National School Boards Association

# A New Era in Education:

## Redefining the Federal Role for the 21st Century

*Office of Advocacy and Issues Management*
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# Contents



# A New Era in Education:

## Redefining the Federal Role for the 21st Century

*"Education, then beyond all other devices of human origin, is the great equalizer of the conditions of man, the balance-wheel of the social machinery."*
*--Horace Mann*

Americans have always valued education and recognized its importance in opening the doors of opportunity to a better life for themselves and their children. Our nation's success on multiple fronts, from our economy to the functioning of our democratic society, is undeniably linked to the quality of the education provided to our citizens by our public schools. Today's world of rapid changes, technological advances and global competitiveness create new challenges on our schools. A modern day paraphrasing of Mann's quote might well read: education is the great necessity.

This is not the first time America's educational system has been challenged. Debates over who should be educated, to what degree, and at whose expense mark our history and at times ripped at the very moral fiber of our nation. Yet, in those previous challenges, America responded by expanding educational opportunity to more of its citizens. Our schools, reflective of our society, are at a crossroads again.

The 21st century economy creates an urgent demand that our schools provide a high quality education for every student so that they may succeed in life and our country may remain globally competitive.

However, educating our children within that framework must remain a principal function of state and local communities, where the ownership and the commitment for student success are most prominent. The federal government has a limited, but important, role to play. In recent years, that role has taken an unhealthy and unproductive "top-down approach."

With the arrival of a new President and new Congress, coupled with enormous economic challenges, the National School Boards Association (NSBA) recommends an immediate comprehensive re-evaluation of the appropriate federal role in making America's schools work for our students and the country, and offers the following recommendations.

**The Role of the President**

No person in America has a larger megaphone or can command the attention of the nation more than the President. NSBA believes the next president must make strengthening our nation's schools a major priority and compellingly convey to the American people the urgency to work on accomplishing the task and what it will take to do so.

The President should lay out a national vision for education that addresses:

- The correlation between strong schools in every community and the nation's long-term success;
- The need for continuous improvement to keep ahead of the rapidly changing times;

- The role that parents, community-based and faith-based groups, and business leaders must play in strengthening our schools; and,
- How a transformation of the federal role will enable states and local communities to improve public education.

However, that national vision cannot convey nor equate to national mandates or directives. And the details of this national vision should emanate from discussions with stakeholders both inside and outside of Washington. That vision must reflect the understanding of current authority and Constitutional responsibilities of states, and re-define the role of the federal government so that it promotes national policies within a framework that supports states and local communities. This must include sufficient flexibility in their operations to effectively and efficiently address the unique challenges of their local communities.

Questions that should drive the discussion include:

1) What skills, knowledge and tools will our students need to be successful in the 21st century economy? What does such an education look like?
2) What do our public schools need to provide students with those skills, knowledge and tools?
3) How will schools, stakeholders and the public know that students are achieving success?

Therefore, NSBA recommends that the next President, in conjunction with key Congressional leaders convene a series of "town meetings" or mini-summits across the country. While all voices should be heard, this process should not serve as a forum only for federal policymakers and "think tanks" with single interests that would impose one-size-fits-all recommendations on every community. Rather, this approach should directly engage those with the primary responsibility in providing a quality education as well as those who have the greatest stake in its outcome: students, teachers, principals, parents, school board members, local superintendents, state superintendents, employers, and postsecondary education leaders.

These discussions can help define what a 21st century education must look like and foster the necessary buy-in of the stakeholders who will be charged with carrying out the task. Special attention must be given to involve state and local leaders who are elected by the public and have responsibility for public education. Additionally, these key stakeholders should review the current framework for funding public education in the nation and develop recommendations for: 1) improvements in the revenue streams for education; and 2) greater efficiencies in the use of federal, state, and local dollars targeted to public education.
The result of these deliberations should be a Report of Findings and Recommendations within 100 days that would assess the current and emerging challenges and establish improving our public education as a top priority.

**The President's Team for Education**

In selecting his key team for education, NSBA urges the President to consider nominating for appointments individuals who have demonstrated their expertise and effectiveness in managing and leading school districts; in classroom instruction; in addressing the challenges facing America's public schools; and / or, in successfully leading initiatives with demonstrated and significant increases in student achievement.

Finally, the President should demonstrate his commitment to education as a national priority in his recommended budget to Congress. America does not need to wait for a national crisis in the development of our workforce before providing the urgent funding that is needed now.

## The Role of the Federal Government

Clearly the new role of the federal government must acknowledge the fact that the efforts over the previous decade to employ a "top-down approach" have not worked. The new role must be one of partnership and support to the states not only in terms of funding for those with the greatest needs (e.g. poverty, disability, English Language Learners, etc.), but also in serving as a clearinghouse to share and promote ideas and best practices regarding actions needed to overcome shortfalls in student achievement. A potential theme for a new federal role might be "facilitate, don't dictate."

