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ESEA Reauthorization

The Elementary and Secondary Education Act (ESEA), the major federal law supporting K-12 education, was last authorized in 2002 as the No Child Left Behind (NCLB) Act. Enacted in 1965, ESEA established federal policy and authorized federal funding to states and school districts to improve the academic performance of students enrolled in public schools. ESEA was scheduled to be reauthorized in 2008; however, since that has not occurred, provisions of the law continue to be in force through the congressional appropriations process.

The intent of Congress in enacting NCLB was to improve the academic achievement of all students, with an emphasis on English language learners, students in poverty and students with disabilities. However, the design of the accountability framework is seriously flawed. What has evolved is a measurement framework that bases its assessment of school quality only on student tests with no other inputs about student performance and then mandates a series of sanctions shown to not have significant impact on improving student or school performance compared to other options.

Over that last thirteen years, various proposals have been put forward both by Congress and the Administration to reauthorize ESEA but none of the proposals have made it through the hearing process in both houses.

CSBA supports the foundations of ESEA – challenging standards and rigorous assessments, holding states and school districts accountable for the education outcomes of students, ensuring that teachers and administrators are effective and fully trained, and that low-performing schools must be changed in order to ensure the educational success of students.

However, CSBA does have concerns about how current provisions have been implemented, including how data is used to determine the success and failure of schools and teachers, which intervention strategies are used to turn around low performing schools and the lack of flexibility for states and school districts to decide what works best for them.

Further, CSBA believes that federal policy must move away from the top-down prescriptive approach of current law, regulation and guidance to a more locally-based decision making process where states and districts are able to decide how to best implement programs that benefit students while still being held accountable through multiple measures for student success.

While CSBA is heartened to see actions in Congress to reauthorize ESEA through the introduction of legislation by both the House and the Senate, substantial work remains in order to reach

agreement on a single legislative proposal for reauthorization. CSBA supports legislation that would set outcome expectations for states and schools while providing states and school districts with the flexibility to achieve expected outcomes with strategies that best work in their areas.

Finally, in reauthorizing ESEA, Congress must acknowledge the complex factors that influence students' performance and the many unintended consequences of current law, especially the current accountability framework that does not accurately assess student, school or district performance.

CSBA believes:

- **Federal education policy should (1) be consistent with the intent to permit state and local flexibility while holding LEA's accountable for results, and (2) be guided by what research and experience show actually works.**

- **Standards and assessments are important; research shows that focusing directly on the improvement of curriculum and instruction has better outcomes. Therefore, federal policy and funding should be redirected to ensure high-quality, valid and reliable assessments for all students, especially for English language learners and students with disabilities.**

- **Multiple measures of academic achievement that more accurately determine students' knowledge and performance and reflect the education necessary to be successful in the 21st Century economy should be used to determine educational success of schools and districts, instead of a single yearly assessment.**

- **Student data systems must allow for the longitudinal tracking of student performance; however, we caution against the overreliance on data. Data should be used to <u>inform</u> decision making, not to trigger actions. Moreover, data should be used along with other sources of information (locally-designed assessments, classroom observation, etc.) and not by themselves to make decisions.**

- **Student performance data should be a component of teacher and principal evaluation but it should only be used as part of a broader evaluation system to make informed judgments about performance. Data—by itself—should not be used to trigger actions regarding compensation, retention, or placement.**

- **Federal policy should have a strong emphasis on identifying, disseminating, and adopting professional development programs that have demonstrated effectiveness in improving student outcomes through improved teacher and principal performance.**

- **The list of interventions for low-performing schools allowed under federal law should be expanded to permit the use of alternative field-tested and/or research-based strategies that have a strong chance of success, as determined by the state for each of their local school districts**

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Federal Funding

Federal funding provides assistance and support to students and LEAs to advance academic achievement, college and career readiness and school performance. Title I grants for disadvantaged students help raise proficiency levels while Individuals with Disabilities Education Act (IDEA) grants help in the education of students with disabilities. Federal funding provide more than $35 billion nationally each year for K-12 programs.

In mid-November Congress approved a $1.1 Trillion federal spending bill. The Continuing Resolution (CR) essentially flat-funds education for the 2015 fiscal year (FY) and makes cuts to several programs. However, it did provide a slight increase of $25 million nationally for Title I and IDEA grants.

CSBA appreciates the agreement Congress reached regarding FY 2015 funding for education. However in order to ensure continued success for students Congress must continue to provide additional funding for formula programs in future years.

Historically, federal funding levels for Title I and IDEA have been consistently underfunded in comparison to the actual amounts needed by school districts and states to raise student achievement, implement successful intervention plans and address the costs of increasing student enrollment.

