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Loni Hancock

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KEYNOTE ADDRESS

HIGH STAKES TESTS: A CONTRARIAN VIEW

Assemblymember Loni Hancock*

High stakes testing goes to the heart of the discussion about how we improve teaching and learning in California. How these high stakes tests are used and the impact they have on young people, teachers and principals is very, very determining. How our young people perform on these tests determines a great deal of what is possible for them in the rest of their lives. Preparing students for high stakes tests takes increasing amounts of teacher time, classroom time, and unfortunately, we are now seeing a narrowing of the curriculum. The demand is growing to teach to the test as the stakes get higher and higher, and more and more California schools are labeled “failing schools” under the criteria set by No Child Left Behind [NCLB].¹

Test scores determine whether teachers, principals, and indeed whole schools are labeled “failing.” I think this has a great impact on our teacher recruitment and retention because you’re literally working under the gun, to ensure every child and every sub-group scores proficient. California has the third-highest proficiency standard in the United States, although we are approximately thirty-eighth in education funding. Given this, there is a disconnect between the supports we give our schools to achieve the extraordinarily high goals that we have set for our schools.

Now I feel like the classroom historian, because I came into this in 1994, when I went to work for Bill Clinton and Dick Riley in the U.S. Department of Education and headed

* California State Assembly, 14th Assembly District.

1. 20 U.S.C. § 6316 (2006).

up the regional office in charge of California, Arizona, Nevada, and Hawaii. Bill Clinton and Dick Riley, as southern governors in the early 90s, had initiated the governors' debate about the need to improve education in this country, the need to set standards, and to hold states and schools accountable for meeting those standards. It was actually a very exciting and very, very positive venture I felt at that time. We were hearing from the business community that nobody knew what a high school degree meant anymore—sometimes kids couldn't even read and write, they were getting out with high school diplomas—and people felt that the extreme local control that we had developed in this country around our public schools was leading to what Secretary Riley used to call the "tyranny of low expectations" for poor kids, and I think that was touching on a very profound truth. So the issue was how to get past the tyranny of low expectations; what could we do to make sure that every child in the country had access to a world-class education and the opportunity to use it well? We set up a program called Goals 2000.² I don't know if anybody in this room will remember Goals 2000. We basically wanted to give grants to the states so that every state could develop their own standards and their own accountability system. And there was a furor; a lot of states denounced this as federal intrusion and didn't want any part of it, so we spent a couple of years kind of begging states to take our money to develop standards and it was really okay; every state could set its own standards and set up its own accountability system.

I have to tell you that at that same time we talked about setting what we were calling "opportunity to learn standards." In other words, while we set up the standards for what we want students to know and be able to do, let's set standards for the states and how well you are funding education. Are you providing children with computers? Do they have adequate nutrition, etc., etc.? Do they have a highly qualified teacher in every classroom? We thought about it. We talked about it. It was strongly advocated for by Norma Cantú, who was the Assistant Secretary for Civil Rights at that time and had come out of MALDEF [Mexican

2. See generally GOALS 2000: Educate America Act, H.R. 1804, 103rd Congress (1994).

American Legal Defense and Educational Fund].³ And we didn't dare go there. We were in such a tenuous situation that it was decided we just wouldn't mention "opportunity to learn" for now. Not in this decade. And so we didn't do it and I think there to me is the fatal flaw in this whole picture.

During the Clinton Administration, every year, we put more federal money into education with the express purpose of giving states and schools the support they needed to help every child achieve the high standards. We supported Early Reading Success. We started the Federal After-School Program.⁴ We had Al Gore in Lafayette, California, laying electric cable for computers to bridge the digital divide, which became a mantra in the administration. We started a program called School to Career, which was a fabulous way to do career exploration with high school students, to get them really interested in academic learning. It has sunsetted, but is now interestingly coming back with Governor Schwarzenegger's interest in career technical education. It's a very good program. We initiated an early college awareness program. Turned out a lot of low income families didn't know you could even get financial aid, much less how you go about planning for college very early. So the Clinton administration was on track, although the standards and accountability issues and the opportunity to learn remained in the back of everybody's mind.

Now, as a state legislator, sitting on the Education Committee and chairing the Select Committee on Bridging the Achievement Gap, watching No Child Left Behind with its much more proscriptive formula kick in and its much more serious consequences, especially for Title I⁵ schools, schools with many low income children in them, I believe that the unintended consequences have become almost untenable. As I said, each state sets its own standard. California, prior to No Child Left Behind, had set very high standards, roughly CSU/UC eligible. We are now saying that every child in every sub-group—we did kind of fudge now on special education kids—but still English-learners and all other sub-groups

3. See Mexican American Legal Defense and Educational Fund, <http://www.maldef.org> (last visited May 7, 2007).

4. See Afterschool.gov Home Page, <http://www.afterschool.gov> (last visited May 7, 2007).

5. See 20 U.S.C. ch.70 (2007).

must achieve at the level of CSU eligibility by the year 2014. Now think about this folks, CSU may not even have the capacity—but is supposed to serve the top thirty-five percent of our students. No Child Left Behind says every child, every sub-group will achieve to those standards. One might think we at least ought to have a place in college and guarantee student aid for each and every one of those kids, but we aren't going there right now, obviously.

