REDUCING REGULATORY MANDATES ON EDUCATION

HEARING

BEFORE THE

SUBCOMMITTEE ON HUMAN RESOURCES

OF THE

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

FIRST SESSION

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CONTENTS

	Page
Hearing held on June 12, 1997	1
Statement of:	
Granger, Hon. Kay, a Representative in Congress from the State of Texas	9
Saylor, Joan, New Jersey Association of School Business Officials; Anne L. Bryant, executive director, National School Boards Association; Jannis Hayers, Texas Association of School Boards; and Marilyn Cross, National Education Association	19
Letters, statements, etc., submitted for the record by:	
Bryant, Anne L., executive director, National School Boards Association, prepared statement of	32
Condit, Hon. Gary, a Representative in Congress from the State of California, prepared statement of	8
Cross, Marilyn, National Education Association, prepared statement of	57
Granger, Hon. Kay, a Representative in Congress from the State of Texas, prepared statement of	13
Hayers, Jannis, Texas Association of School Boards, prepared statement of	46
Saylor, Joan, New Jersey Association of School Business Officials, prepared statement of	22
Shays, Hon. Christopher, a Representative in Congress from the State of Connecticut, prepared statement of	3
Towns, Hon. Edolphus, a Representative in Congress from the State of New York, prepared statement of	6

REDUCING REGULATORY MANDATES ON EDUCATION

THURSDAY, JUNE 12, 1997

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HUMAN RESOURCES,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:04 a.m., in room 2247, Rayburn Building, Hon. Christopher Shays (chairman of the subcommittee) presiding.

Present: Representatives Shays, Pappas, Barrett, and Kucinich.

Staff present: Lawrence J. Halloran, staff director and counsel; Deborah F. Holmes, congressional fellow; and R. Jared Carpenter, clerk.

Mr. SHAYS. I would like to call this hearing to order and welcome our witnesses and our guests.

Although we dropped "intergovernmental relations" from our name, the change was typographical, not jurisdictional. Under House and committee rules, this subcommittee remains responsible for all matters bearing on the relationship of the Federal Government to the States and municipalities.

In recent years, nothing has defined or strained that relationship more than unfunded Federal mandates, statutory directives that impose substantive, administrative, and fiscal obligations on State and local governments. When he signed the Unfunded Mandates Reform Act of 1995, President Clinton joined a Republican Congress in the effort to restore balance in Federal-State relations and to identify, quantify, and limit the impact of new and existing mandates.

That is our purpose here today, to examine the scope and effects of existing Federal mandates, specifically those imposing additional burdens on local schools. Schools are at the bottom of the mandate food chain. Regulatory requirements from Washington, the State capital, the county seat, and city hall flow directly, indirectly, and often simultaneously, into the classroom.

No matter how well-intended or beneficial the individual mandate, the cumulative effect of compliance with multiple mandates can drain school budgets and divert educators' time and attention from their primary mission, teaching.

We asked our witnesses today to identify mandated paperwork requirements, administrative procedures, and direct spending they believe impose a burden on schools beyond their benefit to students. We asked what flexibility is currently available to schools in meeting mandates and what additional flexibility might be war-

ranted to fix mandates more realistically into the educational mission.

Mandate relief is the process of finding more appropriate means to achieve legitimate regulatory ends. No one disputes the needs for national education data, accommodation for disabled students, or environmentally-safe schools, but the undisputed worth of a goal cannot always justify heavy-handed Federal insistence on rigid State and local compliance with a one-size-fits-all strategy to reach the goal.

Particularly in areas of primary State authorities, such as education, principles of federalism and intergovernmental comity demand a more careful marriage of ends to means than has been our habit at the National level. We're beginning to break the mandate habit. The Unfunded Mandates Relief Act should make new mandates less frequent and less costly. The Educational Flexibility Partnership Demonstration Program, or Ed-Flex, gives the Department of Education and States the power to tailor Federal education funding and requirements within the context of a comprehensive school improvement plan.

The Individuals With Disabilities Education Act reauthorization, approved this year with bipartisan support and signed by the President on June 4, contains mandate relief and increased flexibility to improve academic programs for disabled students. But educators still face a daunting tangle of mandatory Federal laws, regulations, reports, standards, applications, commitments, inspections, and certifications that needlessly divert time and money from their overriding mandate, to teach our children.

Our goal today and in the future hearings is to help educators inventory Federal mandates, measure their impact, weigh their value in building better schools, and see where greater flexibility can serve the same ends through other means.

Our witnesses today, Members of Congress, local educators, and school administrators, all share a deep commitment to quality education and to a constructive Federal role in improving America's schools. We appreciate their time and the benefit of their expertise, and we welcome their testimony.

At this time, I would like to recognize Mr. Pappas.

[The prepared statement of Hon. Christopher Shays follows:]

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Statement of Rep. Christopher Shays
June 12, 1997

Although we dropped "intergovernmental relations" from our name, the change was typographical not jurisdictional. Under House and Committee rules, this Subcommittee remains responsible for all matters bearing on "the relationship of the Federal Government to the States and municipalities ...."

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We're beginning to break the mandate habit. The Unfunded Mandates Relief Act should make new mandates less frequent and less costly. The Education Flexibility Partnership Demonstration Program, or "Ed-Flex," gives the Department of Education (DoEd) and states the power to tailor federal education funding and requirements within the context of a comprehensive school improvement plan. The Individuals with Disabilities Education Act (IDEA) Reauthorization, approved this year with bi-partisan support and signed by the President on June 4, contains mandate relief and increased flexibility to improve academic programs for disabled students.

But educators still face a daunting tangle of mandatory federal laws, regulations, reports, standards, applications, commitments, inspections and certifications that needlessly divert time and money from their overriding mandate -- to teach our children. Our goal today, and in future hearings, is to help educators inventory federal mandates, measure their impact, weigh their value in building better schools and see where greater flexibility can serve the same ends through other means.

Our witnesses today -- Members of Congress, local educators, and school administrators -- all share a deep commitment to quality education and to a constructive federal role in improving America's schools. We appreciate their time and the benefit of their expertise, and we welcome their testimony.

Mr. PAPPAS. Thank you, Mr. Chairman. I want to commend you for holding this meeting, which I view to be critically important to the citizens, the taxpayers, and the local officials of our country. Having served in local government for many years, I'm a great believer in local government and its ability to be, really, the most efficient and effective layer of government and view my service here in Washington as an opportunity to be supportive of these folks and for the important job that they do.

We in Washington need to realize that the people back home in our communities need to be empowered as much as they can, and this hearing this morning, I think, is an important step in demonstrating our desire here in the House of Representatives to hear what these people have to say and to try to tailor our programs and our initiatives to them.

I was a great supporter of the Unfunded Mandates Relief Act that was enacted into law many years ago, but quite frankly, view it as a first step. One of the things I know Congresswoman Granger and I have been working on, with other Members of Congress, is to begin to look at existing unfunded mandates and their practical effect upon our desire to see the needs of our citizens met.

And I look forward to hearing from my colleague and from the other witnesses this morning. Thank you, Mr. Chairman.

Mr. SHAYS. I thank the gentleman. And we do have a quorum. And I just would like to take care—and since this is standard stuff, just get two housekeeping pieces out of the way. I ask unanimous consent that all members of the subcommittee be permitted to place an opening statement in the record and that the record remain open for 3 days for that purpose, and without objection, so ordered.

I also ask, further, unanimous consent that all Members be permitted to include their written statement in the record. Without objection, so ordered.

[The prepared statements of Hon. Edolphus Towns and Hon. Gary Condit follow:]

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OPENING STATEMENT

REP. EDOLPHUS TOWNS

RANKING MINORITY MEMBER
SUBCOMMITTEE ON HUMAN RESOURCES

JUNE 12, 1997

The Department of Education has a FY1997 budget of $29 billion and 4,600 employees, making it one of the smaller cabinet level agencies. However, the Department's funding is one-tenth of the estimated $300 billion combined federal, state and local spending on elementary and secondary education.

While federal funds account for less than seven percent of an average school district's budget, these resources are especially important for disabled, low-income or children with limited English proficiency. Because most states link school district funding to property tax collection in a given school district, this extra infusion of capitol is of invaluable assistance in low income areas. However, according to the GAO while total spending has increased, the proportion of poor school-aged children has steadily increased. Therefore, although we have spent more money, less has reached each child. On the Government Reform and Oversight Committee, we are charged with the responsibility of assuring that the federal portion of these funds are used effectively and efficiently to educate children.

We are called here today under the premise that there is some hidden cost or "unfunded mandate" that is robbing these children of their share of federal education dollars. If this were so, I would be the first to demand reform. However, there is no objective evidence that compliance with mandates contained in federal law has any effect on the provision of services to school-aged children. The question of the cost of compliance was to be answered by the Advisory Commission on Intergovernmental Relations. However, that agency was abolished by a Republican controlled Congress before it had an opportunity to issue a final report on the cost of unfunded mandates. Therefore, we are left with anecdotes and assumptions which should not form the basis of public policy decisions.

The fact that elementary and secondary schools are likely unaffected by so-called federal

mandates is aptly demonstrated by the fact that each of the programs cited by the majority as an area in need of mandate relief is not hampered by federal regulations. For instance, school recycling programs and local bond arbitrage rules are not governed by federal law. These are issues within the purview of state and local governments. The removal of hazardous substances such as asbestos, underground petroleum storage tanks and drinking fountains which contain lead are each areas of federal concern. And each is awaiting funding action from this Congress. These are "unfunded mandates" only because we have not acted. Finally, we are told that certain regulations governing federal education grants are a problem. Let me state this clearly. Waivers are readily available if a jurisdiction can present a reasonable argument as to the necessity of the exemption. Waivers from federal program requirements have always been available. Prior to the 103rd Congress, Education and other Departments were free to issue waivers to states on an ad hoc basis without any written guidelines or criteria. Under my chairmanship, this Subcommittee compelled the Federal agencies to develop written guidelines and criteria for human services and related programs. By the end of 1996, the Department of Education had received approximately 350 requests from school districts, state education agencies and other education entities to waive one or more education provisions under the Elementary and Secondary School Act, Goals 2000 and School-to-Work waiver authorities. The Department found that about one-third of those requesting waivers did not need them because current law provided the needed flexibility to accomplish their educational goals. Moreover, reasonable waiver requests are granted. To date, the Department has granted over 160 waiver requests from 47 states.

Further, I am told that there is a concern about the amount of paperwork involved in a grant application. It is my understanding that the Department publishes guidelines and makes employees available to assist in preparation of applications. If these resources are not helpful, we should investigate. Moreover, I understand that there is some competition involved in completing applications. For instance, it is my understanding that the application for the Goals 2000 program is less than four pages long. Yet the Department has not received any application which is less than twenty pages long. Therefore, I wonder whether these concerns about paperwork burdens are also matters that should be resolved locally.

Finally, Mr. Chairman, let me say that the federal government has been involved in education policy for over 130 years. I know that the greatest burden we could place on the young people of the next generation is to give them the impression that the federal government is not interested in education. If we do not care, why should they care? Therefore, we must make every effort to approve the funds that are necessary to run these important programs and assure that these funds are spent effectively and efficiently for the good of all of America's children.

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Statement of Congressman Gary A. Condit
January 12, 1997

Mr. Chairman and Members, thank you for the opportunity to appear today at this hearing called to review the effects of regulatory mandates on the public schools. It is entirely appropriate that this subcommittee, which had so much to do with the enactment of the Unfunded Mandates Reform Act of 1995, is examining this matter. I look forward to the testimony that will be presented today.

Mr. Chairman, I want to make just a couple of points. First, this subcommittee and others subcommittees should conduct more hearings like this one to review existing and proposed mandates on state and local governments, and other governments such as local school districts. As we will hear today, existing mandates in a number of federal programs are exacting a toll on America's schools. Our schools are devoting a growing percentage of their budgets to implement mandates imposed from Washington. A recent study found that local school districts are now devoting upwards of one-fourth to one-third of all their resources to meet federal mandates.

Those are funds that are not available to reduce class sizes, increase teacher salaries, improve curriculum, buy books and other instructional materials, restore and expand infrastructure, buy technology, wire classrooms for the Internet, or any of the many other needs that schools across the country have today. We can and we must be more aware of the costs to our schools when we impose mandates on them.

Mr. Chairman and members, when they must be imposed, Congress should work more closely with school officials to make mandates easier to administer. Carrying out a mandate in local schools may require special regulatory consideration or rules. Too often we have imposed burdensome unfunded mandates on local schools without any consideration for how difficult those mandates are to carry out in the school setting.

Mr. Chairman, I understand that the GAO will soon prepare a report on the impact of mandates on local schools. I hope the findings of that report will be the subject of congressional hearings. I look forward to working with the members of this subcommittee and others as we continue the important review of unfunded mandates. Thank you.

Mr. SHAYS. We will begin with our first panel and invite the Honorable Kay Granger from Texas, a former teacher, a former mayor, to come forward and testify. And if you would just remain standing. As you know, Kay, we swear in all of our witnesses, including Members of Congress. If you would raise your right hand.

[Witness sworn.]

Mr. SHAYS. Thank you. By swearing in all our witnesses, we don't ever get into an issue of why some are sworn in and others aren't. And when we swear in Secretaries, I would like to be able to also say we swear in Members of Congress. Great to have you here.

Ms. GRANGER. Thank you.

Mr. SHAYS. And look forward to your testimony.

STATEMENT OF HON. KAY GRANGER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Ms. GRANGER. Thank you very much. Thank you, Mr. Chairman.

Thank you, Mr. Pappas. As you said, I do share our experience at the local level, and I appreciate your concern and enjoyed working with you on existing unfunded mandates and taking the next step from what the past Congress did. Thank you for your help.

I'm honored to speak today on something that is very important to America's future, and that is America's children and America's education. The poet Maya Angelou once said, "A cynical child is one who has made the transition from knowing nothing to believing nothing." Nowhere is it more true than in the arena of education, where the goal is not just to grant knowledge to our students, but also to give them hope. Sadly, many of our schools fail on both counts.

It's true that our young people today, some are not able to write or to calculate numbers as they should, but more profoundly, many of our young people are discouraged and disillusioned. They have lost hope in themselves, and they have lost faith in this country. And that is truly the American tragedy.

These precious young people are the ones who ultimately pay the price when our schools fail. The young people are the victims of schools that have failed them, and sometimes, communities that have given up on them. This is a situation which we must address, and I am very glad that you are doing that, because, Mr. Chairman, I believe that no first class nation can have second class citizens.

Today more than ever, our schools and our teachers need our help, and our children need our help. Teachers aren't able to do their best teaching, and our children are not able to learn to the best of their abilities, yet the problem is not always instruction. America's teachers are a national asset. In fact, as a former schoolteacher myself, I recognize the contribution, and I empathize with the concerns of teachers.

Everywhere in America, there are teachers who inspire their students to never settle and never achieve—but always achieve, and too many times, teachers still find themselves trapped in a system that fails them and their students. Rules and regulations passed down from Washington tie the hands of our teachers, and perhaps

most significantly, court rulings have left our public schools in a quandary of confusion and confinement.

Unfortunately, judges and bureaucrats are not the ones who are most dramatically affected by ineffective policies sent down from Washington. Instead, our Nation's most precious commodity, our children, are the ones who pay the price.

When I started teaching in the public schools in 1966, I felt like I was making a difference. I chose that career. I challenged my students. I set very high expectations for them. And I developed relationships with my students, many of whom keep up with me today.

When I left teaching 11 years later, the classroom that I left bore little resemblance to the one I started teaching in. In just over 10 years, I had gone from teaching children to pushing paper. Instead of teaching my children *King Lear* or *The Canterbury Tales,* I spent a large part of my day filling out forms and paperwork.

So as a former public school teacher, I'm very concerned with America's classrooms. And I think my years as a teacher have given me perhaps a unique perspective of what works in the classroom and what doesn't.

I believe the first key to improving education is demanding discipline in our schools and our classrooms. It is impossible for teachers to teach and students to learn when they fear for their safety. Teachers and students should be focused on theorems and sentence structure. Instead, many times, they're worrying about handguns and gang violence. And they told me that when I was mayor of my city.

Next, I believe teachers should be able to teach again. We should untie their hands and allow them to teach basics again. Recent research by the National Assessment of Educational Progress has shown that among 12th graders, only 43 percent attained the basic level of proficiency in history, and only 12 percent of 8th graders are able to write well-developed stories.

