

2008 Legislation Summary 110th Congress

As the country ushers in the 111th Congress and a new Democratic Congressional majority, it is time to report on the work of the 110th Congress within the construct of education.

Reauthorizing the Elementary and Secondary Act of 1964

(Known as NCLB Public Law 107-110)

The Democratic controlled Education Committee in the House, chaired by George Miller (D - California) and the Senate Education Committee, chaired by Senator Ted Kennedy (D - Massachusetts) were unable to blaze a path for the reauthorization of the bill. Despite the good intentions and hard work of the staffs of both committees, there was an inability to forge bipartisan agreement. The best estimate for reauthorization is FY 2010. Various reports suggest that the law has been cumulatively under funded by \$85.6 billion since it was enacted.

President Elect Obama's education team will undoubtedly put a stamp on the role of the NCLB. However, it is the opinion of your government's liaison that the old adage: "The President proposes and Congress disposes," will probably be in play during the deliberation of ESEA in the 111th Congress. During the campaign, President Elect Obama's education advisors put forth the following ideas:

1. Performance pay initiative offering federal financing to districts that negotiate performance pay programs with teacher unions.
2. Bonuses for veteran teachers who help new colleagues.
3. \$18 billion in new funds on early childhood teacher recruitment.
4. Continued emphasis on the high standards and accountability.
5. Double federal spending on public charter schools.

It is interesting to note that according to Peter C. Groff, a Democratic President of the Colorado Senate, a new cadre of African American politicians under the age of 50 is challenging the Democratic Party to do more to offer greater choice of options among public schools.

"This is a generation that doesn't look at race first, but policy first," said Mr. Groff, age 45. "It's not looking at party first, but the best idea first." Mr. Groff includes himself, Mayor Booker of Newark, N.J., and Washington, D.C. Mayor Adrian M. Fenty among other politicians. The most prominent politician among them is President Elect Obama who supported efforts to open new charter schools in Illinois while he was a State Senator from 1997-2005. The politicians have changed their minds because that's what citizens in their districts want, Mr. Groff told a group of charter school supporters at an August 26 breakfast organized by the Alliance for Choice in Education, a Denver group

that provides scholarships to K-12 students to attend private schools in the city. “We’re talking to constituents, and they’re saying: ‘Why can’t we have schools choice? Why can’t we have the same kind of flexibility on schools that other people have?’” said Mr. Groff, who represents the northeastern section of Denver.

In its invited testimony before the Education Labor Committee of the House NABSE conveyed its top priorities for the reauthorization:

- Title I full-funding.
- Title I formula change.
- Targeting of Title I funds to the poorest school districts, the poorest schools in those districts, and the poorest children in those schools.
- Flexibility in the accountability provisions for AYP and sustained achievement—including multiple measures of performance.
- Pilot grants, under Title I, for dual-language programs for poor and minority children.
- Statute language that promotes success as opposed to punishment.

Other Reauthorization

The 110th Congress made changes to federal policy governing higher education and included a range of new provisions. Congress used two major vehicles, the College Cost Reduction and Access Act of 2007 and the Higher Education Act Amendments of 2007, to accomplish these changes.

The Higher Education Act was reauthorized. It includes the *Patsy Mink Graduate Fellowships*, a program intended to help diversify the pool of professors in higher education. The fellowships will provide funding to minorities and women pursuing doctorates and will require participants to teach at an institution of higher education after graduation.

College Affordability and Transparency Lists: Beginning July 1, 2011, ED will publish national lists in nine institutional categories naming the top 5 percent of institutions with (1) the highest tuition and fees; (2) the highest “net price”; (3) the largest percentage increase in tuition and fees; and (4) the largest percentage increase in net price. Institutions with large percentage increases in either tuition and fees or in net price will be required to submit a report to ED providing the reasons for the increase and the steps that will be taken to reduce costs. ED will issue an annual report on those institutions and post their reports on the College Navigator web site.

