

**Minority Views**  
**H.R. 5, “Student Success Act”**  
**114<sup>th</sup> Congress, 1<sup>st</sup> Session**  
**February 19, 2015**

Committee Democrats adamantly and unanimously oppose H.R. 5, the Student Success Act. All Democratic members voted in opposition to the legislation during its consideration in Committee on February 11, 2015. We believe the No Child Left Behind Act (NCLB) is long-overdue for reauthorization, but H.R. 5 does not set forth a reauthorization to improve student outcomes or provide support to the vulnerable student populations the law is intended to serve. Instead, H.R.5 would turn the clock back on equity and accountability in American public education while diverting scarce federal dollars away from communities plagued by high concentrations of poverty and toward low-poverty schools and districts. Additionally, the partisan path chosen by Committee Republicans lacks not only a deliberative process informed by research and evidence, but also the consensus necessary to achieve a comprehensive reauthorization worthy of enactment and reflective of 50 years of bipartisanship.

Committee Democrats oppose H.R. 5 because it shortchanges students, weakens accountability for improved student outcomes for all students, and fails to update current law to take the public education system into the 21<sup>st</sup> century. This opposition is shared by the majority of the education, civil rights and business community. The Republican bill eliminates critical supports and accountability to provide a balanced and effective education to every child. H.R. 5 locks in low funding levels without allowing appropriators to adjust annual appropriations for inflation, despite a projected 14 percent decrease in purchasing power and 3.2 million student increase in public school enrollment by 2021.<sup>1</sup> H.R. 5 drastically shifts much-needed federal resources away from the poorest students, undermining the statutory intent of the Elementary and Secondary Education Act.<sup>2</sup> H.R. 5 fails to provide adequate support for professional development to improve teaching and learning, and fails to provide dedicated support for implementation of evidence-based programs and supports to improve access to comprehensive literacy, STEM, or other subjects that provide students a well-rounded education. The bill eliminates wrap-around services, support for before-, after, and summer school, and support for expanded learning time, all of which have been proven by extensive research to be critical to student learning.<sup>3</sup>

Given the urgent need to reauthorize current law and to address the fatal flaws of H.R. 5, Democrats offered at mark-up a series of amendments, culminating in the introduction of a comprehensive substitute amendment to the Republican bill that demonstrates a positive vision for the reauthorization and a path forward to improve student outcomes, promote equity of

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<sup>1</sup> Committee for Education Funding, (2015). “Letter on HR 5 to Congress”. Retrieved from <http://cef.org/hr-5-letter-to-house/>.

<sup>2</sup> Department of Education. “Laws & Guidance Elementary and Secondary Education”. Retrieved from <http://www2.ed.gov/policy/elsec/leg/esea02/pg1.html>.

<sup>3</sup> Afterschool Alliance, (2015). “Afterschool Programs: Inspiring Students with a Connected Learning Approach.” Retrieved from [http://afterschoolalliance.org/documents/Afterschool\\_and\\_Connected\\_Learning.pdf](http://afterschoolalliance.org/documents/Afterschool_and_Connected_Learning.pdf).

opportunity, and ensure states and districts are held accountable for supporting and improving public education through effective implementation of limited federal funds. All Democrats voted unanimously in support of the comprehensive substitute amendment, offered by Ranking Member Scott. The Democrats' proposal garnered support from the civil rights, education, and business communities.

Committee Democrats believe that the reauthorization of NCLB must build upon what we have learned over the last 10 years and take advantage of and support the advancements that have been made. The most recent long-term trend study by the National Assessment of Educational Progress, released in June 2013, showed that American students have improved their reading and math achievement since 1973. Notably, the biggest gains were made among African-American and Hispanic students. For example, African-American 4<sup>th</sup> graders improved 36 points in both reading and math.<sup>4</sup> However, progress has stalled since 2008. Therefore, now is the time to press ahead, and not scale back, federal investment and involvement in education.

We believe the reauthorization should support college and career-ready standards, modern assessments, an accountability system that includes meaningful goals and targets for improving student achievement while taking into account measures of resource equity, and a school improvement system that gives schools and districts flexibility in how they achieve those goals. Committee Democrats also believe reauthorization should support states in ensuring the placement of an effective teacher in every classroom and an effective school leader in every school across the country. Federal policy should encourage and support important professional development opportunities for teachers and school leaders. It should protect collective bargaining and teacher privacy. Federal policy should also support states, districts, and schools in their efforts to provide a well-rounded education to students, and in addressing non-academic factors, such as mental health and counseling needs, that create barriers to student learning.

### **H.R. 5 Undermines the Federal Role in Education to Promote Equal Opportunity**

With the passage of the first Elementary and Secondary Education Act (ESEA) in 1965, in response to the *Brown vs. Board of Education* decision, the federal role in education focused on promoting equal opportunity in education by targeting resources and services to communities plagued with high concentrations of poverty and suffering under inequitable state and local education financing systems. The arbiter of equity in an unequal and often unjust educational delivery system operated largely by states and school districts, the federal government, through implementation of ESEA, seeks to ensure that our nation's public schools provide every student, regardless of race, income level, English language proficiency, or disability status, the opportunity to fulfill his or her academic potential, graduate from high school ready to succeed in college or career, and pursue a future of his or her choosing. Access to educational quality is a driver of economic mobility, and although diminished due to failed Republican economic policies of recent decades,<sup>5</sup> economic mobility remains a hallmark measure of equal opportunity

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<sup>4</sup> National Assessment of Educational Progress (2013). "A First Look: 2013 Mathematics and Reading". Retrieved from <http://nces.ed.gov/nationsreportcard/subject/publications/main2013/pdf/2014451.pdf>.

<sup>5</sup> Chetty, R.; Hendren, N.; Kline, P.; and Saez, E. (2014). "Where is the Land of Opportunity? The Geography of Intergenerational Mobility in the United States". Retrieved from [http://obs.rc.fas.harvard.edu/chetty/mobility\\_geo.pdf](http://obs.rc.fas.harvard.edu/chetty/mobility_geo.pdf).

in our nation. – Providing all students access to a free, high quality, public education is the only sure path to improve economic mobility and promote an educated and productive citizenry.

The federal interest in a strong public education system is grounded in civil rights, economic, and national security concerns. All three areas are threatened by an elementary and secondary educational system that is not held accountable for supporting the potential of *all* our nation’s students. Unfortunately, H.R. 5 both undermines the promise of the *Brown* decision, and the federal role in supporting a strong public education system that promotes civil rights, that feeds a strong economy, and that builds our national security.

### **Standards and Assessments**

H.R. 5 does not support the national consensus for college and career ready standards to ensure students graduate ready to succeed and, despite the advances in technology, it fails to modernize assessments to measure progress towards those standards. The bill does not contain requirements that states set high standards to graduate students who are college and career-ready and who are able to enroll in postsecondary education without the need for remediation. Current law requires states to establish standards, but does not assess the rigor of those standards. NCLB did not have a check on the rigor of assessments, allowing some states to lower academic standards in favor of better accountability outcomes, leading to tens of thousands of students progressing along an academic pathway to nowhere. In fact, according to a 2009 NAEP State Mapping Analysis, 15 states lowered their proficiency standards in fourth- or eighth-grade reading or math from 2005 to 2007,<sup>6</sup> resulting in large discrepancies between high levels of proficiency on state standards and low levels of proficiency as measured by NAEP. As a result, stakeholders from civil rights groups, business groups, and educators believe that reauthorization must ensure that academic standards help students graduate prepared for college and careers.