Title I grants are the major source of federal funding to schools districts and are used to fulfill requirements for student achievement (e.g. adequate yearly progress, testing and assessments, tutoring and remedial services, and school reform). The overall purpose of a Title I grant is to ensure that children in low income school attendance areas have a fair, equal, and significant opportunity to obtain a high-quality education and achieve, at a minimum, proficiency on state academic achievement standards and state academic assessments.

Under IDEA, which provides the major source of federal funding to help LEAs fund educational services to students with disabilities, the federal share of funding that Congress promised is 40 percent of the average per pupil cost for every student served under the IDEA. However, the federal share of funding actually provided has been between 13 and 17 percent, except for the two-year funding increase provided under the ARRA program. This year it is expected to top out at 15 percent for FY 2015.

CSBA supports key investments in Title I and IDEA in order to sustain and continue the progress school district are making in closing the achievement gap by improving student performance, teacher and principal effectiveness, increasing graduation rates and college and career readiness.

IDEA must be fully funded up to the 40 percent promised level in order to meet the increasing costs of special education mandates and services.

Both Title I and special education, were affected by sequestration in FY 2013 which resulted in more than a $2.5 billion reduction to education programs. Over FY 2014 and 2015, the majority of budget cuts have been restored. However, a permanent solution to stop sequestration in future years is needed.

CSBA urges Congress to address the issue of sequestration in order to provide consistency to states and LEAs in the amount of funding they receive.

CSBA understands that the federal budget must be balanced amongst all priorities and that spending be reined in, but it must be done in a way that is well-reasoned and equitable and that does not hurt our students.

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IDEA

In 2012-13, the latest year for which numbers are available, special education services were provided to 705,279 individuals in California, newborn through twenty-two years of age. Individuals are provided with specially designed instruction to meet their unique needs. This instruction is provided in a variety of settings that allow infants and their families, preschoolers, students, and young adults to be educated with their peers as much as possible. Special education services are available in a variety of settings, including day-care settings, preschool, regular classrooms, classrooms that emphasize specially designed instruction, the community, and the work environment.

Special education is the only federal education program that is required to be provided even when funding is reduced at the state and federal level. When the Individuals with Disabilities Education Act (IDEA) was enacted by Congress over 43 years ago, Congress promised to provide 40% of the average per-pupil expenditure to pay for the new federal mandate. Congress has never met that promise.

This underfunding has had a major impact on a school agency's ability to balance its annual operating budget and maintain quality education programs and services for all children. Over the past five years in California, the local contribution by school agencies for special education increased from $3.84 billion to $4.57 billion, or 19% of the total cost. This is especially troubling when the cost of providing special education continues to rise due to the increase in the population of students with high-cost disabilities, such as autism. Between December 1991 and 2013, the number of students with significant disabilities increased in California by 119,623. The percentage of students with significant disabilities increased from 14.67% to 27.26%, which is a major contributing factor to the increased costs.

CSBA appreciates recent Congressional actions to increase special education funding but we continue to strongly support further federal funding increases to, at a minimum, meet the needs for funding growth and COLA and eventually meet the 40 percent funding promise.

CSBA urges Congress and the US Department of Education (ED) to review the reporting mandates that are placed on school agencies and suspend or eliminate those that are duplicative, such as the academic achievement of students with disabilities on statewide assessments (which is collected through the reporting of progress by all students) and those that have no bearing on measuring the achievement of students with disabilities.

In addition to the urgent need to appropriately fund federally mandated special education programs, there are several IDEA/ESEA issues that also need attention as Congress and the Administration work to reauthorize ESEA.

California's education community has reviewed ESEA and its impact on students over the last twelve years and has come to agreement on a number of principles that have had an undesirable impact on special education programs and services. **To address these problems, CSBA recommends the following:**

When conflicts arise between IDEA and ESEA in any or all areas, IDEA must take precedence.

The individualized education plan (IEP) that is enacted for each special education student details his or her educational program. This IEP must take precedence for student testing, including parents' ability to opt-out students, the need for out-of-level assessments, and the variety of accommodations and modifications that a student may need.

Since ED determined that parents may unilaterally withdraw their students from special education services that are required for the provision of a free and appropriate public education, and since parents have the right in California to remove their children from testing, the federal government should not penalize districts under ESEA when their participation rate is less than 95 percent for this reason.

The Highly Qualified Teacher (HQT) provisions should be amended to allow special education, English language learner, career-technical education, alternative education and middle school teachers who are fully certified by their state to be considered "highly qualified." Further, teachers in all schools that receive federal funds, including charter schools and certified special education nonpublic schools should be required to meet the requirements of "highly qualified."