The new role must provide support to states and local school boards in the development of evaluation tools to identify what is needed for college and workforce success, to facilitate innovation, and to be a true measure of academic success. The federal government must challenge and inspire educators—with an emphasis on creating constructive remedies, adequate funding, and locally-developed strategies rather than simply punishing and discouraging schools or students when they fall short. The new federal role must act to strengthen the local voice not muffle it.

Most importantly for local school boards, the federal government must recognize the importance of local school district governance to promote democracy and civic engagement so that citizens, including the school boards they elect, have a meaningful opportunity to be enfranchised in the direction of their community schools and to ensure their schools are meeting their values, priorities, and needs.

Pending the transition to this new federal role in leading the national effort to define and develop a consensus on a 21st century education based on data, there are certain key areas in which the federal government must immediately re-direct its emphasis and involvement:

*The Federal Investment*
The current federal support to states and local school districts to close the achievement gap, particularly for those challenged by poverty, disabilities and the lack of English proficiency is noteworthy, and must be strengthened to reflect the increased number of students currently enrolled in our schools, and the significant increase in costs in delivering the educational services that are needed. The federal government should eliminate poorly conceived federal mandates and requirements and fully fund key federal laws such as *the Elementary and Secondary Education Act* (ESEA), and the *Individuals with Disabilities Education Act* (IDEA).

*State Standards not Federal or National Standards*
The federal government should play a supportive role to the states in the raising of state academic standards that reflect the elements of a 21st century education, but should not be involved in the actual development of those standards. The federal government should provide technical support to states, if requested, to identify the essential skills that students should have to compete successfully in college and in the global workforce; and to develop and assess those state standards. The federal government must recognize that states and local communities have needs that must be addressed, and that a "one-size-fits-all" approach will not work. Therefore, the federal government must not promote federal or national standards.

*State Multiple-Assessment Systems*
The federal government must increase its financial support to states for the development of state assessments that are valid, reliable and measure students as individuals. Further, the use of locally-developed assessments, including observational standards, should be considered as part of a multiple assessment system that is applied to any federal accountability framework. The federal government should not develop national high-stakes tests for state and local accountability purposes.

*Effective Accountability Systems*
The federal government must shift its current emphasis of accountability away from penalties and sanctions to one of increased technical support, incentives and federal investments. Accountability models need to recognize that students come from different environments, have different support bases and learn at different rates. For this reason, a federal accountability framework should recognize the importance of student academic growth, not just static scoring. Further, federal accountability determinations should not be based solely on high-stakes tests. Clearly, accountability for states, school districts, schools and students must be measured differently, and the federal government should be able to provide technical assistance to the states in determining the specific measures.

*21st Century Teaching and Learning Environments*
There are several ways the federal government can assist state and district efforts to create and sustain a 21st century classroom. For example, it can:

- Provide incentives in partnership with the states to help districts recruit and retain highly effective teachers and fill gaps in hard-to-staff schools and high-need schools, including incentives to support locally-designed performance pay programs;
- Provide research, best practices and information, and technical assistance that is easily accessible and geared for use by local educators and policymakers;
- Support efforts to develop and expand instructional practices, including such emerging approaches as Universal Design for Learning (UDL), through teacher preparation programs to enable teachers to be successful in teaching 21st century skills and inspiring our evolving student population;
- Support state efforts to establish 21st century standards, including identifying the skills and uses of information students will need; as well as new opportunities for early education programs, proficiency in foreign languages, world geography, math, science and technology;
- Support efforts to raise expectations and close the achievement gap while raising the achievement of all students through such approaches as alternate schedules and non-traditional public school structures such as distance learning and other proven methods of instruction; and,
- Support efforts to ensure students will be prepared to succeed in a globally competitive society and everyday 21st century life through the development of their cognitive and analytical skills, their application of knowledge, and their attitudes toward education and lifelong learning.

*Coordination and Streamlining of Comprehensive Services for Children*
While federal agencies continue to increase their efforts to effectively address the needs of families in poverty (e.g. housing, health, protective, etc.), there is a critical desire for increased efficiency of services. The federal government must re-direct and strengthen its efforts to ensure better coordination and collaboration among federal agencies that serve the needs of students in poverty. All too often, students who are shortchanged in education also are shortchanged in other aspects of their lives and can benefit from improved services in those areas that would complement schools' ongoing efforts to raise achievement. Therefore the federal government should provide incentives for more effective and efficient collaboration and coordination among those federal, state and local agencies that serve the unique needs of students in poverty. Additionally, improving the quality of education for students in poverty should entail the engagement of communities, parents and students in their education if we are to close the achievement gap.