Refusing to hear these concerns, H.R. 5 weakens current law by not establishing parameters on quality standards, and it even goes as far as to eliminate use of the word “challenging” with regard to standards. Committee Democrats believe that states should maintain control over development and adoption of academic standards, but that content standards should be validated by state institutions of higher education to ensure proficiency upon high school graduation is meaningful and allows enrollment in postsecondary education without the need for remediation.

High-quality assessments are essential to measure our progress as a nation and to ensure we have reliable data to improve student achievement, instruction, and schools. While assessment represents one tool in promoting educational equity and improving student outcomes, too many states and districts are plagued by an overreliance on redundant, low-quality assessments that are not valid or reliable for the purposes for which they are used and fail to improve teaching and learning.<sup>7</sup> Committee Democrats believe that ESEA reauthorization presents a unique opportunity to support states in streamlining assessment systems, aligning limited assessments to

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<sup>6</sup> National Assessment of Educational Progress, (2009). “Mapping State Proficiency Standards onto the NAEP Scales: Variation and Change in State Standards for Reading and Mathematics, 2005-2009”. Retrieved from <http://nces.ed.gov/nationsreportcard/pdf/studies/2011458.pdf>.

<sup>7</sup> Lazarin, M., (2014). “Testing Overload in America’s Schools”. Retrieved from <https://cdn.americanprogress.org/wp-content/uploads/2014/10/LazarinOvertestingReport.pdf>.

rigorous standards to ensure college- and career-readiness, and eliminating duplicative and low-quality state and local assessments that are not required by federal law. This is why the Democratic substitute amendment fully incorporates provisions of the Support Making Assessments Reliable and Timely (SMART) Act (H.R. 408), bipartisan legislation championed by Representative Suzanne Bonamici, a member of the Committee.

H.R. 5 does not support the development and implementation of high-quality assessments that accurately measure growth and higher order skills. The bill, similar to current law, requires annual English and math assessments in grades 3-8 and once in high school, and allows, but does not require, assessments to measure student growth in addition to proficiency. Unfortunately, the legislation does not ensure assessments are high-quality, fails to reflect the advancements in assessments over the past decade, and fails to require that states differentiate achievement levels of students, a critical tool for parents and communities in judging how well schools and districts are meeting the academic needs of all students.

H.R. 5 eliminates the Grants for State Assessments program which supports state development of high-quality assessments. High-quality assessment systems are expensive to develop but critical to effectively measuring student achievement and to supporting improvements in teaching and learning. This assessment program provides critical support to states as they work to implement next generation assessments that measure higher order thinking, improve teaching and learning, and measure both proficiency and student growth. Lastly, H.R. 5 fails to promote innovation and flexibility in design of competency education assessment systems that utilizes local and performance-based assessments to garner student achievement data, but also maintains vital equity protections to ensure data is meaningful for improving outcomes for all students. Committee Democrats believe this reauthorization must begin to responsibly chart a new path, in partnership with states, toward high quality and meaningful assessment systems that work for all students and promote educational equity.

H.R. 5 also fails to ensure all children are held to high expectations by permitting states to develop alternate achievement standards for students with the most significant cognitive disabilities but does not establish any parameters to determine which students should be assessed in this category. Additionally, the bill would eliminate the current regulation that caps at one percent the number of students scoring proficient for accountability purposes who are assessed alternatively. This regulation ensures schools are still held accountable for the achievement of students with disabilities. H.R. 5 also fails to prohibit states from establishing modified or other achievement standards, despite recent federal regulatory activity to eliminate use of modified achievement standards after documentation of widespread abuse of the standards.<sup>8</sup> Representative Jeffries offered an amendment to improve H.R. 5's accountability provisions to extend college- and career-ready standards to all students, including students with significant cognitive disabilities, which was defeated despite unanimous support from Committee Democrats.

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<sup>8</sup> Advocacy Institute, (2015). "Assessment & Accountability for Students with Disabilities: A Look Back at the Alternate Assessment on Modified Academic Achievement Standards". Retrieved from <http://www.advocacyinstitute.org/ESEA/AA-MAS.Look.Back.Jan2015.pdf>.

By failing to codify this current regulatory cap and failing to prohibit additional standards, H.R. 5 permits all students with disabilities to be held to lower standards and given different assessments, effectively allowing those students to be educated in a parallel but lesser system. As a result, large numbers of students with disabilities could be prevented from receiving a regular high school diploma. Taken in concert, provisions allowing for the alternate assessment of students with significant cognitive disabilities without codification of the regulatory one percent cap or prohibition on the establishment of modified achievement standards, H.R. 5 would create a perverse incentive to over-identify children for special education to include them in the lower standard. Low-income and minority students are already over-represented in special education, and this legislation could exacerbate that problem.

### **Accountability and School Improvement**

One of the most critical aspects of NCLB was that, for the first time, schools were held accountable for the performance of all students, including student subgroups, and they were required to take action when student achievement failed to improve. Over the last ten years, NCLB's accountability system has received both more praise and criticism than any other aspect of the law. Accordingly, Democrats firmly believe that the accountability and school improvement system must be updated to reflect what we have learned over the last ten years, while maintaining a strong focus on improving student achievement and increased focus on resource equity for under-supported schools. Committee Democrats believe that this reauthorization must set guardrails to ensure states and districts target resources and interventions to boost student achievement for subgroups of students farthest from achieving college- and career-readiness, while promoting the implementation of locally-driven, evidence-based interventions and supports tailored to unique community needs and school challenges.

Unfortunately, H.R. 5 would allow states to establish weak accountability systems that would not require performance targets for student achievement, would not require schools take specific action to better support schools that need improvement, and would not ensure all students have access to high-quality schools. H.R. 5 provides no federal guardrails on accountability for student achievement and does not support the expectation that all students should graduate high school ready for college or career. The lack of quality and consistency in the state systems combined with weak standards and low-quality assessments would provide little transparency for how schools are evaluated, little consistency from district to district or state to state, and lack of clarity for parents and communities when the academic and resource needs of students aren't being met.

H.R. 5 does not require states to establish overall goals for student achievement or to establish performance targets to measure progress toward state-established goals, allowing states to obfuscate responsibility for measurably improving outcomes for historically underserved students that the law is intended to serve. In addition, H.R. 5 does not include high school graduation rates as a component of the state-developed accountability system, despite clear consensus on the need for graduation rate accountability to be paired with accountability for student achievement to ensure low-performing students do not get pushed out of school thanks to a perverse incentive created by counting grade-level proficiency but not on-time graduation. Further, the bill dismantles current regulations requiring states have and utilize meaningful graduation rate accountability.

Committee Democrats believe that high school graduation rates must play a critical role in school identification and targeted interventions within a state-developed accountability system. This is why the comprehensive Democratic substitute amendment would support school districts in dropout prevention efforts, including the development and implementation of evidence-based early intervention warning systems that target supports to students who demonstrate warning signs of dropping out before entering high school. Committee Democrats believe that grade-level proficiency must be used in combination with student growth and high school graduation rates within accountability systems to ensure systems are working to improve student outcomes without creating or furthering incentives to push out students in need of targeted interventions. In-line with research-based approaches to improving student outcomes, Representative Wilson offered an amendment to reinstate and improve dropout prevention programming within ESEA that was defeated despite unanimous support from Committee Democrats.

