about, that is not easily quantifiable because it's limitless. There has to be a better way to assess students, to share information that goes beyond the realm of standardized assessments.

Senator BURR. Mr. Lazar.

Mr. LAZAR. My job is students learning. For my students, I care what they know and can do. I think schools should be accountable for students learning, but I think students need to be held accountable for what they know and can do, which is exactly the model we use in Consortium.

Students at the end of high school need to demonstrate mastery on four different performance tasks. We could do a lot better job of helping students prepare for those and truly learning if we got

rid of this notion that a kid who enters in ninth grade needs to be done 4 years later.

Senator BURR. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Burr.

Senator Franken and then Senator Isakson.

STATEMENT OF SENATOR FRANKEN

Senator FRANKEN. I want to thank the Chairman and the Ranking Member for this great group of witnesses and where we're getting.

Mr. Boasberg, I think you, from Senator Bennet's questioning, hit on this proficiency versus growth. It's a great topic, because a sixth grade teacher who brings a kid from a third grade level of reading to a fifth grade level of reading is a hero. Under the proficiency measure, they're a goat.

In Minnesota, we had a thing—you touched on this—a race to the middle. They would focus on the kid just above proficiency and just below proficiency to get that percentage above proficiency, and the kid up on the top would be ignored—and, Mr. Lazar, you hit on this—and the kid at the bottom would be ignored.

That's why growth is so important. To me, to do growth, you've got to measure every year. Now, I also think you should do it in real time, all the assessments in real time. That's why I like computer adaptive tests so the teacher can use the results to inform their instruction.

The question in the nub, I think, that we're getting to is what kind of assessments you're making. Because the assessments that measure these fine little discreet skills—that's what you're going to teach to. That creates a curriculum that is focusing on the wrong thing. If we can create assessments that are measuring what Ms. Lee and Mr. Lazar want to measure, then we have the answer to our question.

What I'm saying is when I go to talk to employers in Minnesota, they want people who can do critical thinking. They want people who can work in teams. We have to hold schools accountable, but we also have to make sure that they're accountable for making citizens and people who can think critically and really learn, and that's what everybody on this panel wants.

Mr. Boasberg, I just want you to run with it. Anyone else can run with what I just said.

Mr. BOASBERG. Great. Thank you, Senator. I think you put it very, very well about how important it is to care about growth for all kids and not just kids on a cusp of a particular line——

Senator FRANKEN. The thing I like about the law—it was called No Child Left Behind. That's the thing I liked the most about it.

[Laughter.]

Mr. BOASBERG. Also, I think one of the things we're very much looking forward to is that the new generation of assessments, which will be introduced this spring, is a much more sophisticated set of assessments. It is much more around complex thinking, problem solving. It's not about rote memorization. If you're someone who's teaching rote memorization, your kids aren't going to do well.

It's about the kinds of skills that we do care about for our universities and for our economy.

At the same time, I think sometimes we try and create too much—this one vessel or this once a year assessment to hold everything. It can't. I think you want a good assessment to measure progress in literacy and math at the level now of sophistication and challenge that we're seeing in the assessments that will be introduced this year, and at the same time to welcome multiple measures—the performance-based assessments that Mr. Lazar and Mr. Leather talked about—to be able to judge—as Ms. Lee said, no one assessment is going to be able to judge everything.

This isn't an either/or. To be able to have common statewide measures, sophisticated measures, of student progress in literacy or math is essential so you can see how kids are doing from district to district. You can see where are the best schools in the State working with English language learners.

If you have completely different measurements from school to school or district to district, you can't capture best practice. You can't truly be able to understand where the most progress is being made.

But, again, I do think those should be short. I'd like to keep them to no more than 4 hours a year, but then welcome other more performance-based assessments, and all of that should be part and parcel of what a teacher looks at, what a school looks at, what a district should look at, and, potentially, if a State can get to that level, what a State looks at as well.

Senator FRANKEN. Anybody else want to weigh in?

Mr. Lazar, just on your kind of performance criteria, don't you agree that if you're going to hold schools accountable, you have to have something that you can objectively look at? Can you design a computer adaptive test, say, where you're filling in circles? Can you design something that gets more at the kind of thing you want to measure?

Mr. LAZAR. You can. It takes more time, and it's more expensive. I've worked on a lot of assessment development, both at the city level—I did some work on doing prototype tasks for Smarter Balance. It's a lot of hard work. It takes a lot of time and a lot of expertise to design those.

I think if we were going to identify a role for the Federal Government in education, it's to put funds and put resources behind test development and assessment development, do a range of them, and make them available to schools to choose. The type of work we do in my school—we have a group of wonderful teachers who are committed to doing it, and we've arranged the time in our program to be able to do that in large part through the PROSE initiative in New York City.

But what we do actually isn't something that all schools can start doing tomorrow. If these assessments were out there and schools could choose the ones that fit their curricular needs, we're in good shape.

Senator FRANKEN. Thank you.

The CHAIRMAN. Thank you, Mr. Lazar.

Senator Isakson.

STATEMENT OF SENATOR ISAKSON

Senator ISAKSON. Thank you, Mr. Chairman, and thanks to Ranking Member Murray for having what I think is a very important hearing. I was listening to Michael Bennet talk a minute ago. I happen to be one of the two remaining Members of Congress that actually wrote No Child Left Behind. Everybody else has gone on to bigger and better things.

We would all tell you the following. The last night when the conference committee finished meeting and Ted Kennedy and I and George Miller, Fred Upton, John Boehner were in the basement of the Capitol and we signed off on the conference committee report, we almost said in unison,

> "You know, if this works, we're going to be in trouble in 6 years, because it'll be impossible for schools to maintain AYP because it's going to get harder and harder and harder to do."

If we had done a reauthorization 7 years ago, a lot of the problems we know there are today wouldn't be going on because we would have corrected that. That's No. 1.

No. 2, and this is not a defensive speech I'm making here, but it is for educational purposes. Assessment was very important, disaggregation was more important, and focusing on the individual student was most important, and No Child Left Behind did that. No child flew under the radar screen. Everybody got in a disaggregated group by race or ethnicity or language or speech or disability or whatever.

We did something—we'd always amalgamated everybody and averaged them out and said our test of basic skills says we're doing X. Well, that wasn't anything good for little Johnny who couldn't read. I hate that reference, but I guess I have to use it.

[Laughter.]

But we need little Johnny involved equally as well, too. I have a question for Ms. Lee, or probably a little bit of a statement.

I think you—and I didn't get to hear your testimony, and I apologize. In the last attempt—which I commend the Chairman on doing what he did—where we almost got there on a reauthorization and it fell apart, I fought very hard to allow for alternative assessment for special needs children.

To take a standard test for a disaggregated group and make a special needs student take it, when you've got psycho evaluations, you've got physical disabilities, you've got cognitive disabilities, you've got connective disabilities—it's just impossible to have a one-size-fits-all assessment. I've always felt that the teacher was best—and the teacher and the parent and the IEP were best to decide what kind of assessment the child ought to have. I would like for you to comment on that.

Ms. LEE. Yes, I completely agree. As a special education teacher——

Senator ISAKSON. Everybody make note of this answer, now.

[Laughter.]

Ms. LEE. I actually started teaching the first year of NCLB. I've seen firsthand—I actually started teaching in what was called the high school for students who were at risk, special education district

in New York City. What I found was that you're right. No assessment fits all, including all students.

What I would have to do in my assessments is diversify. Right? What I know about my students—I assess them, again, sit alongside—Latin root—get to know them and who they are, their abilities, set very high standards, work with the parents and the team. It's not just me. It was related service providers.

You have experts and specialists coming in, and we work together as a team to develop assessments to determine students—where they were, and where we wanted—and to set goals for them. That work has continued, and I feel as though, again, to echo Steve Lazar, that Federal Government does have a role in ensuring that this is made possible at the States.

Senator ISAKSON. One thing I learned as—I'll get to you in just 1 second. One thing I learned as State board chairman in Georgia is that if your testing is not aligned with your curriculum, you're never going to get good data.

Ms. LEE. Right.

Senator ISAKSON. We had a big problem in NCLB, because to align a test that we required with a curriculum that was national would blow up in our face, because nobody wanted a Colorado set of curriculum to apply to a Georgia student any more than Colorado didn't want a Georgia—so what we did is we did a random sample—NAEP—to try and assess the integrity—whatever assessment they were using.

But I think one of the things the Federal Government could do to help the schools out is give them the excuse that we're making them do it, but make sure the curriculum and the alignment of testing, whatever assessment model you use, are in line. If you do that, then you really do find out what the student is learning.

I know a lot of people will say, "Well, that's teaching to the test." Well, that's what education is all about. If you teach a subject and you test what the student was taught, that's curriculum alignment, and then you'll get a true measure of how much they achieved.

Mr. Henderson, you wanted to speak?

Mr. HENDERSON. Yes, Senator. Thank you. I think mainstream assessment means that students are more likely to have access to mainstream curriculum, and I think one of the principles that the communities representing students with disabilities have said is that the only exemption in the regulation is for students with the most severe cognitive disabilities.

One of the concerns we have is that you see frequently that students are misclassified as having emotional disturbance disabilities or being intellectually disabled, and those labels frequently apply to students of color. They are then taken out of mainstream curriculum, given, inconsistent with the requirement of the law, access to less rigorous forms of academic accomplishment, and the results have been disastrous for many of those communities.

I think there is a real concern—certainly among students with disabilities—representing persons with disabilities, that they not be taken out needlessly from mainstream curricula offerings. That doesn't have anything to do with the kind of assessment that States might develop.

I completely agree with Mr. Lazar. There should be a more sophisticated form of assessment to complement and provide the kinds of insights that these wonderful teachers have asked for. That is not inconsistent with a requirement of an annual assessment that is used to really get diagnostic assessments of how communities are doing that might otherwise be left behind unless you have a uniform standard and application.

Senator ISAKSON. My time is up, but thank you both for the response.

Mr. Chairman, thank you for holding this hearing.

The CHAIRMAN. Thank you, Senator Isakson.

Now, we have Senator Baldwin, Senator Casey, Senator Whitehouse, Senator Murphy, and—unless some random Republican wanders into the room—and there should be time for all of you to have a full 5 minutes, and we'll be close to the noon hour when we want to conclude the hearing.

Senator Baldwin.