# Initial Legislative Priorities for the 111th Congress

NSBA expects Congress to direct much of its initial attention toward strengthening the economy which must include a specific focus on public education. However, given the unique challenges currently facing the nation, and the potential delay in the reauthorization of the *Elementary and Secondary Education Act* (ESEA), NSBA recommends the immediate suspension of sanctions against schools and local school districts, and the adoption of technical amendments needed to address accountability flaws under the *No Child Left Behind (NCLB) Act.*

Additionally, although there will be key legislative issues affecting education during the 111th Congress, members must also direct their attention to several priority issues involving current legislation:

- Reauthorization of the *Elementary and Secondary Education Act* (ESEA), to amend NCLB so the program or any subsequent accountability program is free from the policy and operational flaws contained in current law, and to amend the narrow, high-stakes testing approach and instead support state and local efforts to provide a 21st century education to all students that includes higher-order, critical thinking and problem-solving skills;
- Reauthorization of the *Individuals with Disabilities Education Act* (IDEA), to provide for policy changes to address emerging issues associated with students with disabilities;
- Federal funding to meet the needs of all eligible Title I students; make good on Congress' promise to fund 40 percent of the cost of IDEA services; support early childhood education programs at the state and local level; permanently protect the E-rate program; and assist state and school district efforts to attract and retain effective teachers with an emphasis on hard-to-staff schools and high-need subjects; and,
- Ending of federal funding of school vouchers.

More detailed recommendations on these legislative issues can be found in the following pages.

# Fix the No Child Left Behind (NCLB) Act/ Elementary and Secondary Education Act (ESEA)

School boards expect the next Administration and Congress to "hit the ground running" in revamping the *No Child Left Behind (NCLB) Act / Elementary and Secondary Education Act (ESEA)* and correcting its many flaws. Prolonged inaction would be a disservice to students, parents, teachers and taxpayers.

The next iteration of this major federal law should reflect an appropriate federal role. That is, one which provides discretion and flexibility for the effective education of students to the level of government actually responsible for delivering it: local school districts. K-12 education is a state and local responsibility and the appropriate federal role should be one that assists those entities in providing all students with the education that will serve them well in their post-secondary / workplace careers of the 21st Century. It should provide an accountability system that is based on achievable goals and comprises a true measure of student learning, and recognizes justifiable adjustments for local conditions.

More specifically and regardless of what the new law is called when enacted, it must:

- Inspire expectations in student achievement that are high and attainable and will be reinforced by an accountability system that constructively supports those outcomes;
- Provide states and districts with greater overall flexibility to make educationally sound decisions, and be free of mandates that unnecessarily or counterproductively hinder school districts from achieving their goals;
- Ensure high-quality, valid and reliable assessments for all students, especially for English language learners and students with disabilities;
- Use multiple measures of academic achievement that will more accurately determine students' knowledge and performance that reflect the kind of well-rounded education necessary to be successful in the 21st Century economy, as opposed to judging success on their performance on a single assessment;
- Permit the use of growth models and other measures of student achievement that more accurately reflect student and school performance;
- Facilitate strategic interventions that are designed at the local or state level and are targeted to students and schools most in need, rather than impose ineffective and costly sanctions; and,
- Be fully funded, along with other federal assistance programs that are critical to achieving the new law's goals.

## Increase Federal Funding for Education

The top federal funding priorities for school boards are Title I grants, which are the principal source of funding for *No Child Left Behind (NCLB) / Elementary and Secondary Education Act (ESEA)*, and grants to fund special education under Part B of the Individuals with Disabilities Education (IDEA) Act. Unfortunately, funding for these programs—and for education overall—has not kept pace with the educational needs that those programs are designed to meet, the amount that the federal government promised to provide, or the rising costs and rising expectations of students' performance associated with the mandates of those programs.

Current funding is tens of billions of dollars below what Congress authorized for each federal program. For example, the cumulative federal shortfall for Title I from FY 2002 – FY 2007 totaled more than $43 billion. For IDEA, the federal government has never come close to fulfilling its promise to pay 40 percent of the average per pupil excess costs for special education, and currently provides just 18 percent of the total costs for this federally required program.

Accountability is a two-way street. When the federal government demands more of schools and students, as it has, it needs to deliver on its part of the equation by providing sufficient funding, instead of passing those shortfalls on to local and state taxpayers.

We believe the next administration and Congress should:

- Fulfill federal promises to fund important and mandated education programs;
- Increase Title I grants for disadvantaged students by at least $2.5 billion annually; and,
- Increase IDEA grants for special education by at least $2.5 billion annually.

