



TO: AASA Members  
FROM: Noelle Ellerson, Assistant Director, Policy Analysis & Advocacy ([nellerson@aasa.org](mailto:nellerson@aasa.org))  
DATE: January 9, 2012  
RE: House ESEA Legislation

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Late last week, the House Education and Workforce Committee, under the leadership of Chairman Kline, introduced the final two pieces of their long-touted reauthorization package for the Elementary and Secondary Education Act, currently known as No Child Left Behind. When compared to AASA's legislative agenda and our priorities for federal policy and ESEA, the newest legislation is a strong step in the right direction toward a meaningful ESEA reauthorization, more than four years in the making. AASA hopes this legislation will serve as a catalyst for further bi-partisan, bi-cameral conversation as reauthorization continues to move forward.

Mr. Kline introduced the Student Success Act<sup>1</sup> and the Encouraging Innovation and Effective Teachers Act<sup>2</sup>, which follow three initial pieces introduced earlier this year:

- The *State and Local Funding Flexibility Act* (HR 2445), which would provide SEAs and LEAs with broad flexibility to move funds within and between virtually all ESEA programs, passed out of committee (AASA supported).
- The *Setting New Priorities in Education Spending Act* (HR 1891), which eliminated 42 programs in ESEA (including Ed Tech/Title II Part D and Safe/Drug Free Schools), passed out of committee (AASA remained neutral).
- The *Empowering Parents Through Quality Charter Schools Act* (HR 2218), which makes it easier to start new/scale up existing charter schools, passed out of committee and through the full House (AASA opposed).

**Student Success Act:** Much of what AASA has been advocating for, in terms of accountability and assessment, is reflected in this bill: it eliminates AYP, it eliminates AMO, it eliminates the 100% proficiency standard, it eliminates the tutoring/school choice requirement, it maintains the requirement to disaggregate by subgroup, it returns control of standards and assessments to the state level, and it puts state and local education agencies in firm control of accountability metrics and how to intervene in low-performing schools. Expanding a bit further, let's begin with the things AASA likes within this bill:

- **Assessments & Standards:** States will have to establish academic standards in math and reading (no more science requirement), and achievement standards used for evaluating student/school performance would align with content standards. There is no federal requirement for levels of achievement, though. States would also be free to establish alternative achievement standards for students with the most severe cognitive disabilities. Similarly, the testing requires states to test once per year in grades 3-8 in math and reading, and once in high school. Assessments would have to include reasonable accommodations for students with disabilities and states could adopt alternate assessments for students with the most severe cognitive disabilities. The bill maintains the requirements around data disaggregation by student subgroup along with the 95 percent participation rate.
- **Accountability:** The bill eliminates the current AYP model and replaces it, instead, with state-developed accountability systems that have three distinct components: measuring student academic achievement against academic standards (including growth toward standards); evaluating/identifying academic

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<sup>1</sup> Student Success Act: [Bill Text](#) or [Bill Summary](#)

<sup>2</sup> Encouraging Innovation and Effective Teachers: [Bill Text](#) or [Bill Summary](#)

performance of each school based on student achievement (including all students and achievement gaps between student subgroups); and developing a system for school improvement to be implemented by schools, including interventions for poorly-performing Title I schools.

- **School Improvement:** As described above, this bill requires states to include school intervention in their accountability plan. The bill eliminates the sections 1116 and 117 of current law (AYP and school improvement), giving states more flexibility in designing their intervention strategies. Further, the bill eliminates the School Improvement Grants program that Secretary Duncan used to create the four prescriptive turnaround models (transformation, turnaround, restart and closure) to which AASA is strongly opposed.
- **Teachers:** The bill eliminates section 1119, the Highly Qualified Teacher provision. Refer to the *Encouraging Innovation and Effective Teachers* section for further information related to teachers in ESEA.
- **Targeted Populations:** The Student Success Act maintains separate funding streams for the Migrant Education, Neglected/Delinquent, English Language Acquisition, Rural Education and Indian Education programs, but merges them in to Title I. This is related to the flexibility provisions, described below.
- **Funding Flexibility, Maintenance of Effort and School-Wide Programs:** While the flexibility provisions within this bill are not as broad as those this summer, they represent expanded local control over federal funding relative to current law. Specifically, the bill would authorize the movement of funding within and between the targeted populations. Further, the bill eliminates the requirement around Maintenance of Effort but maintains the supplement/supplant language. The bill also eliminates the 40% threshold for operating a school-wide Title I program, meaning any school receiving Title I dollars (regardless of poverty concentration) can opt to run a school-wide program.
- **Negotiated Rulemaking and Waivers:** This bill includes language that reigns in the Secretary's authority when it comes to negotiated rulemaking, and clarifies the ability of state and local education agencies to pursue waivers from federal statute and regulations and the requirements the Secretary must comply with in terms of approving/denying waivers.

