

ITEM: 7.5

DATE: February 9-10, 2013

TITLE: Legislative/Political Reports
Federal Issues Update

Action: _____ **Direction/Discussion:** _____ **Update:** _____ **Written:** x

Delegates may contact Erika Hoffman, Legislative Advocate, Governmental Relations, at ehoffman@csba.org and (916) 371-4691 should they have any questions about this item.

Summary

This update contains information on the following recent federal issues and activities:

- 113th Congress
- Federal Funding and Sequestration
- The Elementary and Secondary Education Act (ESEA)
- School Safety
- NSBA Legislation
- Federal Relations Network
- Education Coalition DC Visit

Background

113th Congress

On January 3, 2013, the 113th Congress was sworn into office.

The Senate will continue to be led by Majority Leader Henry Reid (D-NV) and Minority Leader Mitch McConnell (R-KY). As convened, the Senate has 53 Democrats, 45 Republicans and 2 Independents who will caucus with the democratic majority. Committee memberships will remain similar to last year but with one significant change - Senator Barbara Mikulski (D-MD) has been appointed the first female Chair of the Senate Appropriations Committee. Mikulski took the job after both Patrick Leahy (D-NH) and Tom Harkin (D-IA) passed on the opportunity. Harkin (D-IA) will remain the Chair of the Senate Health, Education, Labor, and Pensions (HELP) Committee. However, Ranking Member Michael Enzi (R-WY) is term-limited as the top-ranking Republican on the HELP Committee and will most likely be stepping down. Senator Lamar Alexander (R-TN) – a moderate and former U.S. Secretary of Education – is the likely pick for Senator Enzi's spot.

While a number of seats switched parties in the November elections, the House remains in the control of Republicans. Currently there are 233 Republicans and 200 Democrats with two vacancies. Representative John Boehner (R-OH) will continue as Speaker of the House and Representative Nancy Pelosi (D-CA) was reelected as Minority Leader.

There have been a number of changes in the various House committees with the Committee on Education and the Workforce seeing some dramatic changes in both membership and subcommittee chairs. One major change was the selection of Representative Todd Rokita (R-IN) as chair of the Subcommittee on Early Childhood, Elementary, and Secondary Education.

Representative Rokita is one of the most conservative members of the committee and was among the “tea party” Republicans who swept into office in large numbers in 2010. During his time on the Committee, Rep. Rokita has introduced an amendment to the Committee’s Elementary and Secondary Education Act (ESEA) reauthorization proposal that would reduce the number of employees at the U.S. Department of Education (USDOE). In 2012, he also introduced and then withdrew an amendment that would allow states to opt out of federal education programs including ESEA and use the applicable federal funds in the form of tax credits.

Rokita replaces Representative Duncan Hunter (R-CA), who was the previous chair of the Subcommittee and co-author of some of the committee’s ESEA proposals. Hunter will remain a member of the committee, but will no longer take a leadership role.

The committee will also gain a number of new Republican members including Representatives Susan Brooks (R-IN), Richard Hudson (R-NC), and Luke Messer (R-IN). The new Democratic members are Representatives Jared Polis (D-CO), Gregorio Kilili Camacho Sablan (D-MP), John Yarmuth (D-KY), Frederica Wilson (D-FL), and Suzanne Bonamici (D-OR). In addition to Representative Hunter, the California delegation on the committee includes Representatives Howard “Buck” McKeon (R), George Miller (D), and Susan Davis (D). The full list of the House Education and the Workforce Committee members is available on their [website](http://edworkforce.house.gov) (edworkforce.house.gov), though subcommittee assignments have yet to be determined.

Federal Funding and Sequestration

On New Year’s Day, Congress narrowly passed a measure that would allow the nation to avoid the so-called “fiscal cliff” of automatic spending cuts and tax increases. Under the American Taxpayer Relief Act of 2012 many of the “middle class” tax cuts were extended, though temporary payroll tax cuts were allowed to expire. In addition, the marginal tax rate will be increased for individuals making more than \$400,000 per year or couples making more than \$450,000 per year, and capital gains and estate tax rates were also modified upward. The legislation also temporarily extended bond authority for the Qualified Zone Academy Bonds (QZAB) program.

