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**Nancy Cyr**  
*Senior Legal Counsel*  
*Nebraska Legislative Research Office*  
*Staff Chair, NCSL*

**William Pound**  
*Executive Director*

August 27, 2009

The Honorable Arne Duncan  
U.S. Secretary of Education  
C/O Office of Elementary and Secondary Education  
400 Maryland Avenue, SW, Room 3W329  
Washington, DC 20202

Re: Race to the Top Fund [Docket ID ED-2009-OESE-0006]

The National Conference of States Legislatures (NCSL) applauds the efforts of President Obama and Congress in passing an economic stimulus package that has provided states with the fiscal relief necessary to weather the recession and limit devastating cuts to education in the face of declining state revenues. The nearly \$100 billion in stimulus funds committed to education has temporarily helped preserve jobs and insulate local school districts and state systems from the negative impacts of the recession.

State legislators, who have the constitutional responsibility to establish and fund the nation's system of public education, are concerned with the direction the U.S. Department of Education has taken in the proposed regulations for the Race to the Top (RTTT) fund under the American Recovery and Reinvestment Act (ARRA). To receive funding under RTTT each state is required to submit an application outlining their reform plans for meeting the four assurances (achieving equity in the distribution of teachers, improving the collection and use of data, improving standards and assessments, and support for struggling schools) in ARRA. State applications require the approval by the Governor, the state's chief school officer and president of the state board of education. Missing from the list of those required to sign-off on applications is the state legislature. In fact, there is little mention of the involvement state legislators in the over 30 pages of regulatory proposals. As the legislative body with oversight and appropriations authority over education in the states, the state legislature is a crucial piece to any reform effort. **NCSL strongly urges the Department to include state legislatures in the application process for RTTT. In addition to the Governor, the state's chief school officer and president of the state board of education, each state application should require approval from leadership in both chambers of the legislature.**

State legislators are also concerned with the overall approach taken by the Department in Race to the Top. The draft guidelines for RTTT are predicated on the belief that if a reform model works in one state, it can be applied with equal success in the other 49 states, irrespective of the varying conditions in the states. As those responsible for implementing federal education policy, including

**Denver**  
7700 East First Place  
Denver, Colorado 80230  
Phone 303.364.7700 Fax 303.364.7800

**Washington**  
444 North Capitol Street, N.W. Suite 515  
Washington, D.C. 20001  
Phone 202.624.5400 Fax 202.737.1069

Website [www.ncsl.org](http://www.ncsl.org)  
Email [info@ncsl.org](mailto:info@ncsl.org)

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the No Child Left Behind Act over the past eight years, state legislators know all too well what happens when a one-size-fits-all approach to education is adopted. In prescribing a national formula for education reform in RTTT, the Department has chosen conformity over ingenuity and innovation in the states. This top-down approach threatens to undermine the largest discretionary grant program in the history of U.S. Department of Education before it even begins. By pre-determining "the conditions necessary for reform," the winners and losers in RTTT have already been chosen. **And the winners are not necessarily the states being the most innovative in how they reform education but rather those that conform to the Department's prescribed formula for system-wide reform—a formula that has little basis in research and more closely resembles an arbitrary collection of reform models from across the states with expectations of unlimited returns.**

The Department has identified five priorities for Race to the Top, each of which may have a positive effect and value on their own or in various combinations. But when that combination is pre-determined in Washington, D.C., it assumes the existence of a single formula that can be applied in any of the 50 states with the same results. Each of these reforms have been applied by the states in varying permutations. Our experience tells us that there is no magic formula for reforming our state systems of education. Instead, there are 50 individual formulas that feature a wide variety of reforms in unique combinations to best address the diverse needs of each state, with the common goal of improving education for all. Giving states the flexibility to select from the full array of education reforms provides the best opportunity for success in RTTT. The finite list developed by the Department excludes many promising ideas and innovations in favor of a restrictive one-size-fits-all approach. **States should not be limited to the four assurances in ARRA and the narrow priorities identified by the Department in RTTT in their efforts toward system-wide education reform. There are other reform elements that must be included for consideration.**

Ingenuity and creativity have been the hallmarks of American success and they should continue to be the principles that form the foundation for education reform in the states. States have been the leading innovators in education reform and the federal government is a late entrant into a process that has been going on for decades. **It is vital for the federal government not to impede the progress and long-term success of these reform efforts through administratively burdensome and process-oriented mandates.**

In North Carolina we are proud of the progress we have made towards closing the achievement gap and improving low-performing schools. A federal mandate for North Carolina to lift its cap on charter schools as the only means for turning around low-performing schools simply because charters have been successful in states such as Minnesota and Texas, is a prescription from Washington, D.C based on anecdotal evidence rather than research. In fact, recent findings on charter school performance by the Center for Research on Education Outcomes (CREDO) a Stanford University-based think tank, suggest the opposite. According to CREDO, students in charters fared better than their matched peers in traditional public schools in only 17% of the cases. They performed worse in 37% of the cases and neither better nor worse in the remaining 46%.

**The parents, students, teachers, principals, superintendents, school board members and state and locally elected officials in North Carolina have decided on a different mix of**

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**reforms to improve our low-performing schools than the ones prescribed by the Department in Race to the Top.** Florida has led the way in how it uses data to improve educational outcomes. With a more than decade-old comprehensive K-12 data system that links to community college, university, and workforce development systems, Florida's data warehouse enables longitudinal analysis on students as well as information on curriculum, facilities and staff. New Mexico, North Carolina and Louisiana are among states that have led efforts to reform teacher effectiveness. As part of its Four Levels of Teacher Preparation Effectiveness, Louisiana took the initiative to be the first state to examine teacher preparation program effectiveness through the Value-Added Teacher Preparation Program Assessment Model. Using teacher and student state data and sophisticated statistical models, and with three years of stable and valid results to date, the study indicates that varying levels of effectiveness exist both across and within teacher preparation programs. The state is using qualitative research to help determine why some programs or institutions are more effective at preparing teachers than others. This past legislative session, the state legislature in Texas passed an overhaul of its academic standards. Texas is again a leader among the states with strong academic core standards that for the first time will use college readiness as an element of their state accountability system by requiring districts and campuses to increase the number of students performing at the college readiness level. Requiring Texas to join a consortium of states developing common core standards in order to be eligible for RTTT funds undermines the hard work and progress they have made at the state level. **Each of the states mentioned have made important reforms without prodding from the federal government that are tailored to the unique conditions in their states. Withholding federal stimulus funds from these states because they have chosen a different mix of reforms to address their educational needs than those identified in the proposed regulations in RTTT is the wrong approach.**

State legislators support efforts to improve teacher effectiveness, update data systems, strengthen standards and assessments and turn around low-performing schools. However, Race to the Top moves beyond setting these as reform goals and determines the process under which these goals must be achieved. The Secretary recently cited this approach as one of the fundamental flaws of No Child Left Behind, "No Child Left Behind was very tight, very prescriptive on how you got there. As we think about reauthorization, I want to fundamentally flip that on its head." **To this end, NCSL strongly urges the Department to focus on the results of school reform efforts and not on the processes used to achieve reform goals, when it finalizes the guidelines for RTTT.**

Sincerely,

A handwritten signature in cursive script that reads "Larry M. Bell". The signature is written in black ink and is positioned below the word "Sincerely,".

Representative Larry M. Bell  
Chair, Education Committee, North Carolina General Assembly  
Chair, NCSL Standing Committee on Education