MARYLAND STATE DEPARTMENT OF EDUCATION
Preparing World-Class Students

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TO: Members of the State Board of Education

FROM: Bernard J. Sadusky, Ed.D. BJS

DATE: January 24, 2012

RE: Federal Update

PURPOSE

The purpose of this memorandum is to update the State Board of Education on federal legislation affecting education, child care, libraries and vocational rehabilitation.

BACKGROUND

Federal Fiscal Year 2012 Appropriations:

On December 17, 2011, Congress passed an appropriations bill for the 2012 federal fiscal year which began October 1, 2011. While the Continuing Resolution in place from October 1, 2011 to December 17, 2011 called for a 1.5 percent across-the-board cut for all discretionary programs, the budget bill ultimately passed with only a .189 percent across-the-board cut. The total appropriation for education programs is $68.1 billion, a $233 million reduction from the prior year. It is the first year since 2007 that Congress did not increase total appropriations for education programs.

A chart itemizing changes in the major federal education programs at the national level is attached for your reference. (Attachment 1) State tables detailing changes for Maryland specifically have not yet been posted by the US Department of Education. However, we expect the percentage changes for Maryland will approximate the percentage changes at the national level.

ESEA Reauthorization:

On Friday, January 6, 2012, Chairman John Kline (R-MN) of the U.S. House Committee on Education and the Workforce (Ed/Workforce) introduced a pair of bills to reauthorize the Elementary and Secondary Education Act (ESEA), currently known as the No Child Left Behind Act. Chairman Kline is pursuing a strategy of considering a series of bills to reauthorize the law, rather than taking up one large bill like the Senate. The House Committee has already acted on bills that would increase the flexibility of federal education funds, eliminate 41 federal education programs, and revise the federal charter school law. The bills introduced on January 6, the *Student Success Act* and the *Encouraging Innovation and Effective Teachers Act* constitute the bulk of ESEA reauthorization. Summaries are attached for your reference. (Attachments 2 and 3) It should be noted the summaries were written by the Ed/Workforce Committee and may contain some bias.

Most importantly, the ESEA flexibility waiver Maryland is currently working on appears to be consistent with the requirements of both the House and Senate ESEA Reauthorization proposals. Further, the work currently being done by the Maryland Council on Educator Effectiveness and by the pilot school systems, related to teacher evaluation, also appears to be consistent with the requirements of both the House and Senate ESEA Reauthorization proposals.

Following the release of the House bills, there has been increased advocacy calling on Congress to reauthorize the Elementary and Secondary Education Act. Both the Council of Chief State School Officers and Secretary Duncan have submitted letters to Congress asking for movement on reauthorization.

ACTION

For Information Only
Attachments

Attachment 1

Federal Education Appropriations
Select Major Porgrams
(Amounts in millions)

Program	2011 Appropriations	2012 President's Request	2012 Omnibus Appropriation	2012 Appropriation Compared to 2011 Appropriation	
				Amount	Percent
Title I grants to local education agencies	14,443	14,492	14,516	74	0.51%
IDEA special education state grants	12,278	12,569	12,393	115	0.94%
Race to the Top	699	900	549	-150	-21.4%
Title I School Improvement Grants	535	600	534	-1	-0.189%
Teacher Incentive Fund	399	0	299	-100	-25.0%
Investing in Innovation	150	300	149	0	-0.189%
Striving Readers	0	0	160	160	-
State Assessments	390	420	389	-1	-0.189%
Promise Neighborhoods	30	150	60	30	100.0%
Advanced Placement	43	0	27	-16	-37.7%
Improving Teacher Quality State Grants (Title II)	2,465	0	2,467	2	0.069%
Career and Technical Ed State Grants	1,122	1,000	1,123	1	0.077%
Vocational Rehabilitation State Grants	3,041	3,104	3,084	43	1.40%

THE STUDENT SUCCESS ACT
SUMMARY FOR RELEASE

The Elementary and Secondary Education Act (ESEA), reauthorized more than 10 years ago as the No Child Left Behind Act (NCLB), is in need of dramatic reform. Even though the law expired more than four years ago, legislation to update NCLB was never considered by the House Committee on Education and the Workforce. Since assuming control of the House of Representatives, Republicans have passed three reauthorization bills out of the committee, including the *Empowering Parents Through Quality Charter Schools Act*, which passed the House with a broad bipartisan majority. The *Student Success Act*, along with the *Encouraging Innovation and Effective Teachers Act*, comprise the final pieces of the committee's efforts to reauthorize ESEA.