In addition, the legislation extended the omnibus agricultural legislation known as the Farm Bill for another nine months, replacing a 2008 bill which expired at the end of September. Without the extension, agricultural policy reverted to “permanent law,” passed in 1949. That permanent law would have put the federal government on the hook to buy billions of dollars of agricultural products, including milk, at greatly inflated rates which reflected non-mechanized farming practices.

Finally, the legislation delays the implementation of sequestration – automatic, across-the-board budget cuts – for two months, until March 1, 2013. In order to pay for sequestration, the new law reduced the total amount of budget cuts to be accomplished over sequestration’s nine-year lifespan by \$24 billion, essentially cancelling sequestration cuts for January and February and giving lawmakers more time to craft a comprehensive plan.

On a practical level, this means that small cuts are likely for some education programs in the second half of FY 2013 and FY 2014 as some of those spending reductions are applied. It also means that the overall sequestration cut for FY 2013, if the automatic cuts do go into effect in March, is likely to be lower than the 8.2 percent previously estimated. Currently, that is being estimated to be 5.9 percent.

Even though USDOE has not yet confirmed that it will stick with its plan for implementing sequestration cuts by applying the full year’s cut against July 2013 spending (as articulated in a July 2012 memorandum), the new legislation should not affect that course of action. States and districts should still expect to see significant – though smaller – reductions to their July 2013 funding if sequestration is not repealed by then. Future sequestration cuts for FY 2014 and beyond will be applied through reductions to congressional appropriations caps, not across-the-board percentage cuts, so funding levels for amounts to go out starting in October of 2013 remain uncertain.

While the delay in sequestration could be seen as a positive sign, many are critical of this strategy, which only “kicks the can down the road” and offers a temporary, rather than a permanent reprieve from devastating budget cuts. And Congress still has a number of budget fights ahead.

First, it is anticipated that the nation will reach its “debt ceiling” – a congressional limitation on the amount of money the country is allowed to borrow from creditors – by February 15. Congressional Republicans have latched onto the debt ceiling debate as an important battle in the war on federal spending, and have vowed to fight any increases. Meanwhile, the President has suggested limited Congressional power in approving or disapproving a debt ceiling increase, and White House aides have publicly speculated about whether congressional approval is constitutionally necessary.

Second, sequestration is now set to be implemented on March 1, 2013. Unless Congress acts, automatic across-the-board cuts would still go into place. The White House has vowed to fight such cuts, and aides have indicated that they believe a good precedent was set in the fiscal cliff deal, where a portion of the sequester was eliminated through revenue increases and more nuanced spending cuts. The White House has also vowed to pursue a 1:1 ratio of revenues to spending cuts in negotiating future deficit deals. Still, sequestration may be a bargaining chip for House Republicans in the debate over both the debt ceiling and FY 2013 spending.

Finally, on March 27, 2013 the temporary budget measure under which the federal government is currently operating – known as a Continuing Resolution (CR) – will expire. Congressional action will be needed to avoid a government shutdown, and heated conflicts over spending cuts versus revenue increases are expected in these discussions, too.

Elementary and Secondary Education Act (ESEA)

ESEA Waiver

In June 2012, California submitted a general waiver request to the USDOE to exempt local education agencies from certain provisions of ESEA. On January 4, 2013, the USDOE declined to approve the state's waiver request in stating that "a State must agree and be prepared to take on the rigorous reforms requires by all of the principles of ESEA flexibility in exchange for that waiver." It is not known if the State Board of Education (SBE) will now submit an ESEA waiver request but the waiver issue will be discussed at their upcoming meeting on January 16, 2013 (Item 11 in the SBE agenda)

Additional Links:

- California's waiver request: <http://www.cde.ca.gov/nr/el/le/yr12ltr0615.asp>
- USDOE letter: <http://www.cde.ca.gov/be/ag/ag/yr13/documents/addendum-jan13item11.pdf>
- SBE Agenda: <http://www.cde.ca.gov/be/ag/ag/yr13/agenda201301.asp>

Senate Hearing on Waivers

It was recently made public that the Senate HELP Committee is planning to hold a hearing to examine the ESEA waivers that have been granted by USDOE. Waivers have been granted to 35 states so far – in exchange for adopting "college- and career-ready standards," revising teacher evaluation systems, and implementing other reforms. These waivers have been framed as an alternative to ESEA with the reauthorization process stalled in Congress.