The new law forces institutions of higher education around the county to comply with several new regulations to increase transparency and accountability in student lending practices while simultaneously encouraging colleges to keep price increases at a minimum.

The HEA also allows students to receive year-round Pell Grant scholarships, as opposed to obtaining grants only in the fall and spring.

The law requires that individual colleges create a user-friendly website that will provide consumers with the necessary information to determine the cost of attending college. This information would include the tuition process, graduation rates and popular majors.

In addition to this website, colleges will be required to publish web-based calculators that would enable students and their families to calculate an early estimate of their expected college costs.

Accreditation: The act forbids ED from establishing criteria that specify, define or prescribe the standards accreditors use in assessing an institution's success with respect to students' achievement.

Distance Education: ED shall not require an accreditor to have separate standards, procedures or policies for evaluation of distance education. Accreditors must, however, require institutions that offer distance education to establish that a student who registers for a distance education course is the same student who completes and receives credit for the course.

Campus Safety: In response to the tragic shootings at Virginia Tech and similar events, the Act expands institutional reporting requirements under the Clery Act to include (1) reports of written agreements between a higher education institution and state and local law enforcement agencies and (2) a statement on the institution's policies regarding immediate emergency response and campus evacuation procedures. The Act does not contain the controversial language from the House version of the bill that would have required campus officials to provide their communities "timely warnings" of campus emergencies within 30 minutes after learning of the emergency.

Textbook Cost Containment: Effectively July 1, 2010, institutions will be required to disclose in their course schedules, "to maximum extent practicable," the International Standard Book Number (ISBN) of every required and recommended textbook and supplemental materials and retail price information. Lacking accurate information about the ISBN number at the time the course schedules are set, the institution is permitted to indicate that this information is "to be determined." Publishers are required to provide faculty with (1) information on price, (2) copyright dates of the three previous editions, (3) any substantial revisions between a new edition and prior iterations, (4) whether the textbook is available in any other format and at what price, and (5) to supply textbooks in bundled and unbundled formats.

Title II- Teacher Professional Development; Report Cards: In regard to the state report cards on the quality of teacher programs, among other data that a school must submit to the State, each institution that conducts a traditional teacher preparation program or an alternative certification program is required to report certain pass rate data, such as the pass rate percentage on state licensure and certification tests of students who have completed 100 percent of their non-clinical coursework. The Secretary is authorized to

assess fines of up to \$27,500 for failure to deliver timely, accurate data for inclusion in report cards.

A note about Pell Grants: According to correspondents Sam Dillon and Tamara Levin of the *New York Times*, the deteriorating economy is impacting significantly on the number of students seeking federal grant aid. The Bush administration has warned Congress that the Pell Grant program may need up to \$6 billion dollars in additional taxpayer funding this coming year.

“There are a lot of things going on – more people are applying for student aid, more people are going to college, more people who qualify for the aid are showing up at the school,” said Thomas P. Skelly, the Department of Education’s Director of Budget Services, who wrote a memorandum detailing the problem to Congress. As of July 31, 2008 more students had applied for grants than on that date last year, according to the memorandum, which called the increase in aid applications one of the largest ever year to year.

This year, more than 6 million low-income college students will receive Pell Grants ranging from \$431-\$4,731, federal officials said. Congress appropriated \$14 billion for the grants for the current fiscal year, but because of the increase and because of accumulated shortfalls from previous years, lawmakers will need to add \$6 billion in new funds next year or cut the size of the grants, according to Department of Education officials. While the grants are only available to the neediest students – 9 out of 10 recipients have family incomes of \$40,000 or less – the number of students seeking all kinds of federal aid is growing rapidly. In the first six months of 2008, almost 9 million students nationwide completed the federal aid application required for federal grants and loans, a 16 percent increase over the last year.

President Bush also signed legislation to reauthorize **Head Start** (H.R. 1429) sponsored by Rep. Dale Kildee [D-MI]. Unlike previous versions, the final bill did not include hotly contested provisions that would have allowed for religious discrimination in hiring.