Additionally, while H.R. 5 requires school improvement systems be established, it does not establish any parameters for identifying schools for improvement. Therefore, there is no assurance that schools that are failing to improve student achievement or address resource inequities will be required to take action to improve. Specifically, H.R. 5 does not define categories of schools denoting needed academic interventions or supports, nor does it establish any parameters on interventions in such schools that may be identified. The bill does not establish timelines for improvement, expectations for local or state educational agency support for improvement, or consequences if schools do not improve. Committee Democrats believe that the expectation of support for all public schools to improve academic achievement, through locally-driven evidence-based interventions to address unique school and community needs must be clearly articulated in federal law. Once schools are identified for supports or improvement, it is incumbent on all stakeholders to work diligently, in partnership, to ensure that no student languishes in schools incapable or unwilling to meet students' needs. Mr. Polis offered an amendment to reinstate and improve provisions setting federal guardrails for school improvement activities. Unfortunately this amendment was defeated by a partisan voice vote.

H.R. 5 also fails to recognize the critical role of the U.S. Department of Education in implementing the law and providing oversight of federal funds by prohibiting the Secretary of Education from providing guidance on any of the bill's standards, assessments, or accountability provisions. This short-sighted and highly partisan legislative approach assumes both a perfect bill in need of no future clarification or guidance and a stagnant education system, incapable of adapting to the changing needs of an increasingly global economy. Under H.R. 5, the Secretary would be prohibited from simply assisting states with guidance when implementation on the ground may be unclear or challenging. Additionally, this provision would ensure that regulations, including those establishing requirements on graduation rates or the one percent cap on the number of students taking alternate assessments, could not be upheld. Committee Democrats unanimously opposed an amendment offered by Mr. Russell under the guise of data privacy that would have far-reaching consequences in hindering Secretarial authority.

H.R. 5 also removes current law protections on collective bargaining rights that ensure teachers are included in the school improvement process, rather than being silenced or sidelined. The

removal of this provision ignores both the rights of teachers to collectively bargain and their important role in turning around struggling schools and improving student achievement.

### **Students with Disabilities**

H.R. 5 dismantles equity protections for many groups of students; however, the failures of H.R. 5 will be especially detrimental for students with disabilities. Over the course of the past decade, students with disabilities have significantly benefited from the accountability and reporting requirements under current law which mandate that schools not only measure and report the academic achievement of every child, but are also held accountable for each student's progress.<sup>9</sup> As a result, thousands more students with disabilities have been afforded the opportunity to learn – and master – grade-level academic content and graduate from high school college- and career-ready.

Students with disabilities have made considerable gains thanks to current law's focus on all schools and all student subgroups, including not only improved participation rates, but also improved academic achievement on grade-level reading and math assessments. Students with disabilities have benefited greatly from increased access to the general curriculum and from higher expectations for student achievement due, in large part, to the requirement that participation and proficiency of all subgroups be measured, reported, and used for the planning and implementation of interventions. Simply put, by removing subgroup accountability, H.R. 5 will undoubtedly hinder, and almost certainly eliminate the gains made by students with disabilities.

The Republican bill seeks to radically reduce expectations for students with disabilities, allowing states to teach and assess this population of students to an alternate and less-challenging set of content and achievement standards, only intended for students with the most significant cognitive disabilities. Furthermore, H.R. 5 would remove current restrictions on the use of student scores on such assessments for local and state educational agency accountability purposes, allowing states to administer and report on a lower standard for as many students with disabilities as the state sees fit, despite consistent research demonstrating the incidence of students with the most significant cognitive disabilities to be less than one percent of the student population.<sup>10</sup> To ignore this data by eliminating any federal limitation on the use of lower standards and less challenging assessments will result in lack of access to general curriculum and lower expectations for students with disabilities, turning back the clock on equity protections for this vulnerable group of students.

H.R. 5 lacks any requirements that all schools be held accountable for student achievement at the subgroup level or that schools receive extra resources and support if and when they fail to produce progress for *all* students. When coupled with provisions to allow states to establish

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<sup>9</sup> Statement of Katy Beh Neas, Executive Vice President for Public Affairs, Easter Seals, before H. Comm. on Educ. & the Workforce Minority Forum on the Elementary and Secondary Education Act, February 5, 2015.

<sup>10</sup> Advocacy Institute (2013). "Diplomas at Risk: A Critical Look at Graduation Rate of Students with Learning Disabilities". Retrieved from <http://www.advocacyinstitute.org/resources/Diplomas.at.Risk.pdf>. ; Kearns, J., Kleinert, H., Harrison, B., Sheppard-Jones, K., Hall, M., Jones, M. (2010). What does 'college and career ready' mean for students with significant cognitive disabilities? Lexington: University of Kentucky. Retrieved from <http://www.naacpartners.org/publications/CareerCollegeReadiness.pdf>.

alternate standards and alternate assessments with no assurances for quality or alignment, as well as the repeal of any limitation on usage of lower standards, H.R. 5 will place millions of students with disabilities at acute risk of receiving a subpar education and rob them of the ability to access postsecondary education or competitive integrated employment.

This irresponsible approach to educational equity for students with disabilities is why leading disability rights coalitions and groups stand unified in firm opposition to H.R. 5 including the National Center for Learning Disabilities, National Disability Rights Network, Council for Exceptional Children, Disability Rights Education & Defense Fund, the Collaboration to Promote Self Determination, the Council of Parent Attorneys and Advocates, and the Consortium for Citizens with Disabilities.

### **Fiscal Responsibility, “Flexibility,” and Undermining Civil Rights**

H.R. 5 undermines fiscal responsibility for special populations of students, reduces fiscal transparency, and cuts education funding.

#### ***Special Populations***

Under the guise of flexibility, H.R. 5 attacks the rights of special populations of students. H.R. 5 consolidates the following programs as percentage set-asides under Title I, Part A: English Language Learners (currently Title III); Education of Migratory Children (currently Title I-C); Neglected and Delinquent Students (currently Title I-D); and Rural Education Initiative (currently Title VI-B) repealing long-standing provisions establishing separate authorizations for these critical programs. The bill also allows for funds traditionally to be shared across what would be the new Title I, Part A, permitting states and districts to siphon funds away from the very populations that drive certain ESEA funding allocations and that the law intended to serve.

The Republicans claim these current law funding streams are inflexible, but the reality is states and districts have few, if any, restrictions on how the funding can be used. The only restriction is on whom the funding supports. The Republicans additionally claim that they maintain the funding streams for these populations, but they merely make them a percentage set-aside of Title I and then allow complete flexibility in how districts utilize those funds.