In considering these recommendations, it is important to remember that federal funding for K-12 accounts for only about 1.5 percent of the entire federal budget, so reasonable increases recommended for education would amount to a small fraction of 1 percent of total federal spending. As states and localities face the faltering economy, it is more difficult for local taxpayers to make up the difference when the federal government fails to do its part. And, in doing its part to sufficiently fund Title I and IDEA, it should not have to reallocate funds from the general education program in order to meet the requirements of federal mandates.

## Support 21st Century Skills

Our nation's global competitiveness and democracy rest squarely on a strong education system. The continued success of this system requires ongoing support and investment at all levels. In order for students to gain the skills and knowledge they need to be successful citizens in the 21st century, school districts must: 1) be able to provide a rigorous curriculum that is integrated with modern technologies and tools; 2) provide an education program that includes the uses of knowledge and cognitive development at levels that meet the realities and standards of a competitive global economy and emerging everyday life; and, 3) present a strategic focus on math, science, and foreign languages that are necessary in a global economy that increasingly will require competency in these areas. The federal government can play a critical role in helping shape our nation's economic future by supporting districts in these efforts.

For example, the federal government should:

- Provide flexibility in federal laws to enable school districts to teach students the higher-order, critical thinking skills that are important for the 21st century workplace;
- Invest in research and innovations and disseminate best practices, including identifying the skills and uses of knowledge that students will need to possess to succeed in the 21st century workplace, such as cognitive skills, problem solving abilities, creative and analytical thinking,

teamwork and communications skills, intellectual curiosity, and a commitment to lifelong learning.

- Invest in making broadband Internet access available to all schools, including E-rate related services;
- Invest in professional development to enable teachers to adequately teach 21st century learning, as well as to effectively use technology resources in the classroom; and,
- Provide incentives to help states and districts fill teacher shortages in high-need subject areas vital to our future economy, such as math and science;

While the federal government should play an assisting role in offering support to build local and state capacity that furthers districts' efforts to provide students with a 21st century education, it should *not* engage in setting national academic standards or compliance requirements that hinder districts' work.

# Invest in Early Childhood Education

School board members recognize the critical role that quality early childhood education plays in preparing children for success in school and in life, and believe strongly in the need for an increased federal investment in this area. Unfortunately, the United States has relatively low enrollment and invests fewer public resources in preschool programs than other developed countries.[1] Currently, many families do not have access to public preschool programs and are limited in terms of the quality of program they can afford. In order to ensure that our children are prepared to succeed in and adapt to an ever-changing world, we must ensure that they have a strong foundation on which to build.

[1] For example, Belgium, France, and Italy offer universal, voluntary, and free programs for preschool children 3-6 and enroll 95 percent of this age cohort.

The federal government can assist states and local districts by:

- Increasing federal funding to support Head Start programs for disadvantaged students in order to help close the achievement gap between low-income children and their more affluent peers;
- Create a new federal grant program that will increase funding over the next five years to develop, expand, and sustain voluntary quality preschool programs for all three- and four-year olds;
- Devote specific resources to helping school districts develop and implement joint training and professional development programs for PK-3 instructors to help ensure a more seamless transition between preschool, kindergarten, and the elementary grades; and,
- Provide tools and incentives to replicate effective models and improve program quality.

# Protect Medicaid Reimbursement for Schools

Under federal law, school districts are eligible for reimbursement from Medicaid for the costs of certain administrative activities and transportation services delivered to children with disabilities from low-income families. The Bush Administration issued regulations intended to halt these reimbursements, but Congress rejected those efforts with a series of temporary moratoriums on their implementation. School boards believe the federal government should *not* pursue cutting these important reimbursements to school districts, and are seeking a permanent withdrawal of those regulations.

We believe the federal government should ensure that school districts continue to receive Medicaid reimbursements for providing critical services to children with disabilities from low-income families for these reasons:

- Ending the reimbursements would cost school districts $3.6 billion over five years. As a result, districts might be forced to cut education services or replace lost Medicaid dollars with additional state or local taxpayer dollars - which are stretched thin;
- The federal government already is woefully behind in its commitment to fund special education. Ending Medicaid reimbursements would exacerbate that shortfall and make it even more difficult for school districts to provide needed services to children with disabilities; and,
- Reimbursements cover health services delivered to eligible children and the transportation costs of providing such services. They also cover administrative activities such as outreach for enrollment and monitoring of medical care for children with disabilities.

While some advocates of cutting reimbursements have cited faulty billing practices by some school districts, the problems mentioned in these outdated reports are no longer prevalent as those districts have made the needed corrections. Additionally, the federal agency which oversees the program acknowledges that schools are uniquely positioned to enroll eligible children in Medicaid and to provide access to available benefits.

# Oppose Private School Vouchers

School vouchers are education tax dollars that typically are diverted from public schools to help subsidize the tuition of private and religious school students. While a few states and cities have limited voucher programs, the only federally funded one is an expiring pilot program in Washington, D.C.