When it was enacted, NCLB was heralded as groundbreaking, and in some ways it was. The expanded use of data helped superintendents, school leaders, and teachers identify students most in need of additional instruction and offered parents access to important information about the quality of their schools. But we have now clearly identified the law's weaknesses. Adequate Yearly Progress (AYP) is a one-size-fits-all metric that restricts states' and school districts' ability to appropriately gauge student learning and tailor curriculum to enable students to graduate high school prepared for postsecondary education or the workforce. The cascading system of mandated interventions has not worked as imagined and is not producing the desired results in low-performing schools. The law's numerous programs (more than 80 in all) impose tremendous paperwork and regulatory burdens on states and school districts and have demonstrated limited success in improving student achievement.

The *Student Success Act* offers a better way forward for education reform by:

- Returning responsibility for student achievement to states, school districts, and parents, while maintaining high expectations.
- Providing states and school districts greater flexibility to meet students' unique needs.
- Investing limited taxpayer dollars wisely.
- Strengthening programs for schools and targeted populations.
- Maintaining and strengthening long-standing protections for state and local autonomy.

Returning Responsibility for Student Achievement to States, School Districts, and Parents, While Maintaining High Expectations

The *Student Success Act* will dramatically reduce the federal role in education by returning authority for measuring student performance and turning around low-performing schools to states and school districts. Across the country, states and school districts have led efforts to reform the nation's troubled education system. As these bold reformers step up, the federal government can step back; limiting its footprint to ensuring parents have the information they need to judge the quality of their schools.

- Academic Standards: Similar to current law, the bill requires states to establish academic standards that apply to all students and schools in the state in at least reading and math, while allowing states to develop standards in other subjects at their discretion. Achievement standards used for judging student and school performance would have to

align with the content standards, but the bill removes federal requirements for basic, proficient, and advanced levels of achievement. States would also be allowed to establish alternate achievement standards aligned to the content standards for students with the most significant disabilities. Finally, the bill consolidates the requirements for English proficiency standards into the main Title I program.

- Academic Assessments: Similar to current law, the bill requires states to develop and implement a set of annual assessments in reading and math, the foundation for student learning. To reduce the burden of over-testing on our nation's students, the bill eliminates the federal requirement that states administer assessments in science. States would retain the option to develop assessments in science and other subjects at their discretion. States are required to give the same reading and math assessment to all students in the state in each of grades 3-8 and once in high school. Assessments would still have to include reasonable accommodations for students with disabilities, and states would be allowed to adopt alternate assessments for students with the most significant cognitive disabilities. The bill maintains requirements for disaggregating subgroup data and assessing the English proficiency of English learners, as well as 95 percent participation rates for all students and each subgroup, and flexibility to use multiple measures of student achievement.

- Accountability: The bill eliminates Adequate Yearly Progress (AYP) and replaces it with a state-determined accountability system. States are required to develop and implement a statewide accountability system that includes the following elements:
  - Annually measure the academic achievement of all public school students against the state's academic standards (including growth toward the standards) using the statewide assessment and other academic indicators determined by the state.
  - Annually evaluate and identify the academic performance of each public school in the state based on student academic achievement, including the achievement of all students and achievement gaps between student subgroups.
  - Include a system for school improvement implemented by school districts that includes interventions in poor performing Title I schools.

- School Improvement: As noted above, the bill requires states to include, as part of their statewide accountability systems, a system of school improvement interventions implemented at the local level for Title I schools that the state determines to be poorly performing. The bill repeals the federally mandated interventions included in sections 1116 and 1117, giving states and districts maximum flexibility to develop appropriate school improvement strategies and rewards for their schools. The bill increases the state set-aside for school improvement to 10 percent (up from 4 percent), but eliminates the local set-asides, meaning more Title I money will flow directly to school districts. Finally, the bill eliminates the School Improvement Grants (SIG) program that the Secretary of Education used to create four unworkable turnaround models, instead using those funds to increase the authorization level for the Title I program.

- Parent Information: The bill maintains the requirement that states and school districts issue and distribute annual report cards, but streamlines the data reporting to ensure that meaningful information is easily available to parents and communities. States and districts would have to report disaggregated data on student achievement on the state

assessment and other academic indicators used in the statewide accountability system, participation rates on those assessments, the adjusted cohort graduation rate, each school's evaluation under the statewide accountability system, English language proficiency, and results on the 4th and 8th grade reading and mathematics National Assessment of Educational Progress (NAEP). Finally, the bill maintains the parents' right to know their students' achievement levels, and moves the right-to-know regarding teacher effectiveness to the *Encouraging Innovation and Effective Teachers Act.*

- Highly Qualified Teachers: The bill repeals section 1119, which sets federal requirements around teachers and paraprofessionals and removes the requirement that teachers be highly qualified. The *Encouraging Innovation and Effective Teachers Act* includes requirements for local teacher evaluations, so federal teacher policy can move away from onerous and meaningless burdens to strategies that will reassure parents their students' teachers are effective.

