

IMPACT AID REAUTHORIZATION

Status Report

March 7, 2010

BACKGROUND -- The NAFIS reauthorization proposal H.R. 2280 was introduced by Representative's Mazie Hirono and Lee Terry on May 6, 2009. During the summer and fall of 2009 the association proposed minor modifications to H.R. 2280 that were shared with the membership at the 2009 Fall Conference. Currently NAFIS is awaiting a final sign off by the Federal Property Districts on changes to the original Section 8002 proposal that will make that program less subjective and more responsive to the actual assessed value of taxable property within their district.

NAFIS hopes to reintroduce the proposal that would include the modifications prior to April 1st.

The legislation to be introduced will include the following key provisions

1. Includes changes to Section 8002 (Federal Property) as proposed by the Federal Property School District Association – awaiting final proposal pending final approval of the Federal Property Districts (addresses “highest and best”/consolidated districts);
2. Changes to Heavily Impacted 8003(b)(2) include:
 - Reinserts Large School Provision as in Current Law
 - Eligibility percentage is set at 45% Currently the law states 50% or 40% depending on civilian eligibility;
 - 8003(b)(2) per pupil expenditure eligibility eliminates state OR national average – go to only state average.
Districts with an enrollment over 500 their apper cannot exceed 125% of the state average.
Districts with an enrollment less than 500 their apper cannot exceed 150% of the state average (originally suggested in the Bush Administration's draft);
 - Addresses 8003(b)(2) eligibility for districts currently eligible that are located in a state that would eliminate local property tax (ad valorem tax) as a revenue source;
3. Clarifies the housing privatization provision (expands 3 years to 4 years) and sets demolition on a 4 year time line, i.e. Table 9 and Table 11;
4. Any district experiencing a growth in federal students of 100 students or 10% of their enrollment as the result of a federal action, will be paid on a current year count as opposed to a prior year count as contained in present law;
5. Equal LOT percentage pro ration set at 130% of LOT* Could be adjusted depending on what the LOT% payout is prior to reauthorization;

6. **Allows** the Secretary through the regulation process to establish a third option by which school districts count (identify) their federal students. The third option would allow for student registration to be factored in when establishing the listing of eligible children;
7. Increases the maximum amount of school construction dollars a district can receive under Section 8007(a) the formula payment from \$3,000,000 to \$4,000,000. Formula grant percentage set-a-side increased to 80% of the amount appropriated (up from 40%) and competitive grants (Indian land districts only/growth districts eligible) lowered to 20% of the amount appropriated (down from 60%);
8. Reflects technical changes as proposed by the Department of Education in their draft proposal, that would update (conform) the Impact Aid law with provisions found in other statute that apply to certain provisions within the Impact Aid law;
9. Redefines Indian land to include land that was held in trust, but transferred out yet remains nontaxable from state and local taxes; and
10. Provides for **“new”** charter schools as a defined local educational agency for purposes of Impact Aid eligibility if the charter school is chartered by an existing agency or the agency otherwise responsible for providing a free public education is informed of the establishment of a charter school and approves such action;

The legislation to be introduced DOES NOT:

1. **Eliminate any proposed changes to Section 8002 as proposed by the Federal Property Schools Association – only modifies**
2. **Remove Table 9/11**
3. **Pro rate the Local Contribution Rate (LCR) to maintain previous year’s LOT payout as previously proposed under the NAFIS Safety Net proposal**
4. **Eliminate hold harmless – maintains 95%, 90%, 85% of the base year three year phase down with the 3rd year established as a foundation payment for 8003(b) (1) and 8003(b) (2) districts**
5. **Alter or change original Section 8009 (State Equalization) language as included in H.R. 4540, i.e. meet national average per pupil expenditure/conform to the minority opinion of the United States Supreme Court**

The 8 Things We Need to Know

- 1. We know reauthorization may move this year – no guarantee**
- 2. We know the House Education and Labor Committee has asked for public comments on reauthorization by March 26, 2010**
- 3. We know the Obama Administration has begun to work on a reauthorization plan much of which is included in their FY 2011 proposed budget**
- 4. We know that there is another Impact Aid Reauthorization Proposal – H.R. 3651**
- 5. We know that as a community we need to seek consensus on a “Final” proposal – continues to be suggested by House and Senate authorizing committee staff -- the House/Senate Authorizing Committees will look for one proposal**
- 6. We know the community needs to know where we are at – No rumors**
- 7. We know we want to negotiate from strength – not from weakness**
- 8. We know that if we are to succeed we need to build a consensus**