STATEMENT OF SENATOR BALDWIN

Senator BALDWIN. Thank you, Mr. Chairman, and I am very grateful to you and the Ranking Member for getting us off to a great start with a bipartisan dialog on how we can best address the shortcomings of the No Child Left Behind law. I'm hopeful that we can find a thoughtful path forward to fixing this law for all students, parents, teachers, administrators, and policymakers. We need this information, also.

This is a great panel. Thank you to the witnesses.

A well-designed standardized test is one important tool among many that can help all of the stakeholders I just listed understand how well individual students are doing as well as how our Nation's schools are serving all of our Nation's children. As such, we should know if the tests given, those required by Federal law as well as those that are required by State and local districts, are of high quality and aligned to States' learning standards.

We should also have a clear idea of how much classroom time is spent on preparing for and taking the standardized tests as opposed to instruction. In preparation for this very debate, I introduced the SMART Act along with Representative Suzanne Bonamici in the House of Representatives and Senator Murray and others here in the Senate.

The SMART Act is designed to update a specific Federal grant program that already goes to States every year for assessment and development and implementation. It will allow States and districts to audit their assessment systems and reduce unnecessary and duplicative State and local tests with the design of freeing up more time for teaching and learning.

I think this legislation presents a commonsense approach to help reduce unnecessary testing, which is why it has widespread support from our Nation's largest teachers union and other education reform groups. I'd like to turn to our panelists for their perspectives as well.

Particularly, I'd like to ask both Dr. West and Mr. Boasberg, because you've referenced the importance of these sort of audits—understanding what's truly happening across the country. Can you

talk about the importance of States and districts auditing their assessment systems and how such audits could take place at the State and local level?

Why don't I start with you, Dr. West, and then go to Mr. Boasberg.

Mr. WEST. Sure. I have not reviewed your legislative proposal in detail.

Senator BALDWIN. Just in general. Don't worry.

Mr. WEST. In general, I think it's absolutely critical that State and local education officials have a good idea of the role that testing is playing, the amount of testing, and the quality of those tests as they try to understand how districts are trying to improve student learning.

Senator BALDWIN. Didn't you testify that that was sort of lacking at this point, that we have——

Mr. WEST. Absolutely. We have very few systematic sources of evidence on this, and there's often a lot of confusion at the school building level, I have found in my own experience, about what's being assessed for what purpose.

There are a lot of frustrations among teachers about a lack of alignment between a given interim assessment program, that is, tests that they administer to students over the course of the year to see how they're doing—a lack of alignment between those assessments and the schedule of the curriculum, essentially, the district scope and sequence that they're required to teach. If those aren't lined up, then you're getting useless information out of the interim assessments.

There are huge potential gains from getting a better handle on this. I think it makes sense to encourage States and districts to do it. I would be cautious about the Federal Government trying to say—direct States and districts to test less. As I said, we don't know the optimal amount.

My understanding of what's going on in New Hampshire is that as they move to a more competency-based model, they may be testing more often, using higher quality assessments over the course of the year. That might look bad in some audit or the premises that we're testing too much and we need to get that down. I would be cautious about that type of heavy-handed approach.

Senator BALDWIN. Mr. Boasberg.

Mr. BOASBERG. Thank you. I think Professor West says it very well. I do think it's important that States and districts be very transparent about what is required. We, in our State, have a committee that is doing just that, and that committee is making a series of recommendations to the legislature to reduce some of the State mandated testing that's completely—has nothing to do with No Child Left Behind. We, as a district, also published exactly what we do and what we don't do.

I do think there is also a balance of exactly what the Federal Government says in terms of how much reporting, exactly how things are reported. I think, as Mr. Lazar and Ms. Lee said, our teachers assess our kids in some way every day. That could be a little quiz. That could be a check for understanding. That could be an exit ticket. That could be daily. That could be weekly.

Boy, there's nothing that I would dread more than our teachers in some compliance exercise having to classify and record every single thing that could be somehow classified as an assessment or test of student progress or student learning.

The CHAIRMAN. Thank you, Senator Baldwin.

Senator Casey.

STATEMENT OF SENATOR CASEY

Senator CASEY. Thank you, Mr. Chairman.

I want to thank the panel for being here today and for your testimony, especially giving us firsthand information and experience from the trenches where a lot of you work.

I wanted to focus on a particular question for Mr. Henderson. I wanted to commend him and others who talked about the broader context. This is a hearing about No Child Left Behind and Elementary and Secondary Education. At its core, because of what undergirds those policies and those strategies, it's also a hearing about child poverty, and it's also a hearing about other major challenges facing children.

Some of the numbers, just by way of a background—some of the numbers on childhood poverty are really bone chilling. There's a report from about a year ago—and I'm sure they'll update it this January or soon—from the OECD, the Organization for Economic Cooperation and Development. They ranked the top 20 countries on a whole range of areas. One of them is on child poverty.

Of the top 20 in the world, we are fifth from the worst. Our child poverty rate—this is a 2010 number—it'll be updated—21.2 percent of children in the United States of America live in poverty. We are just a little better than Spain and Italy, and we're not too far off from Mexico and Turkey by way of example.

If you update it, the Annie Casey—no relation to me—the great organization that tracks data on children—Annie Casey Foundation says that that childhood poverty number in 2012 was even higher. It goes to 23 percent. It puts us ahead of Chile. By that ranking, we're fourth from the worst, not fifth.

When you look at that data, and you look at some of the data on progress that's been made—and some of it can be attributed to Federal policy—but when you step back and look at all these issues, what we have not done for our kids is really a national, and I would say, bipartisan failure.

After World War II, we had the GI bill. That was a good idea. We did a lot of things that were smart at that time, but we also had, for Europe, a Marshall Plan. We've never, ever had anything even approaching a Marshall Plan for our kids. That's the predicate, and I think that is kind of the background.

But I want to be much more focused, Mr. Henderson, on the question of children with disabilities. You mentioned the concern you have about treating them differently as it relates to some of the assessment that we undertake. One piece of data—and I just want to have you in the remaining time walk through your reasons—is that we've got about 6 million students in the country with disabilities, educated in public schools, most of whom spend their day learning alongside other students.

According to the National Center for Education Statistics, 90 percent, 90 percent of students with disabilities do not have intellectual or cognitive disabilities that would limit them. You're talking about 10 percent of children with disabilities are in the much more severe category.

Mr. Henderson, what's your basic concern about where we are now and where we could be if the draft that's on the table now were to be enacted?

Mr. HENDERSON. Senator Casey, thank you for your question, and thank you for putting your question in the broader context of the totality of circumstances that students in poverty, students with various disabilities will face in States that are making policy choices about where to make investments. Let me say, as Senator Bennet said, investments in early childhood education pay big dividends, but States often don't require that.

You also recognize that while there may be a cap on ensuring that only the students with the most severe cognitive disabilities are classified as such, schools now will use various methods to allow more students to be classified as having disabilities for purposes of avoiding the kind of rigorous adherence to standards that we would like.

There's about 6.4 million kids with disabilities in the country. What we have found—I mean, obviously, those living in poverty would have a huge problem. What we have found from the draft that we have seen—and, by the way, I'm drawing this from a Council on Parents, Attorneys, and Advocates representing persons with disabilities and from organizations representing persons with disabilities within the Leadership Conference.

They have really stressed the importance of trying to adhere to standards, because what they have seen is that students with disabilities are often classified as proficient, because they have somehow met the alternative achievement standard and have somehow been exempted from the more rigorous mainstream standard that would be required under existing law.

That, for us, is a huge problem. When you add to the fact that States now, because of budgets, are choosing not to invest in public education in the same way—quite frankly, sir, that's what happened in Pennsylvania over the last several years, creating huge problems, particularly for kids with disabilities. Our view is that States will choose to really make cuts where the voices of the advocacy community are perhaps the weakest.

Unfortunately, that sometimes applies to our students with disabilities. They are often in poverty themselves, and they lack the kind of strong advocacy network, aside from the organizations that I've identified here, that can really represent their interest.

One last point——

Senator CASEY. We're over time.

Mr. HENDERSON. I'm sorry. The New American Foundation looked at 16 States that——

The CHAIRMAN. We're running short on time, but conclude your remarks. Go ahead, Mr. Henderson.

Mr. HENDERSON. I will. Thank you, sir. I appreciate it. Four thousand-four hundred schools that have been previously established for purposes of intervention were largely ignored under

those States once the waivers have been given. That is the reality of what we face. Thank you, sir.

Senator CASEY. Thank you very much.

The CHAIRMAN. Thank you, Mr. Henderson and Senator Casey. Senator Whitehouse.

STATEMENT OF SENATOR WHITEHOUSE

Senator WHITEHOUSE. Thank you, Chairman.

My experience with the education universe is that there are really two worlds in it. One is a world of contractors and consultants and academics and experts and plenty of officials at the Federal, State, and local level. The other is a world of principals and classroom teachers who are actually providing education to students.

What I'm hearing from my principals' and teachers' world is that the footprint of that first world has become way too big in their lives, to the point where it's inhibiting their ability to actually do the jobs that they're entrusted to do. I understand that there are lots of concerns—and I share those concerns—about making sure that the benefit of education is spread evenly across the children of this country and that people who don't have a voice don't also lose out on their chance to join the ranks of economic success where they will have more of a voice.

But I went through the PARCC tests a week ago for mathematics and for something that they call English language arts—it's off to a pretty bad start if that's what you have to call it—and I wasn't all that impressed with those questions and with those tests. I didn't see test questions that couldn't have been integrated in a regular test that was given by regular teachers in the ordinary course of teaching and assessing their students.

To me, it's pretty clear that these tests are designed to test the school and not the student. When it first started up in Rhode Island, the timing of the reporting of the results that the contractor assumed was such that the teacher in the coming year wouldn't even have the information. Clearly, the next year's teacher was not the focus of this effort.

The scheduling and the preparation for this is important, because kids are not stupid, and they know the difference between a test that's going to affect their grade and a test that's not going to affect their grade. The school has to go through huge heroic efforts to try to get them interested and prepared for a test that they know they're not going to be personally graded on or responsible for the outcome of.

Then kids have scheduling problems. They can't all get them in at once. Many schools in Rhode Island simply don't have the electronic bandwidth for a class to take the test at once. It's not one test. It's three tests. You can't teach the other kids while the other kids are in the test.

We have to solve this problem. It is an efficiency problem. It is a problem of simply being smart about gathering information. I'm really concerned about this, and I'm saying this at this point to invite conversation with my colleagues as we go forward.