Many of the problems teachers face while trying to teach their students is changing curriculum. Many times, schools change strategies in the beginning of each school year. One year, a teacher is told to teach traditional spelling and reading; the next year, they're told to begin teaching whole language, where the emphasis is not on a wrong or right answer, but the process of arriving at that answer. To me, it's very simple. Teachers should teach tried and true methods for reading and math.

We also need to return to higher expectations and tough standards. For too long, we have lowered the bar in the hopes that more kids would be able to make it over the top. Why not raise the bar and challenge each and every child to raise their effort and meet a higher standard?

We should give students the grades they earn. I'm opposed to all inflation, but as a teacher, I'm especially opposed to grade inflation. We're doing no child a favor by passing them on to the next grade level when they simply aren't ready.

And do we really think that by not hurting a child's feelings, we're helping them find a job today? Again, the key is to expect and require more from students, and I believe they'll respond in kind.

The next step is have more parental involvement. Moms and dads should be encouraged to be parents at home and also partners in education. We should expect more at a younger age. The research we're now doing shows brain development of a child occurs most rapidly in the younger years, and yet we wait until high school, for instance, to teach languages.

Finally, I believe that we must return the teaching profession to a place of honor and respect in our society.

Mr. SHAYS. We're not trying to rush you off. The light is irrelevant, so take your time.

Ms. GRANGER. All right. Fine. By treating teachers with more respect, we can begin to return the love of education to our schools. Learning shouldn't just be fun, but it should be exhilarating for teachers and for students. Teachers should go to work each day, knowing that today, they'll be able to shape some young person's life forever, and students should go to school every day knowing that a world of opportunity and a wealth of knowledge will be opened to them.

Let me tell you about one example of real learning that I experienced. We have a program called Summer Bridge in Fort Worth. It's a summer program where children are chosen, the most at-risk schools at the most at-risk time. That's the middle schools.

These disadvantaged children go to a school where they're taught advanced math, science, and English. They write poetry and plays. They're taught by students—we choose our best and brightest from our junior and senior level—and from college students, who normally go back in the summer to work as waiters and waitresses. Instead, they learn the joy of teaching.

Two things happen in this project called Summer Bridge, as it bridges the summer and teaches learning. First is, the kids get an outstanding education. They're challenged with higher expectations, and they're encouraged by the sight of their teachers, not much older than them, who by example demonstrate that learning can be challenging.

We challenge the best and the brightest, and those students who plan to go into other careers and earn as much money as they can instead learn the joy of teaching, and they come back and we attract those brightest and the best, the teachers. It's a wonderful program. It can be replicated everywhere.

The important thing is that we're not saying that there is one way to do it, and Washington should never be saying there is one way to do it. What I'm saying is, release the creativity and the involvement at the local level to make those decisions about how to teach and how to learn.

Mr. Chairman, I believe in America's students, and I believe in teachers, and I believe also in America's parents. We can improve education in America if we only can create an environment where teachers and students can do what they do best, and that's teach, and that's learn.

That's why I'm supportive of common sense education reforms like the one introduced by Joe Pitts, which requires 95 percent of Federal money to go directly to the classroom; and Pete Hoekstra's Crossroads Project, which is to examine the 760 different education programs operated by 39 different Federal departments and agen-

cies and decide which are good and which are not and quit paying for the ones that are not effective, like Mike Pappas, who is looking at unfunded mandates and seeing what is going to really work and why strangle our schools as we strangle our businesses.

I believe that there are some things that Washington can do to improve America's education, but the real answers come from the people that are involved, the parents and the local communities. Today in our public schools, we're beginning to see a modest rise in SAT scores and grade point averages, but we're seeing parents who are very concerned in making the decisions about where they live and where they work, making that decision on where their children can be educated.

All these things are very important. What I'm saying is, we owe it to our children, who are our future, to decide that we will have the best colleges and the best schools in the world, the best K through 12, because that's where children begin to learn first. Our vision is a glorious one, an America where children are not only well-educated, but more importantly, an America where our children believe in themselves and their country and our government.

Thank you very much.

[The prepared statement of Hon. Kay Granger follows:]

Thank you Mr. Chairman. I'm very honored to be here today to speak on behalf of America's future -- America's children.

The poet Maya Angelo once said a cynical child is one who has made the transition from knowing nothing to believing nothing.

And nowhere is this more true than in the arena of education, where the goal is not just to grant knowledge to our students, but also to give them hope.

Sadly, many of our schools today fail on both counts.

Yes it's true that many of our young people today aren't able to write words or calculate numbers as they should.

But perhaps more profoundly, many of our young people are discouraged and disillusioned. They have lost hope in themselves and faith in America.

This is truly an American tragedy.

The effects of this tragedy are felt everywhere. You can sense it in our inner cities where crime is rampant and violence is a way of life.

You can see it in the eyes of an 18-year old drop out who has aged far beyond his years and lives life knowing his best days are already gone.

And you can hear it in the voices of thousands of young people. People for whom the promise of America has long since been lost.

These precious young people are the ones who ultimately pay the price when our schools fail.

These young people are the victims of schools that have failed them and communities that have given up on them.

This is a situation we must and can do something about.

Mr. Chairman, I believe that no first class nation can have second class citizens.

This morning I come before this committee not to condemn American education, but to challenge it. I want to challenge teachers to work harder and students to study longer.

I want to encourage school administrators, school board members, and school principals to create safer environments, better schools, and more creative classrooms.

And I want to urge moms and dads to not just be parents at home, but also partners in the schools.

Today more than ever, our schools and our children need our help.

Our teachers are not able to do their best teaching, and our children are not able to learn to the best of their abilities.

Yet the problem is not instruction. America's teachers are a national asset. In fact, as a former public school teacher, I recognize the contribution and empathize with the concerns of teachers. Everyday in America there are teachers who inspire their students to never settle and always achieve.

Still, too many times teachers find themselves trapped in a system that fails them and their students. Rules and regulations passed down from Washington tie the hands of our teachers. Perhaps most significantly, court rulings have left our public schools in a quandary of confusion and confinement.

Unfortunately, judges and bureaucrats are not the ones who are most dramatically affected by ineffective policies sent down from Washington. Instead, our nation's most precious commodity - our children - are the ones who pay the price.

They pay the price in lower test scores and higher dropout rates. More importantly, they pay the price in less character and more insecurity.

When I started teaching in the Birdville public schools in 1966, I really felt I was making a difference. I challenged my students, I set high expectations for them, and I developed relationships with my students, many of whom I still keep up with today.

But when I left teaching eleven years later, the classroom I taught in bore little resemblance to the one I began teaching in. In just over ten years, I had gone from teaching kids to pushing paper. Instead of teaching my kids King Lear of Canterbury Tales, I spent a large part of my day filling out forms and paperwork.

And that's why I am so supportive of commons sense education reforms like the bill introduced by Congressman Joe Pitts which requires that 95% of all federal money allocated for education be spent where it belongs -- in the classroom, not on administrative costs in Washington. I believe this is a simple way to ensure that money spent on education is actually spent educated students in the classroom.

I'm also very supportive of Congressman Pete Hoekstra's "Crossroads Project." This project is devoted to closely examining the 760 different education programs operated by 39 different federal department and agencies and determining which ones are productive and which ones are not.

So while I believe there are some things Washington can do to improve American education, there real answers will come from the people at the grassroots level -- the parents and teachers. And I believe that there are many good things being done by our schools, and many even better things that can be done with our schools.

Today in our public schools, we are beginning to see a modest rise in SAT scores and grade point averages. We're also seeing an increase in charter schools, which allow experts in the field to teach their subject without the restrictions of government rules.

Private schools are also growing exponentially, and over one million American children are currently enrolled in home school programs.

Each of these factors has contributed to the beginnings of an education revival in our country. All schools -- public, private, charter or home -- have a role to play in educating our children today for the workplace of tomorrow. No one approach has a monopoly on successful education, and not one approach is without responsibility in improving the quality of education nationwide.

We can revitalize American education. We have all the necessary ingredients. We have the best teachers in the world. And we have the brightest young minds in the

world. If only we can create a climate where teachers and students can do what they do best - teach and learn. I believe we can do this. And I believe we will do this.

We owe it to our children. After all, we have the best colleges in the world. Why not have the best K through 12 schools as well?

Mr. Chairman, with the help of parents and teachers, and the hope of our young people, we can build schools which will train fertile minds, prepare young lives and foster dreams.

Our vision is glorious one - an America where our children are not only well-educated, but more important, an America where our children believe in themselves and their country.

The future is theirs, the responsibility is ours.

Mr. Chairman, thank you fro allowing to speak today. And thank you for holding this hearing on this important issue.

Mr. SHAYS. Thank you very much. I have a question or two, if you have time. I know you need to rush off, but let me just ask you, from being a schoolteacher, what did you do after that? Can you just walk me——

Ms. GRANGER. I left, and I went to business, and I owned my own business. I'm an insurance agent.

Mr. SHAYS. And from business right to Congress, or——

Ms. GRANGER. Then at the local level, city council; then, mayor, Fort Worth; and then Congress.

Mr. SHAYS. When you were on the city council and the mayor, how would you have interfaced with the Department of Education—not the Department, but your own school education programs?

Ms. GRANGER. What we did, we worked very closely, and it was—what we saw is the future of our city depends on the education that our children receive.

For instance, when I came in as mayor, Fort Worth was the second-hardest-hit city in the United States with defense downsizing. That came right after a major recession. So we had—we lost 50,000 defense jobs in 2½ years in Fort Worth. We had to attract industry to the city.

Mr. SHAYS. How many jobs did you lose, you said?

Ms. GRANGER. 50,000 in defense only.

Mr. SHAYS. Is this why John Kasich calls you "F–16"?

Ms. GRANGER. I think that's why he calls me "F–16." That's right. [Laughter.]

Mr. SHAYS. No more jobs. You're not going to lose any more jobs.

Ms. GRANGER. Thank you. I appreciate that. As long as you keep giving me F–16s, we won't. But we had to attract those industries, Intel, Federal Express, Motorola, Nokia. The question they asked me as mayor is, "Are you going to give us a work force that's as educated for us to train for the 21st century?" That means we had to work very closely with education and ensure that was true.

Mr. SHAYS. Mr. Pappas.

Mr. PAPPAS. Kay, I'm just wondering if you could elaborate a bit upon what you spoke about earlier, frustration that you may have felt where at the beginning of your teaching career, you spent more time and emphasis on teaching your students, and yet during the period of time that you taught, that you saw that start to change.

Ms. GRANGER. Yes. When I came in, I had a wonderful principal. The first thing he says is, "Kay, if it doesn't work, don't do it again." That was the rule, which means he said, "Try what works in your classroom." I had one classroom that was a very difficult class. It was sort of the throwaway kids. I couldn't get their attention, so I took the desks out of the room. They had to stand up and listen to me. They tended to listen more closely.

When I left, the orientation focused only—almost entirely on, "This is what you can't do in your classroom. You can't touch a student, you can't talk too much to a student. You have to fill out these forms." We were form filler-outers as teachers. I saw the year that I left teaching, I saw seven of our very best left, and they left to go into business.

Mr. SHAYS. Really great to have you here. Nice to have you as a Member of Congress.

Ms. GRANGER. Thank you very much. I appreciate that.

Mr. SHAYS. I'm told, by the way, that Texans don't like a lot of mandates. Is that accurate?

Ms. GRANGER. We don't like it at all. [Laughter.]

Mr. SHAYS. We have a wonderful panel. This is a shorter hearing than we usually have, given that we only have two panels, and one of the panels happens to be a Member of Congress.

So I'm going to invite to the table—and if they would remain standing until I swear them in—Anne Bryant, who's executive director, National School Boards Association; Joan Saylor, assistant superintendent for business administration, board secretary, Freehold Regional High School, and member, Association of School Business Administrators; Jannis Hayers, president, Board of Trustees, Electra independent school district, Electra, TX, and president, Texas Association of School Boards; and Marilyn Cross, chair, mathematics department, Medina High School, Medina, OH, and executive committee member, National Education Association.

Whose names did I mispronounce? Do you want to—amazing. If you would raise your right hand, and I'll swear you in. Excuse me 1 second.

[Witnesses sworn.]

Mr. SHAYS. Thank you. For the record, we'll note that all four have responded in the affirmative. And I just would say, I'm going to invite Mr. Pappas to introduce the witness. We know you may have to get on your way, and we might invite that witness to speak first. Or we will. I just will say that when I—Ms. Cross, when I asked you if you were from Washington or Ohio, you were almost offended that I suggested you were from Washington.

Ms. CROSS. No.

Mr. SHAYS. Just because you wanted me to know you were out in the field here. But I love Washington, and I love Ohio, as well, so it wasn't intended to mean anything. I just would like each witness to just tell me where they're from, and then we're going to invite Mr. Pappas to introduce you, Ms. Bryant.

Ms. BRYANT. I'm Anne Bryant, and the National School Boards Association is in Alexandria, VA.

Mr. SHAYS. And this is your home in——

Ms. BRYANT. Yes.

Ms. SAYLOR. I'm Joan Nesenkar Saylor. I'm from the Freehold Regional High School District in Monmouth County, NJ.

Ms. HAYERS. I'm Jannis Hayers from Electra, TX. And I represent the Texas Association of School Boards. I serve as president of that organization, and it's located in Austin, TX.

Ms. CROSS. And I'm Marilyn Cross from Medina, OH, and I represent the National Education Association.

Mr. SHAYS. Ms. Hayers, I was in the Peace Corps with a couple that came from Dallas, and they had a wonderful accent like you do. And when I went to visit the Fijians, I was—we were all in the Fiji Islands. When I went to visit them, they were teaching there. I found all these Fijians who spoke English with a Dallas accent. It was really fun.

Mr. Pappas.

Mr. PAPPAS. Thank you, Mr. Chairman. It's my honor, and I appreciate your indulging me, to introduce Dr. Joan Saylor, who is

from the Freehold Regional High School District, which is in the heart of my congressional district. She has had a long history of service in the education field in my home State of New Jersey. She started her career as a business education teacher in the Freehold Regional High School District, where she has returned after several years of working in other parts of the State.

She currently serves as the assistant superintendent for business administration and board secretary and oversees the financial and maintenance operations of the schools' cafeteria and transportation services. Dr. Saylor has spoken extensively on the subject of school administration and funding, with a special emphasis on Superfund law and its effect on school districts.

Dr. Saylor has been honored by the Charles F. Kettering Foundation's Institute for the Development of Educational Activities as an international fellow on three occasions. She clearly possesses a comprehensive understanding of the many perspectives of educators, having been certified as a school administrator, principal, supervisor, and teacher.

Dr. Saylor specializes in school business administration and holds a Doctoral Degree of Education from Rutgers University in New Brunswick, NJ. It's a pleasure to welcome her and inform everyone that it's her birthday today.

Mr. SHAYS. We are not going to sing to you.

Mr. PAPPAS. Thank you, Mr. Chairman.

Mr. SHAYS. You're probably really—or were you planning to do that? Why don't you begin?

STATEMENTS OF JOAN SAYLOR, NEW JERSEY ASSOCIATION OF SCHOOL BUSINESS OFFICIALS; ANNE L. BRYANT, EXECUTIVE DIRECTOR, NATIONAL SCHOOL BOARDS ASSOCIATION; JANNIS HAYERS, TEXAS ASSOCIATION OF SCHOOL BOARDS; AND MARILYN CROSS, NATIONAL EDUCATION ASSOCIATION

Ms. SAYLOR. Yes. Thank you very much for that introduction. I certainly appreciate the opportunity to be before you this morning and discuss the financial impact of two particular Federal mandates. These are the Superfund law and the underground storage tank regulations.

My experience with the Superfund law began when I received an official notification from the EPA that my school district was a potentially responsible party in the cleanup efforts at the Lone Pine Landfill Superfund site. The problems at the Lone Pine Landfill were discovered after there was a fire at the site in 1978. The investigation after the fire uncovered that approximately 50,000 drums of chemical waste, as well as millions of gallons of liquid waste, had been dumped at this landfill over a period of 20 years.

Now, during that same timeframe, our school district, under contract with a trash hauler, had disposed of our trash from our offices and our schools. Due to the provision in Section 7003 of the Resource Conservation and Recovery Act, that provision assumes that municipal solid waste is hazardous waste. Our school district had the same responsibility for cleanup as did companies that dumped toxic waste at the landfill.