The Improving Head Start Act reauthorizes the Head Start program through 2012. The Bill authorizes \$450 million in new funding for 2008, expanding access to 10,000 more children and increasing eligibility to 130 percent of the federal poverty line. Provisions to enhance Head Start’s efficiency and accountability include improved monitoring of program sites, new fiscal controls, and a requirement that local programs that fail to comply with Head Start standards must re-apply for their grants and compete to get them. The Bill also strengthens the program’s focus on preparing students for kindergarten and elementary school and increases degree requirements for Head Start teachers, providing new funds to increase teacher salaries and offer staff training opportunities.

The Bill further:

- Improves teacher and classroom quality.
- Improves teacher and qualifications: Half of teachers nationwide are to have a bachelor's degree by 2013.
- Targets new funding toward improving teacher salaries and supporting professional development.
- Implements a classroom observation tool designed to improve teaching practices.
- Requires programs to develop career ladders and annual professional development plans for full-time staff.

Strengthens focus on school readiness:

- Requires the Secretary of Health and Human Services to reevaluate and update the current early learning standards and use of assessments with the best available research into child development.
- Terminates further use of an inappropriate and ineffective testing regime for 4-year-olds – a regime known as the National Reporting System.
- Aligns Head Start performance standards with State early learning standards.

Ensures access to Head Start for more children:

- Provides greater flexibility to serve children whose family income is just above the federal poverty line (up to 130 percent of the poverty line), while ensuring that serving the neediest children remains the program's top priority.
- Authorizes total funding of \$7.35 billion for fiscal year 2008, \$7.65 billion for fiscal year 2009, and \$7.99 billion for fiscal year 2010 and "such sums" thereafter – allowing tens of thousands more children access to the program.
- Prioritizes expansion for Early Head Start, which serves children from birth to age three, so more children can receive Head Start during the critical development years when their brains are growing the fastest.
- Ensures more participation of homeless children by removing barriers to their enrollment.
- Enhances opportunities for children with disabilities to participate in Head Start programs.

Ensures that Head Start centers are well-run, effective, and fairly governed:

- Requires programs failing to provide a high quality early education program to re compete for their grant using an application review process developed by an expert panel which will consider multiple measures of program performance.
- Allows the Secretary of Health and Human Services to more quickly take funding away from bad programs.
- Requires the active participation of the governing board at each agency and defines the board's responsibilities and authority; prohibits persons with a conflict of interest from serving on the board.

Boosts coordination between Head Start and other programs for children:

- Strengthens Head Start's linkages with the Individuals with Disabilities Education Act of 2004 (IDEIA) and with state health services, mental health services, and family services.
- Provides funds for State Advisory Councils to enhance early childhood program quality and coordination.

Strengthens comprehensive services for families of Head Start children:

- Places greater emphasis on early identification of child and family mental health needs, including maternal depression, and on directing families to appropriate services.
- Requires programs to implement research-based best practices for family service workers and targets quality improvement dollars to decrease family service worker caseloads.

New Legislation Impacting Education

The 110th Congress hit the ground running and produced bills, now signed into law, that have secured the largest investment in college since the 1944 *GI Bill of Rights*. The 110th Congress also fought for and won the first increase in the federal minimum wage in a decade.

This increase ends the longest span without a federal minimum wage increase since it was enacted in 1938. The previous increase came in September 1997, when a bill signed by President Bill Clinton raised the minimum 40 cents to \$5.15 an hour. Legislation signed by President Bush in May increases the wage 70 cents each summer until 2009, when all minimum-wage jobs will pay no less than \$7.25 an hour.

The *Cost Reduction and Access Act* (H.R. 2669) became law, slashing student loan rates in half. The legislation was signed into law by President Bush on Sept. 27, 2007. It increases Pell Grant awards to restore the grant's purchasing power and reduces subsidized student loan interest rates by up to 50 percent. In addition, loan repayment was capped at 15 percent of an individual's discretionary income. The income protection allowance was raised, which increased the amount of money students can earn before that income counts against their financial aid package. The legislation also included loan forgiveness plans for graduates who enter public service.