The superstructure of education supervision I'm not sure passes the test of being worth all the expense and all the trouble. It's very discouraging to teachers in Rhode Island who have talked to me.

They hear about the Race to the Top money that comes in to the State, and the State gets a big grant, and everybody has a press conference, and it's like the rain falling over the desert, where the rain comes pouring out of the clouds, but by the time you're actually at the desert floor, not a raindrop falls. It's all been absorbed in between. I have never had a teacher say to me, "Boy, Race to the Top gave me just what I need in terms of books or a white board or something that I can use to teach the kids."

I think we've got to be very careful about distinguishing the importance of the purpose of some of this oversight and not allow the importance of that purpose to allow the oversight to be conducted in such an inefficient, wasteful, clumsy way that the people who we really trust with our students' education, the people who are in the classroom with them, are looking back at us and saying, "Stop. Help. I can't deal with this. You are inhibiting my ability to teach."

I think that damage in the classroom falls just as hard on the communities that are having difficulty getting their fair share of education as it does anywhere else. I think we really need to grapple with that in this committee.

I have basically used all my time with that set of remarks. It was less in the manner of a question and more in the manner of an invitation to my colleagues to continue this discussion and to let you know what I think is important as we go forward. You have 2 seconds. No, you don't. One, zero—gone.

The CHAIRMAN. Thank you, Senator Whitehouse, and the invitation is accepted. I think we need to have lots of discussions about this, and not all these discussions, I'm discovering as I talk, fall down in predictable ways. That was very helpful. Thank you.

Now, our wrap-up with Senator Murphy.

STATEMENT OF SENATOR MURPHY

Senator MURPHY. Thank you, Mr. Chairman. Thank you very much for convening a really well-balanced and thoughtful hearing.

I got the chance to read almost all of your testimony, although I wasn't here in person.

I came to Congress as a vocal opponent and critic of No Child Left Behind for a lot of the reasons that Senator Whitehouse enunciated, but also because I come from a family of educators. My mother was a wonderful elementary school teacher, and then an English as a second language teacher. She walked away from teaching, frankly, before she thought she was going to in part because she ended up spending a lot more time on bureaucracy and a lot less time on teaching, and that's not what she went into it for.

But one of the first meetings I had when I got here as a freshman Member of Congress was with the Children's Defense Fund. They came in because they had heard that I had been a real active critic of No Child Left Behind.

They wanted to just present the case for me as to what was happening in other parts of the country, maybe not Connecticut, prior to No Child Left Behind with respect to children with disabilities, to explain to me that there were places in which—largely because of the cost pressures on local school districts to provide a full complement of educational services for kids with disabilities—that

many of them were spending part of their week with the janitor in technical education and were being largely ignored.

While they had critiques of the law, as I did, their point was that it's important for us not to abandon the gains that we've made with respect to children with learning disabilities who had maybe in some places not been getting a fair shot before. I wanted to just build on a question that Senator Casey raised, and maybe I'll direct it to my friend, Dr. West. We were college classmates, and I'm pleased that he's here today.

Senator Casey referenced some data suggesting the enormity of students with disabilities who were in special education programs who do have the ability to take these tests. Yet the fear is that if you move to alternative assessments and give school districts the ability to move broad swaths of children with learning disabilities out from under the test, you lose the pressure to provide the appropriate education, but you also, as you, I think, cautioned more generally in your comments, lose the ability for parents of children with disabilities to really figure out where their children are going to succeed and where they aren't.

Even if you preserve annual statewide testing to give broad measurements for schools for parents, if you exempt it all—big portions of children who had learning disabilities—those parents aren't helped by the overall assessments of the school. I'd love to hear what the data shows about what happens when we require that the majority of children, except for those with severe cognitive disabilities, take the tests and what that might mean for accountability moving forward.

Mr. WEST. As Senator Casey mentioned, the vast majority of students with disabilities do not have intellectual disabilities. They should be able to reach the same standards with appropriate modifications to the assessments that they're given.

The second point I would make is that there has to be some form of a cap on the number of students who are allowed to take those alternative assessments. I'm not sure that the 1 percent cap that was in the No Child Left Behind legislation is exactly the right number. I'm not an expert on the education of students with disabilities.

But one thing we know from the study of accountability policies and how our schools respond to them more generally is that some schools will find a way to game the system. They might reclassify students as being eligible for special education if that exempts them from the accountable pool of students in order to avoid being sanctioned. There needs to be some mechanism in an accountability policy to account for that dynamic.

One of the concerns—there also needs to be, if there's a cap, some degree of flexibility to allow for natural variation in the share of students at a given school or in a given district that might actually be appropriately excluded from the standard assessment. I think those policies have been a bit more rigid than they actually should be. There needs to be some mechanism, and I'm not the one to tell you the details of how to do it.

Senator MURPHY. Thank you, Dr. West. I'd commend to the committee a study which suggest that, on average, you're talking about half a percentage of kids who don't have the ability to take those

tests. But I think you're right. There are going to be variations. I look forward to working with the chairman and the Ranking Member on this issue moving forward.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Murphy.

I'll ask Senator Murray if she has any closing remarks.

Senator MURRAY. I would just say that there is tremendous interest on our side of the aisle in fixing the No Child Left Behind law to really make sure that in this country we really do make sure that every child, no matter where they live or who their parents are or how much money they have, has the opportunity of the American dream of a good education. That is the equalizer that I think is so important for our country and will allow all of our young people to be able to grow up and have a job and support all of us and be competitive in a global marketplace. It's a huge, huge goal.

But I think there is tremendous interest here. We want to work with you on a bipartisan basis to move forward on this bill, and I really want to thank everybody who participated today.

The CHAIRMAN. Thank you. This is a good beginning. I've learned a lot from the witnesses. I like the exceptional variety we had of points of view. I thank the staff for their work on coming up with that. I think the Senators—you could see the large number of Senators who came today and who had thoughtful comments.

For those who came and couldn't get in the hearing room, we'll do our best to have a larger hearing room for our next hearing, which will be next Tuesday at 10 a.m., and it will be about fixing No Child Left Behind, supporting teachers and school leaders. We look forward to that.

I'd like to invite the witnesses—if there's something today that you wanted to say that you didn't get to say, we'd like to hear it. If you could let us hear it, especially if you could do it within the next 10 days, that would be very helpful. We would welcome it.

To the Senators, I would say if you have additional questions, please ask them. For example, Senator Baldwin raised the question of how we put the spotlight on whether it's the States and local governments who are coming up with all these extra tests. Senator Bennet asked the same question.

Senator Murray and I have written to State and local school districts, trying to identify the number of tests. If you have an idea about that, on Senator Baldwin's effort, we would appreciate it.

I'm going to send you a question and ask: Do high stakes discourage multiple assessments? I would ask that question. Then I would like to invite Mr. Lazar to followup his suggestion that one area where we might provide more funding is in developing better assessments. One of the dangers is that whenever the Federal Government does that, it likes to put its sticky fingers on exactly what to do and who must do it. Your comments on that or from anybody would be helpful.

Senator WHITEHOUSE. Mr. Chairman.

The CHAIRMAN. Yes.

Senator WHITEHOUSE. I'm interested in taking advantage of that opportunity and particularly because none of the witnesses had a

chance to comment on what I said. Could you let me know by what time you would like our additional questions. What's my deadline?

The CHAIRMAN. What's convenient for you?

Senator WHITEHOUSE. End of the week.

The CHAIRMAN. OK. That would be great.

We'll work with you, and I think the sooner we get the questions out, the sooner we'll get good answers back, and we'll see how this goes. I'll work with Senator Murray. It may be that we have roundtable discussions rather than hearings at some point, where we can sit around and actually have conversations about particular points and not be limited to 5 minutes of questions. There are different ways to go about this.

If you could let us know within a week or sooner, Sheldon, that would be a big help, and then we'll go to work on that. Usually, we say at the end of close of business this Friday. That's what we usually say, I'm told. I'm just learning. If you can do it by the close of business Friday, that would be helpful.

The hearing record will be open for 10 days. We thank you for being here today. Are there any other outbursts or comments anyone wants to make?

Thank you to the witnesses. Thank you very much for coming. The hearing is adjourned.

[Additional material follows.]

ADDITIONAL MATERIAL

RESPONSE TO QUESTIONS OF SENATOR MURKOWSKI, SENATOR BENNET AND SENATOR WHITEHOUSE BY MARTIN R. WEST, PH.D.

SENATOR MURKOWSKI

Question 1. In your written testimony, you stated that a 2014 study found a strong positive correlation between assessment and identifying effective teachers and that being assigned to an effective teacher has a strong positive correlation to adult success. Do you then recommend that Congress maintain the requirement under NCLB waivers that States link teacher evaluations with test score results?

Answer 1. I do not recommend that Congress maintain the requirement under NCLB waivers that States link teacher evaluations with test score results. Instead, I recommend that States be explicitly permitted to use title II funds in order to design and implement such evaluation systems.

A large body of research conducted over the past two decades demonstrates that teacher effectiveness is the most important school-based factor influencing student achievement as measured by State tests. The 2014 study referenced in my testimony, conducted by Harvard economist Raj Chetty and colleagues, found that being assigned to a teacher who is very effective in raising students' test scores also leads to large gains in important long-term outcomes, such as the likelihood of attending college and adult earnings. This research suggests that information on a teachers' effectiveness in raising test scores is useful in identifying those teachers who are most likely to make a positive difference. In other words, this research does strengthen the case for developing new systems of teacher evaluation that incorporate information on how much teachers contribute to the growth in their students' test scores from 1 year to the next.

At the same time, it is important to emphasize that we have very little evidence on how best to design and implement such systems and on their effectiveness in improving teacher effectiveness. It is possible that they could have unintended consequences, particularly if implemented by States and districts that have not developed adequate capacity to do so well and have limited flexibility to adapt them to meet local needs. Allowing States to use Federal funds to develop new teacher evaluation systems would encourage innovation and provide new evidence on its consequences while avoiding the potential unintended consequences of a one-size-fits-all Federal mandate.

Question 2. You recommended in your written testimony that Congress require States, districts, and schools to report on per-pupil spending, including teacher salaries, to highlight disparities and inequities and put pressure on districts to address them. Alaska posts per-pupil revenue (State, local, and Federal) online and requires 70 percent of State revenue be spent in the classroom. (See *www.eed.State.ak.us/schoolfinance/* and click on school revenues.) If we can all agree that spending in and of itself does not, in and of itself, predict student success—that *how* schools target dollars to effective practices is more predictive—what is gained by per-pupil spending reports?

