

H.R. \_\_\_\_, to reauthorize the Elementary and Secondary Education Act of 1965

SUMMARY OF DISCUSSION DRAFT

**Title I – Improving the Academic Achievement of the Disadvantaged**

**Title I, Part A – Disadvantaged Children Meet High Academic Standards**

Title I, Part A is the largest program in the Elementary and Secondary Education Act and authorizes federal aid to state and local educational agencies for helping educationally disadvantaged children achieve to the same high state academic achievement standards as all other students.

Accountability and Assessments – The proposed bill retains current requirements that all students reach proficiency in reading and mathematics by the 2013-2014 school year. States will also be required to continue to assess students in reading and math in each of grades 3–8 and continue to disaggregate data to ensure that students in critical subgroups (race, ethnicity, English language proficiency, disability, and socio-economic status) remain the focus of attention. In addition, the bill continues the current law requirement that at least 95 percent of students are required to participate in a state’s assessment for a school to meet Adequate Yearly Progress (AYP).

Growth Models – The proposed bill would allow states to use growth models to measure individual student progress over time as long as the model is consistent with the goals of the underlying law. Under current law, the primary model for determining whether schools and districts are making progress in educating all students is the ‘status model,’ which compares the performance of students in a particular grade against the performance of the students in that same grade in the previous year. Growth models, on the other hand, compare the achievement of the same students over time.

State Standards and Assessments – The proposed bill would allow states to align their elementary and secondary education standards with those necessary to succeed in the workplace and/or to successfully enter an institution of higher education; align those standards to their statewide assessments; and improve the quality of their assessments. States that undertake this effort to dramatically improve their standards and assessments would receive additional funding through the State Assessment Grant program, which provides assistance to states to develop and administer the assessments required under the law.

Multiple Indicators – The proposed legislation would allow states to use multiple indicators to measure student academic achievement and school performance, in addition to the single statewide assessment required under the law. This change is being made to address the concern that too much weight is placed on a single assessment at the end of the year. Under the bill, states could apply to the Secretary of Education to use one or more of five indicators, including: growth on state science, history, civics or government (i.e. social studies), and writing assessments in elementary and secondary schools; increases in the percentage of students who move from the below basic level to the basic level and the proficient level to the advanced level, as long as students in both categories are improving; increases in the percentage of students passing end of course exams in college preparatory courses in core academic subjects; increases in the percentage of secondary school graduates attending a public or private accredited degree granting institution of higher education; and decreases in drop out rates. Under the language, a school that shows significant progress on each of these indicators would receive credit of up to 5 percent toward meeting its annual measurable objective or its AYP target.

A state that desires to implement a multiple indicator system must meet certain requirements such as ensuring that: the indicators are valid and reliable; its accountability and assessment systems have been

approved by the Secretary of Education; the same indicator is used for all schools or levels of the school; the indicator will be used to measure individual student academic achievement; the indicator will be measured separately for each of the required subgroups; it has established a universal goal for achievement on each indicator that is equal to the average achievement of the highest performing subgroup in the highest performing 10 percent of districts in the state; and it has established annual growth targets in order to meet the universal goal over the next 10 years.

Uniform ‘N’ size – The proposed bill requires states to set a uniform ‘N’ size of 30 students. Under NCLB, states are required to set a minimum subgroup size for both public reporting and accountability calculations. The minimum size to be set must ensure that the data yields “statistically reliable information” and does not produce “personally identifiable information about an individual student.” Since passage of the law, a number of reports have surfaced that minimum subgroup sizes are too large, thereby failing to disaggregate data for many students.