School boards believe vouchers and tuition tax credits are poor public policy for numerous reasons, including these:

- Vouchers divert attention, commitment and dollars from our public schools to pay private school tuition for a few students, including many already in private school;
- Vouchers eliminate public accountability – private voucher schools do not face NCLB or state accountability standards, do not make achievement and budget information public, and do not have to accept all students. Existing programs have been plagued by scandal;
- Vouchers are no way to raise student achievement – A GAO report on Cleveland and Milwaukee's voucher programs found no overall difference in achievement between voucher students and public school peers, as have two years of a federal evaluation of the Washington, D.C. program;
- Vouchers waste money by forcing all taxpayers to support two school systems: one public and one private. Existing private school students are often eligible, creating a new cost to taxpayers;

- Vouchers leave behind many students, including those with the greatest needs;
- Vouchers give choices to private schools, not parents – private schools decide if they want to accept vouchers, can limit available seats, can maintain admissions standards, and can dismiss students at any time. Milwaukee's program is known for being a revolving door with many students dismissed; and,
- The voters have rejected vouchers and tuition tax credits by enormous margins 11 out of 11 times. Utah voters were the most recent, repealing a universal voucher program 62 percent – 38 percent in 2007.

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Founded in 1940, the National School Boards Association is a not-for-profit federation of state associations of school boards representing 95,000 local school board members throughout the United States. Its mission is to foster excellence and equity in public elementary and secondary education through local school board leadership. NSBA represents the school board perspective in working with federal government agencies and national organizations that impact education, and provides vital information and services to state associations of school boards throughout the nation.

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## National School Boards Association

# Federal Regulations Adversely Impacting Academic Achievement in Public Schools

*November 2008*

As our nation prepares for the inauguration of the 44th President and the convening of the 111th Congress, this transition period following the Presidential and congressional elections provides an opportune time to identify existing federal regulations that adversely impact our broader goal of ensuring access to quality education by all students enrolled in our public schools. The National School Boards Association (NSBA), representing over 95,000 local school board members through our state school boards associations, has reviewed current federal regulations negatively impacting student achievement and recommends the suspension of the following:

**1. Regulations Implementing Title I of No Child Left Behind (NCLB) Act**

On October 28, 2008, the outgoing U.S. Secretary of Education, Margaret Spellings, released final regulations implementing certain provisions of Title I of the *No Child Left Behind (NCLB) Act*, specifically Accountability, Uniform and Disaggregated Graduation Rates, and Supplemental Services and Public School Choice.

After close review, NSBA strongly urges President-Elect Obama and his new administration to defer implementation of these new regulations until they have had an opportunity to assess the need for such changes – given the impending reauthorization of the *Elementary and Secondary Education Act (ESEA)*.

In our view, these new Title I regulations will force schools and school districts across the nation to re-direct resources to meet new and unnecessary requirements that will be disruptive to current operations and in all likelihood will be modified when the *Elementary and Secondary Education Act (ESEA)* is reauthorized during the 111th Congress.

We believe that the new President and new Secretary of Education should have the opportunity to determine how best to approach the needed changes in the current law and to issue specific guidance pending the reauthorization. Over the past year, NSBA has lobbied Congress to secure additional resources and regulatory changes that facilitate both effective and efficient implementation by school districts—not more reporting requirements or barriers to achieving the goals of the law.

As one example, NSBA remains concerned that the final regulations establish additional barriers for the use of unspent Title I federal funds that are required to be set-aside for public school choice and SES. While the final regulations offer some relief in permitting school districts to release the set-aside funds if they meet the criteria established by the new regulations, the final regulations provide for review and certification by the state education agency – with the added requirement that if the criteria for releasing such funds have not been fully met, the amount of any unauthorized release of funds will be added to the 20 percent set-aside requirement in the subsequent year. In implementing this requirement, school districts could find themselves with a financial obligation for a subsequent academic year that is unnecessary or financially problematic to fulfill – especially at a time when a number of school districts, local governments and states are grappling with serious budget shortfalls. The federal share of funding for NCLB—specifically for Title I grants for disadvantaged students—remains inadequate, thereby placing an additional burden on school districts and states. 29 states faced an aggregate budget shortfall of an estimated $48 billion for FY 2009; and now, several states are challenged by mid-year shortfalls (from the Center on Budget and Policy Priorities, October 20, 2008).

**2. E-Rate Program Exemption from the Anti-Deficiency Act**

NSBA seeks a permanent suspension of the Federal Communications Commission (FCC) ruling or a new Executive Order that currently would place schools and libraries under the *Anti-Deficiency Act (ADA).*

The E-rate program is a $2.25 billion annual program which provides significant discounts of up to 90 percent to schools and libraries to help them build technology infrastructure and provide telecommunications and Internet services for students in low-income and rural areas. Schools and districts get funding from the Universal Services Administrative Company (USAC), which in turn collects the funds from levies imposed on interstate phone calls by telecommunications companies.