Providing States and School Districts Greater Flexibility to Meet Students' Unique Needs

- Funding Flexibility: Consistent with the *State and Local Funding Flexibility Act* passed by the Committee in July 2011, the bill allows school districts to use funds across certain programs to tailor initiatives to their local needs. The bill maintains separate funding streams for the Migrant Education, Neglected and Delinquent, English Language Acquisition, Rural Education, and Indian Education programs, but merges them into Title I. States and school districts are allowed to use formula funds received under those programs for activities authorized in any of the other programs. While school districts will not be allowed to use funds received for Title I schools outside of those schools, they can move additional funding to low-income schools. This allows state and local officials to use federal funds to meet their own unique needs.

- Schoolwide Programs: The bill eliminates the 40 percent poverty threshold for schoolwide programs, allowing all Title I schools to operate whole school reform efforts with Title I money. This change, included in the Obama administration's waiver package, will allow low-income schools greater flexibility to consolidate programs and focus their efforts on raising the achievement of all students.

Investing Limited Taxpayer Dollars Wisely

- Authorization Levels: The bill limits funding authorizations to the FY 2012 appropriated levels recently passed by Congress to ensure taxpayer dollars are spent efficiently and set more reasonable and realistic levels of education spending. Consistent with the charge to increase public transparency and end the use of "such sums" as a tool to hide future program increases, the bill sets potential funding increases consistent with inflation. It also consolidates authorization levels into one section in the law.

- State and Local Spending Decisions: The bill removes all "Maintenance of Effort" requirements, allowing states and school districts to set their own funding levels for elementary and secondary education. The federal government should not dictate state and local spending decisions as a condition of receiving federal funds. This change will assist states and localities struggling with budget shortfalls.

Strengthening Programs for Schools and Targeted Populations

The *Student Success Act* maintains separate funding streams for the Migrant Education, Neglected and Delinquent, English Language Acquisition, Rural Education, and Indian Education programs, but merges them into Title I of the law. The bill strengthens each program in key ways.

- Education of Migratory Children: The bill provides a reservation of funds to assist states in supporting high-quality educational programs and services to address the unique educational needs of migratory children, including during summer periods. The bill strengthens how migrant student counts are determined in each state, basing state allocations on the sum of an average of identified eligible migratory children from the previous three years and a count of the number of migrant children who receive services under summer programs. The legislation also allows states, school districts, and other public and private entities to improve intrastate and interstate coordination and information exchanges regarding migratory children.

- Prevention and Intervention Programs for Children and Youth Who are Neglected, Delinquent, or At-Risk: The bill provides a reservation of funds to improve educational services for students in state and local institutions or for those children who are transferring out of institutionalization. The legislation makes minor technical and clarifying changes to improve the operation of the program.

- English Language Acquisition, Language Enhancement, and Academic Achievement: The bill includes a reservation of funds to provide services to English learners to help these students learn English and meet state academic standards so they can become productive members of society. As noted above, the bill consolidates accountability and reporting requirements for English learners into the Title I program to encourage greater alignment while maintaining student achievement expectations for these students and public reporting of progress. Consistent with the *Setting New Priorities in Education Spending Act,* the bill eliminates the Improving Language Instruction Educational Programs, which have never been funded and are duplicative of the main program.

- Rural Education: This bill reserves funds to serve rural schools and consolidates the two rural education programs, the Small, Rural School Achievement Program and the Rural, Low-Income School Program, into one Rural Education Achievement Program (REAP). The legislation creates a new consolidated formula to ensure small rural schools and low-income rural schools receive funding to increase rural student achievement. The bill includes hold harmless provisions to protect funding levels for states and school districts who received funding under the previous programs.

- Indian Education: The bill reserves funds to meet the unique educational and cultural needs of American Indian students and encourages Indian tribes, communities, and parents to participate in the education of their children. The bill allows school districts and Indian tribes applying for formula grants to apply in consortia to maximize the use of federal funds. Consistent with the *Setting New Priorities in Education Spending Act*, the bill eliminates the Native Hawaiian Education and Alaska Native Education Equity programs, which are duplicative of other services and funds provided to these populations

under Title I. The bill also eliminates the Fellowships for Indian Students program and the Improvement of Educational Opportunities for Adult Indians program, which have not been funded since 1995. It also eliminates the In-Service Training for Teachers of Indian Children Grant, the Gifted and Talented Indian Students program, and the Grants to Tribes for Education Administrative Planning and Development program, which have never received federal funding.