Special Education Students – Under current law and consistent with the Individuals with Disabilities Education Act (IDEA), all students with disabilities are required to participate in state accountability and assessment systems in order to ensure students with disabilities are receiving a high quality education. To this end, states are required to include the scores of students with disabilities when determining whether schools and local educational agencies have met their AYP goals for the school year. The proposed bill would maintain these important provisions, but:

- Incorporate the “one percent rule” that was issued by the Secretary of Education in 2003 to provide states with additional flexibility in how they assess special education students. The “one percent” flexibility allows states to develop and administer an alternate assessment aligned to an alternate achievement standard for those students with the most significant cognitive disabilities, which is estimated to be about 1 percent of all students or 10 percent of all special education students;
- Incorporate the “two percent rule” that was recently issued by the Secretary of Education to allow states to use alternate assessments for special education students that are aligned to modified grade level standards. This flexibility is available for approximately 2 percent of all students or 20 percent of all special education students. Under the “two percent” flexibility, state assessments would measure grade level standards, but measure them at the functional level of the child so that the child has the ability to demonstrate their mastery of the subject appropriately;
- Allow children with disabilities who are no longer identified as needing special education and related services to be included in the special education subgroup for up to 3 years for accountability purposes; and
- Allow states, subject to approval by the Secretary of Education, to permit local educational agencies to include the assessment results of more than 2 percent of their children (up to 3 percent) who are assessed against modified achievement standards. Local educational agencies must be meeting the requirements of IDEA to be eligible for this increased flexibility.

English Language Learners – Under current law, states and local school districts are required to assess students who are English Language Learners (ELL) in both reading/language arts and math, as well as in English language acquisition, in order to ensure they are learning English. The proposed bill would:

- Allow states and school districts the flexibility to test ELL students in their native language for up to five years (up from three years in current law), with the option of providing a local educational agency-approved waiver for an additional two years on a case-by-case basis;

- Codify regulations issued by the Secretary of Education in 2003 that clarified that newly-arrived ELL students, during their first year in the United States, would be allowed to take either the English language acquisition assessment or the state language arts assessment, while being allowed to use appropriate accommodations for the math assessment. These first-year students' scores would not be computed for AYP purposes;
- Allow ELL students who are no longer identified as not meeting English Proficiency to be included in the ELL subgroup for up to 3 years for accountability purposes;
- Require states that have 10 percent or more of their student populations that speak a particular language other than English to develop and use a native language assessment to measure English Proficiency, if it is consistent with state law; and
- Authorize states to use portfolios and other alternate uses of measurement to measure English Proficiency of ELL students.

Resources for Turning Around Low Performing Schools – The proposed bill increases the current set-aside of a state's total Title I allocation for school improvement activities from 4 percent to 5 percent. In addition, the bill retains the separate authority for a School Improvement fund which will provide support to local educational agencies and schools identified as needing improvement and assistance. The proposed legislation also creates a Graduation Promise Fund, which is designed to help state educational agencies identify and support students at risk of dropping out and help local educational agencies and secondary schools establish or expand a comprehensive high school improvement and support system that will improve student achievement and graduation rates. Under the program, grants will be provided to states by formula and states will make subgrants to local educational agencies through formula or competitively to support eligible high schools with graduation rates under 60 percent. The program is authorized at \$1 billion in FY2008 and such sums in FY2009 to FY2013.

Accountability of High Schools – The proposed bill would require states and school districts to disaggregate their graduation rate for: (1) economically disadvantaged; (2) racial and ethnic minorities; (3) special education; and (4) Limited English Proficient (LEP) students. It would also require states, school districts, and schools to set a uniform and reliable graduation rate and to meet annual targets, toward a goal of a 90 percent graduation rate, in order to reach AYP. States, school districts and schools will be able to calculate a four-year rate and a five-year rate, taking into account confirmed transfers, and obtain a waiver for alternative educational settings. The bill would establish an interim rate, which could be used for four years, until states have reliable data systems in place. The new language addresses the concern that the current definition of 'graduation rate' varies widely among different states, districts, and even schools within districts using the term differently, resulting in inaccurate and unreliable data.