**Encouraging Innovation and Effective Teachers Act:** The programmatic changes in this bill represent, in large part, AASA's legislative preferences. In addition to the elimination of HQT in the Student Success Act, this bill provides states and local school districts with the authority to create teacher evaluation systems and provide professional development in a manner that best meets their needs and capacities. Recognizing the cost burden that will come with developing meaningful teacher evaluation system, the bill provides 82% of the available funding to support states and local school districts as they develop their evaluation systems. The remaining 18% of funds go to a newly created Teacher and School Leader Flexible Grant program (a consolidation of the remaining teacher quality programs).

- **Teacher Evaluation:** As mentioned above, 82% of the funds in this title will go to support state and local education agencies as they develop and implement teacher evaluation systems. In providing flexibility to states/locals as the plans are developed, there are only five broad requirements for the evaluation systems. They must: make student achievement data a significant part of the evaluation; use multiple measures of evaluation in assessing teacher performance; have more than two rating categories for teacher performance; make personnel decisions based on the evaluations; and include input from stakeholders.
- **Teacher and School Leader Innovation:** As written above, the remaining teacher quality programs are consolidated into a flexible funding (block grant-like) program that gives state and local education agencies greater freedom in choosing how to develop, support, recruit, and retain teachers and leaders. Funding in this program can be used to increase access to/develop alternative certification routes; recruit/hire/retain teachers; implement performance-based pay systems; create teacher advancement paths; establish new induction or residency programs; and provide additional professional development activities.
- **Local Academic Flexible Grant:** This newly created program provides funding to state and local education agencies to provide for initiatives that improve student achievement, whether part of in-school or after-school activities.

While the good in the bill outweighs AASA's points of concern, let's take a few moments to note the things that give us pause and that we will seek clarification on/revision of as reauthorization efforts move forward:

### Points of Concern

- **Set Asides:** Raises the set-aside for school improvement to 10 percent.
- **Funding:** The bill establishes a funding cap for the Title I bill. While we support built-in inflationary adjustments, we are concerned that the increased demands on Title I, coming from both increased student poverty and the additional programs now funded through Title I, will limit the ability to prioritize federal education funding in Title I.
- **Equitable Services:** There is an articulation of services to be eligible for students in private schools that are not necessarily equally available to students in public schools. We will work to ensure this expansion does not translate in to services being provided to private school students that are not available to public school students
- **Rural Education:** We are concerned that the proposed changes to REAP move the program away from local control and limit the eligibility of LEAs, such that fewer students and schools will be served. We hope the final version of the bill will maintain the program's current structure, which has been reviewed and evaluated to be effective in reaching program goals.
- **Cap on Class Size Reduction:** Encouraging Innovation caps the amount that LEAs can spend on class size reduction to ten percent. This will tie the hands of school districts that rely on current Title II dollars to keep class size down, and will likely have staffing implications.
- **Voucher Loophole:** We note that the newly created Local Academic Flexible Grant includes a 10 percent set aside that could potentially be used to fund voucher programs. AASA is strongly opposed to vouchers and supports public dollars for public schools.
- **Charter Schools:** AASA is opposed to HR 2218, the Charter School reauthorization bill, which is included (in its entirety) as part of the House reauthorization package. We are looking for relatively small changes to the legislation related to accountability and reporting requirements such that public schools operate under similar federal flexibility. We are also concerned about the preferential treatment of charters when it comes to construction funding.
- **Education Technology:** We are concerned about the elimination of the Enhancing Education Technology Through Education program. Current law Title II Part D plays a crucial role in supporting LEA teacher development around how to use and incorporate education technology in to education. Given the ever increasing pressure to provide a 21<sup>st</sup> Century education, we feel that education technology warrants specific mention within the professional development section.