However, many in Congress, including House Education and the Workforce Committee Chairman John Kline (R-MN), have expressed concern that USDOE is acting outside of its authority under ESEA in requiring States to adopt certain reforms before they are allowed flexibility. Some states have also come under fire for setting achievement targets for minority students lower than for their peers. Further, Representative George Miller (D-CA), normally a staunch supporter of Secretary of Education Arne Duncan, has written to express his concern about whether waivers allow states to discount the importance of high school graduation rates.

A witness panel is expected to include Secretary Duncan as well as an assortment of State Superintendents, but neither the witnesses – nor a date for the hearing – have been officially announced.

School Safety

On January, the National School Boards Association (NSBA) participated in a meeting at the White House with leading advocates in the education community regarding school safety, in the wake of the tragedy at Sandy Hook Elementary School in Connecticut. U.S. Attorney General Eric Holder, U.S. Secretary of Education Arne Duncan, and Senior Advisor to the President

Valerie Jarrett hosted the meeting. The goal was to gather recommendations from organizations regarding school safety. The President has asked cabinet members to present recommendations to him by the week of January 14 (after this writing). Each group represented gave brief recommendations and/or comments.

NSBA spoke of the need for greater access to mental health services and recommended the expansion of school safety zones, as well as more funding for school resource officers (SROs), which was a component of the Community Oriented Policing Services (COPS) program. NSBA also spoke of resources needed for greater coordination between law enforcement agencies and school districts, including resources that may be available through homeland security grants to state and local governments for school safety (disaster preparedness and emergency response).

Other issues raised for discussion included:

- Establishment of a federal interagency council on school safety
- Training development and support for school principals on preparation and preparedness
- Resources needed for school safety audits
- Information on the use of Title I funds for counseling and intervention
- Greater resources/facilitation for wrap-around services to students using a community-based approach
- Expansion of the Promise Neighborhoods program
- Support for universal background checks on people purchasing guns
- A ban on assault weapons
- A ban on high-capacity gun magazines
- Strengthening federal statutes regarding gun trafficking

Additional Links:

NSBA's position on school safety can be found at: <http://www.nsba.org/About/Beliefs-Policies-Resolutions/BeliefsandPolicies.pdf> in Article IV, Sections 2 and 2.1 and in Article III, Section 1.

The President's Plan to Protect our Children and our Communities by Reducing Gun Violence:

On January 16, 2013, President Obama released a plan to reduce gun violence in response to the increase in gun violence nationally. The plan calls on Congress to approve a ban on military-style assault weapons and high-capacity magazines. In addition the plan contains 23 executive actions that are aimed at improving background checks, school security and mental health.

After the events at Sandy Hook Elementary School, the President convened a taskforce, chaired by Vice President Biden, to come up with a set of concrete policy proposals to protect children and communities by reducing gun violence. The taskforce has spent the last month meeting with law enforcement, community organizations, education groups, and others, to formulate the plan. Specifically, the plan proposed to close background check loopholes, ban military-style assault weapons and high-capacity magazines; make schools safer and increase access to mental health services. In order to address these issues, the President will be pursuing a number of efforts including legislation and 23 executive actions that can be put into place immediately.

Highlights of the plan include:

- Require criminal background checks for all gun sales.
- Take four executive actions to ensure information on dangerous individuals is available to the background check system.
- Reinstate and strengthen the assault weapons ban.
- Restore the 10-round limit on ammunition magazines.
- Protect police by outlawing armor-piercing bullets.
- Give law enforcement additional tools to prevent and prosecute gun crime.
- End the freeze on gun violence research.
- Make schools safer with more school resource officers and school counselors, safer climates, and better emergency response plans.
- Help ensure that young people get the mental health treatment they need.
- Ensure health insurance plans cover mental health benefits.

The President's plan makes a number of recommendations regarding schools to enhance the security of schools and the ability to respond to emergencies like mass shootings, to create safer and more nurturing school climates, and to address the mental health needs of schools and communities. However, each school is different and should have the flexibility to address its most pressing needs. Some schools will want trained and armed police; others may prefer increased counseling services. Either way, each district should be able to choose what is best to protect its own students. Specifically, the Administration is proposing:

- A new, comprehensive school safety initiative to help local school districts hire up to 1,000 school resource officers and school-based mental health professionals, as well as make other investments in school safety.
- That every school have in place a comprehensive emergency management plan and is calling on Congress to provide the resources for schools to implement them, and require those receiving safety funding from the Department of Education to have high-quality plans in place for all of their schools.
- To improve the climate of our schools by reducing violence and bullying (which sometimes precedes a mass casualty event) by helping help 8,000 schools put in place proven strategies to reduce bullying, drug abuse, violence, and other problem behaviors, and to gather and share best practices on school discipline.
- To increase access to mental health services for young people by providing training to help teachers and staff recognize signs of mental illness in young people and refer them to treatment and to implement a new, targeted initiative to provide students with needed services like counseling, including the training of 5,000 more social workers, counselors, and psychologists, with a focus on those serving students and young adults.