State Report Cards – The proposed bill maintains the current requirement that each state assemble and make available to the public a report card that includes information on student academic achievement on state assessments, disaggregated by subgroup; a comparison of students at basic, proficient, and advanced levels of academic achievement on state assessments; graduation rates; the number and names of schools identified for improvement; a comparison of the actual academic achievement levels for all groups of students compared to the annual objectives for such groups; the professional qualifications of teachers; and the percentages of students not tested. The proposed bill would require states to include on their report cards an explanation of the state's accountability system and information on the proportion of teachers in core academic subjects who are highly qualified, the proportion of principals who are certified, the proportion of secondary students enrolled in a college preparatory curriculum, the average class size, and the average teacher salary.

School District Report Cards – The proposed bill maintains the current law requirement that school districts must prepare annual reports for parents and the public on the academic achievement of the school district and by individual school. The school district report cards include the same information in the state report card as applied to the school district and its schools, and in the case of an individual school, whether it has been identified for school improvement, and how its students performed on the state assessment compared to the school district and state as a whole. The proposed bill would require school districts to also report on suspension and expulsion rates and opportunities for community and parental involvement in the school.

Rewards – The proposed bill requires the Secretary to establish an Academic Achievement Awards program to recognize local educational agencies and schools that substantially close the achievement gap between the lowest and highest performing students and that have made outstanding yearly progress for two consecutive years.

Local Assessments – The proposed bill would allow the Secretary of Education to create a pilot program which would allow 15 states to use locally-designed assessments to measure student achievement, in addition to the statewide assessments. This change is being proposed because a number of schools and school districts want to develop their own local testing instruments as an alternative to using the statewide assessment.

Implementation of NCLB – The proposed bill would encourage additional transparency in the peer-review process, which is run by the U.S. Department of Education and used to approve state accountability and assessment plans. Under the existing system, in which the Department has sole authority over the approval process, a number of states have raised concerns that the process is arbitrary and secretive.

School Improvement and Assistance and Redesign for Low-Performing Schools and Districts – Under current law, schools that have not made state-defined adequate yearly progress for two consecutive school years are identified by the school district as needing improvement. Schools that do not meet AYP in subsequent years are identified for additional assistance. These schools receive progressively more assistance and interventions based on the number of years in which AYP is not met. This includes technical assistance to improve performance, development of a plan to turn around the school, and eligibility to receive Federal funds for school improvement. School districts are also required to offer public school choice and Supplemental Educational Services (SES) to students in low-performing schools, and schools are required to implement various corrective action and restructuring interventions to improve the school.

**School Improvement and Assistance** -- The proposed bill would replace the current system because of the concern that, under the law, all schools regardless of their circumstances are treated the same and subject to the same interventions despite differences in performance. The proposed bill would:

- Create two separate and distinct school improvement and assistance systems: (1) one for “Priority Schools” that would include those schools that miss AYP in one or two subgroups and need only minor interventions; and (2) another for “High Priority Schools” which would include those schools that miss AYP in most, if not all, of their subgroups and need major or substantial assistance.
  - “High Priority Schools” would include: (1) schools that do not meet AYP and have more than 50 percent of their students not proficient in reading or math; (2) schools that do not make AYP and have two or more subgroups in the school that have more than 50 percent

of their students not proficient in reading or math; or (3) secondary schools that do not meet AYP and have a graduation rate of 60 percent or less.

- Require “Priority Schools” to put together a three year comprehensive plan to attempt to turn the school around after the first year of not meeting adequate yearly progress; require all schools to implement at least two school improvement measures such as offering high-quality professional development and evidence-based or proven instructional programs aligned to state standards to improve the school’s performance after the second year; and allow those schools to target the interventions to those subgroups of students that did not meet proficiency.
- Require “High Priority Schools” to put together a three year comprehensive plan to attempt to turn the school around after the first year of not meeting AYP and require all schools to implement high-quality professional development, evidence-based or proven instructional programs aligned to state standards, and formative assessments and other data-based instructional decision-making to improve the school’s performance after the second year.
- Require “High Priority Schools” to offer all parents the choice of transferring their child to a high-performing public school in the school district or receiving Supplemental Educational Services offered by public or private tutoring providers. This provision would require schools to offer SES one year earlier than under current law.