The *America COMPETES Act* (H.R. 2272) invests in American innovation and science, technology, engineering, and math education. STEM was signed into law as part of the *Supplements Appropriations Act of 2008* (H.R. 2642, S761). Post-Sept 11 veterans will now receive educational benefits for four years of college. The new law invests in innovation and education to improve U.S. global competitiveness. This legislation created grants to produce more STEM teachers, expands programs to strengthen teachers'

math and science teaching skills, and establishes a program to provide mentors for women interested in careers in science, technology, engineering, and mathematics.

Appropriations

The education community was more disappointed in the second session of the 110th Congress as there was not a bipartisan agreement on funding FY 2009 levels for education.

President Bush on Sept. 30 signed a bill, known as a *Continuing Resolution* that extended funding for most federal programs, including those in the Department of Education, at fiscal 2008 levels through March 6, 2009. Fiscal 2009 began Oct.1, but lawmakers have not completed the appropriations bill that finances the Education Department.

The Continuing Resolution includes, on paper at least, an extension of funding for the \$393 million Reading First program, which was slated for zero funding in two fiscal 2009 funding bills approved by House and Senate spending panels this year.

Created as part of the No Child Left behind Act, which became law in January 2002, the Reading First program was financed at about \$1 billion annually until fiscal 2008. Congress slashed the funding to \$393 million after a series of reports by the Education Department's Inspector General suggested that conflicts of interest had occurred among officials and contactors who helped implement the program in its early years.

School districts do not receive money under the Reading First program until July 1, so the extension will not matter if Congress chooses to eliminate funding for the program when lawmakers convene early next year.

Statistics to keep in mind as we move beyond the March 6, 2009 CR:

- Last year 14.9 million students qualified for free lunch; this year that number is expected to rise by a quarter million because many families cannot even afford 70 cents per day for reduced-price school meals.
- A recent survey conducted by the American Association of School Administrators reveals that one in three superintendents plan to layoff teachers, 44 percent report cutting field trips, and 33 percent plan to eliminate or reduce custodial or maintenance staff.
- According to the National Conference of State Legislatures, 31 states face budget shortfalls this year, yet the federal government continues to cut funding for education.
- Families must also supplement budget shortfalls, despite facing economic struggles such as an unemployment rate that has grown to 6.5% as of November. According to the National Retail Federation, this year 73 percent of families shopped at discount stores for back-to-school supplies, and many are simply making due with their old materials.
- Many districts will eliminate art, music and physical education, and cut Pre-K, after school, summer school, and tutoring programs – though many of these programs have proven successful.

- Districts plan to postpone crucial building renovations, and some are even moving to 4-day weeks to soften energy costs.

Perspective on what can get done in the education construct during the Democratic controlled 111th Congress:

- *Healthcare for 47 million uninsured Americans.*
- *A program to combat global warming.*
- *Energy independence.*
- *Forces out of Iraq and potentially into Afghanistan.*
- *Middle class tax cuts.*
- *Early imprint on federal budget.*
- *Expansion of food stamps.*
- *Lengthening unemployment benefits.*
- *Medical coverage for millions of uninsured children.*
- *Funding for embryonic stem cell research.*
- *Supports for congressional bills that address America's juvenile justice system.*
- *STEM programs in education.*
- *Redirecting attention to immigration bills.*
- *More funding for educational research.*

In addition to all of those projects, programs, ideas, and issues raised by the educational community, the list goes on. Where do President Elect Obama and Congress start?

Informed by the NABSE board, its legislative committee and NABSE will continue to make education its priority and take its case to Congress through the governmental relations process. In crafting the legislative agenda for the 111th Congress, NABSE will concentrate on its highest priorities and where possible join with other educational associations in propelling its agenda.