Over the next few weeks, it is expected that more details will emerge on how the executive actions will be implemented and what the prospects are for legislation. CSBA will be tracking these issues and will keep the Board of Directors informed.

Additional Links:

President's remarks: <http://apps.washingtonpost.com/g/documents/politics/gun-violence-executive-summary/245/>

List of 23 executive actions: <http://apps.washingtonpost.com/g/documents/politics/white-house-gun-violence-reduction-executive-actions/248/>

NSBA Legislation

This year, NSBA is preparing to sponsor a piece of legislation in Congress to strengthen and support the role of local school district governing boards.

In recent years, the USDOE has engaged in a variety of activities to reshape the educational delivery system. However, many of these activities have operated to impact local policy and programs in ways that have either been beyond the specific intent or contemplation of federal authorizing legislation. Whether in the form of regulations, rules, grant conditions, guideline materials, or other formats, many of these requirements have been viewed by local educational agencies (LEAs) as not only unnecessary or beyond the scope of legislation enacted by Congress, but also placing unnecessary limits on the flexibility that LEAs need to meet local conditions as well as to meet state and federal goals in education.

Additionally, local school boards frequently find that these federal regulations and grant conditions either directly, or through federal requirements placed on the states, carry significant costs in dollars, staff time, and program decisions that detract from the resources needed to support their education program.

In order to strengthen the role of local school boards, NSBA has prepared draft language for a federal bill to establish several procedural steps that USDOE would need to take prior to initiating regulations, rules, grant requirements, guidance documents among other regulatory materials to ensure that the USDOE's actions are consistent with the specific intent of federal law and are educationally, operationally, and financially supportable at the local level. This legislation is also intended to provide the House and Senate committees that oversee education with better information regarding the local impact of USDOE's activities.

Documents on the NSBA proposal are attached to this report:

- Summary Paper: Item 6.5A
- Draft Bill Language: Item 6.5B
- Section-By-Section Analysis: Item 6.5C

Federal Relations Network

NSBA's annual Federal Relations Network (FRN) conference will take place January 27-29 in Washington DC. This year's conference will focus on full funding for federal education programs, stopping the impact of sequestration, reauthorization of ESEA, and the role of school district governing boards. There will be a number of workshops during the conference to explore these issues and more, and to provide school board members with the information they will need

to be effective advocates. The conference culminates with the “Day on the Hill”, where school board members lobby their local congressional representatives. California’s delegation will visit their local Representatives along with appointments with Senators Boxer and Feinstein and other meetings that are being scheduled.

CSBA staff will also be providing a state budget and issues briefing to congressional staff on January 25. We usually brief 40-50 staff members from the California delegation.

Additional Links:

- Background and Issue Briefs: http://files.nsba.org/advocacy/backgrounder_final.pdf
- Conference information and registration: <http://www.nsba.org/NSBAWebData/Advocacy/frn/>

Education Coalition DC Visit

In December 2012, the Education Coalition made a visit to Washington DC to lobby California’s Congressional Delegation regarding Sequestration. In addition to CSBA staff, staff from California Association of School Business Officials, Parent Teachers Association, California Teachers Association, and the California Department of Education made the trip. Information was shared regarding the impact of sequestration on California’s schools and various federal programs. We were able to provide them with possible alternatives to provide some flexibility if/when the sequestration cuts take effect, including changing how the Maintenance of Effort (MOE) for special education is calculated.