Answer 2. Although how money is spent is more important for student success than the amount of spending alone, improving transparency about per-pupil spending at the State-, district-, and school-levels could help encourage our school systems to use their financial resources more effectively. The accountability systems States have been required to implement under NCLB focus exclusively on improving student test scores and closing achievement gaps without considering whether school districts and schools accomplish those goals in a cost-effective way. Accountability programs' inattention to inputs, combined with the complexity of State school finance systems, makes accurate information on school spending difficult for the public to obtain. It is no surprise, then, that surveys have repeatedly shown that Americans lack vastly underestimate per-pupil spending levels in their local school district. Alaska's decision to post per-pupil revenues online is a positive step toward greater transparency, but this information appears to be independent from its district and school report cards and to be limited to the district level, rather than broken down for individual schools. School-level financial reporting is important as there are often wide disparities in spending between schools within the same district.

SENATOR BENNET

Question 1. Dr. West, can you explain why you think "Using average test scores from a single year to judge school quality is . . . unacceptable from" as you put it "a fairness and equity perspective?"

Answer 1. Using any level-based measure of student achievement on its own to judge school quality, whether it be average test scores or proficiency rates, is unfair because of the strong role that out-of-school factors play in shaping student achievement. For example, students from economically disadvantaged families tend to enter kindergarten with far lower academic and behavioral skills than their more advantaged peers. Under a level-based accountability system, schools that serve many disadvantaged students are therefore at risk of being identified as underperforming even when their students are making more rapid academic progress than students elsewhere. This is exactly what has occurred under NCLB, which requires States to determine whether a school has made Adequate Yearly Progress primarily based on a level-based measure of student achievement: the percentage of students who are proficient in math and reading. Basing accountability systems instead on how much student test scores improve from 1 year to the next would provide fairer and more accurate information on schools' performance.

At the same time, some advocates have criticized proposals to judge schools based solely on growth measures, as doing so could allow schools serving disadvantaged students to avoid sanction even if their students' academic progress over time is insufficient to close achievement gaps. This is a legitimate concern, and State policymakers may want to strike a balance between average scores and growth when deciding where to focus improvement efforts. However, absent annual tests required to produce measures of the growth in student test scores over time, it is impossible to distinguish those schools where students achieve at low levels because they are learning very little from those schools that perform well despite difficult circumstances.

Question 2. Dr. West, what role should student achievement play in identifying under-performing schools? I think it shouldn't be the only factor, but I do think it matters and that its weighting matters.

Answer 2. In my view, student achievement—in particular, the growth in student achievement from 1 year to the next—should be the predominant factor in identifying under-performing schools. Scores that students receive on standardized tests administered in schools are strongly predictive of later life outcomes that are of great value to those students and the Nation, after controlling for all the other observable characteristics of those students that are associated with later success. What's more, gains in test scores that result from interventions such as being assigned to a particularly effective teacher or attending a school facing accountability pressure also predict improvements in adult outcomes. Of course, teachers and schools also contribute to student outcomes in ways that are not captured by test scores and therefore harder to measure. States and districts may therefore want to incorporate additional sources of evidence into their systems for evaluating school performance. However, any system for identifying under-performing schools that is not based primarily on information on student learning as measured by tests that are comparable statewide would be badly compromised.

Question 3. Dr. West, you recommend we require districts to report comparable measures of per-pupil spending at the school level. Why don't districts publish this information already? Why is having this data important?

Answer 3. I can only speculate as to why many districts do not currently report comparable measures of per-pupil spending at the school level. In many cases, however, districts are simply unable to provide accurate school-level spending information because their internal data systems make it very difficult to produce this information. In particular, when school budgets are based on staff positions and the average cost of those positions district-wide, rather than the salaries of the employees working in each school, school budgets do not provide accurate information on school spending. In other cases, district officials may not want to provide this level of transparency.

Requiring transparency about per-pupil spending at the school level is important both to encourage the effective use of resources and to highlight within-district disparities in spending. While many States have made considerable progress toward equalizing spending across districts, there are often large disparities in what is spent across schools within the same district. A common source of these disparities is the gradual migration of more experienced teachers with higher salaries to schools that serve more advantaged students. Requiring districts to publish accurate school-level spending information would, at a minimum, ensure that citizens are in-

formed of these patterns and could create pressure on districts to address the policies and contract provisions that drive them.

SENATOR WHITEHOUSE

Question 1. I am intrigued by the idea of an accountability system where the more progress a district or State makes for all students and student subgroups, the more autonomy that district or State receives. Conversely, if a district or State struggles to make progress or has persistent inequities it would have less autonomy and increased oversight. What would be the best way to create an accountability system where districts or States could "earn" their way toward greater autonomy, perhaps by being relieved of the requirement of annual testing, through actual student academic success and outcomes?

Answer 1. The "earned autonomy" concept you suggest is attractive and could be implemented by granting greater autonomy to States and districts in which students are achieving at high levels *and* demonstrating strong growth in achievement over time, overall and within student subgroups. Yet I would suggest that such an approach should not entail relief from the requirement to administer annual tests that are comparable statewide, as the data from those tests would be essential to know whether the granting of autonomy has been a success. Rather, the autonomy should take the form of greater flexibility with respect to such matters as curricula, staffing arrangements, and any consequences for schools based on student test results.

Question 2. Some argue that over-testing is the result of States and districts supplementing the NCLB requirements (17 tests throughout K–12) with additional layers of assessment. If we were to keep annual testing in place, what would be the best ways to reduce the overall testing burden?

Answer 2. Although we lack comprehensive evidence on the extent of over-testing and the factors contributing to it, emerging data does suggest that over-testing often results from States and districts overlaying their own testing programs on top of the 17 tests required under NCLB. It is important to note, however, many of these additional tests may stem directly or indirectly from related Federal policies. For example, many States have recently increased testing in order to include teachers in previously non-tested grades and subjects in the teacher evaluation systems required under ESEA waivers. The unrealistic expectations for the pace of school improvement embedded in the NCLB accountability system may also have increased the extent of testing, as many districts have introduced various interim assessment systems throughout the school year to gauge whether students are on progress to perform well on required State tests. Although this may be an effective educational strategy in some districts, in others it may in fact constitute over-testing. By giving States greater control over their school accountability and teacher evaluation systems, the Federal Government could therefore ensure that it is not contributing to the problem of over-testing.

Chief State school officers should then work with district superintendents to investigate the extent of testing and how various tests are used within their own States. For example, Florida Commissioner of Education Pam Stewart recently asked her State's district superintendents to catalogue the various standardized tests they administer, the amount of time the required, and the purpose they serve. This enabled her to make concrete recommendations to reduce the testing burden on teachers and students. Although the States are best positioned to scrutinize and make decisions about the appropriate level of testing in their schools, the Federal Government could encourage their efforts by explicitly allowing State educational agencies to use ESEA administrative funds for this purpose.

Question 3. One way to reduce the testing burden could be to decrease the number of questions we use to assess students. If the number of questions were sufficiently reduced, those questions might then be embedded in existing, annual exams such as the PSAT. Would streamlining or consolidating assessments be a viable approach to reducing the testing burden? Why or why not?

Answer 3. There is often a tension in test design between the number of items and the test's ability to cover the knowledge and skills it is intended to assess and to provide sufficiently reliable information to support decisions about student or school performance. Streamlining tests may be a good strategy for reducing the testing burden in some circumstances. However, it is important to ensure that any streamlining does not undermine the quality of the information provided such that the test no longer provides information that is valid for the purposes for which it is being used.

RESPONSE TO QUESTIONS OF SENATOR MURKOWSKI, SENATOR BALDWIN AND SENATOR BENNET BY PAUL LEATHER

QUESTIONS FROM SENATOR MURKOWSKI

Question 1. Standards based teaching, testing, and grading requires a great deal of work to promote buy-in by teachers and parents. Can you talk briefly about the steps you took to ensure that all stakeholders were completely on board with this new way of delivering education and reporting student results?

Answer 1. The Senator is correct that moving to standards based teaching, testing, and grading requires a great deal of work to promote buy-in by teachers and parents. To complicate matters in New Hampshire, there has long been a very strong tradition where curriculum and instruction are locally controlled. For this reason, the NH State Department of Education (NHDOE) has gone about a process that enlists local educators and parents in the process. This methodology started as far back as 1996, when NHDOE held a series of regional forums around the State with educators and students, asking what will education look like in 5 years. Students identified personalized, student-centered learning and educators identified standards-based learning. Upon analysis of this data, NH started its work in competency education, where standards are "owned" by students, and they can pursue personalized learning models to demonstrate their mastery of competencies, i.e. standards. NHDOE developed this approach via a series of grants to networks of schools and districts. The research results from these grants led the NH State Board of Education to launch a process of amending the NH School Approval Standards so that a system of identifying student mastery of competencies would take the place of the Carnegie unit (seat time) for the attainment of high school credit. The Board went through a formal rulemaking process, holding over 10 hearings in Concord and across the State, engaging educators and parents in the discussion. These rules were approved in July, 2005, with an effective date of July, 2008, giving districts and schools 3 years to implement.

Subsequently, the NHDOE provided guidance, continued establishing cohorts of schools/districts to further develop the model, and identified key partners in-State and nationally to support the work. Our research data was shared publicly through a series of State and regional meetings with school boards, parents and educators. In 2010, the NHDOE received a grant from the Nellie Mae Education Foundation (NMEF) to develop an accountability system for State and Federal purposes that would be more aligned with the work done statewide in competency education. This grant, and subsequent grants from NMEF and from the William J. and Flora Hewlett Foundation, has assisted in supporting cohorts of educators from schools across the State in Quality Performance Assessment professional development and in the creation of the Performance Assessment for Competency Education, or PACE model. In 2011, the NHDOE received the first of two grants from the National Governor's Association to communicate broadly the work done with educators and parents on standards-based learning and competency education. This resulted in new State legislation in 2012, identifying competency education as a preferred outcome of public education in New Hampshire. Also in 2012, the NHDOE identified moving to a new model of accountability in its first ESEA Flexibility Waiver submission, and went through the public vetting process with many groups of stakeholders across the State. In 2014, the NHDOE completed a 2-year long review of the NH School Approval Standards, where competency education was put in place K–12, effective July, 2017. To sum up, the NHDOE approached the engagement and development of this new system through public engagement processes for citizens and parents and through cohorts of professional development and implementation for educators. We also highly publicized new components of the change as they developed, such as new assessments and new grading systems and encouraged sharing across districts among leaders and professional networks. New Hampshire is a small State and the word has gotten out quickly. With this said, we do want to note that this has been an 18-year journey to date, and we continue to develop the system going forward.

