

## Fischer #2079 -- Local Governance Amendment

### Background

Since the passage of the No Child Left Behind (NCLB) Act, there have been several instances of federal overreach in education – many which were achieved historically through non-regulatory policy making. Instead, public education decisions should be made by local public school leaders. Below are examples of federal overreach over our nation’s public schools:

- A [Washington Post article](#) reported on NCLB’s Reading First program, “...a \$1 billion-a-year effort to help low-income schools adopt strategies ‘that have been proven to prevent or remediate reading failure’ through rigorous peer-reviewed studies.” Department of Education (ED) employees responsible for the program’s implementation in conjunction with their colleagues outside ED, coerced state and local leaders into procuring specific textbooks and reading programs – with almost no peer-review research about their effectiveness – at a cost of millions of dollars. In 2006, the Department of Education (ED) Inspector General and House Committee of Education and Labor exposed the mismanagement and favoritism inherent in the program.<sup>1</sup>
- ED’s issuance of Conditional ESEA Waivers to states offers states flexibility; however, the approval of waivers were accompanied with additional federal requirements (e.g. implementation of college-and-career ready standards and teacher evaluation mandates). Following a request from the House Education Majority Committee Staff in 2011, CRS raised the following concerns about the validity of the waiver process:

“...if the Secretary did, as a condition of granting a waiver, require a grantee to take another action not currently required under the ESEA, the likelihood of a successful legal challenge might increase, particularly if ED failed to sufficiently justify its rationale for imposing such conditions. Under such circumstances, a reviewing court could deem the conditional waiver to be arbitrary and capricious or in excess of the agency’s statutory authority. Ultimately, the resolution of such a question would probably depend on the facts of a given case.”<sup>2</sup>
- The imposition of arbitrary federal requirements continued under the Race to the Top (RTT) District Grant Program. In order to receive a grant, local school districts were required to obtain union/teacher sign off (in the same manner as school board presidents and superintendents). School districts were required to incorporate a comment period for state education agencies, mayors and city or town administrators for district applications, making it a district grant in name only.

### Legislation

The local governance amendment would clarify the guardrails on federal authority in education. It would ensure that local stakeholders have a stronger voice in the regulatory and guidance processes. This bipartisan amendment is cosponsored by Senator King (I-Maine) and Senator Tester (D-Mont.).

- ✓ Prevents federal intrusion into how local schools are governed and administered.
- ✓ Ensures that local communities are consulted and their concerns are fairly addressed before the federal government issues any regulations affecting our schools.
- ✓ Affirms community ownership and leadership of our public schools.
- ✓ Strengthens the role and responsibility of school board members working with parents to promote the success of our nation’s public school students.

### Supported by

National School Boards Association (NSBA)

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<sup>1</sup> <http://www.washingtonpost.com/wp-dyn/content/article/2006/09/29/AR2006092901333.html>

<sup>2</sup> [http://edworkforce.house.gov/uploadedfiles/june\\_28\\_2011\\_crs\\_report.pdf](http://edworkforce.house.gov/uploadedfiles/june_28_2011_crs_report.pdf)