Presenter(s): Erika Hoffman, Legislative Advocate, Governmental Relations

Local Educational Agency Governance Flexibility and Efficiency Act of 2013

A draft Bill prepared by the National School Boards Association

January 2013

Background

The responsibility for education resides with the states which, in turn, have delegated substantial authority to local educational agencies, which are governed by local school boards, to develop policies, set priorities, and provide accountability to direct the operation of its schools. The authority of local educational agencies includes establishing the school district's mission and goals, organization and structure, budget and budget priorities, education program, curriculum, extra-curricular activities, services relating to student health and safety, transportation and school boundaries, procurement procedures, human resources management, construction, facilities management and other functions essential to the day-to-day operations of schools within the jurisdiction of the local school district, consistent with state law and policies. Local education agencies are also authorized by a majority of states to invest resources, and acquire land and assume bonded indebtedness.

As the school district's governing body, an overwhelming majority of school board members (96%) are directly elected by the local voters to serve and represent their local community in determining how their children are educated.

Problem

In recent years, the U.S. Department of Education has engaged in a variety of activities to reshape the educational delivery system. All too often these activities have operated to impact local policy and programs in ways that have either been beyond the specific intent or contemplation of federal authorizing legislation. Whether in the form of regulations, rules, grant conditions, guideline materials, or other formats, many of these requirements that have emanated from the U. S. Department of Education are viewed by local educational agencies as not only unnecessary or beyond the intended direction of legislation enacted by the United States Congress, but as also placing unnecessary limits on the flexibility that local education agencies need to best meet local conditions as well as to meet state and federal goals in education. Additionally, local school boards frequently find that these federal regulations and grant conditions either directly, or through federal requirements placed on the states, carry significant costs in dollars, staff time, and program decisions that detract from the resources needed to support their education program. The result again limits the flexibility of local school boards to make on- the- ground decisions that serve the best interests, conditions, and needs in the school district. The vital national interest in representative self-governance in education through local school

boards being weakened, so is the representative role of the Congress to establish national policy and direction in education.

Solution

The National School Boards Association (NSBA), on behalf of the 90,000 local school board members across the nation and their state school board associations, has prepared draft language for a federal bill to establish several procedural steps that the Department of Education (ED) would need to take prior to initiating regulations, rules, grant requirements, guidance documents among other regulatory materials to ensure that the Department of Education's actions are consistent with the specific intent of federal law and are educationally, operationally, and financially supportable at the local level. These procedures are intended to strengthen the capacity of the local level to address the Department of Education in ways that current procedures have not in protecting local school district governance from unnecessary and counter-productive federal intrusion either directly, or through requirements placed on the states. This legislation is also intended to provide the House and Senate committees that oversee education with better information regarding the local impact of Department of Education's activities. Further, the legislation is designed to more broadly underscore the role of the United States Congress as the federal policy-maker in education and through its representative function, ensure that the decisions that are made at the federal level will best support the needs and goals of local school systems and the communities they serve as they meet the federal interest and goals in education.

Bill Status

The National School Board Association is seeking Congressional support and formal sponsorship for federal legislation to re-affirm the role of local education agencies as the principle democratic governance body in determining how children in their local communities are educated.

A Bill

To amend the General Education Provisions Act, 20 USC 1221 et. seq., to support local educational agency governance, flexibility, and efficiency.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the “Local Educational Agency Governance, Flexibility, and Efficiency Act of 2013”.

SECTION 2. FINDINGS AND PURPOSES.

(a) Congress makes the following findings:

- (1) The responsibility for education resides with the states which have delegated to local school boards the power and authority to adopt policies, establish priorities, and provide accountability to direct the operation of the schools, including the school system’s mission and goals, organization, local budget and budget priorities, education program, curriculum, extra-curricular activities, services relating to student health and safety, transportation and school boundaries, capital construction, procurement policies, staffing and personnel policies, student attendance, and other functions essential to the day-to-day operation of schools within the jurisdiction of the school district, consistent with state laws and policies.

- (2) Local school boards are also authorized by many states to levy taxes, invest resources, acquire land and assume bonded indebtedness.
- (3) Ninety six percent of local school board members are directly elected by their community with the remainder appointed by other locally elected officials to govern the nation's local educational agencies, and to serve as the principal democratic governance body in determining how children in their local community are educated.
- (4) Local school boards are elected and held accountable by local voters to represent the interests of students, parents, local businesses, civic organizations, taxpayers, and the community at large in determining the direction, values, climate, and financial support of the schools in their community subject to state laws and policies.
- (5) As the focus of the federal government in education has grown, the vital national interest in local self-governance of local educational agencies has been weakened through federal agency regulation, grant conditions, guidance materials and other requirements that are either unnecessary to achieve the specific direction of legislation enacted by the United States Congress, or that impose unnecessary limits on the flexibility that local educational agencies need in order to meet local, state, and federal goals in education.