Current law establishes separate funding streams to help ensure the needs of English language learners, migrant students, and neglected and delinquent students are being met. Title III, part A of the Elementary and Secondary Education Act was created, after the *Lau vs Nichols* Supreme Court ruling, to help ensure that English learners attain English proficiency, develop high levels of academic attainment in English, and meet the same state academic content and student academic achievement standards that all students are expected to meet. This program supports 4.6 million English learners in the United States. Over the last ten years, the English learners population has increased over 7.1% yet appropriation levels have not kept pace with the growing need.<sup>11</sup> The educational needs of migrant children go well beyond those traditionally supported by state and local budgets and, due to their high mobility, no single state or district is responsible for their education. In turn, the schools that serve high concentrations of migrant students are

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<sup>11</sup> Statement of Delia Pompa, Senior Vice President Programs, National Council of La Raza, before H. Comm. on Educ. & the Workforce Minority Forum on the Elementary and Secondary Education Act, February 5, 2015.



among the Nation's highest-need schools. Title I, Part C was created to provide additional funding to support migrant students. This program currently serves about 500,000 students. Authorized over 40 years ago, Title I, Part D creates both a state and local program intended to improve educational services for students who are neglected, delinquent, or at risk of dropping out of school. This program currently serves over 100,000 students.

Democrats believe funding allocated based on the number of children in need of services -- from the number of migrant students, the number of neglected or delinquent students, or the number of English Language Learners -- should be used for services to improve educational outcomes for those students. In addition to an amendment offered by Representative Hinojosa to restore Title III as a separate program, the comprehensive Democratic substitute amendment maintained dedicated funding for each of these vulnerable student populations and increased program authorization levels to be reflective of current need. Increasing flexibility is needed in this reauthorization, but it must be grounded in increasing equity and improving student achievement. This flexibility can be accomplished by aligning data and allowing flexibility in school improvement. Arbitrary flexibility policies, as put forth by H.R. 5, undermine equality of opportunity and hinder our economic competitiveness.

### ***Fiscal Accountability and "Portability"***

H.R. 5 also eliminates fiscal accountability by striking the current law "maintenance of effort" provisions (MOE). Under the Republican bill, states and districts will be able to reduce their nonfederal education spending without any penalty. This provision will allow states and districts to use education funds for tax relief or other initiatives unrelated to education, rather than efforts to support students. Federal investment in public education is limited and intended to supplement state and local resources. Numerous federal court cases contesting states' attempts to utilize federal ESEA Title I funds to supplant existing state funds have produced court rulings upholding the federal government's right and interest in requiring maintenance of effort.

Under current law, MOE requires states and districts receiving Title I funds to spend at least 90 percent of what they spent in the previous year from nonfederal sources. This helps to prevent big decreases in education investment, whether driven by tough budget times or genuine desire to reduce education funding. There is evidence that absent MOE provisions in federal law, states cut education spending, effectively redirecting federal funds to non-education related expenditures at the cost of the state's most vulnerable students and in-need communities where funding from public sources is already low. Data suggests that MOE provisions included in the American Recovery and Reinvestment Act (ARRA) requiring states to maintain fiscal effort at FY2006 level influenced a critical mass of state governments to reduce state education spending. Analysis of data from Phase II ARRA applications reveals that MOE, not state formulaic priorities was the overriding factor in many states' spending decisions; nine states reduced their funding for higher education in FY2010 to within one percent of their FY2006 federal MOE threshold, and three states set their higher education budgets exactly at the minimum MOE threshold required by ARRA. Additionally, the Department of Education Office of the Inspector General report found that while many states were planning on level funding K-12 education

programs, they ultimately submitted applications to decrease funding to FY2006 levels after learning of lower maintenance of effort requirement.<sup>12</sup>

The Republicans claim the MOE provision amounts to “federal overreach.” However, maintenance of effort makes requirements about the levels of state and local spending, not about *how* money should be spent.

In fact many local educators recognize the importance of maintenance of effort. In a forum on ESEA reauthorization hosted by Ranking Member Scott, we heard from the President of the Council of the Great City Schools, who described ESEA’s MOE provisions as, “among the most critical provisions and successful components of federal education law – and among the most effective things the federal government does.”<sup>13</sup>

Committee Republicans claim that because they maintain the “supplement, not supplant” provision they maintain fiscal accountability. However, eliminating the maintenance of effort requirement and providing complete flexibility in how districts spend their federal dollars, means there is no requirement under H.R. 5 to actually measure whether districts are using federal money to supplement not supplant local money. “Supplement, not supplant” will become meaningless, and education spending across the country will decrease. Democrats believe the maintenance of effort provision must be maintained to ensure tax dollars are being spent responsibly.

In addition to eliminating MOE requirements, H.R. 5 will allow school districts to remove Title I funding from the neediest schools and divert it to more affluent schools under the innocently titled “portability” proposal. Portability has been marketed based on the slogan that Title I dollars should be placed in a “backpack” and follow a child to the school of his or her choice. As appealing as this may sound, the net effect of portability would be a billion dollar redistribution of Title I money away from poor schools towards more affluent ones. In a recent report, the Center for American Progress suggested that Title I portability could result in America’s poorest school districts losing more than \$675 million in Title I funding, while districts with the low levels of poverty could gain \$440 million.<sup>14</sup>

In a final blow to fiscal accountability, H.R. 5 also removes the 40% cap required for schools to use Title I funds for school-wide programming. Under current law, schools can reserve a portion of Title I funding at the school level to run school-wide programs if at least 40% of their students qualify for Title I funds. The rationale is that in schools with such high proportions of Title I students; school-wide program will invariably benefit them. In removing the cap, a school will now be able to retain some Title I funding to run a school-wide program even if only a handful of children receive Title I funds. Removing the cap is a yet another policy choice where H.R. 5 tips the scales away from the children most in need of resources. Representative Fudge offered

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<sup>12</sup> U.S. Department of Education (2009). “Potential Consequences of the Maintenance of Effort Requirements under the American Recovery and Reinvestment Act State Fiscal Stabilization Fund”.

<sup>13</sup> Statement of Michael Casserly, President, Council of the Great City Schools, before H. Comm. on Educ. & the Workforce Minority Forum on the Elementary and Secondary Education Act, February 5, 2015.

<sup>14</sup> Max Marchitello & Robert Hanna, Ctr. For Am. Progress, Robin Hood In Reverse: How ESEA Title I, Part A “Portability” Takes From The Poor And Gives To The Rest 2 (2015).

an amendment that was cosponsored by Representative Pocan to restore the intent of ESEA by targeting limited funds to concentrations of poverty by repealing these harmful proposals. This amendment was defeated despite unanimous support from Committee Democrats.

### ***Funding***

H.R. 5 caps funding at FY15 appropriations levels and caps annual increases based on the inflation rate. Democrats believe education funding should not be held to arbitrary caps and that funding should reflect national need and priority if our nation is to remain globally competitive.

According to the Committee for Education Funding, a coalition of 115 national education associations and institutions representing birth to postgraduate education, the impact of H.R. 5 would be devastating on our nation's students and schools—

*"H.R. 5 sets the aggregate ESEA authorization level for FY2016 and for each of the succeeding years at the aggregate FY2015 funding level of \$23.30 billion. Doing so locks in over \$800 million in cuts to these programs. Should this bill become law, locking in the sequester levels as the authorization levels through FY2021 would prevent the Congress from increasing funding for ESEA programs even if the sequester were replaced or revised at any time in the next six years.*

*ESEA programs have already been cut multiple times in the past two and a half years. The FY 2011 continuing resolution cut ESEA programs by an aggregate \$1.43 billion. The FY 2012 omnibus appropriations bill cut ESEA funding by another \$99 million. The final FY 2013 level, after both a 0.2 percent across-the board cut and then the 5 percent sequester cuts, slashed another \$1.26 billion from ESEA programs. These waves of cuts have come at a time when enrollments have increased, more children are living in poverty, and schools and students have endured deep state and local budget cuts."*

Democrats believe H.R. 5 would put the nation on the wrong path. Such low funding levels would make it more difficult for schools to accomplish the mission of improving student achievement and graduation rates, despite supposedly greater flexibility offered to states and districts. More flexibility but with far less funding is hardly a beneficial bargain.