Upon analysis, it was determined that we had dumped approximately 1 percent of the waste that was at the landfill, and there-

fore, were responsible for 1 percent of the costs of the cleanup. Once the cleanup efforts began, we began receiving invoices. The latest share of the cost for our school district is $718,000 plus reopener costs. The reopener costs would be invoked if the site was not declared to be cleaned up sufficiently. If we wanted a total buyout from this particular site at this time, the cost to us would be $3.1 million.

And to put that in perspective to the size of my operation, that's about 4 percent of our budget, or the cost of salary and benefits for 80 of our teachers.

The work at the landfill has been extensive. It's entirely sealed in a clay cap, and the landfill is being cleaned up. As residents of that area, we are very pleased that this has taken place. However, we firmly believe that as a school district, we did not create this environmental nightmare, and we shouldn't be responsible for spending our education dollars to clean it up.

The second mandate which has caused financial strain on our school district are the underground storage tank regulations. Our five high schools were built between 1925 and 1971. And during that time, the only heating source we really had was heating oil. Natural gas was not available in many of our rural communities. The communities continued to grow and we built additions to our schools. By 1990, we had approximately 1 million square feet of school buildings and 10 very large underground storage tanks.

The storage tank regulations required two separate actions on our part. First was retrofitting the existing tanks with all the safeguard features, such as corrosion protection, overfill protection, and other items. The second mandate was that we needed to get pollution liability insurance.

Because the age of our storage tanks—they were all over 20 years of age—the law assumed that by that age, the tanks would be leaking. Therefore, we were not allowed to retrofit them with the safeguards. But if we were going to continue to use heating oil, we would have to remove the tanks and replace them with new ones.

The second item is that we learned that pollution liability insurance in the State of New Jersey was simply not available at the time. The only viable solution we had to comply with these regulations was a significant expenditure of funds. We converted all of the burners in the boilers to natural gas. And then we went through the process of digging up all our underground storage tanks and disposing of them.

The cost to our district was $652,000. During that same school year, this is slightly more than the entire amount of money we spent on instructional materials for our students. Then, we dug up the old tanks and found out that none of them, including those up to 40 years of age, were leaking. The law required us to spend money on removing these tanks that were not endangering the environment.

I believe that our school district should be responsible for maintaining the health and safety of our environment. I believe that we should be responsible for the pollution we cause. In the case of the Lone Pine Landfill, we properly disposed of our garbage in a re-

sponsible manner. We did not dispose of hazardous substances. We did not create the environmental nightmare that exists.

We also caused no harm to the environment by maintaining and using our oil tanks, yet we were required to spend $652,000 to remove them due to the assumption that they were environmentally unsafe. And we were also facing the $3 million liability at the Lone Pine Landfill.

As a business official, I take my job very seriously, and I have the responsibility to ensure that our local property taxes that are raised for education and that are entrusted to me are spent in an effective and efficient manner for our students. We simply cannot afford to use these funds to abate potential environmental hazards or be responsible for hazards that we did not create as a district. Thank you very much.

[The prepared statement of Ms. Saylor follows:]

My name is Joan Nesenkar Saylor and I am the School Business Administrator at the Freehold Regional High School District in Monmouth County, New Jersey. I am representing the New Jersey Association of School Business Officials. As school business officials, we are responsible for the financial operations of the school district, maintenance and operations of our schools, cafeteria and transportation services. I am pleased to be here before you today to discuss the impact on my school district of two federal mandates: The Superfund Law and Underground Storage Tank regulations.

SUPERFUND LAW

I began working in the Freehold Regional District in October, 1989. I had been on the job for less than a week when I received a certified letter from the Environmental Protection Agency regarding "my potential liability with respect to the second operable unit remedy for the Lone Pine Landfill Superfund Site" . . . and "that the EPA intends to initiate negotiations with a group of potentially responsible parties in order to achieve a settlement for private party financing."

Although I could not imagine that my school district could be involved with a Superfund remediation site, I quickly learned that we were very much involved. The Lone Pine Landfill is a 63 acres site in Freehold, New Jersey which began operating in 1959. On June 23, 1978, a fire occurred at the site. The following April, the New Jersey Department of Environmental Protection and Energy issued an order to close the site effective November, 1979. It was then determined that at least 17,000 and perhaps as many as 50,000 drums containing chemical wastes were disposed of at the landfill. In

addition to the drums of toxic chemicals, several millions gallons of bulk liquid wastes including benzene, chlorobenzene, methyl chloride, toluene and vinyl chloride were also dumped at the site. During the time that these toxic chemicals were illegally dumped at the landfill, our school district, as well as other school districts and municipalities were properly disposing of our waste in this landfill. Our District had a contract with an approved trash hauler who picked up the waste at our schools and offices and properly disposed of it in the landfill. At the same time, other companies were also using the landfill and some were illegally doing so and dumping toxic chemicals. Because we happened to use a landfill which became a Superfund Site, we were liable for the cleanup costs based on the amount of trash of which we disposed.

After researching the background of the landfill, I still had difficulty accepting that a school district could be involved in this matter—after all, we did not generate or transport toxic waste. However, under Superfund, any material that contains even trace amounts of approximately 800 chemical substances is included in the definition of toxic waste. Therefore, water-based paint has been held to be a hazardous substance because it contains a part-per billion level of copper and lead, both of which are hazardous substances. In addition, Section 7003 of the Resource Conservation and Recovery Act, "provides a basis for the imposition of liability upon an party who generates or transports any solid waste." The claim is that municipal solid waste can contaminate groundwater. Therefore, there is no need to prove that a municipality generated hazardous waste, the statute assumes that solid waste is hazardous waste. Our liability was the same as the corporations using the site who dumped chemicals and solvents.

I contacted our insurance carrier to discuss our coverage. Our insurance carrier seemed rather unconcerned about the situation. As I found out, his lack of concern may have been a result that our liability insurance excluded any coverage for using, transporting or disposing of toxic wastes. All of these activities are ones that school districts routinely declare are not applicable to their operations.

In order for the EPA to determine our liability, we were required to provide estimates of the volume of each type of waste we sent to the Lone Pine Landfill for the 20 year period of time in which we used that facility. Based on our responses and those of the other entities who used the landfill, we were assessed for disposing of .97948% of the total waste dumped at the landfill. Therefore approximately 1% of the total trash and clean up costs were ours.

We received a notice that our allocation of clean up costs was $336,138. At the time of this invoice, work was in progress at the site. We did not respond with payment as we were still investigating potential insurance coverage. As work continued on the site, our share rose to $576,474. We continued to wait as the ½ million dollar figure did not include the "reopener" costs that could be incurred if additional work was required by the EPA.

Our share has increased to $718,941 which is a non-buyout settlement. If we want a total buyout, the cost would be $3,194,497. To put this amount in perspective in relation to

the size of our school district budget, it represents nearly 4% of our total budget or the cost of salary and benefits for 80 teachers.

The work at the landfill has been extensive. The entire landfill has been sealed under a clay cap which has vents and pipes to collect liquids and gases. It is estimated that the venting system in place may take up to 100 years to clean the site of hazardous substances. The cost of the cleanup has been 73 million dollars and was paid for by approximately 130 companies that have accepted responsibility for the cleanup. However, my district is one of an additional 670 other parties which the EPA believes should share financial responsibility. As residents of the Freehold area, we are pleased that the Site has been cleaned up and made safer. In terms of accepting any financial responsibility, we firmly believe that we did not cause this environmental nightmare and therefore should not be responsible for the cost of the cleanup

UNDERGROUND STORAGE TANKS

The Freehold Regional High School District is comprised of 5 high schools, a transportation center and administrative office spread throughout 8 communities within a 198 square mile area. These schools were built between 1925 and 1971. When the schools were constructed, oil was the only viable heating source since natural gas lines were not available in all of our communities. As the population increased and the need for more classrooms grew, several additions were built to the schools. By 1990, we had over a million square feet of school buildings with 10 underground storage tanks used for heating oil.

When the Underground Storage Tank regulations were enacted we were faced with two problems. The first concerned the retrofit of our existing tanks with the required safeguards including a monitoring system, corrosion protection, spill protection and overfill prevention. The second concern was obtaining pollution liability insurance.

Due to the age of our storage tanks, retrofitting them with protective devices was not a viable option. The law assumed that storage tanks leaked after a predetermined number of years. Nearly all of our tanks were beyond that age. We began investigating the cost of installing new double walled tanks which had the necessary safeguards.

We also met with our insurance carrier to determine an estimate for pollution liability insurance. Although such insurance may now be available in New Jersey, it was not at that time. The New Jersey School Boards Association Insurance Group held group meetings of school districts to discuss the possibility of forming an insurance pool to provide coverage. The estimate given to school districts for budgetary purposes was insurance costs of approximately $5,000 per tank. The concern over not being able to obtain the proper insurance coverage forced many school districts to switch to natural gas.

Our solution to being in compliance with the Underground Storage Tank regulations was a significant expenditure of funds. We decided to convert the burners in our boilers to natural gas and then remove our underground storage tanks. The cost of architectural services, conversion of the burners to natural gas and removal of the underground storage

tanks was $652,000. This is slightly more than the entire amount of money spent in the same school year for all instructional materials for all students.

As we dug up the old tanks that were no longer acceptable due to age, we found that none of the tanks, including those over 40 years old, were leaking. There was a small amount of contaminated soil at one site which could have been caused by a spill during the filling of the tank. Whether these tanks would have eventually leaked, I suppose they would. However, the law required us to replace or remove them causing a mandatory expenditure of funds which was a financial hardship to the district.

CONCLUSION

It may appear that I am more concerned with the cost of cleaning up our environment than I am with having a clean and safe environment. That is not the case. I believe that our school district should be responsible for maintaining the health and safety of our environment. We should be held responsible for pollution that we cause. In the case of the Lone Pine Landfill, we properly and responsibly disposed of our trash. We did not dispose of any items that were not accepted in the landfill. We did not create an environmental hazard. We also caused no harm to the environment by maintaining and using our oil heating tanks. However we were required to spend $652,000 to remove oil tanks due to the assumption that they were environmentally unsafe. We are also facing over $3 million in costs in the Lone Pine Landfill case for a situation that we did not create.

As a citizen I know we have a significant problem in this country with toxic and hazardous substances and other forms of pollution. As an educator I am mindful of my responsibility to teach our young people the need to be concerned with keeping our environment clean and safe. As a school business administrator, I have another responsibility which is to insure that the state funds and local property taxes that are raised for education and entrusted to me are spent in the most effective and efficient manner for the students in our schools. Because of this trust with public funds I am concerned whenever I must divert dollars designated for education to other purposes. Our schools cannot afford to abate potential environmental hazards or be responsible for hazards which they did not create.

Thank you for this opportunity to testify.

Mr. SHAYS. Thank you very much.

Ms. Bryant.

Ms. BRYANT. Yes. Good morning. I am Anne Bryant, executive director of the National School Boards Association. And you will be relieved to know I am not going to use the written testimony, but it has been introduced, and I'm going to abbreviate it for you.

Mr. SHAYS. Let me say this to you. We only have four witnesses, and I'm happy to have you go beyond the timeframe, as well. We were thinking of canceling this meeting because there are a lot of markups—Members have markups with the tax bill and health care bill and other legislation that's moving forward because of the budget agreement—but decided not to. But we do have the flexibility of no panel after you. So don't feel rushed.

Ms. BRYANT. Thank you. I want to thank the subcommittee for holding this hearing today to really look at the impact of Federal mandates on schools.

Congress passes many laws, and they serve specific needs. Unfortunately, the cost of individual mandates and their real impact on overall education programs is infrequently considered. The cumulative impact never is. The result is that we have mandates that have been created to protect children, but they are, in fact, stifling student learning.

The Partnership for Children's Education is NSBA's Unfunded Federal Mandate and Regulatory Relief Project. It's our top legislative priority, because we believe that schools need to focus on their main mission.

Mr. SHAYS. Would you say your top legislative priority again? I'm sorry. I was just writing something down. Just repeat what you just said, your top——

Ms. BRYANT. Sure. The Partnership for Children's Education is the name of the National School Board Association's Unfunded Federal Mandate and Regulatory Relief Project. It's our top legislative priority, because we believe that schools need to focus on their main mission, the education of students.

Nationwide, it costs nearly $300 billion per year to educate the 45 million public school children. But too much of this money is being diverted to regulations and activities mandated but not paid for by the Federal Government. Too much high-powered time is being spent, as the Congresswoman said, filling out reports, too much constraint is being placed on classroom teachers, and too much opportunity for innovation is being lost.

While there are dozens of mandates placed on schools, I will highlight just a few. The Individuals with Disabilities Education Act, IDEA, is an example of a specific mandate that schools have consistently identified as a huge cost problem. NSBA supports many of the provisions of the recently reauthorized law to provide a free, appropriate public education for all children with disabilities. Yet the cost is huge.

One intensive study of nine school systems shows that 38 cents of every new education dollar raised each year since 1967 has been spent on IDEA compliance: 38 cents of every new dollar.

While Congress says it supports the goals of the special education law, its refusal to fund its own mandate tells a different story. When Congress originally passed the law, it pledged to pay

40 percent of the annual cost of the special education mandate. Instead, the Federal Government pays only 7 percent, leaving school districts to pay over $30 billion each year in excess educational costs from local and State resources. This year, Congress is $10 billion short of its own commitment.

Mr. SHAYS. Ten percent short of the seven percent?

Ms. BRYANT. No, of the 10 percent short of the 40 percent.

Mr. SHAYS. Yeah. OK.

Ms. BRYANT. $30 billion translates into more local property taxes and increases each year and——

Mr. SHAYS. I'm sorry. You said $10 billion?

Ms. BRYANT. $10 billion short for this year.

Mr. SHAYS. OK. Got you.

Ms. BRYANT. $30 billion translates into more local property taxes and tax increases and fewer educational programs for students who do not receive federally mandated services.

While the special education mandate merits more congressional funding, there are other benefits where the benefits, costs—other mandates, excuse me, where the benefits, costs, and risks associated with mandates merit a second look.

NSBA enthusiastically endorses accurate and understandable risk assessment practices. Unfortunately, Congress has been slow to respond, perhaps because it doesn't have to pay the price. The asbestos mandate is a case in point. The safety of our children is a very real concern for school board members. They do not want anything to harm the health of children that they work so hard to serve.

However, in this area, fear and misinformation have taken precedence over sound science and risk assessment. The mandate was created in the 1970's in an understandable climate of panic. But for years now, the scientific data should have ameliorated both the panic and the mandate. There are two kinds of asbestos. One is dangerous, and one is not. Both fibers can be identified.

Ninety-five percent of all asbestos in the United States is not dangerous. So far, no distinction is made, and, therefore, compliance with an unscientific law means asbestos removal has cost our Nation's schools more than $10 billion. And we are still removing and spending millions more. Schools are spending too many of their scarce education dollars chasing a phantom problem.

The public schools of this country are turning to Congress for help. For years, school board members have told us that they are struggling under the heavy burden of Federal mandates. Some relate to education, and many others relate to school environment. NSBA wants to work with this and other committees to establish the real regulatory costs of mandates of public schools.

NSBA is investing significant time and resources to present Congress with an assessment of the impact of Federal mandates on the ability to provide a world class education. We have contracted this year with an independent accounting firm to create and conduct a survey of the impact of unfunded mandates on schools. We will attempt to collect information about the total costs of compliance with mandates, including reporting responsibilities, personnel hours, inspection costs, among other fiscal and personnel impacts.

This is not a study of the value of the mandates themselves, but of the costs imposed by the Federal Government on school budgets, local property taxpayers, and ultimately, the opportunity to invest in student learning.

We want to thank the committee for taking the first step by asking the Government Accounting Office to initiate a study of the major issue. We need congressional leaders to evaluate their mandates, fund those that are worth keeping, and repeal those that are not. Give schools and the children we educate the opportunity to maximize every single dollar that your taxpayers raise for the world class education that the children in their communities deserve.

I want to thank you for holding the hearing and for your support of our project, the Partnership for Children's Education. And as soon as all the panelists are through, I would be happy to answer questions.