Question 2. How much has it cost New Hampshire to develop, implement, and evaluate your pilot PACE program? How much do you estimate it would cost to expand it to all of your districts?

Answer 2. To date, it has cost the State approximately $1 million to develop, implement, and evaluate the PACE Pilot. These costs have largely been borne by two grants from the Nellie Mae Education Foundation (totaling $600,000) and one from the Hewlett Foundation, (totaling $400,000). Much of the development work is now completed. NH has a performance assessment bank, and a calibration and moderation process. The NH Technical Advisory Committee (NHTAC) is currently evalu-

ating the systems, and will evaluate results as they come forward this spring. Eight districts have been involved in the process, four implementing and four in a planning mode. They make up approximately 10 percent of the 80+ Supervisory Unions across New Hampshire. We estimate that full implementation of PACE will cost approximately $6.725 million over a multi-year period, broken down broadly as follows:

Training and Coaching: (Center for Collaborative Education and contracted consultants) 400,000 x 5 yrs. = $2,000,000—Statewide and regional and content meetings; in-school coaching; attendance at policy and management meetings; consultation for DOE leadership;

Technical Quality and Accountability: (NCIEA) 100,000 x 5 yrs. = $500,000—Direct development of materials, protocols, policies, and procedures; consultation for DOE leadership and project management; management of NHTAC; attendance at policy and management meetings;

Task Bank development and maintenance: (in conjunction with the Center for Collaborative Education and Stanford University) $325,000 (yr 1 & 2 = 100,000; yr 2&4 = 50,000; yr 5 = 25,000)—Review and organization of task bank submissions, uploading, management, and development of task bank site; recruitment of and coaching on task development;

Local development: (teacher leaders and local implementation PD) 1,500,000 x 2 = $3,000,000 (*80 SAUs x 18,750 per first 2 years, scaled to size of districts and staffing ratios*)—Stipends for teacher leaders to pay for their extra training and out of school time; local PD materials such as books; workshops or trainers deemed necessary to the development of staff or leadership, substitutes to allow attendance at statewide meetings and trainings either as presenters or as attendees; local content coaches for the classroom implementation of performance tasks and assessments; coaching for leadership.

Statewide Public Communications Strategy: $100,000—Payments for transcription; translation; web-based roll-out; and articles and papers about the effort, with an update of NH Story of Transformation;

Statewide Rollout: (summits, legislative presentations, workshops, etc.) 100,000 x 5 yrs = $500,000—To include one state-wide conference, one summer institute, and 5 regional meetings annually; and

Statewide Recording and Reporting: $300,000 (Development first 2 years @ 70,000; i4see maintenance $32,000 x 5 yrs = 160,000)—To further develop a statewide Student Information System (SIS) platform, and to assist schools and districts in implementing Learning Management Systems, (LMS). This also includes on-going support to pay for adapting and maintaining the i4see system for uploading accountability data.

SENATOR BALDWIN

Question. Educational experts in Wisconsin have stated that the turnaround time for the results of the tests required under NCLB is a significant issue, sometimes leaving students, parents, teachers and administrators waiting for those test scores long past the time when they are most (or at all) useful for instruction or transparency. For example, if a teacher is unable to get a student's test results from the prior academic year before he begins planning for the next school year, it is difficult for him to prepare for the specific educational needs of that child or at least have baseline knowledge of his academic needs.

Please describe what you believe the ideal timeframe would be for teachers to receive the results of annual assessments, as well as the current timeframe for the dissemination of the results of annual assessments in your individual school, district or State.

Answer. We agree with the Wisconsin experts. Ideally, the results of a State assessment should be actionable in terms of curriculum and instruction. For example, if a good percentage of students "miss" questions on the math assessment as it pertains to multiplicative reasoning and operations, then educators can adjust and augment the curriculum to address this shortfall. When such data is not available in a timely way, educators find themselves in a place where they will use another test with a more rapid turnaround for formative purposes. For this reason, we believe that an immediate turnaround time of 1–2 weeks is ideal for a summative assessment that is also used for formative purposes, but that in the worst case, it should take no more than 1–2 months.

SENATOR BENNET

Question 1. Commissioner Leather, competency-based education and more personalized learning is absolutely something we need to do. Technology has made that more possible than ever before. Much more goes into creating a competency-based

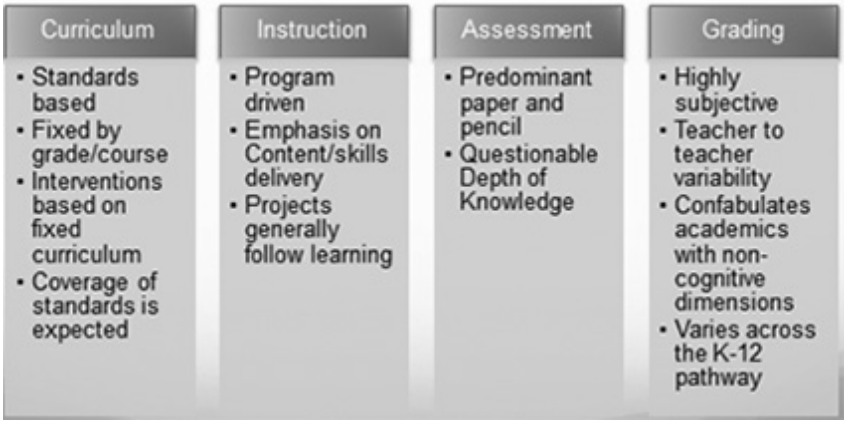
education system than the assessment components you spoke about in your testimony.

Can you tell us more about how this transformation in learning has taken place in New Hampshire classrooms? What does it mean practically speaking to eliminate the Carnegie Unit?

Answer 1. For the first question, I am including much of the answer that I provided to Senator Murkowski, with some augmentation. The Senator is correct that there are more moving parts to a competency education system than I gave in my testimony. To complicate matters in New Hampshire, there has long been a very strong tradition where curriculum and instruction are locally controlled. For this reason, the NH State Department of Education (NHDOE) has gone about a process that enlists local educators and parents in the process. This methodology started as far back as 1996, when NHDOE held a series of regional forums around the State with educators and students, asking what will education look like in 5 years. Students identified personalized, student-centered learning and educators identified standards-based learning. Upon analysis of this data, NH started its work in competency education, where standards are "owned" by students, and they can pursue personalized learning models to demonstrate their mastery of competencies, i.e. standards.

Here are two sets of frameworks, the traditional framework and the new CBE framework, as developed by Rose Colby, NH's nationally recognized Competency Education Consultant:

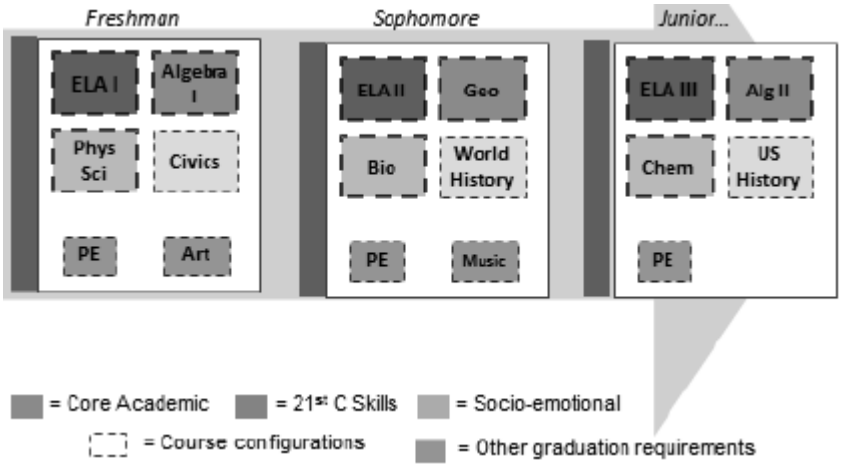
THE TRADITIONAL FRAMEWORK

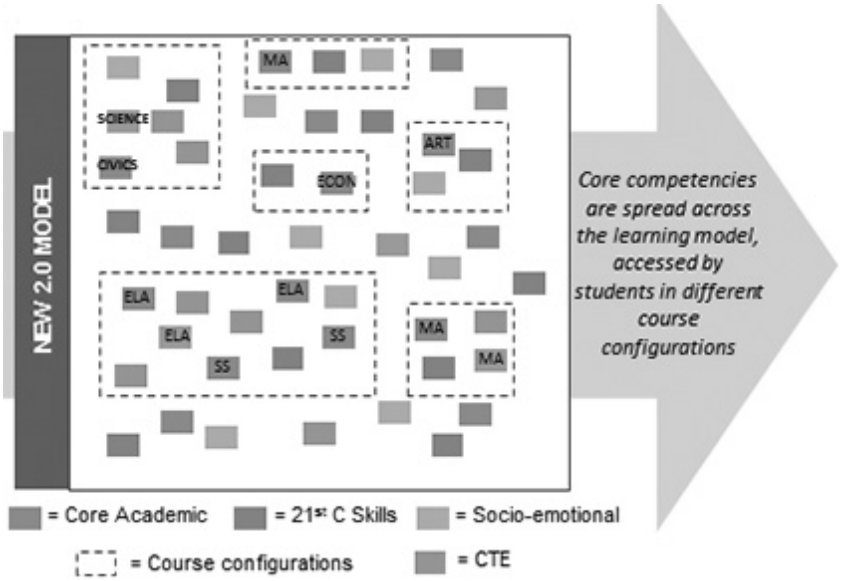


As can be seen above, really a great deal changes in a CBE classroom. Learning progressions ideally move across multiple years, and are mapped to a trajectory and taxonomy of competencies. Learning is more project based, with an emphasis on greater depth of knowledge. Assessment is embedded into the projects and aligned, again through a K–12 taxonomy, to the standards and competencies. Students work against personal learning plans, with systems of supports both in-person and on-line. Grading is focused on demonstrating mastery of competencies and standards. Work study practices, or dispositions, are also measured along trajectories, but disaggregated from content mastery. It is important to know what a student has learned and can do, not just how hard she or he tried. It is also important to recognize the student's development in problem solving strategies, communication, creativity, and collaboration.