Public polls show the American public agrees—

- According to a national survey by the Pew Research Center for the People & the Press, only a mere 10 percent of the public supports decreasing funding for education programs, while 60 percent wants to increase spending.
- A Bloomberg News poll found that 67 percent of the public believes education funding should not be cut at all by the sequester.

Now is the time to increase, not decrease, federal investment in education. As states transition to new standards, assessments, and accountability and school improvement systems, they need the federal government to be a partner in supporting their work. As U.S. students compete globally

for high-wage, high-growth jobs, Congress must invest in their education, not gut funding as H.R. 5 does.

### **Waiver Authority**

H.R. 5 limits the waiver authority of the Secretary of Education, apparently in response to the voluntary flexibility offered by the Department of Education to certain provisions of current law. As of December 2015, 42 states and a consortium of districts in California have received waivers from the most restrictive provisions of No Child Left Behind and are operating under state-developed accountability systems. Currently one state is awaiting approval of a pending application for ESEA Flexibility.

While Committee Republicans have questioned the legal authority of the Department of Education to grant conditional waivers, Sec. 9401 of current law clearly provides the Secretary of Education broad waiver authority. The waiver authority currently used by the Secretary of Education mirrors authority used by Secretary Margaret Spellings to administer the Differentiated Accountability Pilot in 2008 and the Growth Model Pilot in 2005.

Additionally, the nonpartisan Congressional Research Service (CRS) in their February 2012 report entitled *Educational Accountability and Secretarial Waiver Authority Under the ESEA* and in a June 2011 memo to the Committee on Education and the Workforce Majority Committee Staff has explained the legal authority of the Department of Education to provide this flexibility. In the February report, CRS states:

*"Based on the plain language of the statute, the scope of ED's waiver authority appears to be quite broad, suggesting that ED may indeed have the authority to waive the various requirements of the ESEA specified in its flexibility proposal. This interpretation is bolstered by the fact that, although the ESEA previously contained similar waiver authority, Congress expressly enacted the current waiver provisions as part of the No Child Left Behind Act amendments to the ESEA, signaling that Congress clearly understood and intended for ED to waive the requirements of that act when appropriate."*

The report further states:

*"...the courts will generally uphold an agency's exercise of its statutory waiver authority so long as the agency develops an adequate record regarding its decision to grant a waiver and ensures that the waiver is granted consistent with the statutory purposes and procedures set forth in the section authorizing such waivers. As a result, it appears that ED does have the authority to waive ESEA statutory requirements related to issues such as academic standards and assessments; accountability requirements, including the timeline by which all students are to be proficient in reading/language arts and mathematics; school improvement, corrective action, and restructuring requirements; and public school choice and supplemental educational services, as long as ED develops the aforementioned adequate record and ensures that the waiver is granted consistent with the statutory purposes and procedures set forth in Section 9401."*

CRS also highlights the voluntary nature of the waivers currently offered by the Department of Education.

## **H.R. 5 Fails to Support Teachers and School Leaders**

Federal policy must ensure that every student graduates from high school prepared for college and the workforce. In order to achieve that goal, every student must have access to an effective teacher. Unfortunately, H.R. 5 does not increase access to effective teachers. The bill fails to provide support to teachers to ensure that they are successful. In addition, H.R. 5 also fails to ensure that we have the most effective school leaders in every school.

H.R. 5 does not support collective bargaining rights of teachers, and it does not require states and districts to ensure that teachers' voices are involved in the creation and implementation of the educator effectiveness system. H.R. 5 also does not take into consideration the working conditions of teachers and leaders, including those related to school safety. In addition, the bill does not support access to effective or qualified teachers for all students, particularly minorities and students from low-income families. Research has shown the need for such equitable distribution policies because, for decades, low-income and minority students have been taught by teachers and are assigned to schools with less qualified and effective teachers and principals, respectively.<sup>15</sup> This policy is a critical component of the federal responsibility to ensure equal access to a quality public education and omitting it from federal law abandons this responsibility.

The Democratic substitute put the needs of students first by requiring states and districts to address the equitable distribution of effective and qualified teachers and school leaders to ensure they reach the students that need them the most. Committee Democrats believe states and districts should be required to develop and implement a plan to ensure students are taught and schools are led by qualified and effective teachers and school leaders at equal rates across a district. Congressman Grijalva offered an amendment to address inequitable distribution of teachers, but this amendment was defeated despite unanimous support from Committee Democrats.

H.R. 5 establishes an arbitrary cap on class size funding. This provision ignores very clear research that class size reduction in early grades is effective in improving student achievement. The first large-scale experiment on small class size was the Tennessee Student/Teacher Achievement Ratio (STAR) program. Several studies on the STAR program and other similar class reduction programs confirm substantial academic gains for K–3 students in smaller classes compared to students in larger classes.

H.R. 5 eliminates the current law minimum threshold for teacher quality by striking the Highly Qualified Teacher definition. Current law contains many provisions related to improving teacher quality, including the requirement that all students be taught by highly qualified teachers. In order to become a highly qualified teacher, NCLB requires that teachers possess a baccalaureate degree and a state teaching certificate. Teachers are also required to demonstrate content

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<sup>15</sup> Borman, G. D., & Dowling, N. M. (2008). Teacher attrition and retention: A meta-analytic and narrative review of the research. *Review of Educational Research*, 78(3), 367–409. doi:10.3102/0034654308321455 ; Clotfelter, C. T., Ladd, H. F., & Vigdor, J. (2005). Who teaches whom? Race and the distribution of novice teachers. *Economics of Education Review*, 24(4), 377–392.; Clotfelter, C. T., Ladd, H. F., Vigdor, J. L., & Wheeler, J. (2007). High-poverty schools and the distribution of teachers and principals. *North Carolina Law Review*, 85(1348).

knowledge for the subjects and grades they teach. Over the past ten years, research has shown that teacher quality is one of the most important factors in student achievement. Current law's provisions requiring minimum standards for teachers prior to entering the classroom were an important step forward in improving education for both teachers and students. H.R. 5 undermines this advancement by not only eliminating current law requirements, but also by failing to set any new minimum standards for teachers before they enter the classroom.

H.R. 5 also arbitrarily eliminates Title II of Higher Education Program, which provides federal support for high quality teacher training. Though improvements must be made to that system, stripping funds from the programs that train and educate 95 percent of teachers is not an effective strategy to achieve that goal. Along with removing this essential component of successful public education, the bill excludes state authority to connect their teacher preparation programs to information about those programs' graduates, which may include data on student outcomes, workplace conditions, and educator diversity. This data link can help policymakers better understand what is working in preparing effective teachers and leaders and how to best support such approaches.