Autism Spectrum Disorder (ASD) is the fastest growing special education category in California and the nation. Between 2000 and 2013, the incidence of children with learning disabilities decreased by over 67,000 or 19 percent, while the number of children with autism has increased by 70,679 or 503 percent.

The educational and financial impact on LEAs for students diagnosed with ASD is staggering. Many LEAs with rapidly increasing numbers of students with autism have established high quality internal programs to meet the needs of their students. Unfortunately, this is not the case statewide due to various barriers such as lack of knowledge of best practices in the area of treatment, staffing issues, and financial resources.

When crafting recommendations regarding support for children with ASD, policymakers need to recognize that the extent of the issues threatens to overwhelm local educational systems. This includes the lack of coherent, universally accepted effective educational practices; a lack of knowledge and training at all levels; and a shortage of personnel in key positions, coupled with inadequate local financial resources to meet immediate needs.

CSBA recommends increased federal funding to address the specific and increasingly expensive service needs of students diagnosed with ASD.

CSBA urges Congress to support an ongoing increase in funding for infant and preschool grants, as well as funding for intervention services to address this growing population. We also call on the ED to assist states in establishing uniform standards for assessing students with autism and identifying the best research-based practices.

CSBA calls on Congress to coordinate and increase funding for workability and transition programs to ensure our high school students with disabilities are prepared for successful employment and adult life.

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Secure Rural Schools and Community Self-Determination Act

In establishing the countries National Forests, it was the intent of Congress that they be managed in a sustained multiple-use manner in perpetuity, and would provide revenues for local counties and the federal treasury in perpetuity as well, known as the Twenty-Five Percent Act of 1908. From 1908 until about 1986, this revenue sharing mechanism worked extremely well. However, from 1986 to the present, for a variety of reasons, the sustained active multiple-use management of the National Forests and the revenues have declined precipitously.

To help counties and school districts in rural communities recover revenues lost since the mid-1980s, in 2000 Congress passed HR 2389, otherwise known as the Secure Rural Schools and Community Self-Determination Act (SRS) (PL 106-393) to provide funding to counties for roads and to school districts. It was intended to stabilize income for the rural regions which rely heavily on receipts from timber sales and other programs.

When first enacted, SRS provided nearly $60 million annually to California's forest counties, with half of the funding allocated to school districts, and half of the funding allocated to counties for county roads. SRS initially expired in 2006 and has been reauthorized multiple times since it was first enacted, all of which have reduced the amount of funding for the program. In total, California has received $38 million in funding since the 2012 reauthorization.

For schools in forest counties, the SRS has restored programs for students in rural schools and prevented the closure of numerous isolated rural schools. It has been a primary funding mechanism to provide rural school students with educational opportunities comparable to suburban and urban students. Nationally, over 4,400 rural schools receive SRS Title I Funds. In California, school districts and county offices of education in 39 counties receive SRS funding.

In October 1976, Congress enacted the Federal Payment in Lieu of Taxes (PILT) Act. Federal PILT provides federal payments to local governments in order to help offset losses in property taxes due to nontaxable federal lands within local governments' boundaries. Federal PILT helps local governments provide firefighting and police protection, construction of public schools and roads, and search and rescue operations.

While Federal PILT expired as a mandatory spending program in early 2014, Congress passed and the President signed H.R. 3979, known as the National Defense Authorization Act (NDAA), and H.R. 83, the Fiscal year 2015 omnibus spending package to reauthorize the PILT program in December 2014. The primary purpose of NDAA is to set national defense policy; however, Congress included a federal lands package in the measure which provided a $70 million appropriation for Federal PILT. Additionally, the Congress included $372 million for Federal PILT in H.R. 83 as part of the Interior Appropriations Bill, bringing total Federal PILT funding to $442 million – just under historic Federal PILT funding levels.

The most recent authorization of SRS expired on September 30, 2013, and efforts to reauthorize and fund the program proved unsuccessful in the final days of the 113th Congress, leaving FY2014 SRS payments in doubt. On January 15, 2015, Agriculture Secretary Tom Vilsack announced that in the absence of the SRS program, payments to states revert to pre-existing law under the 1908 Act that mandates 25-percent payments to the states from receipts from national forests in each state. This year, the estimated total amount of all 25-percent payments to all eligible states is about $50 million, compared to around $300 million available for the entire SRS program last year. Funding in California will drop from $35,619,493 that was received in 2014 for SRS to $8,684,643 and will be split fifty/fifty between schools and counties.

CSBA strongly supports the long-term reauthorization and full funding of the Federal Secure Rural Schools Act and the PILT programs. Federal SRS and PILT funding is vital for the schools nation's forest counties to continue providing critical education programs and services so that all students in California receive an appropriate and equitable education.