COMPARING H.R. 2280 WITH H.R. 3651

| PROVISION | H.R. 2280 | H.R. 3651 |
|---|---|--|
| Sec. 8002 | Establishes options to establish eligibility | Establishes options to establish eligibility – spells examples |
| Sec. 8002 | Establishes a Foundation payment based on 2006 payment Provides for new districts to be included in Foundation payment | No Foundation payment – 3 year phase down at 85% of previous year |
| Sec 8002 | Pro rates after Foundation payment | Pro rates after 3 rd year phase down |
| Sec. 8002 | Deletes 7 year application application requirement | Maintains 7 year requirement as provided in current law |
| Sec. 8002 | Reviewing “highest and best” | Maintains “highest and best” |
| <u>NAFIS will object to the 8002 provisions in H.R. 3651</u> | | |
| Sec. 8003 | Recognize State open enrollment | Same as H.R. 2280 |
| Sec. 8003 | Lower LRH to .05 (Justification move \$ down to lower LOT) | Keep LRH at .10 <u>Major difference</u> |
| Sec. 8003 | Changes to Table 9/11 (3 years to 4) | Keep Table 9/11 as in law |
| Sec. 8003 | 8003 (b)(2) eligibility 45% | 8003 (b)(2) eligibility 45% |
| Sec. 8003 | (b)(2) per pupil expenditures 500 or more students – 125% of state average | (b)(2) per pupil expenditures 350 or more students – 150% of the state average |
| | 500 or less: 150% of state average or a.p.p.e. of 3 or <u>more</u> comparable | 350 or less: 150% of the state or a.p.p.e. of 3 comparable |

COMPARING H.R. 2280 WITH H.R. 3651

| PROVISION | H.R. 2280 | H.R. 3651 |
|-----------|--|--|
| Sec. 8003 | Maintains 95% tax rate/125%/30 | Same as H.R. 2280 |
| Sec. 8003 | Includes language for states eliminating property tax as a school revenue source | No such provision |
| Sec. 8003 | Maintains current law for existing b2 35%/civilian students | Same as H.R. 2280 |
| Sec. 8003 | b2 payment calculation as in current law | Same as H.R. 2280 |
| Sec. 8003 | No cap on payment amount (To remain eligible for b2 must adhere to state spending limits) | Cap b2 payments to no more than 110% of state a.p.p.e. or that of 3 comparable districts |
| Sec. 8003 | b2 eligibility/affected by privatization updated | Same as H.R. 2280 |
| Sec. 8003 | Distance Learning language re: counting students in ADA calculation | Same as H.R. 2280 |
| Sec. 8003 | Equal LOT pro ration 130% | Equal LOT pro ration 100% <u>Major Difference</u> |
| Sec. 8003 | Allow for a current year count if federal student increase 100 or 10% because of federal action | No such provision |
| Sec. 8003 | Establishes Foundation payment 95% - 90% - 85% (3 year) | Same as H.R. 2280 except 90% - 80% - 70% (3 year) |
| Sec. 8005 | Provides authority for the Education to consider student registration as a third option to establish student count | No such provision |
| Sec. 8007 | Formula – 80% (from 40%) Discretionary – 20% (from 60%) Indian Land applicants for discretionary unless student increase. Eligibility as in current law | 100% of funds awarded under discretionary - no formula dollars - priority emergency/low capacity All 8002/8003 districts eligible <u>Major Difference</u> |

COMPARING H.R. 2280 WITH H.R. 3651

| PROVISION | H.R. 2280 | H.R. 3651 |
|------------------|--|---|
| Sec. 8009 | Changes to State equalization eligibility | No changes – current law |
| Sec. 8013 | Definition changes per Education Needs to conform to other statute LEA restrictions to charter schools Indian fee land | No language included |
| Sec. 8014 | Authorization amounts updated Reallocate dollars from previous fiscal years | No language – but assume authorization updates/no reallocation language |