The Democratic substitute amendment would restore Title II of the Higher Education Act. Committee Democrats would update the program to ensure that teachers are prepared to teach students to new college and career ready standards and allow states to establish a data system link between districts and pre-service programs to improve program quality. These provisions were offered by Representative Davis as an amendment to H.R.5 which was defeated along a party line vote.

### **H.R. 5 is Fiscally Irresponsible**

H.R. 5 creates a block grant that is yet another example of the Republican failure to learn from the lessons of the past ten years and improve upon current law. The bill provides limited funding to states and districts to address the needs of students ranging from STEM to literacy to the arts to after school activities. Block grants are the first step to eliminating programs under the guise of increased flexibility for administrators. In addition, block grants fail taxpayers because there is no accountability for how funds are spent. Block grants make it difficult to collect standardized data and monitor interventions to determine effectiveness. Additionally, under the Republican proposals to eliminate maintenance of effort requirements it is likely that block grant funds will only be used to fill the holes left after states re-direct public education dollars to other areas.

Moreover, block grants spread funding too thin. When there is no concentration of resources on a specific area or population, there is no observable change. Block grants reduce the ability to demonstrate what programs work and at what funding levels they work best. While funding is only a part of the education policy equation, spreading money out over multiple education programs disrupts the ability to determine how much is the right amount to have an effect and under which conditions.

Block grants have been tried in ESEA before, and they failed. During the Reagan Administration portions of Title I funding were block granted to states with little federal oversight as to how the

funds were distributed. Consequently, many politically connected suburban districts received larger Title I allocations than they had in the past. Poorer districts, whose high numbers of children in poverty were responsible for bringing the majority of Title I dollars to states, often received less money than they had before block granting.<sup>16</sup>

Block grants are also the first step towards the defunding of programs. During a recent forum on ESEA reauthorization hosted by Ranking Member Scott and held due to Republicans' refusal to hold a single ESEA hearing, the President of the Council of the Great City Schools drew from the history of block grants in federal education funding:

*"When those initiatives [aimed at the needs of poor and low-achieving students] were at risk, the threat often came under the banner of budget cuts, program consolidation, and regulatory simplification. The mechanism for implementing those priorities was typically block grants. But, once consolidated or "block granted", the remaining funding was often diluted and then eroded until it lost its purpose and effect... We are not concerned about block grants and program consolidation for philosophical or ideological reasons; we are concerned for historic reasons. Where we have seen these consolidations, we eventually also see the erosion of priorities for our neediest children."<sup>17</sup>*

Based on this history, block grants, especially when combined with other H.R. 5 fiscal policies (relaxation of MOE requirements, lifting of the school-wide program cap, "portability") would dismantle one of the core tenets of ESEA – targeting federal funding at concentrations of poverty as a means of bringing equity to our nation's educational system. Committee Democrats support keeping the focus of ESEA on our children most in-need, and not turning the program into an educational slush fund.

### **H.R. 5 Fails to Support 21<sup>st</sup> Century Community Learning Centers**

H.R. 5 eliminates all dedicated support for additional learning time (including before-, after- and summer school programs, and expanded learning time). After-school programs, supported by current federal 21st CCLC funding have proved successful in developing the academic, social, emotional and physical needs and interests of students that results in improved student achievement.

For example, in a 20-year UCLA longitudinal study, researchers found that LA's BEST—a program funded in part by 21st CCLC—elementary school students in after school who participated for three or more years were nearly 20 percent less likely to drop out years later than similar students who did not attend LA's BEST.<sup>18</sup> A 2011 UCLA study confirmed the lasting

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<sup>16</sup> E.g., State's Impact on Federal Education Policy Project, Federal Education Policy and the States, 1945-2009: A Brief Synopsis 46-47, New York State Archives, 2006. Retrieved from [http://www.archives.nysed.gov/edpolicy/altformats/ed\\_background\\_overview\\_essay.pdf](http://www.archives.nysed.gov/edpolicy/altformats/ed_background_overview_essay.pdf).

<sup>17</sup> Statement of Michael Casserly, President, Council of the Great City Schools, before H. Comm. on Educ. & the Workforce Minority Forum on the Elementary and Secondary Education Act, February 5, 2015.

<sup>18</sup> Huang, D., Kim, K.S., Marshall, A., & Perez, P. (2005). *Keeping kids in school: An LA's BEST example*. Los Angeles, CA: National Center for Research on Evaluation, Standards and Student Testing, University of California, Los Angeles. [http://www.lasbest.org/what/publications/Keeping\\_Kids\\_in\\_School\\_Exec\\_Sum.pdf](http://www.lasbest.org/what/publications/Keeping_Kids_in_School_Exec_Sum.pdf); LA's BEST After

impact of high-quality after school programs, showing that students who participated in LA's BEST in their elementary school years demonstrated academic gains in math, science and history.<sup>19</sup> After-school programs also provide safe learning environments for many low-income students who would otherwise be unsupervised and whose families cannot afford needed enrichment opportunities.

In recent studies of public schools where low-income students were shown to excel, more instructional time than conventional schools or expanded learning time was an essential factor. The Mid-continent Research for Education and Learning (McREL) found that experienced teachers believed that they needed at least 20 percent more hours to teach the four core academic subjects—English language arts, mathematics, social studies, and science—than are available in a standard school year.<sup>20</sup>

Despite a lack of hearings on ESEA reauthorization this Congress, we have heard from experts regarding the importance of student supports. At a 2011 hearing entitled, "Education in the Nation: Examining the Challenges and Opportunities Facing America's Classrooms", when asked about the importance of non-academic supports for students and additional learning time, witness Ted Mitchell, CEO and President of the NewSchools Venture Fund, said "In the schools where we work, it is no surprise that extending the school day and providing some of those kinds of supports, but also the extended safe period for kids, has become one of the trends that no one prescribed, but it has just grown up over time. And the research on extended learning time that is growing, first out of Massachusetts and now in other states, is quite compelling, that extended learning time can go a long way to addressing many of those needs."

In addition, the National Center on Time & Learning found that 9 in 10 schools considered their longer day and year to be essential to meeting their educational goals in a survey of nearly 250 schools that feature an expanded schedule.<sup>21</sup> H.R. 5 ignores the research. Instead of improving on current law, the bill moves our educational system backwards and fails to meet the needs of students, jeopardizing their future success by removing effective federal policy.

Committee Democrats believe in maintaining the 21<sup>st</sup> Century Community Learning Centers program and the Democratic substitute amendment continues support for before-, after-, and summer school programs, as well as expanded learning time opportunities. The need to engage and support more students is urgent. Now more than ever, we need to be providing students with additional learning time to achieve a high-quality education and skills that meet the needs of the 21st Century. Representative DeSaulnier offered an amendment to reinstate this vital program

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School Enrichment Program. (2006). *Annual Report 2005-2006. Caught up in the act ... of success.*  
[http://www.lasbest.org/what/publications/annual\\_reports/AR0506-web%5B1%5D.pdf](http://www.lasbest.org/what/publications/annual_reports/AR0506-web%5B1%5D.pdf)

<sup>19</sup> UCLA National Center for Research on Evaluations, Standards, and Student Testing (CRESST). (2011). Supporting student success in middle schools: examining the Relationship between elementary afterschool program participation and subsequent middle school attainments. Executive summary.