In 2004, the FCC ruled that E-rate fell under the ADA, which effectively forced the suspension of E-rate funding commitment decision letters to schools on the grounds that the federal government had not yet collected funds. In so doing, many school districts would have had to drop out of the program because they could not legally or financially enter into contracts with technology providers without a binding letter of commitment from the federal government that the money would be provided.

Over the past couple of years, Congress has passed legislation to extend the exemption from ADA so the federal letters of commitment would continue. This year, the education and library community again worked with members of Congress to seek additional extensions of the moratorium. However, unless such legislation is enacted, restrictions will be reinstated after December 2008. Rather than going through this legislative process every year, the FCC order should be rescinded.

**3. Centers for Medicare and Medicaid Restrictions on Medicaid Reimbursement to School Districts**

NSBA seeks the repeal of regulations issued by the Centers for Medicare and Medicaid Services (CMS) on December 28, 2007, that eliminates federal reimbursement under the Medicaid program to school districts for the costs of administrative activities (such as outreach and enrollment, program planning, and referrals) and certain types of transportation provided to students with disabilities. This action has been estimated to cost school districts $3.6 billion over the next five years, and is inconsistent with the statute's eligibility determination provisions that expressly designate elementary and secondary schools as "qualified entities" for purposes of making presumptive and permanent eligibility determinations in order to afford eligible children and adults the ability to promptly apply for medical assistance and be enrolled.

Congress has twice passed legislation to delay the effective date of these regulations until April 1, 2009. Congress has spoken; it does not want to recoup federal funding by withdrawing funds targeted for poor children who receive certain medical services through the schools. Given the effective date, NSBA strongly recommends repeal of these regulations.

NSBA would very much appreciate the opportunity to discuss our recommendations. Questions concerning our positions may be directed to Michael A. Resnick, Associate Executive Director, at 703-838-6720, or by e-mail at mresnick@nsba.org.

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National School Boards Association

# NSBA's Recommendations for Immediate Fiscal Assistance to School Districts

*November 2008*

As the nation experiences tremendous pressures to overcome the current economic crisis, virtually all sectors, including education, are facing hardships. From the housing crisis to the municipal bond market, each challenge has affected local and state governments, thus affecting the nation's 15,000 school districts.

Pursuant to the enactment of *The Emergency Economic Stabilization Act of 2008*, the U.S. Department of the Treasury has implemented many opportunities for U.S. financial institutions to build capital.

However, the public sector's access to capital for both short- and long-term borrowing needs, including school districts and other local governments and states, is becoming increasingly difficult. Currently the market for tax-exempt bonds has been very slow to thaw, as recently reported by Standard and Poor's. This translates into either no ability to access the market or significantly increased costs to do so, and the problems are especially acute to those school districts and other units of government who need to issue short-term debt in order to maintain payroll and operations, attend to infrastructure repairs, and bulk purchases for textbooks, technology, and other instructional supplies.

Our nation's 15,000 school districts – an integral component to economic revitalization and global competitiveness, a stakeholder in the municipal bond market, a key employer for states and local economies, and a large source of contracting and commerce – have been and continue to be greatly affected by the lack of market liquidity, caused by the financial sector meltdown. This in turn is affecting the performance of our schools, the gross domestic product, and ultimately American competitiveness.

As the Treasury Department continues its efforts to stabilize and reform the financial services industry, the National School Boards Association (NSBA) urges your consideration of the following recommendations that would help spur both local and national economies, reduce the potential for defaults on outstanding debt and address immediate education needs.

- Direct Funding for School Infrastructure
- Reserve to Guarantee Outstanding Bonds
- Fund for Pending Bond Issuances
- Allow for an Additional Advance Refunding

**Provide Immediate Funding for School Infrastructure**
NSBA urges the enactment of a federal economic stimulus package that will provide grants to school districts for infrastructure repairs and modernization. This source of targeted funding would help advance student achievement, provide contracting opportunities for businesses, and create thousands of jobs throughout the country.

The urgent need for greater investment in school infrastructure is evident by numerous statewide assessments of school facilities, capital improvement projects underway for repairs, modernization and new construction, and the significant number of projects pending because of the local and state budget hardships, as well as difficulties within the municipal bond market.

Moreover, federal grants for school infrastructure provided through an economic stimulus could be used immediately because many projects have already been approved in a number of states and await the necessary funding.

*Rationale*

- A recent analysis from New Jersey states that 9,000 new jobs are created for every $1 billion invested in school repair and construction.