When we look at delivery and classrooms, here are two more pictures, the first of a traditional HS course model, the second for a competency based HS:

School is traditionally set up in courses that deliver content sequentially rather than based on relevant pairings and opportunities for more authentic learning acress subjects.





As can be seen above, courses become more project based, and more inter-disciplinary, however, the learning is still disaggregated and captured so that we know where on the trajectory a student is, say in math or science, because we are collecting mastery of competencies that are aligned to the standards.

NHDOE has developed this approach via a series of grants to networks of schools and districts. The research results from these grants led the NH State Board of Education to launch a process of amending the NH School Approval Standards so that a system of identifying student mastery of competencies would take the place of the Carnegie unit (seat time) for the attainment of high school credit. The Board went through a formal rulemaking process, holding over 10 hearings in Concord and across the State, engaging educators and parents in the discussion. These rules were approved in July, 2005, with an effective date of July, 2008, giving districts and schools 3 years to implement.

Subsequently, the NHDOE provided guidance, continued establishing cohorts of schools/districts to further develop the model, and identified key partners in-State and nationally to support the work. Our research data was shared publicly through a series of State and regional meetings with school boards, parents and educators. In 2010, the NHDOE received a grant from the Nellie Mae Education Foundation (NMEF) to develop an accountability system for State and Federal purposes that would be more aligned with the work done statewide in competency education. This grant, and subsequent grants from NMEF and from the William J. and Flora Hewlett Foundation, has assisted in supporting cohorts of educators from schools across the State in Quality Performance Assessment professional development and in the creation of the Performance Assessment for Competency Education, or PACE model. In 2011, the NHDOE received the first of two grants from the National Governor's Association to communicate broadly the work done with educators and parents on standards-based learning and competency education. This resulted in new State legislation in 2012, identifying competency education as a preferred outcome of public education in New Hampshire. Also in 2012, the NHDOE identified moving to a new model of accountability in its first ESEA Flexibility Waiver submission, and went through the public vetting process with many groups of stakeholders across the State. In 2014, the NHDOE completed a 2-year long review of the NH School Approval Standards, where competency education was put in place K–12, effective July, 2017. To sum up, the NHDOE approached the engagement and development of this new system through public engagement processes for citizens and parents and through cohorts of professional development and implementation for educators. We also highly publicized new components of the change as they developed, such as new assessments and new grading systems and encouraged sharing across districts among leaders and professional networks. New Hampshire is a small State and the word has gotten out quickly. With this said, we do want to note that this

has been an 18-year journey to date, and we continue to develop the system going forward.

Practically speaking, eliminating the Carnegie Unit means that a student can demonstrate the learning for a competency and thus for a course or credit, before, during, or after when the course is delivered. This way, a student's trajectory of learning is honored, and the student is not hampered by the annual delivery of courses. It requires a more flexible approach on the part of educators and for the system as a whole. Assessments need to be available, not simply tied to units of study through the year. There are many examples of schools across the country now approaching this, including in Adams 50 in Colorado.

Question 2. Commissioner Leather, you spoke about the need for space in ESEA to innovate. Beyond assessment, are there other areas in the law that we should be looking for innovation? Places to have small pilots or incentive grant programs? What's next, in New Hampshire and across the country?

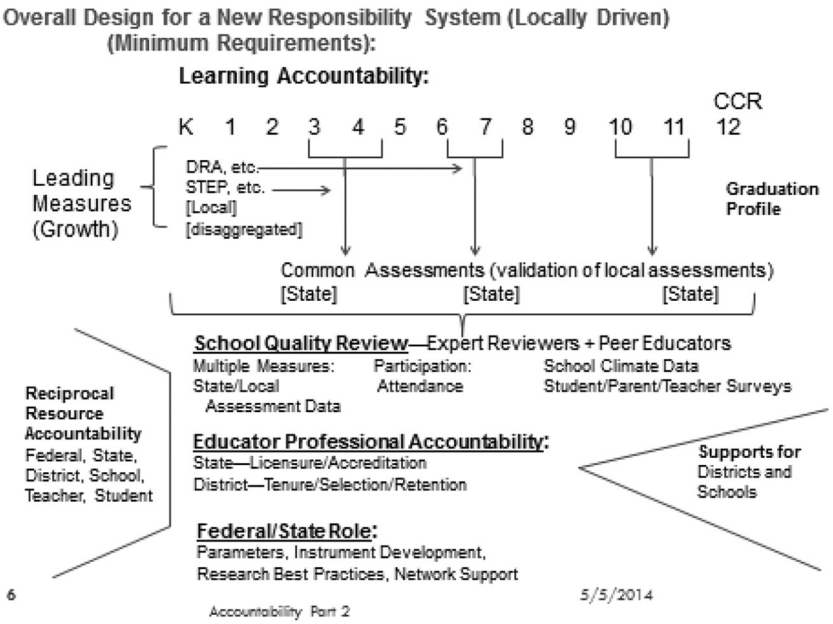
Answer 2. We believe that in all of the areas of Curriculum, Instruction, Assessment, and Accountability there is a need to innovate. Since ESEA does not regulate curriculum and instruction, but does in assessment and accountability, we believe this is where the attention should mostly lie in reauthorization.

With that said, as was stated in the first question, there is much that is not yet known about the interaction between technology and instruction, technology and assessment, and how learning is incented in a blended environment. This is one area where much will occur over the next 10 years. One could take the position that government should stay out of the way and let the innovation occur. The problem, in this case, is one of access. Those educational systems that choose to invest in 1:1 environments, that have strong Internet access, that have enlightened leadership and adequate resources to invest, those communities will prosper in this arena. Those without the basic technology, or leadership, or ability or will to invest, will fall behind.

SENATOR WHITEHOUSE

Question. I have heard concerns that locally developed assessments could lead to disparities in the quality of assessments from district to district, and could lead to further educational inequity within a State (where wealthier districts develop high-quality state-of-the-art assessments and low-income districts are left behind.) What would be the best way to create and implement locally developed assessments in a way that is fair, comparable, and equal across all districts?

Answer. We agree with this argument. If guardrails are not imposed into the process, disparities from one district to another will occur. For this reason, we believe a fully developed accountability system will have certain components that have been described in the 51st State Paper authored by Linda Darling-Hammond, Gene Wilhoit, and Linda Pittinger, (submitted with my original testimony). Specifically, the design of the system should have the following, as shown on this schematic:



Such a system should have a clearly defined system of State and local assessments, and indications as to how student status and growth will be measured, collected, and disaggregated. There should be a base of common assessments, (in PACE, there is a system of common assessments, Smarter Balanced AND Common Performance Assessments). There should also be a School Quality Review process, where expert reviewers along with teams of peers review school and district performance and the overall system to assure that there is calibration and moderation of assessment, that the results are reliable and valid. We also believe that there should be an expectation of reciprocal resource accountability, where the State should assure equity between districts, and that districts should assure equity between schools and neighborhoods, and that principals should assure equity from classroom to classroom. We look for these assurances and include this information as part of our school quality reviews. Additionally, we look for a coherent system of educator accountability, and a system of supports and conditions for educators, schools, and districts. We believe the Federal law should also have such supports and conditions for States as well, as they apply for greater flexibility. Such a system, at the very least, should account for the following requirements among districts:

- Focused on **college** and/or **career** outcomes and promotes **deeper learning** for all students.
- A clear **commitment** toward improving the achievement of **educationally-disadvantaged** students.
- A clearly described **internal accountability** process supported by the **local board** of education.
- **Commitment** of **resources** necessary to ensure the plan's success.
- **Leadership** and **educator capacity** to design, implement, support, and sustain the system.

Attached, please also find the CCSSO description of guardrails for States, which we helped development and to which we subscribe.

To develop a system of local assessments that would meet all of these requirements, we recommend that Senator Whitehouse look to the PACE Pilot model, where, a cohort of schools and districts have worked together to design a system that is coherent, comparable, and, we believe, equitable.

ATTACHMENT—CCSSO (COUNCIL OF CHIEF STATE SCHOOL OFFICERS)

PILOTING NEW MODELS OF ASSESSMENT AND ACCOUNTABILITY: STATE COMMITMENTS

Over the past several years, States have significantly advanced accountability systems grounded in college- and career-readiness for all students. Since the release of CCSSO's 2011 *Principles for Next-Generation State Accountability Systems*,[1] States have used the Principles as a framework to develop stronger systems that better support schools and districts to advance student learning. As States reflect on their accountability systems and continue to improve them, they remain committed to these Principles.

While fully upholding their commitment to implementing the Principles, some States have gained interest in piloting new models for assessment and accountability intended to measure more robust dimensions of college and career ready knowledge, skills, and abilities; and to provide information on student progress in more frequent and actionable ways. Through carefully monitored pilot initiatives, interested States seek to develop and continuously improve models of authentic and meaningful assessment and accountability that can scale to statewide transformation.

States remain committed to making annual determinations of student progress for all students; the innovation they seek is in developing better methods for assessing and supporting that progress, while still ensuring equity and transparency.

Box 1: Raising the Bar While Staying Committed

1. States are raising the bar on how they assess student learning while maintaining the ability to make annual accountability determinations that result in more useful data to inform teaching and learning. These innovative approaches to assessment and accountability will allow for:

- More timely and useful data.
- More valid and reicher measures of student learning.
- Assessment of a broader set of skills.
- Advancing shifts toward personalized learning.

2. States remain committee to ensuring there are valid and rigorous measures of student performance for every school and comparisons can be made across schools and districts.

3. States remain committed to ensuring *all* students are progressing and remain focused on closing achievement gaps.

4. States remain committed to transparancy and engaging stakeholders, including parents and students.

5. States will engage in a rogourous evaluation process to determine what is working well and where improvement is needed throughout the first serveral years of implementation.

In order to pilot these new models successfully, interested States are committing to a series of readiness efforts that must be undertaken by both the interested State and its pilot districts. These commitments represent the application of the Principles to the unique circumstances that surround a pilot initiative. Further, while the commitments remain consistent across States, the way in which they are executed may vary based on each State's unique context.

Ultimately these pilot districts will create scalable proof points for reimagined assessment and accountability systems that better advance our collective goal to ensure all students are prepared for college and careers.

State Commitments for Assessment and Accountability Pilots

1. **Alignment of performance goals to college- and career-ready standards.** The performance goals underlying the State's accountability system, and the design of the accountability pilot, will continue to be aligned with the State's goals for college- and career-readiness in order to promote continuous growth for every student toward that performance level and beyond.