<sup>20</sup> Judy Florian, "Teacher Survey of Standards-Based Instruction: Addressing Time" (Aurora, CO: Mid-Continent Research for Education and Learning, 1999).

<sup>21</sup> Center for American Progress (2010). "Transforming Schools to Meet the Needs of Students". Retrieved from <https://www.americanprogress.org/issues/education/report/2010/02/17/7264/transforming-schools-to-meet-the-needs-of-students/>.



that was defeated along a party line vote, despite earlier comments from Representative Barletta supporting maintenance of dedicated funding for afterschool programming.

### **H.R. 5 Fails to Support the Social and Emotional Needs of Students**

H.R. 5 eliminates all dedicated support for wrap-around services essential to increasing student achievement. A student's mental, social, or emotional health, including problems such as depression, bullying, or alcohol and substance abuse, can create barriers to learning. Such barriers exist for an increasingly large number of students. Research clearly shows that students suffering from these problems suffer declining test scores and diminished academic functioning. An estimated 20 percent of school-age students will experience a significant mental health problem during their school years.<sup>22</sup> Further, some research suggests that up to 71 percent of youth experience at least one victimization event each year (for example, assault, theft, criminal victimization, or child maltreatment), with many exposed to multiple victimizations.<sup>23</sup>

In the hearing, "Education in the Nation: Examining the Challenges and Opportunities Facing America's Classrooms," on February 10, 2011, when asked if it was important to provide wrap around services in schools, Republican witness and Indiana Superintendent of Public Instruction Tony Bennett said, "So, you know, we have to make tough decisions. This goes to that statement about marrying fiscal policy and education policy. We have to put our money into the things that are going to drive results. And these school corporations that have done this around the state of Indiana have had to make tough fiscal decisions to provide these services for children, but they have made a difference in the lives of those children." H.R. 5 fails to invest in the services that are successful and drive results.

Students show improved outcomes when they have access to school-based mental health services. Research shows that students who have access to and receive social, emotional, and behavioral health support demonstrate better grades and standardized test scores.<sup>24</sup> In addition, school mental health programs have been shown to decrease absences and discipline referrals.

Unfortunately, H.R. 5 again ignores the research. By failing to provide dedicated support for wrap-around service, the bill fails to recognize the very real needs of students, fails to acknowledge and support what is actually working on the ground, and undermines the ability of schools to meet the needs of their students.

Students have to feel safe in school in order to learn and succeed in school. For too many poor and low-performing students, their school and its surroundings are not places where they feel safe. In some communities, the school itself can be a contributor to delinquent behavior and gang activity. Fortunately there are established proven practices that can intervene in the lives of

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<sup>22</sup> Kutash, K., Duchnowski, A. J., & Freidman R.M. (2005). The system of care twenty years later. In M.H. Epstein, K. Kutash, & A. J. Duchnowski (Eds.), *Outcomes for children with emotional and behavioral disorders and their families: Program and evaluation best practices* (2nd ed., pp.3-22). Austin, TX: Pro-Ed.

<sup>23</sup> Finkelhor, Ormrod, Turner, & Hamby (2005). "Children's Exposure to Violence: A Comprehensive National Survey". *Child Maltreatment*. 10(1): 5-25.

<sup>24</sup> Jennings, Pearson, and Harris M. (2000). "Implementing and maintaining school-based mental health services in a large, urban school district". *Journal of School Health*. Accessed: <http://www.sedl.org/connections/resources/citations/171.html>

students at risk of becoming involved in these activities, and prevent others from heading down that path. These programs are an alternative to zero-tolerance discipline policies in place in many schools, which many suggest are partially responsible for the creation of the School to Prison Pipeline.

Committee Democrats dedicate funding for grants to support student safety, health, and success. Under these grants, schools can establish comprehensive continuums of evidence-based prevention and intervention programs designed to reduce delinquent behavior and gang activity in and around schools. Based on their need, schools can use these funds on a variety of programs, from providing safe passage to students to and from school, to professional development for teachers and other education professionals to recognize early warning signs of bullying and harassment. By requiring an evidence base and prohibiting the use of funds for zero-tolerance policies, Committee Democrats hope to foster positive learning environments in all our schools, while using limited federal resources in a cost-effective manner.

### **H.R. 5 Fails to Support a Well-Rounded Education for Students**

One of the criticisms commonly heard about No Child Left Behind is that it forced schools to narrow their curriculum. Despite these criticisms, H.R. 5 eliminates all dedicated support for critical programs addressing STEM, literacy, and other subject matter that provide for a well-rounded education. A number of interventions and practices have been shown to increase student literacy skills; school districts just need the support to scale up best practices and implement them in the classroom. With federal support, 46 states are already working to implement comprehensive literacy strategies to strengthen our students' ability to compete in the 21<sup>st</sup> century economy. Unfortunately, H.R. 5 eliminates support for literacy and once again fails to acknowledge actual need and what is working in schools.

STEM occupations are projected to grow by 17 percent from 2008 to 2018, compared to 9.8 percent growth for non-STEM occupations.<sup>25</sup> Committee Democrats believe that federal policy must keep pace with the increased demand for STEM occupations. Dedicated resources to STEM education have already led to increases in student achievement. From 1990 to 2007, average mathematics scores increased by 27 points for fourth graders.<sup>26</sup> However, when compared to other nations, the math and science achievement of U.S. pupils and the rate of STEM degree attainment appear inconsistent with a nation considered the world leader in scientific innovation. According to the 2009 Program for International Student Assessment, out of 65 countries, the U.S. ranked 20th in reading, 23rd in science and 30th in math.<sup>27</sup> H.R. 5 does nothing to increase student achievement in STEM subjects. It ignores the very real need to support STEM learning in order to graduate students who will be competitive in STEM careers.

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<sup>25</sup> United States Department of Commerce: Economics & Statistics Administration. (2011). "STEM: Good Jobs Now and For the Future" Accessed: <http://www.esa.doc.gov/Reports/stem-good-jobs-now-and-future>

<sup>26</sup> National Science Foundation. "Chapter 1: Elementary and Secondary Mathematics and Science Education". Accessed: <http://www.nsf.gov/statistics/seind12/pdf/c01.pdf>.

<sup>27</sup> Program for International Student Assessment (2012). "Selected Findings from PISA 2012". Retrieved from [http://nces.ed.gov/surveys/pisa/pisa2012/pisa2012highlights\\_1.asp](http://nces.ed.gov/surveys/pisa/pisa2012/pisa2012highlights_1.asp).

Instead of taking steps forward to support innovative and effective reform, H.R. 5 once again undermines the needs of America's students, fails to improve on current law, and fails to provide support for literacy, STEM, and other subjects such as art, history, economics, and much more.

Committee Democrats support providing a well-rounded education for students, ensuring that students have access to high-quality literacy and STEM curriculum, including a STEAM curriculum, as well as highly skilled teachers to implement that curriculum. Committee Democrats believe it is unacceptable that American fifteen-year-olds rank fourteenth among developed nations in reading, lagging behind such countries as Poland, Iceland, and Estonia.<sup>28</sup> The Democratic substitute recognizes that reading and writing are absolutely critical to a student's education, and to the nation's economy. The substitute provides funds to implement state literacy plans and provides support for professional development, curriculum, assessments and other academic supports for districts and schools.