- The National Association of Federally Impacted Schools (NAFIS) recently conducted a survey of school districts that receive federal impact aid funding. The survey focused on school infrastructure projects (whether new construction or modernization and repair) that can commence within a 30- to 60-day time period. Highlights of the compilation are that the total cost of school infrastructure projects studied is about $630 million, which includes $150 million slated for school modernization, renovation, repair, or energy improvement projects.

- The Los Angeles school system, which is midway through a $27 billion school construction program, has opened 70 new schools in recent years and is renovating hundreds. The new schools have attracted a better trained, more diverse teaching staff. Initial evidence suggests that students in smaller, more personal high schools are outperforming their counterparts who still attend dilapidated, overcrowded schools.

- Demands of today's educational programs and services have overwhelmed the structural capacity of many school facilities across the nation. Approximately three million students attend public schools that require major renovation or replacement.

- Modern "green" schools will help increase efficiency by reducing energy dependence and ultimately reducing operating costs. If all new school construction and school renovations went green, energy savings alone would total $20 billion over the next ten years, according to the U.S. Green Building Council.

- Nationwide, the costs for repairs, maintenance and modernization exceed an estimated $300 billion. The General Accountability Office has studied this crisis along with a number of education authorities. In addition, statewide assessments indicate a growing demand for new construction to accommodate increasing student enrollment, 21st Century skills and learning environments, and health and environmental safety.

- Local school districts are delaying priority school infrastructure projects as they struggle to secure local and state financing amid budget shortfalls and increased expenditures for transportation, utilities, school meals and homeless assistance to students affected by the national housing crisis, for example.

- Providing schools with $50 billion in funding to address deferred maintenance projects, insulate buildings, upgrade classrooms, install double-pane windows, and build more high schools to focus on smaller teacher-student ratios, for example, would be a catalyst for an economic stimulus to provide thousands of jobs and address school infrastructure needs, according to a November 8 *New York Times* editorial.

**Establish a Reserve to Guarantee Outstanding Education Bonds**
In the past, many school districts have acquired a financial guarantor (e.g., insurance) when issuing bonds. This elevates the school district's bond rating and makes the issuance more attractive to investors. Since a majority of the bond insurance companies have been downgraded this year, finding affordable access to a financial guruantee (a AAA rating) has been difficult – especially for smaller school districts. Therefore we suggest having the Treasury establish a reserve of at least $25 billion to guarantee bonds for elementary and secondary education. While municipal bond defaults are extremely rare – less than one tenth of one percent – having a financial guarantee, allows for better bond pricing, which saves taxpayers money. Although the level of assistance from this reserve may have to be determined on a case-by-case basis, such a mechanism would help remove barriers to debt service for the U.S. education system.

*Rationale*

- Due to the lack of purchasers, and the downgrading of many bond insurers and liquidity providers, some short-term bonds whose rates are reset on a short-term basis, are finding no buyers. This means that the bank takes back the bonds – and charges the issuer (school district) the bank lending rate, which is much higher than the anticipated debt costs, and accelerates the repayment plans from 30 years to three years, for example. This has caused states and local governments, as well as institutions of higher education, severe financial hardship. These types of bonds may have been securitized into other debt instruments that declined, thereby prompting earlier maturity dates for payment.

- The ability of school districts and governments to meet either the established payment plans or the accelerated payments is crippled by a decline in revenue at all levels. Property tax revenues are lower because of the housing market implosion. With housing assessments falling by more than 20 percent in many communities, property tax revenues that are used to finance as much as 40 percent to 50 percent of education costs are now in a sharp decline.

  In addition to the lack of financial guarantee providers going forward, finding ways of restructuring outstanding bond issues that were guaranteed by institutions that now lack a AAA rating, for example AIG, remains difficult.

- Sales tax receipts are much lower because of unemployment and decreased consumer purchasing power. Business activity tax revenues are lower because of the barriers to capital and credit for corporations and small businesses. In fact, recent mid-year projections of state budgets indicate a combined shortfall of more than $100 billion. The bottom line is that education funding and funding for essential local and state government operations is in serious jeopardy. Hence, bond payments are affected.

- Short-term borrowing for school districts that is generally secured by tax anticipation notes has become a significant challenge. The unfortunate result for many schools has been layoffs, deferrals of purchases for textbooks, technology and supplies, increases in class sizes, transitions to four-day school weeks, and cancellation of electives, extracurricular programs and field trips.

  For example, officials in the Miami-Dade school system recently announced a $122 million cut to its already strained budget this year.

- If districts can actually secure short-term loans, the interest rates are now significantly higher than were budgeted for.

  Officials from the Cold Spring Harbor School District in New York stated that the district borrows money through short-term loans while awaiting annual property tax receipts. The district recently closed a sale on $7 million worth of tax anticipation notes with an interest rate of 3.23 percent, which was an increase of one percentage point, or an extra $49,000 over the life of the loan. William Bernhard, the district's interim assistant superintendent for business, stated that the extra cost is the equivalent of hiring a teacher or making an educational upgrade.