[The prepared statement of Ms. Bryant follows:]

Table of Contents

I. Introduction ..... Page 1
II. General Principles Regarding Unfunded Federal Mandates ..... Page 2
III. NSBA's Goal – The Partnership for Children's Education ..... Page 4
IV. Examples of Mandates on Schools ..... Page 5
A. Individuals with Disabilities Act ..... Page 6
B. Davis-Bacon Act ..... Page 7
C. Risk Assessment and the Asbestos Experience ..... Page 8
V. Congressional Action Needed ..... Page 10
VI. Conclusion ..... Page 10

I.INTRODUCTION

Good morning, my name is Anne Bryant, and I am executive director of the National School Boards Association (NSBA). NSBA is the nationwide advocacy organization for public school governance; through our federation of 53 states and territories, we represent 95,000 locally elected and appointed school board members. Local school board members represent parents, teachers, businesses, and local communities, and our board members are responsible for governing local public school districts across the nation.

As government officials, school board members are uniquely situated to address federal programs from the standpoint of public education without consideration of their personal or professional interests. The vast majority of school board members are not paid for their service; rather, they give their time because they care about the education of their own children and the children in their community. The education, health, and safety of those children is a very real concern for these community leaders. They want to ensure that the children in their community get the very best education that can be provided. Unfortunately, unfunded federal mandates all too often preempt local ingenuity and the fiscal resources those community leaders need for the education of their community's children.

I am honored to be here with the members of Congress who have worked to bring and sustain congressional focus on the problems created by unfunded federal mandates and regulations. Thank you for scheduling this hearing today, and for giving this issue the attention that it deserves. Further, I am pleased to lead a panel of witnesses that represent our local school districts. NSBA appreciates the opportunity to testify on an issue of such great importance to every school board across the country.

II. GENERAL PRINCIPLES REGARDING UNFUNDED FEDERAL MANDATES AND THE SCHOOLS

Public education today has a difficult mission—to ensure that the public schools, which educate 90 percent of the nation's schoolchildren, are ready to meet the challenges of a global economy in the 21st century. School board members, who have the primary responsibility for public education at the local level, must be more vigilant than ever to stay focused on this mission. Today, many priorities compete for the resources, time, and focus of the schools, including priorities from the federal government.

Federal mandates were created individually with the best of intentions by members of Congress. However, the current, cumulative impact on schools could not have been projected years ago, nor as each mandate was passed. As a result, school districts now juggle to improve their educational programs while maintaining a substantial focus on congressionally mandated issues where the benefit to children must be weighed against the cost.

NSBA fully acknowledges that the federal government does indeed have an interest in regulating certain activities within the public school setting. NSBA also recognizes that Congress passes many laws to serve children and to create effective learning environments for them.

Because of these ever-increasing mandates on local schools, the costs have become staggering. Thus, NSBA maintains that the federal government should exercise restraint when it establishes mandates for state and local governments—including those of local school systems. Within those areas of legitimate federal interest, Congress must show restraint in the scope of the mandated activity and attendant costs involved. In local school districts, time and money that otherwise could be committed to the education of our nation's children are spent on a federal government priority. If

Congress imposes a mandate on local school systems, it should bear the financial cost. That is, if the mandate is truly in the national interest, then Congress should be willing to pay for it.

For public education to succeed, there must be a collaborative partnership among the three levels of government in implementing mandates. By contrast, under the current practice, too often the federal government places unfunded or under-funded mandates on local school districts without taking into account the real consequences, either in terms of the individual mandate or the sum total of all its mandates. Further, in many cases, the state government will follow the federal mandate with a similar, or more onerous, regulation.

Because the federal government is disconnected from the financial responsibility of its mandates, we believe that it has little incentive to: 1) set priorities among or within mandates; 2) engage in meaningful cost-benefit analysis; or 3) reevaluate existing mandates once they are law. Meanwhile, school systems across the country are struggling to find the tax dollars to pay for the programs the federal government has required. Too often, the consequences of implementing costly, federally mandated programs means school boards face unpalatable trade-offs—larger class sizes, postponing purchases of up-to-date curriculum material, even eliminating educational programs—especially in those communities that do not have the capacity to raise taxes. Most taxpayers would be surprised to know how much of their local property taxes, which they thought were being spent for their community's educational programs, are being preempted to fund federal mandates. In fact, according to a 1995 Economic Policy Institute study, for every dollar spent on education in 1991, only 26 cents went to improve regular education.

Local school boards across America endeavor to ensure that our students obtain the education they will need to lead a fulfilling life and positively contribute to society. The

federal government must understand that every dollar spent to fulfill an unfunded or under-funded federal mandate either comes at the expense of an increasingly resistant local property taxpayer or at the expense of the current educational program. As a result, our school districts are losing the public's confidence that we are providing a world-class education for all our children. NSBA may disagree with the public perception in a number of areas where students indeed set world-class standards, but we know that we can set even higher goals for our children to achieve. These goals could be met with greater success if the federal government would give schools more local control to set their own priorities and use education dollars for educating children.

III. NSBA'S GOAL—THE PARTNERSHIP FOR CHILDREN'S EDUCATION

The Partnership for Children's Education is NSBA's unfunded federal mandate and regulatory relief project. NSBA has made this issue a top priority because we believe that schools need to focus on their main mission—the education of students. Instead of imposing excessive costs and onerous regulations on local school districts, Congress should give school districts more flexibility to effectively meet students' educational needs. We ask that Congress review existing federal laws and regulations on school districts; ultimately, we hope to reduce those burdens to ensure more dollars benefit the classroom.

As part of our efforts to understand the burden on school districts, NSBA has actively sought to collect and review data obtained by our state school boards associations, by independent, government-related entities, and by governmental organizations. These materials have sent us a message from school districts—they are struggling under a heavy burden of federal mandates, some that relate to education and many that do not.

To further the Partnership for Children's Education, NSBA has contracted with an independent accounting firm to create and conduct a survey of the impact of unfunded

mandates on selected school districts. Our goal is to illustrate the financial burden that unfunded federal mandates and regulations have on school district resources. To do so, we will attempt to collect information about the total costs of compliance with mandates, including reporting responsibilities, personnel hours, inspection costs, among other fiscal and personnel impacts.

In addition to our research efforts, we thank the members of this committee, along with the House Budget and Education and the Workforce Committees, for initiating a request for a General Accounting Office report that will detail some regulations and costs on schools.

IV. EXAMPLES OF MANDATES ON SCHOOLS

Nationwide, school boards control a total operating budget projected to be close to $300 billion in the next fiscal year. Too much of this money automatically goes to programs mandated, but not paid for, by the federal government. The magnitude of the unfunded mandate burden on schools is astounding. There are dozens of mandates being placed on schools every year, and several studies of school districts around the country reveal costs that no school district could withstand without endangering educational programs. For example, in 1994, thirteen school districts that compose one county in California, with a K-12 student population of only 117,000, totaled the cost of required programs and found that for only twelve unfunded mandates, the cost was more than $70 million over three years. That is, the local community had no ability to establish educational priorities with $70 million of state and local tax dollars. These priorities could have included reducing class sizes, expanding computer availability, replacing aging school buses and/or adding books to the libraries.

A. Individuals with Disabilities Education Act

One example of a staggering, under-funded federal mandate is the Individuals with Disabilities Education Act (IDEA). This program is consistently identified by school districts, as well as federal and independently sponsored reports, as one of the major federal unfunded mandates on schools. At the same time, we support many of the provisions of the recently reauthorized law, and we fully support its goal of providing an appropriate education for all children with disabilities.

Our support for this educational goal is not being matched by the federal commitment to funding its own mandate. When Congress passed the original law, Congress pledged to pay 40 percent of the annual cost of the special education mandate. Instead, the federal government pays only *seven* percent, leaving school districts to pay almost $30 billion each year in excess educational costs from local and state resources.

Although the new law reduces certain costs, such as attorneys' fees, it contains costly new program requirements—and the question is, "Who will pay for the new mandates?" Costly, new provisions for assessing students, higher qualification levels for professionals that work with special-needs students, and training for regular classroom teachers could result in improved services and opportunities for children with disabilities. Yet, NSBA believes that this legislation did not go far enough to contain the costs of special education and to balance the educational needs of *all* students.

Again, while NSBA fully supports the goals of IDEA, we fault the Congress for not taking the opportunity to provide much-needed flexibility to school districts and for not living up to its financial commitment. Unfortunately, Congress has

too little incentive to make cost-benefit decisions about this under-funded mandate. Like too many federal mandates, IDEA unnecessarily preempts school districts from making the best expenditures of its funds for children in both regular and special education.

B.Davis-Bacon Act

Another mandate that school districts find overly burdensome is the Davis-Bacon Act. The Davis-Bacon Act is a sixty-four-year-old statute that mandates that a prevailing wage, usually the union rate, be paid on all federally funded construction projects. It requires contractors on federally funded or federally assisted construction projects of $2,000 or more to pay the "prevailing local wage," which can be 10 to 25 percent higher than the wages paid by the nonunion, private sector. For too long, school districts have deferred maintenance on school buildings because of declining state and local funding and an enormous push for increased educational achievement. Yet, at a time when taxpayers are demanding a more efficient government—and exhibit less willingness to spend money on governmental services—school districts are stymied in their effort to reduce their construction costs.

The Davis-Bacon Act has skewed local decision-making regarding the school district's ability to accept federal funds to meet their constriction needs. One anecdote was relayed to NSBA by a former Loudoun County, Virginia school board member about building the Monroe Vocational-Technical Center in Leesburg. The school board sought to tie in federal vocational education funds for construction, and the state was offered a federal grant of $24,000. The Loudoun County school board declined the grant because the federal funds would have been spent on the required Davis-Bacon wages, with the additional

dilemma of establishing an increase in school construction wages for subsequent projects.

West Virginia was one of the early states to adopt a prevailing wage law. In 1989, a bill was introduced to exempt public educational facilities from the requirement that they pay the prevailing wage scale pursuant to the state Davis-Bacon statute. Supporters of the bill cited the obvious savings that would accrue to school districts, which were estimated to be between 25 to 30 percent. Preston County's recent construction was used as one example of the savings that were possible. Preston County had just built a high school, an elementary/middle school, and an academic center at a total cost of $5,894,108, which averaged $78.81 per square foot of construction. Interviews with contractors in the county established that open-shop contractors usually charge an average of $52 per square foot for similar facilities. Using those figures, one-third of the cost could have been saved if the schools had been exempt from Davis-Bacon. The savings could have been realized for the taxpayers or used in other ways throughout the educational system.

C.Risk Assessment and the Asbestos Experience

NSBA enthusiastically endorses accurate and understandable risk-assessment practices. The safety of children is a very real concern for school board members—they do not want anything to endanger the health of the children they work to serve. Sometimes fear and misinformation take precedence over sound science and risk assessment, and as a result, school budgets are unnecessarily strained.

The asbestos saga is one of the best examples of extreme panic that directly initiated the imposition of federal mandates on schools. In 1982, the

Environmental Protection Agency (EPA) began to listen to environmental community claims "that there can be no safe level of exposure to a carcinogen," or in the case of asbestos, "that one fiber can kill," despite the unavailability of an accurate risk assessment. EPA adopted a scientifically discredited, four-year-old study that predicted asbestos to be a low-level carcinogen and would cause as many as 40,000 "excess deaths" per year. The study was based on the experience of World War II shipyard workers who worked with extremely high levels of asbestos, and those results were extrapolated to the lower-level exposures of the general public.

Furthermore, early researchers failed to distinguish between two kinds of asbestos fibers – one fiber that scientists now recognize as being as harmless as ordinary dust, and the other is potentially lethal. The harmless variety, known as chrysotile, or white asbestos, accounts for 95 percent of the asbestos used in the United States. No one has produced evidence that white asbestos can hurt, let alone kill. In fact, in 1988, scholars at a Harvard University symposium announced that a person has a 300 percent better chance of being killed by lightening than asbestos exposure.

The saddest element to this strange tale is that according to a *Wall Street Journal* article written in 1989, asbestos removal had cost this country's schools more than $10 billion; schools have spent too many of their scarce education dollars chasing a phantom problem. Every one of those dollars that funded this federal mandate was extracted from the resources necessary to provide schoolchildren the world-class education that this nation says it wants to give them.

V. CONGRESSIONAL ACTION NEEDED

The public schools of this country are turning to Congress for help. The National School Boards Association wants to work with this and other committees to identify all regulations on schools throughout all agencies of federal government; to reduce or eliminate those statutes and regulations where the burden is disproportionate to the risk; fully fund existing, appropriate federal mandates on schools; and encourage states to analyze and reduce state regulations and mandates on schools. Congressional review is needed to ensure that the schools can fulfill their public mandate—to educate children—by allowing schools to maximize the use of their resources.

NSBA is investing significant time and resources to present information to the Congress so that it can assess the impact of federal mandates on a school district's ability to provide a world-class education. We look forward to presenting this committee with the results of our survey on unfunded federal mandates and the fiscal burden our schools carry as a result of years of congressional mandates.

We need you to match our efforts and to provide the legislative freedom that schools need to offer a quality education to each child. We need congressional leaders to say it is not appropriate to pass mandates without adequate funding, and existing unfunded mandates on the schools must be reevaluated. Give schools the opportunity to maximize every single dollar that comes from taxpayers.

VI. CONCLUSION

When the cost of compliance with federal mandates becomes a detriment to a school's educational program, community leaders need relief. The Unfunded Mandates Reform Act of 1995 was a substantial step toward stopping future unfunded federal mandates that occur in every facet of school district business. Now we must review existing

mandates, and we must take steps to rectify the problems. Congress must ensure that federal mandates are narrowly tailored and accompanied by adequate funding, as well as evaluated in terms of sound science and cost-benefit analysis. We urge Congress to examine current federal mandates as to relative priority, scope, and adequacy of funding to ensure that school districts can devote the maximum tax dollars to educating children.

Our school districts are losing the public's confidence that we are attaining our goal of providing a world-class education for all our children. We may disagree with the public perception in a number of areas where students are setting world-class standards, but we know that we can set even higher goals for our children to achieve. These goals could be met with greater success if the federal government would give schools more local flexibility to set their own priorities and use education dollars for educating children. We need to reexamine every expenditure. The very children that Congress seeks to help are the ones who are hurt most by unfunded mandates. NSBA suggests that members of Congress always ask themselves, "Is this how my local constituents want me to spend their taxpayer dollars?"

Again, thank you for holding this hearing and the opportunity to testify before your committee. Thank you for your support of the Partnership for Children's Education.

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Mr. SHAYS. Thank you very much.

Ms. Hayers.

Ms. HAYERS. Thank you. I am Jannis Hayers. I'm president of the Texas Association of School Boards. TASB is a nonprofit organization which represents currently every independent school district in the State of Texas, and that's about 1,050 school districts. We receive no compensation as school board members in Texas. No Texas school board members are paid, and I don't receive compensation for serving as president of our State association.

I'm honored to be here today to followup with what Anne has told you about NSBA's efforts to track Federal mandates. And I'm glad to be able to tell you about something that the Texas Association of School Boards has done in Texas that we call Mandate Watch. Mandate Watch began in 1989 in Texas, when the Association began to make an organized effort to track the cost of unfunded or underfunded mandates to Texas school districts.

It's a way of challenging both State and Federal legislators to put their money where their mandates are in terms of helping us to spend our dollars for the education of children, rather than on unnecessary regulation.

Congresswoman Granger's home town newspaper, the Fort Worth Star Telegram, probably said it best when one of their writers wrote, "The legislature has developed a very bad habit of ordering school districts to carry out expensive programs but refusing to provide them the money to pay for them. That allows lawmakers to point with pride at their frugality while placing tremendous burdens on school districts."

And what "No new taxes" meant in Texas when the legislature went home was that there were going to be higher local property taxes to pay for the things that had been put into law without money to go along with them.

The Texas Center for Educational Research, based on information reported by the Texas Education Agency's 1987–1988 accountable cost studies, estimated that underfunded mandates represented approximately 20 percent of school districts' operating budgets at the time.

The Mandate Watch campaign is multifaceted. Our staff members at TASB monitor legislative action, looking for changes that will require local school districts to do additional work for which no money follows. Between legislative sessions, they develop a book that outlines the costs, the estimated costs to districts of these things, and the book is updated and ready when the next legislature comes to town and in the hands of legislators.