**Redesign** – The proposed bill would replace the current system because of the concern that most schools are taking advantage of the existing authority in the law to avoid comprehensive restructuring of a poorly performing elementary or secondary school. The proposed bill would:

- Create two separate and distinct redesign systems: (1) one for “Priority Schools” that would include those schools that miss AYP in one or two subgroups and need only minor interventions; and (2) another for “High Priority Schools” which would include those schools that miss AYP in most, if not all, of their subgroups and need major or substantial assistance.
  - “High Priority Schools” would include: (1) schools that do not meet AYP and have more than 50 percent of their students not proficient in reading or math; (2) schools that do not make AYP and have two or more subgroups in the school that have more than 50 percent of their students not proficient in reading or math; or (3) secondary schools that do not meet AYP and have a graduation rate of 60 percent or less.
- Require “Priority Redesign Schools” to institute significant revisions in their instructional and leadership programs and support services provided to the subgroups of students that did not meet proficiency targets and review the performance of the school leadership and all staff serving that subgroup of students.
- Require “High Priority Redesign Schools” to close the school and only allow it to be reopened after a comprehensive redesign of its instructional program and the staffing of the school; close the school and reopen it as a charter school; or reconstitute the school’s leadership and staff and significantly revise the instructional program in the subject areas for which the school was identified as not making AYP.
- Require local educational agencies to limit the number of “High Priority Redesign Schools” to 10 percent of the eligible schools or 50 schools, whichever is less, based on the academic performance of the schools and the groups of students within that school.
- Require those “High Priority Redesign Schools” that exceeded the 10 percent cap to implement the measures specified for “Priority Redesign Schools” and other interventions to improve the academic achievement of their non-proficient students.
- Requires “High Priority Redesign Schools” to offer parents the choice of transferring their child to a high-performing public school in the school district or receiving Supplemental Educational

Services offered by public or private tutoring providers if the student received SES while in a “High Priority School” while it was in school improvement and assistance.

- Requires those “Priority Redesign Schools” that do not meet AYP after 2 years of implementing the required measures to be re-designated as “High Priority Redesign Schools.”

**Public School Choice and Supplemental Educational Services (SES)** – The proposed bill requires those local educational agencies with one or more “High Priority Schools” to set-aside and spend 20 percent of its allocation for Title I to pay the transportation costs for those students that choose to transfer to a high-performing public school and SES. Of this amount, a local educational agency may use 10 percent of the funding to operate extended learning time programs, including extended day, extended week, and extended year programs.

Under the proposed bill, local educational agencies would be allowed to rollover into their general funds any unspent funds in the set-aside if the state educational agency approves the request based on a state review of the agency’s demonstrated success in (1) informing eligible students and their families of the availability of supplemental educational services, including partnering with community-based organizations or other groups; (2) ensuring that eligible students are given sufficient notice, which must be, at a minimum, 30 days prior to the start of a program, of the opportunity to sign up for supplemental educational services, including notice of enrollment deadlines; (3) meeting the requirement that the local educational agency chooses an approved provider or providers, using a fair, open, and objective process, to operate on site in the school or schools free of charge, or for a reasonable fee, on the same basis and terms as are available to other groups that seek access to the school building; and (4) meeting the requirement that the local educational agency provides information to all approved providers on how it will inform eligible students and families on the availability of supplemental educational services and how it will ensure that students sign up for supplemental educational services. This provision would address the concern that local educational agencies are currently allowed to rollover any unused funds in the set-aside into their general fund by removing the incentive not to offer SES to low-performing students.

**Improvement and Assistance and Interventions for LEAs:** Much like the process involved with school districts overseeing schools identified for school improvement and assistance, state educational agencies are responsible for overseeing local educational agencies as a whole and identifying whether an agency should be designated as in need of improvement and assistance and whether intervention measures should be taken.

