Legally and traditionally, elementary and secondary education policy has been defined broadly by state constitutions, specified by state statutes and implemented by state agencies, school boards and local school districts. For more than thirty-five years, federal involvement in education was modest in resources and limited in scope, targeting under-served populations with the expectation of raising student achievement for disabled and economically disadvantaged students.

**Funding**

The flow of federal funding directly to state education agencies creates state governance issues and aggravates oversight concerns by bypassing established state budget processes. It is the position of the National Conference of State Legislatures that all federal funds should be incorporated into the state’s budget process for open and deliberative hearings and deliberations. Federal funding should not bypass constitutional and statutory provisions by going directly to state or sub-state bureaucracies or agencies.

Despite the enactment of No Child Left Behind (NCLB) in 2002, K-12 education remains a state and local financial responsibility. The federal government provides about $40 billion of the $550 billion currently expended on K-12 education, making up 8% or less of the nationwide K-12 budget. Every additional $1 billion in federal appropriations increases aggregate K-12 expenditure by two-tenths of a percent.
Reauthorization of the Elementary and Secondary Education Act

Appropriations increases associated with the enactment of NCLB increased federal resources modestly but greatly enhanced the role and reach of the federal government into the day-to-day operations of public schools by mandating the use of a flawed and discredited academic metric that over-identifies ‘failure’ and leads inevitably to a process and compliance model of federal-state interaction. States were left with the responsibility for figuring out how to reach an admirable yet statistically unattainable goal of 100% proficiency for all students, all to be accomplished with the 2% net increases in K-12 funding made available through increases in federal appropriations.

The nation’s legislators commend the Congress for its efforts to identify the unmet needs of children in our education systems and efforts to improve federal education policy. However, current federal policy attempts to leverage reform and improvement for all students, diluting the impact of limited federal resources. The nation’s legislators expect federal policy to supplement, not supplant state policy and to respect the progress, improvements and innovations made in our state systems by providing the flexibility to implement reforms according to specific conditions in our states. NCLB reaches too far and violates basic principles of federalism, significantly shifting control of K-12 education to federal bureaucrats and away from state and local elected officials.

State legislators take their authority and accountability for public education seriously and expect the federal government to honor its commitment to a federal system by calling upon the Congress to amend ESEA as follows:

- Incorporate the recommendations of the NCSL Task Force on No Child Left Behind, which range from the need for a revitalized state-federal partnership to specific recommendations for overhauling Adequate Yearly Progress (AYP), to amending the state plan approval process to make it more transparent, less arbitrary and less subject to the whims of political influence, to changing the sequence of consequences for under-performing schools.
- Follow the concept of incentive-based programs as opposed to the coercive, punitive system at the heart of NCLB.
• Acknowledge state constitutions and state elected officials as well as basic principles of federalism.

• Avoid any reduction in federal K-12 funding for any state that can show continuous improvement in student achievement, and/or a closing of the achievement gap in that state, using any legitimate metric that is incorporated into state policy.

The nation’s legislators expect federal education policy to be an effective and efficient tool. This can only be done by re-thinking ESEA in its entirety, not by a piecemeal approach that grants regulatory relief to a few states on a few select issues while ignoring the systemic problems imbedded in the federal law.