By providing continued support, the Democratic substitute also recognizes the Ready to Learn program as a highly cost-effective and efficient manner of providing all American families with access to educational media that has been proven to help children learn. Since 2005, more than 80 research and evaluation studies have demonstrated that public media's multimedia literacy and math content engages children, enhances their early learning skills and allows them to make significant academic gains helping to close the achievement gap<sup>29</sup>. The program uses public media's research-based educational content to build the math and reading skills of children between the ages of two and eight, especially those from low-income families. For the 54 percent of American children ages three to four who are not in preschool, Ready-to-Learn content provides an essential "school readiness" experience.

The Democratic substitute provides support beyond literacy and STEM so that students have access to diverse subject areas including American History, Civics, Geography, Economics, Entrepreneurship, Financial Literacy, Foreign Languages, Arts education, and Javits Gifted and Talented programs. In addition to ensuring a broad curriculum, the Democratic substitute supports investment in the identification and dissemination of innovative new programs and instructional strategies to increase student achievement and improve graduation rates. Representative Courtney offered an amendment to require dedicated funding for STEM education and education technology that was defeated despite unanimous support from Committee Democrats. Representative Adams offered an amendment to require dedicated funding for access to a well-rounded education that was also defeated despite unanimous support from Committee Democrats.

### **H.R. 5 Fails to Support School Readiness of Students**

Decades of research have found that high-quality early childhood education programs lead to better student achievement in school, higher graduation rates, lower special education placements and grade repetition, while increasing postsecondary participation, job earnings and

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<sup>28</sup> U.S Department of Education –National Center for Education Statistics. (2009). "Reading 2009: National Assessment of Educational Progress at Grade 4 and 8". Accessed: <http://nationsreportcard.gov/reading>.

<sup>29</sup> Corporation for Public Broadcasting, (2010). "Findings from Ready to Learn 2005-2010". Retrieved from <http://www.cpb.org/rtl/FindingsFromReadyToLearn2005-2010.pdf>.

reducing reliance on social services and involvement in the criminal justice system. These outcomes translate into massive public cost savings, calculated at a \$7-8 return for a \$1 investment.<sup>30</sup> H.R. 5 does not support quality preschool, despite strong research showing its positive impact on life outcomes and the reality that less than half of low-income children have access to early learning programs. The Democratic substitute, by contrast, recognized the evidence-based concept that learning occurs before Kindergarten and provided significant resources to support states' efforts to provide high-quality preschool to children from low-income families so they are prepared to succeed in school. The Democratic substitute also would have strengthened existing coordinating provisions by requiring school districts to form agreements with Head Start and other early education programs in key areas, such as enrollment, recruitment and professional development. Representative Clark offered an amendment to authorize a dedicated funding stream to support state partnerships for early childhood education. Despite bipartisan support at the state and federal level and broad recognition of the return on investment on early learning programming, this amendment was defeated along a party line vote.

### **H.R. 5 Fails to Protect the Rights and Well-Being of Vulnerable Students**

While H.R. 5 makes “school safety” a delineated allowable use of funds under the large, catch-all block grant, the measure does nothing to meaningfully address known safety risks facing students and school personnel. H.R. 5 lacks any mention of, or protections against the overreliance on use of seclusion and restraint as disciplinary tactics and makes no effort to encourage or incentivize the implementation of school-wide positive behavioral supports. In establishing school employee criminal background check policies, H.R. 5 lacks key protections for both children and school personnel. The bill has no federal minimum timelines for updating background checks and excludes an appeals process for employees whose records are incomplete or inaccurate. The Democratic substitute would include a fair and timely appeal process and required school employees to update their checks at least every five years. Additionally, H.R. 5 is silent on protecting the rights of lesbian, gay, bisexual, and transgender students, including against devastating bullying and harassment, despite the prevalence of harmful actions against this population of students. H.R. 5 also lacks systemic mechanisms for ensuring that students in foster care or who are homeless have access to quality education. The Democratic substitute included provisions requiring school districts and child welfare agencies to coordinate records sharing, point of contact and transportation to school for children in foster care.

### **Broad Opposition to H.R. 5**

H.R. 5 was opposed by a broad array of education, civil rights and business organizations. Groups, representing students, teachers, school leaders, parents, and business wrote letters in

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<sup>30</sup> Heckman, James J., Moon, Seong Hyeok, Pinto, Rodrigo, Savelyev, Peter A., Yavitz, Adam. (2010). “The rate of return to the HighScope Perry Preschool Program.” *Journal of Public Economics*. (94)1-2. Pp. 114-128.; Winton, P., Buysse, V., & Hamrick, C. (Eds.). (2006). “How FPG Got It’s Groove: The Abecedarian Story.” *Early Developments*. (10)1. Pp. 5-10.; Reynolds, Arthur J., Temple, Judy A., White, Barry A.B., Ou, Suh-Ruu, and Robertson, Dylan L. (2011). “Age 26 Cost-Benefit Analysis of the Child-Parent Center Early Education Program.” *Child Development*. 82(1). Pp. 379-404.; Yoshikawa, H. et al. (2013). “Investing in Our Future: The Evidence Base on Preschool Education”. Society for Research in Child Development. Retrieved from <http://fcd-us.org/resources/evidence-base-preschool>. ,

opposition to H.R. 5. Some of the groups in opposition include: the U.S. Chamber of Commerce, the Education Trust, the Leadership Conference on Civil and Human Rights, the Consortium for Citizens with Disabilities, the National Center for Learning Disabilities, NAACP Legal Defense Fund, National Council of La Raza, the National Education Association, the American Federation of Teachers, Democrats for Education Reform, the Council of the Great City Schools, American, Council of Parent Attorneys and Advocates, Easter Seals, National Down Syndrome Congress, National Down Syndrome Society, National Association of School Psychologists, Afterschool Alliance, American University Centers on Disabilities, Autism National Committee, Committee for Education Funding, First Focus Campaign for Children, National Coalition for Public Education, National Urban League and the National Women's Law Center.

Groups expressing serious concerns about portions of the bill included the American Federation of School Administrators, American Library Association, Business Roundtable, the College Board, Dignity in School Campaigns, National Association of Elementary School Principals, National Association of Secondary School Principals, National Center for Special Education in Charter Schools, National Universal Design for Learning and the National Indian Education Association.

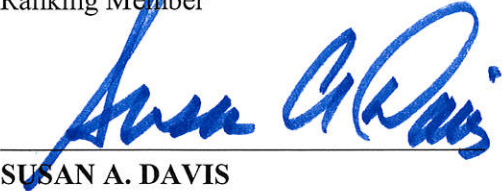
Additionally, the Congressional Black Caucus, the Congressional Hispanic Caucus, and the Congressional Asian Pacific American Caucus wrote a letter in opposition to H.R. 5 citing "the potentially grave consequences" of this bill on students and communities.



ROBERT C. “BOBBY” SCOTT  
Ranking Member



RUBÉN HINOJOSA



SUSAN A. DAVIS



RAÚL M. GRIJALVA



JOE COURTNEY



MARCIA L. FUDGE



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MARK POCAN



MARK TAKANO



HAKEEM JEFFRIES



KATHERINE CLARK



ALMA ADAMS



MARK DeSAULNIER