***Additional pilot State commitments*:**

- *Comparable Student Expectations*: The State has a clearly articulated plan for ensuring that districts participating in the pilot demonstrate the alignment and comparability of their student learning expectations and proposed system

[1] *http://www.ccsso.org/Documents/2011/Principles%20and%20Processes%20for%20State%20Leadership%20on%20Next-Generation%20Accountability%20Systems%20(Final)%20(2).pdf.*

of assessments to state-adopted college- and career-readiness definitions, standards, and assessments.

2. **Annual determinations for each school and district.** The State will continue to make annual accountability determinations for all publicly funded schools and districts.

***Additional pilot State commitment*:** *Capacity to make annual determinations*. The State has a clearly articulated plan for ensuring that the proper assessment data and data analysis and reporting capacities will be in place to ensure that annual determinations can be made based on the pilot district's new assessments.

3. **Focus on student outcomes.** The State will continue to make accountability determinations that focus on student outcomes, including both status and growth toward college- and career-readiness.

***Additional pilot State commitments*:**

- *Assessment quality review*: The State has a clearly articulated plan for how pilot districts will demonstrate that the assessments they elect to use meet State review requirements for validity and reliability. The State will have a well-defined process for reviewing and validating the district's proposed assessments and the success of their implementation. Each pilot district will also agree to administer the statewide summative assessment at agreed upon times as check-points.

4. **Continued Commitment to Disaggregation.** The State will continue to support public reporting of disaggregated student data for all districts to ensure that the needs of particular subgroups are not masked by aggregate student achievement.

***Additional pilot State commitment*:** *Equity*: The State commits to ensuring pilot assessment systems are fair and accessible, and that disaggregated student data factors into pilot district quality review processes.

5. **Reporting of timely, actionable, and accessible data.** Data related to school and district performance will continue to be reported in a manner that is timely, actionable, and accessible—to improve teaching and learning and support policy improvements at all levels.

***Additional pilot State commitment*:** *Data and reporting*: The State has a clearly articulated plan for ensuring that the proper assessment data, data analysis, and reporting capacities will be in place so that annual determinations can be made based on the pilot district's system of assessments. In addition, the State has a clearly articulated plan to work with each pilot district to ensure meaningful data is being reported to parents and other stakeholders on at least an annual basis. Last, the State will have a clearly articulated process for how to develop and implement valid and reliable ways to measure student growth in the pilot districts.

6. **Deeper diagnostic reviews.** Each State will continue to include, as appropriate, deeper analysis and diagnostic reviews of school and district performance, particularly for low-performing schools, to create a tighter link between initial accountability determinations and appropriate supports and interventions.

7. **Building school and district capacity.** Each State will continue to focus on building district and school capacity for significant and sustained improvement in student achievement toward college- and career-ready performance goals.

***Additional pilot State commitments*:**

- *Supports for district capacity*: The State has a clearly articulated plan for providing technical assistance to districts as they design and implement new approaches to assessment to ensure they are high-quality, comparable, and successfully implemented (for example, the State or its external partners may develop: State model performance tasks or other assessments and/or an open online bank of approved and validated assessments; technical criteria for locally designed assessments; assessment implementation guidance; and common definitions of "mastery" or "proficiency," etc.).
- *Supports for educator capacity*: The State has a clearly articulated plan to support districts in providing educator training and professional development to ensure new systems of assessments are successfully implemented and reliably scored (for example, the State or its external partners could support the development of local assessment experts, provide live training and professional support for teachers and leaders, such as in-person and/or virtual professional development institutes, organize regional task validation sessions, regional scoring sessions, etc.).

• *Supports and interventions for students with special needs*: The State has developed and implemented systems to ensure that the progress of students with special needs (for example, special education students, English language learners, or students in poverty) will be monitored, and appropriate interventions will be given.

• *Plans for scaling*: To ensure that the pilot initiative produces scalable models—and to avoid creating a permanently bifurcated system of pilot and non-pilot districts—the State has a clearly articulated plan for scaling the pilot initiative if it successfully improves student outcomes for all students. This plan should include how districts that currently lack capacity to pilot will be developed, and how the State will eventually bring along districts which currently have little interest in participation.

8. **Targeting lowest performing schools.** The State remains committed to targeting significant interventions on at least the lowest performing 5 percent of schools and their districts and those districts with the largest achievement gaps.

9. **Innovation, evaluation, and continuous improvement.** The State's accountability system will continue to drive innovation and itself be dynamic—promoting innovative accountability approaches with rigorous evaluation to drive continuous improvement over time.

***Additional pilot State commitments*:**

• *District requirements for participation*: The State has a clearly articulated set of requirements for districts to demonstrate readiness to participate in the pilot initiative. As part of this, the State will establish initial threshold levels of performance (for example, districts that include focus or priority schools will not be able to participate), based on reported data, below which districts or schools will not be allowed to participate in the pilot initiative.

• *Stakeholder engagement and community involvement*: The State has developed and implemented mechanisms for engaging system and community stakeholders in both the development and ongoing review of the pilot initiative.

• *Pilot evaluation process*: The State has a clearly articulated plan to work with each pilot district to develop a quality review process throughout the first few years of implementation, so that mid-course adjustments can be made as necessary and to support continuous improvement.

Through their continued implementation of CCSSO's 2011 *Principles for Next-Generation State Accountability Systems* and their commitments to the above readiness efforts, interested States affirm the need to maintain accountability for student learning at all levels, while at the same time pursuing innovations in assessment and accountability that drive continuous improvement of their education systems toward college and career ready outcomes for all students.

RESPONSE TO QUESTIONS OF SENATOR BENNET AND SENATOR WHITEHOUSE BY WADE J. HENDERSON

THE LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS,
WASHINGTON, DC 20006,
March 4, 2015.

Hon. LAMAR ALEXANDER, *Chairman,*
Hon. PATTY MURRAY, *Ranking Member,*
Health, Education, Labor, and Pensions Committee,
U.S. Senate,
Washington, DC 20510.

DEAR CHAIRMAN ALEXANDER AND RANKING MEMBER MURRAY: Thank you for the opportunity to testify before the Senate Health, Education, Labor and Pensions Committee's hearing, "Fixing No Child Left Behind: Testing and Accountability" in January. In response to questions submitted for the record by your colleagues, I have included answers below.

SENATOR BENNET

Question 1. Mr. Henderson, can you talk about the history of education in the country, specifically as it relates to minority students and students from low-income families? Why did President Bush call education "the great civil rights issue of our time?"

Answer 1. Senator Bennet, in our education system, a deal is made with students and their families. If you come to school, do your homework and listen to your teacher, the school will make sure that you are ready for college, career and a family sus-

taining wage job. Unfortunately, the system is failing to hold up its end of the bargain far, far too often. Moreover, the children most likely to be left behind by our education system are low-income children, children of color, those with disabilities, those who speak English as a second language, children in Native communities, and migrant, foster or homeless youth.

Despite the progress we have made since *Brown* v. *Board of Education*, it is impossible to claim that we have fully realized its promise—that all children have access to a quality education. Let's consider these simple and inescapable facts:

• Educational inequalities begin in early childhood, and by age 3, children growing up in poverty have heard 30 million fewer words than their more advantaged peers. Without quality pre-K programs and other early interventions, these children will start kindergarten far behind those from more fortunate families.

• As they grow older, the least fortunate African-American and Latino children attend schools that are increasingly segregated and highly unequal. Six decades after *Brown*, millions of black and brown young people have been offered little better than a school system that is separate, unequal and inadequate to meet the demands of a 21st century economy. The recent release of the Department of Education's Civil Rights Data Collection (CRDC) brings this reality into sharp focus.

• Black, Latino, American Indian, and Native Alaskan students attend schools with higher concentrations of first-year teachers at a higher rate than White students.

• Black students are more than four times as likely to attend schools with a high concentration of uncertified and unlicensed teachers as White students. Latino students are twice as likely to attend these schools.

• Black and Latino students represent just 26 percent of students enrolled in gifted and talented education programs despite making up 40 percent of the students attending schools that offer these programs.

• A quarter of high schools with the highest percentage of Black and Latino students do not offer Algebra II. A third of these schools do not offer chemistry. Perhaps as startling as these data for Black and Latino students are the findings that nationwide, half of all high schools do not offer calculus, two-thirds do not offer physics, and a quarter do not offer chemistry.

Education has become the "great civil rights issue of our time" because 50 years ago, when President Johnson signed the ESEA, there were good-paying, family supporting jobs for workers without formal educational credentials. The era of pick-and-shovel jobs is long gone. Those who would support themselves in the 21st century need a high school diploma and more: career training, an associate degree or, ideally, a 4-year college degree.

At the same time, we cannot deny the lesson of generations of people who made it out of poverty—education can and should be the great equalizer. Minority children continue to face gross inequity in a nation where equal protection is a constitutionally based promise. Our civil rights agenda for an ESEA that truly advances equity in the way envisioned by President Johnson and Senator Robert Kennedy in 1965 says that no child is too poor to be educated or too far gone to be written off. We must do more for our children than any of our systems currently allow—meeting their health, mental health, nutritional, housing, and security needs.

Question 2. Mr. Henderson, I am very concerned about the growing income inequality in our country. I am concerned about the persistently low achievement of minority students and students from low-income families. In your testimony you cited a recent report from the Southern Education Foundation, which found that for the first time, the majority of students in our public schools are eligible for free or reduced price lunch. That majority is our future. It's our future workforce and economy.

Answer 2. Education is one of the most powerful forces to break the poverty cycle. As Congress works on ESEA reauthorization, how we can ensure that we're giving the majority of students the chance to succeed in life?

Public education must enable all children to reach their potential, exercise their full social, political and economic rights, and be prepared for a global economy. Given the heartbreaking realities of poverty in this great Nation, we must serve as the voice for the voiceless.

Working with more than 40 national organizations, all of whom have signed our shared Civil Rights Principles document, The Leadership Conference seeks to advance an ESEA agenda that builds on the historic intent of that law: to foster greater equity in education. We can ensure that we're giving all students the opportunity to succeed in life by maintaining:

1. Accountability for equity in student opportunity;

2. Accountability for equity in student outcomes;
3. Targeted Federal funding; and
4. A strong Federal role to enforce the law and protect the most vulnerable children.