- For authorities with lower bond ratings, the cost for debt service is significantly higher, thereby placing a higher burden on local and state budgets.

  A recent Moody's Investors Service report concluded that the continuous lower revenues, along with the current credit market conditions, could put downward pressure on issuers' long-term credit ratings. The report also stated that issuers lacking strong liquidity and a reliance on short-term note borrowing will face the most pressure if markets do not reopen quickly.

  "Ratings on these issuers' short-term borrowings may suffer and there may be downward pressure on long-term ratings if the short-term liquidity crunch manifests as longer-term credit risk," according to Moody's Investor Service.

- When bond ratings are impacted, a region's ability to attract and retain industry and other sources of commerce is damaged. If there is no reasonable commerce and tax base, the school systems are impacted. As you are aware, the financial services industry impacts education and all related components for sustainability and growth.

**Fund for Pending Bonds**
Establishing a fund of at least $50 billion for the government to purchase bonds for pending projects, including those for school infrastructure, that have not been able to be issued due to the liquidity crisis.

*Rationale*

- Providing capital to meet immediate needs for short-term borrowing that a number of school systems utilize, based on scheduled receipts from tax revenues, is essential. Without the ability to address short-term borrowing needs, the nation's school systems cannot operate at their full capacities. If this is not addressed, a number of contracts and agreements are at risk, thereby increasing the liability of school systems with limited capital.

- From employment and collective bargaining agreements, to utilities and special education programs, a designated source of funding for school systems is needed until the market can sufficiently accommodate the education sector.

- The *Atlanta Business Chronicle* recently reported that state, local and school district planners are putting more than $1 billion in building and highway projects on hold, waiting for stability to return to markets racked with uncertainty.

- Challenges facing long-term borrowing are also evident for school systems such as Cumberland County, North Carolina, where officials froze plans to build a $20 million elementary school in the 53,000-student district after a neighboring county failed to find buyers for $454 million of its own construction bonds.

  *Education Week* reported that the state of Maine has delayed 12 major school construction projects totaling $348 million in 11 school districts. In other states, even districts able to borrow money are paying higher interest rates while bracing for yet another drop in property-tax revenue. And in San Mateo County, California, officials in some two dozen districts are unable to access of millions of dollars invested with Lehman Brothers.

**Advance Refunding**
The ability of bond authorities to refinance outstanding debt at lower interest rates needs greater flexibility. The *1986 Tax Reform Act* restricted a government's or district's ability to refinance their debt and save taxpayers money. Under current law, entities have only one opportunity to advance refund their debt over the lifetime of the bond (usually 30 years). We recommend allowing an additional advance refunding opportunity so that governments have the flexibility to take advantage of lower interest rates in future years or restructure their debt service payment options.

*Rationale*

- Allowing additional advance refundings of bonds in this current economic climate would be a great help to school districts and other issuers as governments explore all options to reduce expenditures, preserve credit ratings, and maintain fiscal solvency. If this cannot be achieved broadly, the option for refinancing outstanding bonds should be made available to authorities whose payment schedules need to be modified because of falling receipts, as well as those authorities that project declines in future revenue.

- Easing debt service on school construction bonds could ensure that a bigger share of bond revenues goes toward employment creation.

- Just as Congress approved additional advance refundings for certain bond authorities as a form of fiscal assistance when the economy declined after the September 11 terrorist attacks and after Hurricane Katrina, NSBA urges the implementation of a similar measure that will help provide flexibility for local and state governments.

- Allowing additional advance refunding is a sound financial management tool that will provide immediate assistance to help alleviate state and local budget shortfalls.

While these recommendations are not inclusive of all measures that can be implemented to help stabilize local and state economies, NSBA appreciates your consideration and implementation of these recommendations as you work to target federal investments and achieve the goals of *The Emergency Economic Stabilization Act of 2008.* Immediate funding for school infrastructure, the creation of a reserve fund to guarantee outstanding education bonds, a fund to accommodate pending bond issues for urgent education needs and school construction, allowing for an additional advance refunding, and exemption from recent 403(b) regulations will provide immediate assistance to local and state governments and will help strengthen the financial market.

Without such assistance, projections of greater losses in revenue and economic dislocation in 2010 threaten local and state budgets and the bond market even more. Credit trends for K-12 and higher education were strong at the beginning of the recession. Our goal is to sustain the fiscal integrity and stability of the nation's education system.

NSBA would very much appreciate the opportunity to discuss our recommendations. Questions concerning our positions may be directed to Michael A. Resnick, Associate Executive Director, at 703-838-6720, or by e-mail at mresnick@nsba.org.