Maintaining and Strengthening Long-Standing Protections for State and Local Autonomy

The *Student Success Act* includes the General Provisions of ESEA, but moves them from the current Title IX to a new Title V. The bill maintains and strengthens these important protections for students, parents, communities, states, and school districts while eliminating other burdensome and duplicative requirements.

- Private School Students: The bill strengthens provisions in Title I and Title V to ensure the participation of private school students and schools in the programs funded under this Act. The bill improves the consultation and negotiation processes to provide clearer procedures and faster notice for private school officials. These changes will better protect access for private school students.

- Secretary's Authority: The bill protects state and local autonomy over decisions in the classroom and limits the authority of the Secretary of Education. The legislation: (1) prevents the Secretary from creating additional burdens on states and districts through the regulatory process, particularly in the areas of standards, assessments, and state accountability plans; (2) prohibits the Secretary from supporting efforts around state standards and influencing and coercing states into entering partnerships with other states; and (3) outlines procedures the Secretary must follow when conducting a peer review process for grant applications that will bring greater transparency.

- Military Recruiters: The bill improves the military recruiting provisions in current law by ensuring military recruiters have the same access to high schools as institutions of higher education.

THE ENCOURAGING INNOVATION AND EFFECTIVE TEACHERS ACT SUMMARY FOR RELEASE

The Elementary and Secondary Education Act (ESEA) includes more than 80 K-12 programs. Despite the tripling of overall per pupil funding and countless programs created by Congress since 1965, national academic performance has stagnated. Many federal education programs overlap and made little improvement on student achievement. Other programs, created decades ago, are outdated and do not reflect current practices or priorities from the local, state, or federal level. Finally, current ESEA programs provide parents and students with few school choice options and offer states and school districts little flexibility in how they can use federal dollars to meet their own needs.

The *Encouraging Innovation and Effective Teachers Act* offers a better way forward for education reform by:

- Providing information to parents on teacher effectiveness.
- Increasing school choice and engaging parents in their child's education.
- Increasing state and local innovation to reform public education.
- Eliminating unnecessary and ineffective federal programs.
- Supporting Impact Aid.

Providing Information to Parents on Teacher Effectiveness

The *Encouraging Innovation and Effective Teachers Act* builds on the repeal of the Highly Qualified Teacher (HQT) requirement in the *Student Success Act*. Parents know the best teachers are the ones who keep students motivated and challenged in the classroom. Instead of relying on teacher credential or tenure requirements, which provide little information about teachers' ability to excel in the classroom, states and school districts should have the tools to measure an educator's influence on student achievement.

- Teacher Evaluations: The bill rewrites the existing teacher program to support the development and implementation of teacher evaluation systems. The legislation alters the formula for how funds are allocated to states and districts to give equal weight to student population and student poverty. Contrary to the teacher evaluation provisions in the Obama administration's Race to the Top plan or the waiver package (which mandate specific and onerous requirements school districts must follow), the bill sets five broad parameters that must be included in any evaluation system. To give greater flexibility to school districts to develop a system that best meets the specific needs of their teachers and students, teacher evaluation systems must:
  - Make student achievement data a significant part of the evaluation.
  - Use multiple measures of evaluation in assessing teacher performance.
  - Have more than two rating categories for the performance of teachers.
  - Make personnel decisions based on the evaluations, as determined by the school district.
  - Seek input from parents, teachers, school leaders, and other staff in the school in the development of the evaluation system.

- Uses of Funds: States that have already developed statewide teacher evaluation systems can use funds to work with their school districts to implement the system, addressing the particular needs of each district. Funds may also be used to train school leaders in how to evaluate teachers under the system; provide evidence-based, job-embedded, and continuous professional development for teachers and schools leaders focused on core academic subjects or specific student populations; and provide additional support to teachers identified as in need of additional assistance. Most notably, the bill caps the use of funds for class size reduction at 10 percent. A substantial amount of teacher quality funds under current law are used for this purpose, which has little to no effect on student learning.

- Teacher and School Leader Innovation: The bill consolidates the remaining teacher quality programs, including the Teacher Quality Enhancement Grant program authorized under the Higher Education Act, into a new Teacher and School Leader Flexible Grant. The program awards grants to states and school districts to increase student achievement through evidence-based innovative initiatives. School districts, solely or in partnership with institutions of higher education and other entities, can receive funding to:
  - Increase access to or develop alternative certification or licensure routes.
  - Recruit, hire, and retain effective teachers.
  - Implement performance-based pay systems and differential incentive pay.
  - Create teacher advancement and multiple career paths.
  - Establish new teacher or school leader induction programs and teacher residency programs.
  - Provide additional professional development activities or other evidence-based initiatives likely to increase teacher effectiveness.