(b) Declaration of Purpose – The purpose of this Act is to:

- (1) Support the local decision-making function of local educational agencies to ensure overall student educational excellence, while meeting national goals, by authorizing the Secretary of Education to engage only in issuing regulations, rules, grant conditions, guidance

materials, and other activities under the jurisdiction of the Department that are (i) specifically required to implement federal legislation, and (ii) demonstrated to be educationally, operationally, and financially within the capacity of local educational agencies to implement.

- (2) Ensure that national policy in education is established by Congress through specific legislation.

SECTION 3. AUTHORITY OF THE SECRETARY

(a) Unless specifically authorized by federal legislation, the Secretary shall not issue federal regulations, rules, grant conditions, guidance materials, or other requirements pertaining to a State educational agency or a local educational agency that would:

- (1) Conflict with the power and authority of the local educational agency delegated by the state regarding the operation of the schools, including the school system's mission and goals, organization, local budget and budget priorities, education program, curriculum, extra-curricular activities, services relating to student health and safety, transportation and school boundaries, procurement policies, staffing and personnel policies, capital construction, authority to levy taxes, issue bonds, acquire land, and other functions essential to the day to day operation of the schools within the jurisdiction of the school district,
- (2) Result in additional costs to the local education agency for reporting, grant administration, and general operations unless fully paid from federal funds,
- (3) Conflict with the power and authority of the local educational agency to determine how to engage or act upon community participation and advice,

- (4) Impose requirements on a local educational agency that would limit or adversely affect its authority to function as a legislative, executive or quasi-judicial agency,
- (5) Conflict with the authority of a state to determine the appropriate governance structure of its local school districts, or the authority of a local educational agency to determine the appropriate governance and management of its schools,
- (6) Establish reporting requirements for local educational agencies that duplicate existing federal requirements or that are issued without first conducting a fiscal impact statement related to the costs to local educational agencies including requests for data and recommendations from local educational agencies and national education organizations consistent with the provisions of subsection 4(b), or
- (7) Place conditions or requirements on grants to a state or local educational agency that are not directly related to or support the intent of the specific purpose of the grant or the legislation authorizing such grant.

SECTION 4. Efficiency In Implementing Federal Programs

- (a) The Secretary shall within 180 days from the date of enactment of this Act, conduct a review of existing reporting requirements on local educational agencies resulting from programs and activities under the jurisdiction of the Department of Education to determine duplications and make modifications as necessary to eliminate such reporting duplications.
- (b) The Secretary shall not promulgate any regulation, rule, guidance material, grant condition, or other requirement pertaining to a State educational agency or a local educational agency, without first taking the following action:

- i. Request data and recommendations from local educational agencies and the major national education organizations representing local school boards, local school superintendents, principals, and teachers regarding the educational, financial, and operational costs involved for implementation, and publishing the data and recommendations provided upon issuance of such regulation, rule, guidance material, grant condition, or other requirement and posting that information on the Department's website,
 - ii. Verify, based on the data set forth in clause (i), that local educational agencies will have the financial resources and the technical assistance they may need to successfully implement the regulation, rule, guidance material, grant condition, or other requirement including any federal requirement that would extend beyond the time that federal assistance is available for that purpose,
 - iii. Provide local educational agencies and the national education organizations identified in clause (i), with not less than sixty days notice following the Department's publication of a notice or intent to issue any regulation, rule, guidance material, grant condition, or other requirement to respond to the Secretary's request for data and recommendations, unless a shorter time period is needed to meet an emergency such as a declared natural disaster, and
 - iv. Ensure that maximum flexibility is provided to local educational agencies in implementing any regulation, rule, guidance material, grant condition, or other requirement.
- (c) In the event that a local educational agency or an organization identified in subsection (b) provides the Secretary with a written statement showing that a regulation, rule, guidance material, grant condition, or other requirement does not meet the substantive or procedural requirements of this Act, the Secretary or the Secretary's designee shall review the merits of that statement and provide a written response within sixty days and post

that response on the Department's website, including what action, if any, the Secretary will take to correct any deficiency that the Secretary determines exists.