During legislative sessions, our staff people and local school board members working with the organization work to inform legislators of the costs of some of the programs that they're suggesting we do. And we really believe that we have begun to change the culture in Texas, because a lot of legislation has died or been amended in some way because of the recognition of the fact that it would be passing unfunded or underfunded mandates down to local property taxpayers.

The media has joined and has been very helpful in helping us to do this, as the quote from the Fort Worth Star Telegram indicates. Newspapers in Texas and the media has helped us to get the word

out that rising local property taxes have been primarily because of unfunded State and Federal mandates.

Since the inception of the Mandate Watch campaign, we have changed things considerably. The first—some of the ways that they have been changed would be to make implementation optional, to pilot—to begin the change as a pilot program to see how it worked out. And some of the efforts of the legislature have turned toward actually finding State dollars to send with the legislation, so that local school property taxpayers are not responsible for having to pay for them.

In the legislative session that just ended, the 75th legislature, which adjourned June 2 in Austin, the first piece of legislation on this subject passed that body, and it's similar to the Federal Unfunded Mandate Reform Act of 1995 in that following each session, an interagency work group will look at legislation that has passed to analyze and list the mandates that have been imposed on local school districts.

There's not many teeth in it, really, but it is recognition of the fact that we have to be looking at these things if we're going to be aware of the costs that we're sending down. And it's certainly a step in the right direction, as is the Federal legislation.

Federal mandates on Texas schools are very expensive. You've already heard some of the costs from some of the other witnesses. I just would like to say, special education is probably the most expensive Federal mandate.

Information that we have from Dallas Independent School District indicates that they think in the current year, their percentage of their special education costs that were covered by their Federal dollars probably was about 9.32 percent of the cost of providing special education services; Houston ISD, 8.5 percent; and Austin ISD, 9 percent. So this is far lower than the Federal intent in the early days of this legislation to provide about 40 percent of the cost from the Federal level to provide these services.

In my own local school district, which is a small district with about 750 kids, about 65 professional staff members, we think we have probably spent $100,000 already in asbestos-related cost simply in having inspections done. Our school buildings range in age from 1921 to 1961, and it's time to do something about some of them. And we know when we do that, we're going to have asbestos-related costs if the Federal mandates that are in place are not modified somewhat.

In conclusion, I would just like to say that as I said, we really do think that we have begun to change the culture in Texas, because legislators are cognizant of the fact that what they ask us to do has a price tag attached. And they're working very seriously to try to find State dollars to do those things. And we're grateful for that.

I hope that NSBA's Unfunded Mandate Program can be as successful, and we in Texas will certainly do everything we can to support it. Thank you for the opportunity to be here today.

[The prepared statement of Ms. Hayers follows:]

Jannis Hayers

VITA

Jannis Hayers of Electra, Texas is the current president of the Texas Association of School Boards (TASB), a voluntary, nonprofit organization serving Texas school districts. A member of the TASB board since 1990, Mrs. Hayers has served on various committees ranging from school finance to grassroots advocacy. As president elect, she was appointed by Texas Commissioner of Education, Mike Moses, to serve on the Service Center 2000 task force, advising him on legislation to reauthorize the education service centers throughout Texas.

Mrs. Hayers currently serves as president of the board of trustees of Electra Independent School District, where she is entering her 20th year of board service.

A homemaker and community volunteer, she has chaired a number of local organizations, including Electra Housing Authority, Electra Memorial Hospital Auxiliary, and Electra Service Corporation, a non profit provider of services for the elderly. She has been honored twice by her community in 1976 and 1996 as Woman of the Year.

The former teacher holds a bachelor's degree in English from Texas Woman's University.

FEDERAL GRANT DISCLOSURE

The Texas Association of School Boards has not received any federal grants or contracts during the current fiscal year or either of the two previous fiscal years.

I. INTRODUCTION

I am Jannis Hayers, President of the Texas Association of School Boards. TASB is a nonprofit organization that represents over 1,000 school districts throughout Texas and is the largest group of publicly elected officials in the state. In Texas, school board members receive no compensation for their service. Furthermore, I receive no compensation for my service as the President of TASB.

I am honored to be here today to share with you details of the TASB's successful "Mandate Watch" campaign against under-funded state mandates.

II. THE TEXAS ASSOCIATION OF SCHOOL BOARDS' "MANDATE WATCH" CAMPAIGN

The Mandate Watch campaign began in 1989. Mandate Watch is TASB's term for keeping close tabs on and identifying those bills or programs that put requirements on local school districts without providing appropriate funding to pay for them. Mandate Watch also is TASB's challenge to state and federal lawmakers to put their money where their mandates are in order to stem the tide of under-funded mandates swallowing Texas school districts.

The Fort Worth Star Telegram summed up the situation best with the following quote, "The Legislature has developed a very bad habit of ordering school districts to carry out expensive programs but refusing to provide them the money to pay for them. That allows lawmakers to point with pride at their frugality ... while placing tremendous burdens on school districts."

The Texas Center for Educational Research (TCER), based on information reported by the Texas Education Agency's 1987-88 Accountable Costs Study and Legislative Budget Office information, estimated that under-funded mandates represented approximately 20 percent of school districts' operating costs. In dollar terms, 20 percent of operating costs was at least $2.2 billion in 1989-90, excluding debt service and capital construction costs.

The Mandate Watch campaign is multi-faceted. TASB staff monitor legislation to identify potential under-funded mandates. TASB staff then contact a statewide network of school districts which determine the local fiscal impact of the proposed mandates. TASB staff and school board members work with legislators to fund, amend, or defeat legislation that impose costly mandates on local school districts. Lastly, TASB staff catalog the under-funded state and federal mandates imposed on school districts in a bi-annual report entitled, "Legislative and Regulatory Mandates Imposed on Texas Public School Districts."

III. PROGRESS IN TEXAS

Mandate Watch has been successful in several respects. The media have become allies in exposing the under-funding of state mandates. School board members and administrators have become more vigilant and vocal when proposed legislation would impose an under-funded mandate on their schools. Texas Legislators understand the concept and are much more sensitive to the impact of under-funded state mandates on public schools.

Since the inception of the Mandate Watch campaign, numerous pieces of legislation have met their demise as "under-funded mandates." Other proposed under-funded mandates have been amended to make implementation optional or on a pilot basis. The first bill affirmatively requiring the state to recognize its responsibility to fund state mandates has just been passed by the 75th Legislature. The legislation (HB 66 by Representative Cuellar) affects statutory mandates enacted on or after January 1, 1997. Shortly after each legislative session, an "interagency work group" made up of the state auditor, the director of the Legislative Budget Board, the director of the Sunset Advisory Commission, the Comptroller, a state senator, and a state representative must publish a list of the under-funded mandates passed during that session. Before the third anniversary of the enactment of each under-funded mandate, the work group must (1) analyze the legislative history of the mandate, (2) conduct a cost-benefit analysis of the mandate, and (3) present a written report of those findings to the legislature and governor. During the regular legislative session following the issuance of the report, the legislature may by law continue the mandate for up to three years, repeal the mandate, or take no action on the mandate.

IV. FEDERAL MANDATES ON TEXAS SCHOOL DISTRICTS

Texas will spend approximately $38 billion on education during the 1997-1999 biennium. Although Texas school districts incur numerous costs associated with implementing federally-mandated programs, Texas received only $1.5 billion federal dollars for education during the 1996-97 school year.

Special Education is the major under-funded federally mandated program in Texas. Under the Individuals With Disabilities Education Act, the federal government is supposed to pay 40 percent of the annual cost of implementing that special education mandate. According to figures from the Texas Education Agency, however, Texas received $199 million in special education funds for the 1996-97 school year. The federal funds comprised only **12.6 percent** of the total state and federal dollars distributed to school districts for special education programs.

On a local level, the percentage of federal funding for special education has been even lower. For example, for the 1996-97 school year, Dallas ISD received $5.4 million in federal special education funds, which comprised **9.32 percent** of the district's total special education budget; Houston ISD received $7.3 million in federal special education funds, which comprised **8.5 percent** of the district's total special education budget; and, Austin ISD received $3.9 million in federal special education funds, which comprised **9.0 percent** of the district's total special education budget.

While special education is the major under-funded federal mandate, it is not the only federally required program that requires local financial commitments from school districts. Some of the other federal statutory and regulatory mandates cited in "Legislative and Regulatory Mandates Imposed on Texas Public School Districts," include:

- Unemployment Compensation;
- Continuation of Health Insurance Coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA);
- Americans With Disabilities Act;

- Section 504 of the Rehabilitation Act of 1973;
- Asbestos Hazard Emergency Response Act (AHERA);
- Family Educational Rights and Privacy Act of 1974 (FERPA); and
- U.S. Copyright Act of 1976.

IV. CONCLUSION

The Mandate Watch campaign has successfully aroused legislative awareness of the local costs imposed on Texas school districts by under-funded state mandates. I hope that NSBA's under-funded mandates program will generate similar awareness in Congress of the fiscal impact of federal mandates on local school boards and local taxpayers.

Thank you for allowing me to testify before you this morning. I appreciate your time and attention to this matter of vital importance to school districts around the country.

Mr. SHAYS. Thank you. It's nice to have you here.

Ms. Cross.

Ms. CROSS. Thank you. Mr. Chairman, thank you very much for the opportunity to testify. I am Marilyn Cross. I am a classroom teacher in the Ohio public schools, and I'm a member of the executive committee of the National Education Association.

The NEA represents 2.3 million teachers and school employees who work in our Nation's public schools, vocational schools, colleges, and universities. We appreciate this opportunity to present our views on the impact of regulatory requirements on public schools and the flexibility available in Federal education programs.

The mission of public education is to ensure quality educational opportunities for all students. This goal can best be accomplished in schools that are healthy and safe for children and for school employees and which have the necessary resources to help students meet high academic standards.

NEA was actively involved in helping to develop and support passage of the flexibility provisions in the Elementary and Secondary Education Act and in the Federal Goals 2000 legislation, which reduced paperwork and other burdens on schools. In reviewing regulatory mandates and flexibility provisions affecting public schools, our foremost concern must be, will this improve teaching and learning.

Congress conducted such a review when it reauthorized the Elementary and Secondary Education Act and enacted Goals 2000 legislation just 3 years ago. Today, schools have significant flexibility and discretion in implementing ESEA, Goals 2000, and other Federal education programs through a framework of programs and rules that strengthen accountability for Federal resources that apply rigorous standards and performance measures and encourage innovation at the State and local level.

What local schools and their districts most need is increased access to technical assistance so that school administrators and personnel are aware of existing flexibility provisions and can utilize those that best serve the interests of their schools and their students. In any discussion of flexibility in Federal education programs, it is important to acknowledge that the term itself has different meanings for different individuals.

NEA would oppose any effort, for example, to increase flexibility or to reduce burdensome paperwork by diluting or eliminating civil rights and health and safety requirements, by shifting education resources to other areas, or by altering State and local education governance. As the recent reauthorization of the Individuals With Disabilities Education Act demonstrates, considerable flexibility can be achieved without undermining the educational goals of a program or diverting education resources and accountability from State and local agencies.

Federal regulations governing education programs serve an important purpose, to protect our children's health and safety and to ensure all students a quality education. Meeting these goals, however, requires a National investment in our students and schools.

NEA strongly supported the inclusion of $5 billion in the budget resolution to leverage a total of $20 billion from States and communities to repair public school buildings. These resources would have

made a tremendous difference to public schools and to their ability to comply with the Americans With Disabilities Act, as well as with the environmental hazards laws.

I would like to highlight some of the flexibility options that already exist in major Federal elementary and secondary education programs. As you will see, considerable flexibility is available at the Federal level. The mandates on our public schools are imposed primarily by State and local governments. At the Federal level, most education programs provide flexibility to schools through waivers, streamlined applications, consolidated administrative funds, or school-wide programs.

In fact, the U.S. Department of Education has eliminated 43 percent of its regulations relating to elementary, secondary, vocational, and higher education, a total of 2,031 pages as of June 1, 1997. Of more than 400 waiver requests received by the U.S. Department of Education, 160 were unnecessary because the flexibility was already available. The requesting agencies were simply unaware of the flexibility provisions contained in the program.

For example, the Elementary and Secondary Education Act is the bedrock of the Federal role in public elementary and secondary education. It provides schools with many options to reduce paperwork and administrative time. Under Title I, which is the largest of the ESEA programs serving disadvantaged students, the school-wide program has been expanded.

Now, schools with more than 50 percent of student enrollment from low income families are not required to comply with cumbersome paperwork requirements that ensure Title I funds are spent solely for Title I eligible students. There do remain, however, strong accountability provisions.

Funds in a school-wide program must be used to increase the amount and quality of learning time and provide an enriched curriculum for all children according to a comprehensive plan. And Title I no longer requires schools and districts to administer separate tests to Title I students. Achievement gains may be measured by the students' performance on State assessments that follow the progress of all students in the State.

The Goals 2000 Act, enacted in 1993, is a model for bottom-up reform and flexibility at the State and local level. The program is entirely voluntary, yet every State has submitted an application for funds. Not only are there no mandates for the standards, assessments, and local grants, but the process of applying for Goals 2000 funds is the least burdensome for any Federal program.

There are no published regulations, and the application form itself is only four pages in the first year and in the second year, two pages. Further, the format and content of comprehensive State improvement plans is left to the State, so that any submission of additional papers is a matter of State and local discretion. The review and approval process, including the commitment of funds, usually takes less than 3 weeks from the date of application.

The School-to-Work Program contains flexibility provisions for creating State-wide school-to-work plans and State and local partnerships. They are designed to link with the provisions in Goals 2000 and to give State and local education agencies the flexibility to coordinate them as they deem appropriate.

I would now like to describe some of the ways in which administrative flexibility and reduced paperwork provisions are implemented. State and local education agencies may submit a single application for funds from Goals 2000, School-to-Work, the Perkins Vocational and Applied Technology Education Act, and various other ESEA programs. The statute for each act outlines the administrative funds that may be set aside to run the programs. These funds may also be consolidated at the State and local level.

School districts, with the approval of the State education agency, have some discretion in directing up to 5 percent of funds from one ESEA program to another, with the exception of Title I. Further, the U.S. Department of Education requires progress reports to be submitted every 2 or 3 years, rather than annually as was common before.

Other broad-based coordination efforts to promote student learning have been created to give school districts more flexibility to care for their students. Title XI of the ESEA allows school districts to use up to 5 percent of their total ESEA funds, including Title I, to coordinate social and health services for students. In this way, schools and human service providers can work together to provide children with adequate nutrition and basic health care, improving students' ability to reach the high academic standards set by the State.

Waivers are a relatively new area for education, and it is not yet clear what the benefits are to effective teaching and learning. There is no comprehensive study on the impact of waiver requests, approvals, or denials at this time. It is clear that many of the requests submitted are unnecessary, because the State and locality can accomplish their desired goals under current law. In the ESEA, the Goals 2000 Act, and School-To-Work Opportunities Act, there are a number of statutory and regulatory waivers available to State and local education agencies.

As of March 10, 1997, the U.S. Department of Education reports it has considered 185 waiver requests and approved 151 of them. Another 118 applicants learned they could implement their plans without a waiver. Some of this information is available on the Department's Internet site, but not every school or educator is connected to this technology.

Publicizing information about these requests, including what requests are necessary and unnecessary under current law and what requests have been approved or rejected, would be helpful to educators and to administrators in gaining an understanding of current flexibility within Federal education programs and how school districts are availing themselves of these opportunities.

In addition to waivers from the Federal level, Goals 2000 includes a pilot experiment called Ed-Flex for 12 States. This is an experiment to determine if flexibility can be granted without reducing accountability or positive results for students. To participate, a State must have an approved Goals 2000 State improvement plan in place. The State education agency, not the Federal education authority, may waive certain statutory and regulatory requirements in six specified Federal education programs. The State education agency must also have the authority to waive its own similar regulations.

There is no evaluation yet on whether this Education Flexibility Program is related to improvements in student achievement or whether devolving the Federal waiver authority to the State education agency has a positive impact on accountability and results. The NEA welcomes a fair evaluation of this program and urges that no further expansion be made until such an evaluation can be reviewed by local educators.

The NEA also supports Federal, State, and local requirements that regulate safe drinking water, asbestos exposure, educating children with disabilities, and other civil rights laws. These requirements not only enforce our moral obligation to our Nation's children, but in the long run, are cost-effective in reducing expensive litigation and life-long health care costs.