SENATOR WHITEHOUSE

Question 1. I am intrigued by the idea of an accountability system where the more progress a district or State makes for all students and student subgroups, the more autonomy that district or State receives. Conversely, if a district or State struggles to make progress or has persistent inequities it would have less autonomy and increased oversight. What would be the best way to create an accountability system where districts or States could "earn" their way toward greater autonomy, perhaps by being relieved of the requirement of annual testing, through actual student academic success and outcomes?

Answer 1. Senator Whitehouse, in the debate about reauthorizing the law, some have complained that secretarial oversight is an unwarranted intrusion by the Federal Government into State and local control of schools. Perhaps it is an intrusion, but sometimes, intrusions are warranted. The Civil Rights Act of 1964 was an intrusion on State and local Jim Crow laws. The Voting Rights Act of 1965 was an intrusion on State poll taxes. *Brown* v. *Board of Education* was an enormous Federal intrusion into so-called "local rights." As someone who started public school in the 1950s right here in the District of Columbia, in schools that had been segregated before *Brown*, I can tell you that it was a very welcome intrusion.

There are those who critique the current version of ESEA and its emphasis on assessment and accountability. I understand that this current regime is seen as a blunt instrument instead of a refined tool. I agree. We should refine the regime. To abandon accountability, to go back to a time when we had no idea how students were progressing in school, is to accept the status quo of inequity in student outcomes. To bury our heads in the sand and believe that the problem is accountability and not what a lack of accountability has shown us, is to resign ourselves to a system in which only some children can learn and only some children have the chance to be great. When a test tells us that an eighth grader is illiterate, we should be outraged and fight back—against the illiteracy. We should wrap this student in supports and effective, accelerated instruction, not dismiss the tool that shows us what is going on. While we are certainly open to innovative strategies that would improve our schools, to step in only when a school has also let down so many students is extremely problematic. The greater autonomy can be had while still ensuring that all schools are accountable for the performance of all students.

We owe our kids at least a system in which they have a meaningful and equitable opportunity to learn, in which the system is held accountable for their achievement, and where the Federal Government provides targeted resources and sufficient oversight to help them overcome the barriers to their success. This has been the legacy of civil rights in education and this is our responsibility in this next reauthorization.

Question 2. One way to reduce the testing burden could be to decrease the number of questions we use to assess students. If the number of questions were sufficiently reduced, those questions might then be embedded in existing, annual exams such as the PSAT. Would streamlining and consolidating assessments be a viable approach to reducing the testing burden? Why or why not?

Answer 2. One of the most important ways to be sure students are learning is through valid, reliable, comparable, and annual statewide assessments. Without annual assessments, many students in our schools would fall through the cracks. While I certainly understand the concern about the burden associated with "overtesting" and "teaching to the test," we need to have a comprehensive method of evaluating student performance. Assessments are the cornerstone of accountability systems, and they ensure the most vulnerable students' achievement is not hidden within larger groups. Annual assessments provide a common way of measuring student progress on State standards across classrooms, schools, and districts.

It is important to shift the conversation from the aversion to testing overall, to the importance of annual testing to gauge what students are learning. While tests do not tell the entire story of student performance and teacher efficacy, there is tremendous value in comparable and valid markers. While it is certainly worth seeking innovative strategies to reduce the amount of class time lost to assessments, undermining the validity and reliability of those assessments would only do more harm than good. We should make sure that students are only taking assessments that are valid and reliable for the purpose for which they're given and that the information is used to improve the instructional program.

I look forward to continuing to work with you to advance an ESEA reauthorization that protects the core civil rights functions of the law and advances educational equity for the Nation's students. Please do not hesitate to contact me or Liz King, Senior Policy Analyst and Director of Education Policy, if we can be of further assistance.

Sincerely,

WADE J. HENDERSON,
President & CEO.

RESPONSE TO QUESTION OF SENATOR BALDWIN BY JAI LEE

Question. Educational experts in Wisconsin have stated that the turnaround time for the results of the tests required under NCLB is a significant issue, sometimes leaving students, parents, teachers and administrators waiting for those test scores long past the time when they are most (or at all) useful for instruction or transparency. For example, if a teacher is unable to get a student's test results from the prior academic year before he begins planning for the next school year, it is difficult for him to prepare for the specific educational needs of that child or at least have baseline knowledge of his academic needs.

Please describe what you believe the ideal timeframe would be for teachers to receive the results of annual assessments, as well as the current timeframe for the dissemination of the results of annual assessments in your individual school, district or State.

Answer. Thank you for your question. This is a very important issue since the availability of assessment results is fundamental to our practice as educators. In order for any assessment to be useful, it needs to be available to the teachers and students, even parents on a timely basis. The big problem in the State of New York, as well as, every State that now uses these tests for evaluative purposes, is that we don't get to see the tests at all, nor are we able to see how students answered on open response items. It is considered a security issue.

I can remember a time, when the tests were not used to evaluate us. We received the test booklets in boxes, and I would go over them and see how my students responded. Even then, by the time they arrived, students made progress since the testing period. On many occasions, I could see that students often had more background knowledge than the question required and were docked points for adding more of their ideas. For example, one year students had to read a non fiction passage about the life cycle of frogs, and because we studied the effects of various factors on the growth and viability of tadpoles, one of my students became very excited and added a bit more information to the response, while answering the question. He was docked two points since it did not fall into the norms of the rubric. I would be disappointed when this would occur, but it was not a huge deal. More importantly, in my classroom, I was able to facilitate and watch him grow to develop inquiry, research and critical thinking skills that cannot be reflected in the standardized tests.

These tests do not provide any kind of useful information that would inform our instruction. Teachers no longer have access to the tests, and scores arrive at the end of the year, around June, when the summer is about to begin. We no longer have the ability to know how our students answered, let alone have the ability to engage in any kind of meaningful dialog around the items. They are

useless for the purposes of teaching and learning. That is because they are not meant to be diagnostic.

Diagnostic exams in schools can be thought of as akin to those used in medicine. Various tools are used to assess a patient's condition, and physicians often use more than one tool to synthesize the outcomes, in order to provide a comprehensive diagnosis that suggests a path for treatment. The information is immediate and informs professional judgment about the patient's condition and possible ways of treating them. Imagine if the results of X-rays were not made available to doctors or their patients until months later, and the results came in the form of a 4, 3, 2 or 1. Anyone would say this type of practice is medically useless, if not dangerous.

To continue with this analogy, imagine the X-rays were then viewed by a minimally trained temp hired by a major corporation with other financial interests in this field, which then determines the score as an indicator of the doctor's ability to practice medicine. It is a danger to both patient and doctor.

The kind of information that is useful to us, as educators is available in our daily work with our students. Each day, students work in small groups and individually to discuss and deepen their understandings of theme, author's purpose, the use of figurative language and to make connections between texts, as well as, to the world. In math, it is very similar. Students work in "math congresses" to express their thinking and strategizing around problem solving. They notice patterns and share this information with each other. I use all of this information, in real time, to inform my instruction day to day, week to week, month to month.

I hope this is helpful. Please feel free to contact me with further questions about this response or any other topic.

RESPONSE TO QUESTIONS OF SENATOR BALDWIN AND SENATOR WHITEHOUSE BY STEPHEN LAZAR

SENATOR BALDWIN

Question. Educational experts in Wisconsin have stated that the turnaround time for the results of the tests required under NCLB is a significant issue, sometimes leaving students, parents, teachers and administrators waiting for those test scores long past the time when they are most (or at all) useful for instruction or transparency. For example, if a teacher is unable to get a student's test results from the prior academic year before he begins planning for the next school year, it is difficult for him to prepare for the specific educational needs of that child or at least have baseline knowledge of his academic needs.

Please describe what you believe the ideal timeframe would be for teachers to receive the results of annual assessments, as well as the current timeframe for the dissemination of the results of annual assessments in your individual school, district or State.

Answer. Senator Baldwin identifies a key point: in many cases right now, it is months before students and schools receive test results, which greatly limits the use of this data for instructional purposes. This is the case for the third to eighth grade tests in New York; the results of the spring's assessments are not released until August. However, this is not the case for New York's high school Regents exams. Students and schools receive these scores within a week. I cannot account for this difference, but if we are serious about using assessments to help increase learning, as opposed to primarily being a means of punishment and reward, then best practices of feedback need to be followed: feedback needs to be specific and timely. Whatever allows New York's Regents exams to be scored in a timely fashion should be the case for all assessments.

SENATOR WHITEHOUSE

Question. I believe that the most effective schools are driven primarily by teachers and school leaders. However, I also understand that the Federal role in education is to maintain an important backstop for quality and equity. When I talk with teachers and school leaders in Rhode Island, what I hear is that Federal requirements, and the State bureaucracies that are necessary to help implement them, have far too significant a footprint in the day-to-day operation of schools. Do you agree with this assessment, and what would be the best ways to reduce that footprint without unduly sacrificing the Federal purposes?

Answer. Senator Whitehouse also identifies a key inefficiency in schools: the large, and sometimes unnecessary, footprint of Federal and State bureaucracy. This impact seems to vary not only from State-to-State, but even within schools in a district like New York City. With the exception of the significant and overly burdensome documentation requirements imposed for students with special education needs by IDEA, my school does not feel much of a footprint. The schools that do feel it the most in my district are the ones that are most struggling. When schools are deemed to be in need of improvement under ESEA, a range of consequences are triggered, all of which put more of a burden on schools and teachers and often prevent an accurate and actionable diagnosis of the schools' needs. I cannot offer a solution to this problem beyond reducing the footprint, as I agree with Senator Whitehouse's assertion that the most effective schools are driven by their teachers and school leaders. When intervention becomes necessary, they need to be specific to individual schools, and need to empower school leaders and teachers to better accomplish their jobs, rather than place additional burdens and layers of accountability on them that distract from the school's core work with students.

I would be remiss though if I did not add a note about the burden placed on schools by IDEA. While the objectives of IDEA's focus on students with special education needs is worthy and significant, these goals could be accomplished without the burdensome reporting requirements that force school psychologists, social workers, and special education teachers to spend a significant amount of their time completing paperwork rather than working with students. The thinking that has already been done by Senator Alexander and Senator Bennet's in proposing to greatly simplify the FAFSA form without changing its goals is needed throughout our education system, and I do not believe there would be a more impactful place to continue that work than with IDEA reporting requirements.

[Whereupon, at 11:54 a.m., the hearing was adjourned.]

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