- Teacher Liability: The bill maintains liability protections included in current law that protect school employees (including teachers, administrators, and school board members) acting to control, discipline, expel, or suspend a student or to maintain order in the classroom or school through reasonable actions.

Increasing School Choice and Engaging Parents in their Child's Education

The *Encouraging Innovation and Effective Teachers Act* builds on the successful passage of the *Empowering Parents through Quality Charter Schools Act*, which streamlines and modernizes the Charter School Program by supporting the replication and expansion of high quality charter schools. The bill maintains and strengthens the existing Magnet School and Parent Information and Resource Center programs, which provide states, school districts, and other entities with federal support so parents can find quality options and participate in their children's education. The legislation moves these programs from the current Title V to a new Title III.

- Magnet Schools: The bill continues to provide funds to support the development and implementation of innovative education methods and practices that promote diversity and increase choices in public education. The legislation makes minor changes to improve the operation of the program.

- Parent Information and Resource Centers: The bill amends the Parental Information and Resource Centers (PIRC) program, which helps implement parental involvement policies,

programs, and activities that lead to improvements in student academic achievement and strengthen partnerships among parents, teachers, principals, administrators, and other school personnel in meeting the educational needs of children. The legislation promotes the better sharing of effective strategies and increases coordination between the state, PIRC programs, and parents.

- Private Sector Initiatives: Under the Local Academic Flexible Grant (discussed below), states will reserve 10 percent of their funds to support state and local programs that operate outside of traditional public school systems. Private or public entities could utilize these funds to support programs that will help increase student achievement, including scholarship and tutoring programs.

Increasing State and Local Innovation to Reform Public Education

- Local Academic Flexible Grant: The bill creates a new innovative program to provide grants to state and local school districts to create and fund initiatives based on their own unique priorities. While ensuring the funds are spent to increase academic achievement as part of in-school or after-school activities, states and school districts will have maximum flexibility to spend their funds on any activity authorized under state law. Instead of Washington bureaucrats making the decisions for superintendents, school leaders, and teachers, local officials will be able to use funds on projects they know will help improve student achievement.

Eliminating Unnecessary and Ineffective Federal Programs

- Streamlining Education Spending: Consistent with the *Setting New Priorities in Education Spending Act*, the bill eliminates more than 70 existing elementary and secondary education programs, many of which have never been funded, are too small to have a meaningful effect on student achievement, or have been deemed ineffective by the federal government. This will restore fiscal discipline and promote a more appropriate federal role in education.

- Earmarks: The bill eliminates all of the current programs and special provisions targeted to specific national organizations to comply with the House earmark ban.

Supporting Impact Aid

The *Encouraging Innovation and Effective Teachers Act* strengthens the existing Impact Aid program, which provides direct funding to school districts affected by the presence of the federal government. The program reimburses districts located near, or serving students from, military bases, federal lands, and Indian reservations for the loss of property taxes. The legislation moves the program from Title VIII of current law to a new Title IV.

- Payments for Federal Property: The bill updates the formula by which school district allotments are determined for a district with federal property located within its boundaries that cannot be taxed. The legislation enables alternative verification of tax data for districts that cannot provide original tax records, including facsimiles or other

reproductions of the records. It also establishes an initial payment for districts eligible for federal property compensation based on 90 percent of the 2006 applications.

- Payments for Federally Connected Children: The bill streamlines the Heavily Impacted District program, which provides payments for school districts with high percentages of federally connected children. The legislation standardizes eligibility criteria for these districts at 45 percent enrollment of federally connected children, bases per pupil expenditure eligibility requirements on state average expenditures rather than national average expenditures, and maintains the tax rate requirement for eligible districts of at least 95 percent of the average tax rate for general fund purposes of comparable districts in the state. The bill also allows federally connected children to be counted in enrollment numbers in the case of open enrollment policies in a state, but does not allow children to be counted if they are enrolled in a distance education program located outside of the boundaries of the district. The bill also provides equal prorated payments greater than 100 percent of Learning Opportunity Threshold (LOT) for eligible districts. Finally, the bill extends the timeline from three to four years for which a district may count children relocated to off-base housing due to authorized Department of Defense housing renovations and demolitions.

- Timely Payments: The bill requires the Secretary of Education to provide Impact Aid payments for school districts within three years, addressing a major concern that many school districts do not receive on-time payments to meet their current needs.

- Earmarks: The bill eliminates special provisions targeted to specific states and school districts to comply with the House earmark ban.