Congress should continue to uphold regulations that protect the education, the safety, and the welfare of children and to pursue strategies to provide local schools and their districts with greater technical assistance in availing themselves of new flexibility provisions.

Thank you, Mr. Chairman.

[The prepared statement of Ms. Cross follows:]

Mr. Chairman and Members of the Subcommittee:

I am Marilyn Cross, a classroom teacher and a member of the executive committee of the National Education Association (NEA). The NEA represents 2.3 million classroom teachers and other education employees who work in our nation's public schools, colleges, and universities. We appreciate this opportunity to present our views on the impact of regulatory requirements on public schools and the flexibility available in federal education programs.

The mission of public education is to ensure quality educational opportunities for all children. This goal can best be accomplished in schools that are healthy and safe for children and school employees and that have the resources to help all students achieve high academic standards. NEA was actively involved in helping to develop and support passage of the flexibility provisions within the Elementary and Secondary Education Act (ESEA) and in the federal Goals 2000 legislation that reduced paperwork and other burdens on schools.

In reviewing the issue of flexibility in federal education programs, the foremost question should be, "How will proposed flexibility provisions improve teaching and learning?" The flexibility schools need to accomplish their goals for students already exists within a framework of federal programs and rules that strengthen accountability for federal resources, apply rigorous standards and performance measures, and encourage innovation

at the state and local level. NEA opposes any attempt, through the guise of "flexibility" or "burdensome paperwork," to dilute or eliminate civil rights and health and safety requirements. As the recent reauthorization of the Individuals with Disabilities Education Act demonstrates, much flexibility can be accomplished without undermining the educational goals of a program or diverting education resources and accountability from state and local education agencies.

It is important to remember that most of the mandates and requirements on our public schools are imposed by state and local governments. Most federal programs provide significant flexibility to schools, through waivers, streamlined applications, consolidated administrative funds, or school-wide programs. In fact, the U.S. Education Department has been a leader in this area, eliminating 43 percent of its regulations relating to elementary, secondary, vocational, and higher education -- a total of 2,031 pages as of June 1, 1997. Of the more than 400 waiver requests received by the U.S. Education Department, 160 were unnecessary because the flexibility was already available; the requesting agencies were simply unaware of existing flexibility provisions contained in the programs.

I would now like to describe the flexibility options that currently exist in major elementary and secondary education programs:

The Elementary and Secondary Education Act (ESEA). ESEA is the bedrock of the federal role in public elementary and secondary education. Reauthorized in 1994, it provides for the teaching of basic skills in reading and math for disadvantaged students; professional development opportunities for teachers; educational technology resources; anti-violence and substance-abuse prevention programs; and bilingual and immigrant education. ESEA provides a number of mechanisms for reducing unnecessary paperwork and administrative time, including waivers and the consolidation of applications and administrative funds.

Title I. The ESEA reauthorization amended the Title I school-wide program to reduce the paperwork requirements of some schools. Under the reauthorization, schools with more than 50 percent of student enrollment from low-income families are not required to comply with cumbersome paperwork requirements to ensure that Title I funds are spent solely for Title I eligible students in the school. When a school's enrollment includes so many children in poverty, it is sound education policy and a sound administrative response to allow a school, at its discretion, to operate under a school-wide plan. In a school-wide program, Title I funds may be combined with other federal, state, and local funds to serve all students in the school. There do remain, however, strong accountability provisions. Funds in a school-wide program must be used to increase the amount and quality of learning time, and provide an enriched curriculum for all children according to a comprehensive plan.

Further, Title I no longer requires schools and districts to administer separate Title I tests to Title I students. Achievement gains may be measured by the students' performance on state assessments that follow the progress of all students in the state.

Goals 2000: Educate America Act. Goals 2000, enacted in 1993, is a model for bottom-up reform and flexibility at the state and local level. The program is entirely voluntary, yet every state has now submitted an application for funds. Not only are there no mandates for the standards, assessments, and local grants, but the process of applying for Goals 2000 funds is the least burdensome of any federal program. There are no published regulations. The application form in the first year is only four pages and in the second year, two pages. The format and content of comprehensive state improvement plans is left to the state, so that the submission of additional papers is a matter of state and local discretion. The review and approval process, including the commitment of funds, usually takes less than three weeks from the date of application.

School-to-Work Opportunities Act of 1994. The School-to-Work program contains flexibility provisions for creating state-wide school-to-work plans and state and local partnerships. They are designed to link with the provisions in Goals 2000 and to give state and local education agencies the flexibility to coordinate them as they deem appropriate.

I would now like to briefly review some of the ways in which flexibility and reduced-paperwork provisions are implemented:

Administrative Flexibility. Under the ESEA, states and school districts have a variety of options for reducing unnecessary paperwork and enhancing program coordination. State and local education agencies may submit a single application for funds from Goals 2000, School-to-Work, Perkins Vocational and Applied Technology Education Act, and various other ESEA programs. The statute for each Act outlines the administrative funds that may be set aside to run the programs. These funds may also be consolidated at the state and local level. School districts, with the approval of the state education agency, may direct up to five percent of funds from one ESEA program to another -- with the exception of Title I. Further, the U.S. Education Department only requires schools to submit progress reports every two or three years, rather than annually, as was common beforehand.

School districts also benefit from increased flexibility to care for students through other, broad-based coordination efforts that promote student learning. Title XI of the ESEA allows school districts to use up to five percent of their total ESEA funds, including Title I, to coordinate social and health services for students. This enables schools and human service providers to work together to provide adequate nutrition and basic health care to children, strengthening students' capacity to reach the academic standards set by the state.

Waivers. Waivers are a relatively new area for education and it is not yet clear what the benefits are to effective teaching and learning. There is no comprehensive study on the impact of waiver requests, approvals, or denials at this time. Yet, it is clear that many of the requests submitted are unnecessary, because the state and locality can accomplish their desired goals under current law. In the ESEA, Goals 2000 Act, and School-to-Work Opportunities Act, there are a number of statutory and regulatory waivers available to state and local education agencies. The principal elements for federal waiver requests include a description of:

- The rationale for seeking the waiver, which explains the waiver's necessity to improve teaching and learning;
- Specific, measurable education goals;
- State barriers that have or will be waived;
- Proper notice given to parents, teachers, or others affected by the waiver request; and
- The measurements of progress in implementing the waiver.

Obviously, some provisions are ineligible for waiver, such as civil rights, state maintenance of effort, and parental involvement.

As of March 10, 1997, the U.S. Education Department reports it has considered 185 waiver requests and approved 151 of them. Another 118 applicants learned they could implement their plans without a waiver. Some of this information is available on the Department's Internet site, but not every school or educator is connected to this

technology. Publicizing information about these requests, including what requests are necessary and unnecessary under current law and what requests have been approved or rejected, would be helpful to educators and administrators in gaining an understanding of current flexibility within federal education programs and how school districts are availing themselves of these opportunities.

"Ed Flex" Demonstration Sites. As part of the Goals 2000 legislation, up to 12 states may participate in the Education Flexibility Partnership Demonstration Program. This is an experiment to determine if flexibility can be granted without reducing accountability or positive results for students. To participate, a state must have an approved Goals 2000 state improvement plan in place. The state education agency, not the federal education authority, may waive certain statutory and regulatory requirements in six specified federal education programs. The state educational agency must also have the authority to waive its own similar regulations.

There is no evaluation yet on whether this education flexibility program is related to improvements in student achievement or whether devolving the federal waiver authority to the state education agency has a positive impact on accountability and results. NEA welcomes a fair evaluation of this program and urges that no further expansion be made until local educators can review such an evaluation.

Related Regulatory Requirements. NEA believes that the health and safety of students is paramount to their ability to learn. We support federal, state, and local requirements that regulate safe drinking water, asbestos exposure, educating children with disabilities, and other civil rights laws. These requirements not only enforce our moral obligation to our nation's children, but in the long run, are cost-effective in reducing expensive litigation and life-long health care costs. In many instances, the problem is the lack of adequate federal funds to comply with the regulations and address critical safety issues, such as lead paint or asbestos abatement. For example, the Congress rejected an appeal this year for $5 billion in the budget resolution for school building repair. This money, to be used by states and communities to leverage a total of $20 billion, would be enormously helpful to public schools in complying with the Americans with Disabilities Act and environmental hazard laws.

The NEA urges Congress to uphold regulations that protect the education, safety, and welfare of children. Where regulations can be eased without jeopardizing these protections or the quality of education, state and local education agencies must have the flexibility to do so.

The National Education Association has not received a federal grant or contract during the current fiscal year or either of the two previous fiscal years.

Mr. SHAYS. Thank you very much. We're ready to get into some questions and have a great dialog here. I note that in the beginning, we began with Ms. Saylor really talking about environmental issues like the Superfund and the oil tank. And, Ms. Bryant, you made reference, as well, to issues like asbestos.

One of the things that I think you're pointing out is where laws in general may need to be dealt with, like with asbestos, you were talking about the $600,000 to remove the oil tanks in New Canaan High School, New Canaan, CT. They built the school for $10 million, and they spent almost $10 million to remove the asbestos a few years later. And we're not certain at all that the asbestos they removed was a threat to anyone.

And I can say that having my daughter attend there, it just—and I went to speak at a Senate hearing on this very issue, and Members of Congress were reluctant in the Senate, reluctant to open that door on that issue and use any discernment as to what was a threat and what wasn't. We treated all bad, even though some isn't and some is. The part that's bad, though, can be very bad, and that we acknowledge.

But it does strike me, if I'm just going to deal with environmental issues first, that if there is an environmental hazard, we're going to mandate that it not happen, and we're going to tell you it's not. I'm not sure we're going to come up with the money to pay for it. You're talking, it seems to me, again, about—with the tanks—or, excuse me, with the landfill, Ms. Saylor, about the issue of whether you were responsible.

Again, this strikes me, the kind of two issues we're talking about here, you—businessmen and women come to us and homeowners come to us, as well. Should we call upon the deep pocket to have to pay the bill, or should it be the people responsible? And during the last 2 years, we really tried to change the law so that it was more not the deep pocket, but the people who were primarily responsible.

Define to me when you think a mandate would be required, and not necessarily where we would have to pay the bill. There must be some. This may sound like a strange question to you, but where is a mandate legitimate? Ms. Bryant.

Ms. BRYANT. I'll use the example of asbestos. The purpose of the law was to make schools safe. Unfortunately, when the law was passed, it was based on a study that didn't distinguish between the two kinds of asbestos. I think it is absolutely fair to say when you are renovating a school that you go in and test whether the asbestos is the dangerous kind or what we call white asbestos.

Then I think the school, if it is the dangerous kind—although we think that most of the dangerous kind is in shipyards, not in schools—then it should be removed. But to treat it all the same and then say, as in your example in New Canaan, that the $10 million building has to go through a $10 million renovation does not make sense today.

Mr. SHAYS. I would agree. In other words, let's have a sensible law that gets at the real problem and doesn't require you to do something that really is wasteful. But in that case of asbestos, let's say the white kind, as you refer to it—and there's probably a more technical term—would you agree that the Federal Government

would have every right to tell you or a State government would have every right to tell a local district that put this asbestos in a school, it needed to remove it and it needed to pay the bill?

Ms. BRYANT. I think that when it's the school building—and her example is quite different, so it moves to the different arena—when it's the school building, yes.

Mr. SHAYS. Would you all agree with that, necessarily?

Ms. SAYLOR. Yes.

Mr. SHAYS. Texas, it's a little harder for you to—because I noticed in Texas, you even want to get rid of the copyright law. We could really have a little fun conversation here.

Ms. BRYANT. Like NEA, we would love to move the school construction bill.

Ms. HAYERS. Actually, the reference to the copyright bill was—that's simply one that we list in our list.

Mr. SHAYS. In other words, you did some brainstorming, and you came up with a whole list. Yeah, I'm being a little facetious.

Ms. HAYERS. Perhaps an example from Texas would be——

Mr. SHAYS. No, but this may be—I'm going to have you give a Texas example, but first off, would you—I want to know where we could agree a mandate is necessary. Would you agree that Tom Barrett and I might be very legitimate in telling you that you need to clean up a school that has dangerous asbestos?

Ms. HAYERS. I think we're all in agreement that the safety of our children should come first. And the Texas example goes directly to that.

Mr. SHAYS. Right, and that the Federal Government might mandate you to if you chose not to? In other words, I'm just trying to establish a line where a mandate is good and where it's bad, because some mandates, I would tell you, would be very important. And I'm speaking as someone who wants to get rid of a lot of mandates. You don't want to admit that—it's a real struggle.

Ms. HAYERS. It's counter-cultural to Texans.

Mr. SHAYS. It's counter-cultural. Maybe I shouldn't ask you that.

Ms. HAYERS. Well, actually, it's a fair question.

Mr. SHAYS. OK.

Ms. HAYERS. And we do want to take care of our children. And yes, where health and safety is concerned, there are some legitimate areas in which school districts, as any other government, but school districts because we're dealing with the lives of our children, probably wouldn't have to be mandated to——

Mr. SHAYS. Give me the Texas example you went with.

Ms. HAYERS. The Texas example from this session of the legislature was that a bill passed requiring—and I may not have all the specifics of this correct, but basically, requiring schools to have an inspection of the natural gas delivery system to the school prior to every school year. And we certainly did not go down and lobby against that. That's reasonable. There's no money attached to it. It costs a little bit to have that done, and we certainly did not oppose that.

However, on some things that would have mandated—on a bill that would have mandated school districts to increase health insurance benefits, not just access to health insurance benefits to not just our teachers but to their dependents, with no recognition

whatever of the cost to local districts, we did have to say, "We can't afford to do that."

Mr. SHAYS. Now, was that the State?

Ms. HAYERS. That's at the State level.

Mr. SHAYS. Yeah. But that's—OK. That's a good example. OK.

Ms. Cross, you probably are more—this probably comes easier to you, to tell us where mandates might be more necessary. [Laughter.]

Ms. CROSS. Well, yes. I think—as they said in the testimony, we believe in a mandate, whether funded or not, we have concerns, as Ms. Bryant testified, in terms of—we have also proposed more funding for IDEA, because we believe handicapped students are not assigned proportionately to school districts, they are not assigned proportionately to States. It's an issue in terms of disabilities as a Federal issue, and we believe should have more Federal support. So we would believe that.

But we believe, for example, that IDEA has been essential in changing—I can speak personally from seeing special education classes in the basements of school buildings to seeing students being worked with so that they have jobs. We used in our system—one year, one of our special education students began after graduation or after leaving school at a salary as a janitor in a pickle plant higher than his special education teacher made.

So we're very pleased for our students that the IDEA and the others have improved. We do think there should be more Federal support for that one, but we believe that mandates in terms of student safety, student welfare, must be provided by the Federal Government, because it's easy to neglect them when money is always short.

Mr. SHAYS. I'm going to call on Mr. Barrett, and then I'm going to come back and pursue a number of other questions. But I will say to you that the IDEA reform that passed and was signed into the law was probably an absolutely stunning example of a difficult issue in which Republicans and Democrats decided to sit down and depoliticize it and desensitize it, in one sense. And it got no coverage.

And I went to a reporter, he said, "No story here." I said, "Why? No story here because we didn't fight like kids?" And I don't think that the American people as a general rule realize that that was one issue where we, I think, found some common ground. So it would be interesting to see if we have really met the needs of some school districts who may feel that we still have too many mandates and too many requirements and so on. But we did make a significant step forward.

Mr. Barrett.

Mr. BARRETT. Thank you, Mr. Chairman. And I appreciate your holding this hearing. I find myself in sort of a worked-up response just to the nature of the hearing. I served in the State legislature for 8½ years and was in Wisconsin before I was elected to Congress.

Mr. SHAYS. And was what?

Mr. BARRETT. And I was in the State legislature in Wisconsin for 8½ years before I was elected to Congress. And many, many times during that 8½ years, I had local officials talk to me about un-

funded mandates coming from the State level. And to be candid with you, I've heard many, many more complaints about the Federal Government than I ever did about the State government, but, frankly, far fewer complaints about the Federal Government's involvement in education and complaints about the Federal Government as it pertains to education.

So I was somewhat surprised to see that this was a topic that generated enough attention, frankly, to have a hearing, although I trust my good friend Mr. Shays and know that he tries to do things in a good-faith manner. So I was looking through this, and I was thinking as a parent.