SECTION 5: Notification to Congress

- (a) Each fiscal year beginning in the fiscal year following the enactment of this Act, the Secretary shall provide local educational agencies and the major national education organizations including those representing local school boards, local school superintendents, principals, and teachers with at least sixty days notice with the opportunity to provide written comments regarding the local impact of implementing federal regulations, rules, grant conditions, guidance materials, or other requirement for any applicable program or activity of the Department.
- (b) The Secretary shall prepare and publish a report based on the comments received in subsection (a), which shall be forwarded to the chairs and ranking members of the Senate Health, Education, Labor and Pensions Committee and the House Education and Workforce Committee no later than July 1 of each year and shall be simultaneously posted on the Department's website.



The Local Educational Agency, Governance, Flexibility and Efficiency Act of 2013

Section-By-Section Analysis of the NSBA Bill

The goal of the legislation is to ensure that the benefits of local school district governance are not eroded through activities by the U.S. Department of Education not specifically envisioned by Congressional legislation and to ensure that the actions that ED is authorized to take support maximum local flexibility and decision-making. To achieve these goals the legislation includes procedures that ED must follow to obtain meaningful input from local school boards, local educators, and their representative organizations in issuing regulations, grant requirements, and other materials that pertain to the operation of local school districts.

Section 1. Short Title

This act may be cited as the “Local Educational Agency Governance, Flexibility, and Efficiency Act of 2013”.

Section 2. Findings and Purposes

The responsibility for education resides with the states which have delegated to local school boards broad powers and authority relating to the operation of the schools within their school district. These powers include the authority to establish policies, priorities, and accountability relating to the education program, the school system budget, and personnel practices among various other school district functions.

Local school boards are elected by their communities to represent the interests, values, expectations of its residents in governing local school systems.

In recent years as the involvement of the Department of Education in education has grown, local self-governance has frequently been weakened through agency action not specifically directed by Congress or action involving a level of regulation that has unnecessarily limited local educational decision-making, including the flexibility needed to meet local, state, and federal goals in education.

The purpose of this legislation is to support the decision-making role of local education agencies to achieve their education goals, including those goals established by Congress, by limiting the Secretary to engage only in activities that relate to local educational agencies

directly, or through state educational agencies, that are (i) specifically required to implement federal legislation and (ii) are demonstrated to be educationally, operationally, and financially within the capacity of local educational agencies to implement. It is also the purpose of this Act, to ensure that national educational policy is established by Congress through specific legislation.

Section 3. Authority of the Secretary

Unless specifically authorized by federal legislation, the Secretary shall not issue federal regulations, rules, grant conditions, guidance materials, or other requirements pertaining to a State educational agency or a local educational agency that would 1) conflict with the basic powers and authority of a local education agency, 2) impose administrative costs on a local education agency that are not fully paid from federal funds, 3) conflict with how a local educational agency engages the community, 4) limit the legislative, executive, or quasi-judicial function of a local educational agency, 5) conflict with the authority of a state or local educational agency to determine the governance structure of school districts, 6) fail to meet certain procedural requirements that require meaningful consideration of input from local school officials, local educators and their representative national organizations and, 7) place conditions or requirements on grants to a state or local educational agency that are not related to, or support the specific purpose of, the grant legislation authorizing such grant.

Section 4. Efficiency in Implementing Federal Programs

Within 180 days after this bill is enacted, the Secretary shall conduct a review of existing reporting requirements and eliminate any unnecessary duplications. Further, the Secretary shall not issue any regulation, rule, guidance material, grant condition or other requirement pertaining to a state educational agency or local educational agency without first 1) requesting, with at least sixty days notice, data and recommendations from local school officials, local educators, and their national organizations relating to the educational, financial, and operational costs involved, 2) verifying from such local reporting that school districts will have the capacity to implement the federal requirements, and 3) ensuring that maximum flexibility and local decision-making is provided to local school districts in implementing the requirement.

If a local educational agency or national representative organization identified in this section provides the Secretary with a written statement showing that the Department of Education is not meeting the requirements of this legislation, the Secretary or the Secretary's designee shall provide a written response on the merits within sixty days and post the response on the Department's website, including any corrective action that will need to be taken.

Section 5. Notification to Congress

The Secretary shall annually provide local school officials, local educators, and their national education organizations with the opportunity to provide written comments regarding any Education Department requirement, which, by July 1st, shall be incorporated into a report sent to the chair and ranking members of the Congressional committees that oversee education and be simultaneously posted on the Department's website.