Parental Rights – The proposed bill maintains the current law requirement that local educational agencies provide detailed parental notification as to why their child is in need of placement in a specialized language instruction program. Parents have the right to choose among instructional programs if more than one type of program is offered, and parents have the right to immediately remove their child from a program for English Language Learners. The bill also maintains current requirements that agencies implement effective means of parental outreach to encourage parents to become informed and active participants in their child’s participation in a language instruction educational program. The bill also retains the requirement that local educational agencies implement programs, activities, and procedures for the involvement of parents in programs under Title I and that the agency provide to parents a written parent involvement policy with parents having a role in the planning process.

Participation of Private Schools – The proposed bill maintains current law that provides for the participation of private school students and teachers under the Title I program and expands it to include any newly proposed programs as well as existing programs that are not currently available to private school students. The bill also requires local educational agencies that reserve funds under this part to

provide instructional and related activities for public elementary or secondary school students at the district level to provide from those funds, as applicable, equitable services to eligible private school children. It also requires timely notification of the amount of funds available for services to students and teachers in private schools for those programs under the law. The bill also requires school districts that disagree with private school officials over any issues involved in the existing consultation process, including on-site delivery of service, to provide in writing the reason why the local educational agency has chosen a different course of action. It also requires each state educational agency to identify a private school ombudsman to advocate for private schools and to monitor and enforce requirements regarding private school participation in federal education programs.

Teacher Accountability – The proposed bill maintains the requirement in current law that all teachers teaching core academic subjects within the state be highly qualified. The proposal also maintains the current law requirement that the state develop a plan to demonstrate how it is complying with this requirement and annually report on its progress to the Secretary until it has demonstrated full compliance.

Paraprofessionals (Teachers' Aides) – The proposed bill would maintain the current law requirement that all paraprofessionals must have: (1) completed at least two years of study at an institution of higher education; (2) obtained an associate's or higher degree; or (3) met a rigorous standard of quality established at the local level, which includes an assessment of math, reading and writing.

Statewide Longitudinal Data System Program – The proposed bill includes a new Statewide Longitudinal Data System Program, which would provide support to states in developing and maintaining their statewide longitudinal data systems. In order to properly measure individual student growth under a growth model, states must have reliable and valid data systems that are able to match individual students' scores on academic assessments. The proposed system would be required to include a unique statewide student identifier that remains stable and consistent across time, student-level enrollment, demographic, and program participation information; a unique statewide teacher identifier that remains consistent over time and matches all student records; and student-level transcript information. The bill also includes language to require states to ensure that the system meets the requirements of the Family Educational Rights and Privacy Act of 1974, limits the amount of information by state or local educational agencies, and prohibits the disclosure of personally identifiable information. The program is authorized at \$100 million in FY2008 and such sums in FY2009 to FY2013.

Formulas – The proposed bill maintains current law in regard to the four Title I, Part A formulas – Basic, Concentration, Targeted, and Education Finance Incentive Grants – because they continue to represent the best way to target disadvantaged children.

### **Title I, Part B – Student Reading Skills Improvement Grants**

Title I, Part B, includes the law's literacy programs, including Reading First, which provides assistance to states and local educational agencies in establishing scientific research-based reading programs for all children in kindergarten through grade three and Early Reading First, which enhances reading readiness for children in high poverty areas, and where there are high numbers of students who are not reading at grade level. The title also includes the William F. Goodling Even Start Family Literacy Program, which provides literacy services to parents and their children in order to break cycles of illiteracy. The text of Title I, Part B, will be provided at a later date.

### **Title I, Part C – Migrant Education**

Title I, Part C, authorizes a program for children of migrant workers to assist them in overcoming academic problems associated with multiple relocations. The proposed bill modifies the formula by removing a calculation for the number of children who received services in summer or inter-semester programs provided by the state and reducing the hold harmless from 100 percent of the amount states received in 2002 to 90 percent of the amount. The new formula would apply in any fiscal year, whereas current law applied the formula only in fiscal years in which the amount appropriated for the program exceeded the amount appropriated in 2002. The proposed bill also requires states to submit documentation on the accuracy of the states' counts of eligible children to the Secretary of Education subject to an audit by the Secretary and includes a new national evaluation of the program's effectiveness.