And, Ms. Bryant, you referred in your written statement to the "extreme panic," I think was the phrase that you used about the asbestos. As a father of a 4-year-old, a 3-year-old and a 4-month-old, I would be in extreme panic if I thought my school was going to have asbestos in it and could cause health damage to my kids.

So I don't know that it's overreacting. And maybe in retrospect, all asbestos did not have to be removed, although I'm not—my understanding is that the EPA has not said that there is safe asbestos out there. And I would imagine if you are parents, if any of you are parents, you wouldn't want asbestos in your kids' school. And I think Mr. Shays' question is a very good question and it goes sort of to the heart of the whole debate on unfunded mandates.

I always view laws that we like as laws and laws that we don't like as mandates. I mean, every law is a mandate. Everything we do here is a mandate, essentially, whenever we pass a law. But "mandate" is sort of the buzzword or the code word to say something that we don't like.

I think if there was a law—and I saw a clip on the news the other night about a janitor in a school. And I don't know if it was near here or whether I saw it on the national news. But he was a convicted sex offender, and he murdered an 18-year-old girl in the school during the day. I don't think it's inconceivable that you would have that State passing a law saying that you have to do a criminal background check on employees, all employees that are elected—or that are hired by a school district as a result of that.

And, frankly, I wouldn't be shocked if you had a Federal law along the lines of a Megan's Law that said that school districts have to check the background of people so that you don't have—and this fellow was a convicted murdered that had been hired by a school district and murdered the girl. And that's an unfunded mandate. Right?

Ms. BRYANT. Well, if you want a response, I'm not going to respond to the janitor instance, because there's a whole—we could have a whole hearing about that. But I do think, going back to the asbestos, in fact, from the research we have done, there really has never been a study that says that the white asbestos, or chrysotile, is dangerous.

So I think when I referred to the word "panic," it is—I agree. I'm a parent, and my kid went to a public school. And I would not want my child exposed to a harmful material. But now, I'm sitting in a different chair. I'm still the parent, but I'm hearing from the school districts who literally have fewer dollars today to just throw out into education.

And the cost, as the chairman mentioned, of having to remove what is not dangerous asbestos just because of the law means that we're not putting technology into those classrooms, we are not buying more textbooks, we are not paying teachers what they deserve to be paid. So it's a balancing act.

And I think what we're asking as the National School Boards Association, not to undo the law, but let's look at the risk-benefit. Let's look at the cost. Let's look at the cost over the cumulated years of a law that was passed in good faith then, but the scientific survey that should have informed it wasn't a part of the law.

Mr. BARRETT. And I don't disagree with you, but we're dealing now with the luxury of hindsight. And you're correct. You're sitting in a position now——

Ms. BRYANT. That's right. But hindsight makes us smarter, so we ought to act smarter.

Mr. BARRETT. But I don't think that—but the notion here is whether we should be as a Federal Government coming in and taking action. And I think it's a far different analysis that's done at the time when we first hear about these problems, to say, "Well, let's just study it more." My—and I wasn't in Congress, so I'm not—I don't have a dog in this race, so I don't——

Mr. SHAYS. Would the gentleman yield?

Mr. BARRETT. Yeah.

Mr. SHAYS. Yeah. The reason why we're having this hearing, so it's really—I'm just delighted that you're kind of introducing this conversation and that we can really have a dialog about it—is, what mandates are there that may have made sense, for instance, that may need to be adjusted. I mean, so that's really—and what we have asked the Inspector General to do since—I don't want to get you too excited—the GAO to do is to do a study to look at mandates and just say, "Well, you know, are they accomplishing what we intend them to do, or not, and should we revisit?"

And, for instance, we're almost reluctant to revisit the asbestos law. So the simpler thing is just leave it there and let them do it, instead of having to force ourselves to look at it and say, "This is good, and this is bad." Because in some cases, we may be passing judgment on what we did in the past and say it was a mistake. And the other is, we may not want to take the chance, however remote—that we don't want to change it and then screw it up. So——

Mr. BARRETT. I don't disagree with you. I mean, I think it makes sense to look at it, in hindsight. But if you—again, having not been here in 1989 whenever the law was passed, I don't feel this dying need to support something because I didn't vote for it, so it's not like people are criticizing me personally.

But I think that it was legitimate for Congress to respond that way, just as I think if Congress responds and says, "Well, we don't want lead in our drinking water in schools," I mean, that's one that we may have hit a home run on. And I don't think that it's to say that we have identified that problem and it's an unfunded mandate. It's still a real issue. And I guess the decision or the discussion here is whether we think it's appropriate for the Federal Government to come in at certain points and do that.

I, again, personally think that it is. And I think that—I guess the question that I was just going at is, is the thrust of what you're

saying, especially the people that are complaining about the unfunded mandates—and let's sort of switch gears to the kids with disabilities—are you saying, "Get out. Get out of our hair," or are you saying, "Give us more money"?

Ms. BRYANT. No. On the IDEA, we are not saying that. In fact, many of us at this table worked on the reauthorization of that bill. We are saying on IDEA, now that you've passed an even stronger law in many cases, the Federal Government deserves to help out more in the cost of IDEA, that it was passed with an understanding of a 40 percent help from Congress, and it's now 7 percent.

We're saying, if you're going to have a strong law like that which helps children with disabilities, then you owe States and school districts the money to support that.

Mr. BARRETT. But I think—and this is sort of inside baseball, but since you're involved with—you throw out the word "unfunded mandate." You're saying, "Don't do it." That's what you're saying to me. You're saying, "Don't tell me to do this." If you're saying—and that, frankly, plays to my good friend, Mr. Shays, and the Republican side. If you're saying, "Pay for it," you're talking about Federal spending, and then that's Democrat.

So I don't know where you're coming from. And I don't know if it makes any difference where you're coming from, but I think that as we talk about this, you're moving in different directions.

Ms. BRYANT. No.

Mr. BARRETT. If you're saying "unfunded mandate," you're saying to me, "Drop the program." It's a far different issue to say, "This is a legitimate program. Kids with disabilities should receive a fair education, and the Federal Government has a responsibility." And I don't—and again, I don't know what you're—if you've got only one punch, which punch do you want to throw?

Ms. BRYANT. With all due respect, each law is different. And just as you have within IDEA some very important issues which need funding, I will respond differently to that than I will from looking in hindsight at an asbestos law which makes sense no longer. So I have to be honest with you.

I am not coming from two different places. I am addressing very specific laws and requesting a study be done to look at the impact of those laws on school districts. That's why we're having this hearing. That's why your committee asked the GAO for a study. That's why we are committing precious dollars from our funds from the National School Boards Association to study this, to make sure that we are doing the right thing and to advise Congress if there need to be changes.

Mr. BARRETT. And can I ask one more question?

Mr. SHAYS. We have time.

Mr. BARRETT. I think Ms. Hayers, I think that you were talking about a reference from the Fort Worth newspaper, and it made reference to the legislature, and I assume there it was talking about——

Ms. HAYERS. The State legislature, yes.

Mr. BARRETT. The State legislature. And, again, that——

Ms. HAYERS. In 1989.

Mr. BARRETT. And that's more consistent with my experience, that those guys are much worse than we are when it comes to this stuff. [Laughter.]

Let's call a spade a spade here, that they're the ones that are doing all this terrible stuff. But you did mention several programs that, again, that sort of jumped out at me. I think that it was in your testimony. For example, unemployment compensation, COBRA?

Ms. HAYERS. Yes. The written list there is simply a written list of—I referenced the document that our association does biannually, and we simply list the things that we see that are passing costs down to local districts. And so those are some of the things that are referenced in there.

Mr. BARRETT. So are you saying——

Ms. HAYERS. We're actually listing things that—over which we have no control for which there is a local school board cost.

Mr. BARRETT. And are you saying, then, or suggesting that the Federal Government should have an exemption so that school boards are not liable for COBRA or unemployment compensation?

Ms. HAYERS. We need local taxpayers to understand that all of their money is not—you know, when taxes go up, it's not just because we like to raise taxes. There are some legitimate reasons here. We have some things over which we really don't have any local control that we have some responsibility for paying the bills on.

And basically, as those things—somebody else tells us to do that, and no money flows with it, then the only place for the dollars to come from is from local property taxes. And it's just honest and accountable.

Mr. BARRETT. I understand that. And I understand where you can make us the fall guy in it. But my basic question is, are you saying, "We don't want to be covered by COBRA"? Are you saying, "We don't want to be covered by unemployment compensation"?

Ms. HAYERS. No. We have—and the costs are not huge, but they are costs that we have and that we account for in our document that we show to legislators and is available for our members to use in their communities.

Mr. BARRETT. Have any—again, I'm somewhat surprised in that I don't think of COBRA as being a law that many employees of school districts take advantage of, I mean, because it basically occurs after a person is laid off.

Ms. HAYERS. Right.

Mr. BARRETT. In Texas, are there a lot of school employees that have taken advantage of COBRA?

Ms. HAYERS. I can't answer that. I really don't know. And, of course, it's the employees' money. It's simply an administrative matter. But school district administrative offices might have some responsibility to do that, those administrative functions.

Mr. BARRETT. Thank you. Appreciate that.

Mr. SHAYS. Before calling Mr. Kucinich, I think what we're really going to try to identify is what are mandates that we would say are good, what are mandates we would say are bad or need to be changed or modified, what are mandates that we really should be paying for in the Federal Government. Because there's some things

that we might say—you know, I hope that's one of the dialogs we have in the course of this.

There are things that we happen as Members of Congress to think are great for society, but we then say that another level of government has to pay for it. And so that will—and I think that's, frankly, very important for all of us to get into on both sides. I mean, I can—well, we'll have lots of fun on this issue.

Mr. Kucinich.

Mr. KUCINICH. Thank you very much, Mr. Chairman.

Mr. SHAYS. I will say for the record, both of us were State legislators, I was for 13 years and you for 8, and we had the same issue of mandates when we were there, and you served on the local level.

Mr. KUCINICH. Actually, I was in the State senate, as well.

Mr. SHAYS. So you served on all three.

Mr. KUCINICH. Right.

Mr. BARRETT. He has caused problems at every level. [Laughter.]

Mr. SHAYS. Literally.

Mr. KUCINICH. And I want to continue my reputation here this afternoon. I want to first of all indicate that I had 10 recorded votes and a markup in the Education and Work Force Committee, so it prevented me from being here to hear your testimony. But in the time that Mr. Barrett was questioning you, I read your testimony.

And I would like to just make a couple observations. I would hope that as you get into these issues, you would look at them from the standpoint, first of all, of some general organizing principles about which education—for which education exists. Ostensibly, it exists to elevate the mind and improve the lot of—and enable people to improve their lot in this society, to improve their own social and economic conditions, to give people an opportunity to lift themselves up and effect kind of leading forth.

We also understand that government exists to set the priorities in the society. I would hope to see education be a priority at all levels of government. Therefore, educators wouldn't be vexed with questions of whether or not they could meet their needs and, therefore, get into these unlimited debates over whether or not you meet your needs best by limiting unemployment compensation benefits, by limiting compliance with the ADA, by limiting asbestos removal, by limiting compliance with the Rehabilitation Act.

In my view, we shouldn't even be getting into that level of discussion. In a society which has so much wealth as ours does have, if we place the highest priority on education, as I believe it should be, these debates would never occur.

Mr. SHAYS. What I would like to do is just see if we can start to categorize somewhat. And I would like to ask each of you. I do think that all of us agree that some mandates are required. And then the issue is, when should the Federal Government provide the funds to pay for it and when shouldn't we have to.

And your point about opportunity costs, Ms. Bryant, is the concept if you do one thing, you can't do something else, is one of the reasons why we're debating this. When New Canaan High School spent $10 million on asbestos that may not have been necessary to remove, it literally cut things out of its education budget to pay for it.

But I do want to just establish again, it seems to me on health issues, in particular, environmental issues, if the program is necessary and you were the cause of the problem and you are the cause of the solution, we're going to tell you to do it.

When it gets into an issue like IDEA, Ms. Cross, let me ask you, when is it a Federal responsibility to pay the cost, and when is it a local or State? Let's agree that we think nationwide, we should have a more unified program on disabilities and children with special needs. When is it our requirement to come up with the dollars, and when is it the requirement of the State or local government?

Ms. CROSS. This is a very difficult issue, because it involves a whole lot of things, including facilities and so forth. I mean, it has got a lot of——

Mr. SHAYS. You don't have to give a definitive, but give me some general——

Ms. CROSS. Right. I think the issue, we would say, in terms of the Federal support on a mandate is that this issue falls very unevenly on school districts. There is not an even distribution of individuals with disabilities in every school district in the country.

Mr. SHAYS. Where do they tend to fall?

Ms. CROSS. They tend to be in urban districts. But disproportionately, the cost for a very small rural district which even has one or two is disproportionately more than for a larger district that can provide the education, provide something that serves more people.

Mr. SHAYS. You know where we got our biggest complaint on IDEA?

Ms. CROSS. Which one?

Mr. SHAYS. I represent—well, you wouldn't know, but let me just say it to you. I represent three cities and seven suburban communities. Greenwich, CT, which is probably one of the wealthiest communities in the country, and New Canaan, CT, one of the wealthiest.

Parents, particularly in Greenwich, were suing the school districts, getting the school districts to pay because, as we defined it, it wasn't—whereas all students were to get a very good education, IDEA basically said they were to get an excellent education, so it set a different standard.

They were able to prove in court that students should be moved to Boston, to Philadelphia, anywhere. And so we didn't have the big problem in urban areas. Our biggest complaints were in our suburbs.

Ms. CROSS. Right. Well, that's a second part.

Mr. SHAYS. OK.

Ms. CROSS. I think the initial costs and the problems of dealing with it, the disproportionate number of students are in urbans, and it has a disproportionate effect on the budget of a small school district if you have a severely disabled student that requires—in the suburbs and in the other places, we have had the same issue of the use of IDEA to litigate very, very expensive solutions. I think—I guess the question we started with——

Mr. SHAYS. We may have resolved that issue.

Ms. CROSS. Yeah. I think the question, however, you wanted to solve is, there isn't a proportionate representation of these students in individual school districts, so that responsibility of that school

district to provide for those students is in no way related to the wealth of the community or to anything else in the community. If anything, you would find a higher——

Mr. SHAYS. So that would justify the Federal expense?

Ms. CROSS. Right. You would find a higher percentage of the disabled in a community perhaps with a lower socioeconomic background and status. So it seems to me that as a citizen of the country, it's a Federal responsibility to handle those exceptions that are not related to the local community. And that's our rationale for saying that IDEA education needs more Federal support than it has gotten.

And I think that would be a general principle if we would take any mandate. If the mandate has a disproportionate effect on communities, particularly those who already have lower resources, there is an obligation, because it's a mandate because you're a citizen of this country, there is an obligation to provide support to those other governmental agencies that will be in the business of actually doing the work.

Ms. BRYANT. We distribute Title I based on need. I mean, I think I would agree with Marilyn that the disproportionate impact of poverty is something that Congress has said is important.

Mr. SHAYS. Any other comments from either of you?

[No response.]

Mr. SHAYS. There's a general concept that a higher level of government steps in when you have a spillover effect. For instance, if in the Connecticut River in Connecticut, a business is polluting, it takes relatively clean water, and at the end, it dumps the dirty water but it dumps it downstream to where the business is, it gets the clean water and it gives out dirty water, it has passed on its costs to all the communities down below.

So the State would say to that business, "If New Jersey and New York are polluting the air but it blows away from them, prevailing winds"—and, therefore, they don't feel its cost, but Connecticut does, the Federal Government steps in. There's a spillover effect, so we in Connecticut are basically asking the Federal Government to not let those States pollute.

When we first got into education issues, we basically said as an example, "We will step in because Mississippi"—and you know what? I'm sorry. Mississippi is always used, and no longer deserves to be used the way it is. But a particular State may not have spent the resources on education, but those children grow up, end up living in Chicago or New York or somewhere else, and then become a cost if they're not as well-educated as the rest. So we have justified that.

But tell me an example without question of one or two mandates that you think are totally inappropriate. And then I would like Mr. Barrett maybe to jump in, as well, and see if we can have a little bit of a dialog on that. Do you have a few more minutes?

Mr. BARRETT. Sure.

Mr. SHAYS. Give me some examples that you would call—if we are going to have the mandate, we should come up with the dollars. See, I would think, Ms. Cross, you would say you want the mandate one way or the other, "but we do think you should come

up with the money. But if you're not going to come up with the money, we still want the mandate."

I would think that some of you might say, "We don't want the mandate, period." And some of you would say, "We want the mandate only if you come up with the money." So I think we probably have three levels within this room here. Do any of you want to just jump in and tell me. You've mentioned one or two, but—that's not environmental, I guess, is what I'm—something educational. Yeah. What were you going to say?

Ms. BRYANT. Oh, mine was related to environment.

Mr. SHAYS. See, one of the problems is, when you start to deal with the environmental, you're really asking for a different standard, because we said to the private sector they have got to clean up. And yet you're saying, "Well, not to a local government."

And my view would be, if we're asking—we may want to revisit the law in general, but we're not going to carve out a special dispensation to—for instance, Ms. Saylor, I would say that we need to—if there's a problem with you taking out a tank that shouldn't be taken out, that's dumb.

But I will tell you this. We're not going to let you pollute the environment, and we're going to step in. And we're going to say that to the private sector, as well. And we're not going to say because you're a municipality, you don't have to do it. So I guess what I'm looking for is a mandate or two that you think we could have an interesting dialog to help clarify this issue.

Ms. BRYANT. I can't think of one offhand, which is the best news of all. Because a lot of mandates, as we have all said are State-generated, sometimes based on the Federal. But when we look at what the Federal Government does about education, we all know that it has less to do with local education than many other countries.

We have a smaller percentage of laws and funding from the Federal Government to local education than many, many countries. So I guess the good news is, we aren't sitting here listing 10 laws that we think are totally irrelevant.

Mr. SHAYS. Would one of the interests that you have be that if we provide a mandate, that you want more flexibility in how you may administer the mandate?

Ms. BRYANT. Absolutely. I think Marilyn's testimony around Ed-Flex is a wonderful example. It happens to be only the Department of Education. It happens to be only 12 States. But if we could have that across the board on EPA and HHS, that's a good model.

Ms. SAYLOR. For example, if we had some flexibility with the underground storage tanks, if we could have tested and proven that we were not causing an environmental problem, perhaps then we would not have had to go through the expense of converting to natural gas and getting rid of our tanks.

We tested our tanks on a regular basis because we were concerned about them leaking, knowing the problems that that could cause. But we weren't given the opportunity to prove that we weren't creating the problem. We had to go through the expense of removing them. There was not a choice.

Mr. SHAYS. What surprises me is, you could do a compression test, I think, and know if it was keeping its pressure. So it is sur-

prising. And we do have a system where you can fill them up with foam. So it is—but I would make the argument in the case that you outlined that I would want that same law to apply to you and to business the same.

Ms. SAYLOR. Yes. I wasn't—I was not looking to be excused from causing the problem. It's either when I am not causing an environmental problem or, in the case of the Superfund site, I have trouble equating the trash that we have disposed of with benzene and chlorobenzene and other types of chemicals.

Mr. SHAYS. If none of you have an example now, if you could maybe submit something for our record, because we are going to be having a series of hearings. But, for instance, even your concept about the example of Megan's Law or another—I can take New York City or some other cities. We actually do what we do when you walk into the State capitol here. You really have to go through a metal detector.

Now, it would be inane for us to pass a law that would require all schools around the country to have metal detectors. But I bet there are some examples of where we have done it in other areas, where we have passed a certain kind of law that may work in a particular setting and simply may not work. Maybe this is an example of where we needed to have a more rural school district come in and say, "You know, here some of what you're requiring just simply doesn't apply," and it may apply. And that's where we need the flexibility.

So I guess what I'm trying to do is set up some kind of grounds for our next hearing. You've launched it. One is, the good mandate, the mandate that may not be good, the mandate that may be good but you need to pay for it, and then the mandate where we simply need flexibility.

And I will just say to the committee—and maybe we can start to begin to categorize what kind of mandate might be necessary to get—I mean, we also have issues that deal with grants. They aren't mandates, because you don't have to accept the grant, but it does then deal with the issue of flexibility.

Bridgeport, CT, went bankrupt. It closed its parks. It applied for a number of grants. One of the grants was to beautify one of its parks, which it's closed. So it took the money and beautified a closed park because it wasn't going to not use the money, whereas if we had the flexibility, we would have taken that money and operated a recreation program in the parks that were still open. That's kind of what I mean.

Do you have any comment? And we'll just close up here.

Ms. HAYERS. Well, if I could interject. Flexibility is such an important part of this. One size just doesn't fit all. And if that's true in a State the size of Texas, how much more true is it in the United States of America, where communities vary so differently from size to geography, population density, when you're miles and miles and miles and miles from any other commercial or educational or any other kind of endeavor.

You know, there are lots of places in this country that are a long way from everyplace else. And what is appropriate in an urban area may not be appropriate in the vast, open spaces in this country. And so that kind of flexibility is very important.

Mr. SHAYS. Mr. Barrett.

Mr. BARRETT. I would like to go back to the disability issue, or the kids in that program. And Ms. Cross, you said that those kids are—I think you said primarily or disproportionately may be found in urban districts?

Ms. CROSS. In urban districts.

Mr. BARRETT. Is that your experience in Texas?

Ms. HAYERS. I'm sorry?

Mr. BARRETT. Are the kids with disabilities or more special needs, are they disproportionately found more in urban areas in Texas?

Ms. HAYERS. I think it has more to do with the socioeconomic level than it does population.

Mr. BARRETT. And your experience?

Ms. SAYLOR. Yes, it would be.

Mr. BARRETT. I'm sorry. What State are you from?

Ms. SAYLOR. New Jersey.

Mr. BARRETT. New Jersey? OK. And——

Ms. BRYANT. Yes, and I think nationwide, it is true that more urban centers who have poor kids who come to school with health-related problems are labeled, and correctly so—sometimes, not correctly so. I don't know if you're aware that there's a study being commissioned to look at the greater proportion of African-American students who are labeled "special education" and African-American males, specifically.

So I think there are some complex issues behind it. But in general, yes, there are more—there's a greater proportion of special education students in urban areas.

Mr. BARRETT. And these schools, I would say generally, are the ones that are criticized for the lack of performance? This is, again, urban—I represent Milwaukee. The Milwaukee school district is oftentimes criticized.

Ms. BRYANT. Sometimes, appropriately; and sometimes, not.

Mr. BARRETT. Sometimes, appropriate; sometimes, not. What I'm driving at is the criticisms of these school districts' inefficiencies, or alleged inefficiencies, sometimes accurate, sometimes not and the difficult burden that we're placing on these school districts and how to deal with them.

I oftentimes talk to people in my area who talk about the spending—again, the Milwaukee public school district, say they waste too much money. And I think, "Well, wait a minute. If we're dealing with all these kids with special needs, our costs are higher." And my experience is, a lot of the suburban school districts that have a small percentage of kids with special needs can simply use busing programs or other programs to get those kids into the urban school districts.

Ms. BRYANT. That's correct.

Mr. BARRETT. And then they point out how much better the education is, blah, blah, blah. And it comes down to the spending per student, of course. And what I find is that there's—that they say, "Well, it doesn't matter how much you spend per student."

And I hear this oftentimes. And again, a lot of these are friends of mine whose kids go to expensive school districts. And I scratch my head a little bit, and I think, "Well, if they're spending $12,000

on your kid and they're spending $7,000 on my kid and you're patting me on the head saying it doesn't make any difference how much money we spend per child, why don't we spend the same amount?" But I find that argument always coming from someone who's spending more on their child than the school district I'm in is spending on mine.

And I view this as a—and I agree. I agree with the socioeconomic factors. If you have a school district that's predominantly composed of children of college professors, those kids are going to do better on SAT tests as a group than if you have a lower socioeconomic class. But my concern as we have looked at the future of this country—and George Bush was the education President. Bill Clinton wants to leave his legacy in education, as we see through this budget proposal.

And at the same time, what we're doing is we're building, I think, a scenario where you're going like this. Do you see that spending—and maybe go down the line here. Ms. Cross, do you see that spending as starting to come back together, or do you see that as getting worse?

Ms. CROSS. Well, I live in the State that has a Supreme Court decision this January that ruled that our spending was inequitable. We do have districts that spend up to 14,000 per pupil, and I will say that in those districts, it's over 90 percent, 93 percent from local taxpayers who raised that money who believe in education for their children who send 99 percent of their children to colleges, to school districts that have maybe $3,000 to spend and who also have buildings that are very decrepit because there's no property wealth, no industry.

So we see in our State that the discrepancies are getting wider and wider. And the difficulty, I think, is going to be that we have created a world in which the wealth has moved to the suburban rings around the urbans, that rural districts and inner city districts don't have property wealth. They don't have the ability, and they don't have the communities that already have the education who understand the importance of it.

So we're seeing that in our State, as long as we continue our reliance on local property taxes, that this discrepancy is going to increase, that we're going to see the school districts where the educated—the suburban districts where the educated parents already live putting more and more of their local wealth into schools, that the poorest districts that don't—it's a bigger percentage of their income to pay for a school in the first place.

They're not putting the extra money in, that unless we accept education as a State and Federal responsibility, we're going to see these increasing changes and very, very—much more poverty in the very rural and the very inner city and much more wealth in the suburban districts. Yes, I agree with you.

Mr. BARRETT. Ms. Hayers.

Ms. HAYERS. Well, Texas has also struggled with the equity issue over many years, and we——

Mr. BARRETT. I can remember in 1972 the *Supreme Court of San Antonio* v. *Rodriguez.*

Ms. HAYERS. Right. And we presently are operating under a system that our State Supreme Court has ruled constitutional under the Texas Constitution.

Mr. BARRETT. Constitutional?

Ms. HAYERS. Constitutional. And so—but these are struggles that went on for a long time in Texas, and we think we're—while we would still like to see the State shoulder a little bit bigger of the portion of the responsibility because of the impact on local property tax rates, we think we have basically—you know, we're in pretty good shape on that issue in Texas. But that's going to be a State-by-State assessment.

Mr. BARRETT. Do you happen to know what the spending difference is? You talked about $14,000 versus $3,000. Do you know what the range is in Texas?

Ms. HAYERS. I want to say in the law that actually passed court muster, there was a—and I don't know how this all played out in reality, but the test was about a $600 per student——

Mr. BARRETT. Difference?

Ms. HAYERS [continuing]. Discrepancy.

Mr. BARRETT. Wow.

Ms. SAYLOR. In New Jersey, we have been operating under an unconstitutional funding formula for a number of years. We have a new funding law which was now, again, declared not constitutional for the State of New Jersey. The courts have ordered that the 28 poorest school districts will now receive the same amount of money per pupil as do the richest school districts in the State of New Jersey.

I come from a middle class school district. We are the lowest-spending high school district in the State of New Jersey, and our students are not suffering because of that. We still have—approximately 92 percent of our students are going on to advanced education. They score above the State average on SATs.

So I am from the—there is a level of spending that you need for education, but simply taking additional money as we're going to do in New Jersey and giving it to the 28 poorest school districts so they can spend as much as the wealthiest districts I do not believe is the solution to the educational problems.

Mr. BARRETT. I'm sorry. Maybe I'm confused. Your school district currently spends the lowest per student?

Ms. SAYLOR. The lowest for a high school district in the State of New Jersey, yes, our per pupil costs. And we're very proud of that, because we're showing a couple things. First of all, we have a larger school district—we have 7,500 students in five high schools—so we do have some economies of scale there where we have a lot of very, very small districts in our State.

There is a level of funding that is needed so that you have technology in classrooms, so that you have reasonable class size, so that you have a good teaching staff. But just giving—if you gave our school districts millions and millions of more dollars, our SAT scores are not going to increase that much more.

Yes, we could put in more technology and have some more advanced programs, but money in itself is not going to help, and I don't think money going to some of our poorer school districts is

going to be the solution, unless they totally rework how the education process starts.

In these poorer school districts, where a 5-year-old student starts school and has not had any of the opportunities before the age of 5 for them to catch up, money is not the solution. There has to be some other ways to reach the parents and the community groups prior to those children going to school.

The 5-year-olds that come into our school districts have had many experiences, have traveled, have been read to, have parents who have enrolled them in these nursery schools and private day care centers and have had so many educational opportunities by the time they are 5 years old, where that doesn't happen in some of our poorer school districts.

Mr. BARRETT. And again, I apologize if I'm missing the point here.

Ms. SAYLOR. Money——

Mr. BARRETT. Are you among the 28 schools that——

Ms. SAYLOR. No, I'm not, no. No, because we're a middle class district.

Mr. BARRETT. And of the 20 districts that do benefit, though, what is——

Ms. SAYLOR. They're basically urban centers.

Mr. BARRETT. But again, you said that your spending per student was——

Ms. SAYLOR. My spending per student?

Mr. BARRETT. Yes.

Ms. SAYLOR. Is just over $7,000 per pupil, and it's the lowest spending for a high school district in New Jersey this year.

Mr. BARRETT. For high school. And how does that compare to the 28 that are going to get bumped up?

Ms. SAYLOR. Well, they will get bumped up—the highest spending districts spend about $13,000 to $14,000 per pupil.

Mr. BARRETT. But those are not the poor ones, obviously?

Ms. SAYLOR. They—well, they'll be getting the funding so that they will have the same money as the rich districts. And I don't think that's going to solve their problems.

Ms. BRYANT. I think across the country, there is great disparity between what is spent on education. We know that. If you ever want to have a read that makes you get riled up to give a speech, read Jonathan Kozol's book, *Savage Inequalities,* where he talks about the differences in funding.

New Mexico's an interesting State. Ninety-five percent of funding for kids is State, so there really is no disparity in the State of New Mexico between rich and poor. But I think getting back to this hearing, if poor districts are disproportionately impacted by mandates like IDEA and some of the laws we have been talking about, then I would argue that maybe Congress does have a responsibility to look at easing that impact on those poor districts.

And I think, Mr. Chairman, your idea of looking at the different categories to address these different pieces of legislation is a good one. And we will provide you with additional information after this hearing on that.

Mr. BARRETT. When you say "easing the impact," this maybe goes back to Mrs. Cross's position. Are you saying, then, that we should remove some of these mandates?

Ms. BRYANT. No. I'm saying that you should come up with the resources so that—for example, IDEA, where there is a disproportionate impact on urban districts, that the funding should match the mandate.

Mr. BARRETT. Fine. Thank you.

Mr. SHAYS. You all have been very helpful in launching us on this process. We'll probably have two to four hearings—excuse me, three to four hearings—on this issue and maybe more as time goes on. But we're going to do it systematically and hope to learn a lot in the process and make some valuable suggestions to the Congress.

So we thank all of you for coming. And with that, we will leave the record open for 3 days. And we have done our—unanimous consent. So we're all set.

This hearing is adjourned.

[Whereupon, at 11:54 a.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

Mr. Chairman and members of the Subcommittee, the American Association of School Administrators, representing more than 14,000 local superintendents and school executives, is pleased to offer this statement on "Reducing Regulatory Mandates on Education."

The mandate that has been most troublesome to our members is the Individuals with Disabilities Education Act (IDEA) and its associated regulations. The children and their education are not a burden, but the excruciating detail required in each student's Individualized Education Plan (IEP) has been, as well as requirements that local school districts pay attorneys fees associated with negotiating an IEP.

However, it is our understanding that the changes brought about by the new IDEA law (H.R. 5) will mitigate many of our concerns, particularly with respect to funding. We further understand that the Fiscal Year 1998 Budget Resolution calls for an added $5 billion to be spent on IDEA over the next five fiscal years. This welcome news, coupled with the promise of more local flexibility in administering IDEA, if federal funding is so increased, should lift a considerable burden from our members professional lives.

A federal program which offers a perfect example of how not to solve a problem is the Asbestos Hazard Emergency Response Act (AHERA). This federal mandate, adopted with considerable publicity push by former U.S. Rep. James Florio, D-N.J., forced local school administrators to make hasty decisions, based on poor scientific research and no required help from state health and risk management officials. Consequently, billions of dollars---which could have gone into education programs, educational equipment or building repair---was unnecessarily spent on asbestos removal in local schools. As a result of later, more cautious studies, we learned that most asbestos could easily have been made non-hazardous by simply painting over it and other, less costly methods.

These are the issues of most concern to us, Mr. Chairman. Thank you for taking our views into consideration.

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