### **Title I, Part D – Neglected and Delinquent**

Title I, Part D, provides formula grants to states to serve neglected and delinquent youth in institutions, community day programs, and correctional facilities. The proposed bill contains language throughout the program to ensure that children and youth served under the part have access to instruction in all core academic subjects.

### **Title I, Part E – National Assessment of Title I**

Title I, Part E, authorizes the Secretary of Education to conduct an evaluation of Title I programs and activities, including the implementation and impact of standards, assessments, accountability, public school choice, and supplemental services required under Title I, and report the evaluation findings to Congress. It also requires the Secretary to conduct a longitudinal study of schools receiving assistance under Title I. The proposed bill adds additional items that the Secretary must examine such as the types of programs and services that have demonstrated the greatest likelihood of helping students graduate from high school on time. The proposed bill also requires the National Academy of Sciences to conduct a study to identify an appropriate instrument to accurately measure the closing of achievement gaps among various racial and ethnic groups.

### **Title I, Part F – Comprehensive School Reform**

Title I, Part F, authorizes the Comprehensive School Reform program, which is designed to assist schools in improving the quality of the entire school based upon reliable research and effective practices. The text of Title I, Part F, will be provided at a later date.

### **Title I, Part G – Advanced Placement**

Title I, Part G, authorizes the Advanced Placement (AP) program, which supports efforts by states and local school districts to increase access to advanced placement tests, improve advanced placement programs, increase student academic achievement, increase the number of individuals who achieve a baccalaureate or advanced degree, and decrease the amount of time such individuals require to attain such degrees. The proposed bill would make changes to the program to support efforts by states and local educational agencies to increase the number of teachers qualified to teach AP and International Baccalaureate (IB) courses and increase the number of students who take and pass these courses. The proposed bill also seeks to increase the number of qualified teachers for and student access to AP and IB courses in math, science and critical foreign languages (similar to what was included in *the America COMPETES Act*).



### **Title I, Part H – School Dropout Prevention**

Title I, Part H, provides grants to states to strengthen and develop dropout prevention and school reentry programs and to raise academic achievement levels by providing grants that: (1) challenge all children to attain their highest academic potential; and (2) ensure that all students have substantial and ongoing opportunities to attain their highest academic potential through school-wide programs proven effective in dropout prevention and school reentry.

The proposed bill would rewrite the existing program to provide incentives to states to raise their graduation rates. Under the proposal, states are required to conduct a policy gap and impact analysis to determine how to strengthen state policies in order to raise graduation rates while ensuring a rigorous secondary education. The analysis would examine policies of school funding, data capacity, accountability systems, interventions, new school development, and dissemination and implementation of effective local school improvement activities. The states would then implement the recommendations in an effort to increase graduation rates, and develop systems to measure and adjust those policies in order to achieve policy targets and student outcomes defined throughout the grant process.

### **Title I, Part I, Core Curriculum Development**

Title I, Part I, includes a new program to provide funds to local educational agencies to strengthen the instruction of music and arts, foreign languages, civics and government, economics, history, geography, and physical education and health as an integral part of the elementary and secondary education curriculum. Under the program, funds could be used to expand the amount of instructional time on these subjects, provide curriculum development that is aligned with state standards, provide essential materials and text books that are aligned with state standards providing professional development to ensure curricula are implemented effectively, and creating and using formative assessments to advance student achievement and improve instruction. The program is authorized at \$250 million in FY2008 and such sums in FY2009 to FY2013.

### **Title I, Part J, Expanded Learning Time Demonstration Program**

Title I, Part J, includes a new program to provide funds to states and local educational agencies to expand learning time aimed at improving student achievement and engagement. Under the proposed new program, funds could be used to expand learning time at elementary and secondary schools to spur innovation, redesign and improve educational programs, improve instruction and teacher collaboration, and improve the academic achievement of all students in participating schools. The Secretary of Education would carry out an evaluation of the program and offer technical assistance to those states and schools participating in the program. The program is authorized at \$300 million in FY2008 and such sums in FY2009 to FY2013.