Under NCLB, because of the high stakes testing, the federal government tells you whether or not an individual school is making the prescribed amount of improvement in every year, and because you have to make a certain amount of improvement, the tests are becoming more and more important. We do think, roughly, about half the schools in the state are now in some kind of school improvement program. We really expect that almost every school in the state will be labeled a failing school by 2014. Well, I have in my district some of the wealthiest districts in California, and some of the poorest. Sadly, the lowest achieving elementary school in the state is in the city of Richmond, which is one of the very low income communities that I serve. The parents in my wealthier suburbs know they have good schools. They know that you can't keep making percentages of improvement. It gets harder every year as you get closer to one hundred percent. Your first increment is pretty easy. Your last increment is going to be almost impossible. But they aren't penalized. They're not Title I schools. Nothing is going to happen to them. All they have to do is say, "The Feds, that is just the Feds being the Feds." What is going to happen to my Title I schools? They have to reconstitute themselves, bring in experts, move things around. This can and does happen even if the school is making progress every year, according to the state's alternative measure of progress. So if you believe as I do, the continuity is a very important thing.

This is anecdotal—but I think I have seen over time; districts that keep superintendents a long time, with teachers that stay, and with principals who are instructional leaders, tend to be the schools and districts that are doing well.

With No Child Left Behind, we have high stakes testing, we have kids who need a lot of support including health, dental care, good nutrition, and the school is going to be

labeled failing and forced to reconstitute itself if it has three years in a row of program improvement, etc. This, I believe, is very damaging to teacher morale, very damaging to continuity in schools, and ultimately, does not lead to improved testing performance on high stakes tests. I certainly don't want the tyranny of low expectations, but I don't believe we can say, "We are going to wave our magic wand, and if we scare them, they will teach better and learn more." We have to be looking at how we are supporting our schools and recognize there are many things we need to do before the emphasis on high stakes tests continues in the negative way that it is.

For one thing, we basically know what we need to do to leave no child left—no child behind. We know. There are three major concerns to be addressed. One, all children will arrive in school ready to learn. We need to ensure better school nutrition, health care, dental care and hearing tests available to all children in every school, and provide after school programs so there is a slightly longer school day with creative and fun things to do in a safe environment. We need all of that.

The second thing that we know is that it takes high quality teachers, and I believe smaller learning communities. All children need a community in which they are well-known by a few adults who truly understand the child's strengths, weaknesses, hopes, fears, and dreams, and the caring adults can help them grow and learn. In many of our large public schools, it is difficult for children to get that kind of personal attention. Teachers certainly love it—the lower class size and the smaller learning community. I also believe we are going to have the bite the bullet of teacher pay. Secretary Riley used to say, "You want to evaluate them as professionals, treat them as professionals and pay them as professionals." I was told recently by a very fine superintendent in one of my low-achieving districts that in order to attract high-quality teachers to inner city schools, they would have to have a salary increase of about forty percent for beginning teacher pay. If we're serious about leaving no child behind, requiring a highly qualified teacher in every, every classroom, let's seriously talk about how we treat and pay our teachers.

One of my neighbors runs a teacher preparation program at U.C. Berkeley for young teachers who want to teach in

inner city schools. After graduating, their retention rate in the classroom is much higher than the average retention rate, with almost half our beginning teachers leaving in the first couple of years. The retention rate for the graduates of the inner city program is higher, but U.C. has gone back and done surveys and they are very unhappy. They don't feel respected, they don't feel as though they have any professional leeway to use what they have learned, and in the long term, that isn't tolerable for these young people who are motivated by just the highest hopes and dreams for the kids of the state. So we have to attract high quality teachers and there are some things we have to do to do it. I also believe we are going to have to look at the issue of some kind of recognition of the additional challenges in teaching in some schools and adjust pay accordingly.

Third, I think we need a compelling curriculum that inspires the love of learning in both teachers and young people. That's one reason I am very interested in Governor Schwarzenegger's emphasis on career technical education. If you are not careful, this can veer over into vocational education. Done right, it's career exploration, it's hands on learning, it's understanding. When I was mayor in Berkeley, we worked with the Bayer corporation and set up a biotech academy in our public high school, and one of the teachers said to me, "I was just waiting to retire until I became the biology and chemistry teacher in this school, because all of a sudden, instead of looking over my shoulder and waiting for the bell to ring, these kids understand why they are learning chemistry and biology, they ask questions, they love it," and it turned her teaching experience around and turned around the lives of many of the young people in that small school. So that's the kind of thing, I think, we need to do more of. In the meantime, we do have the CAHSEE, the high stakes test for graduating from high school. Now people say that that test is a tenth grade level and that all students should be able to pass it. I agree with that, and we really need to ask ourselves how we do these other things so that every child can. Well, we have 40,000 students that stayed in school, that did the coursework, that passed the courses, who didn't pass the CAHSEE last year. We need to look very seriously at what we are doing for those kids, what are the re-entry points. How do you keep them from deciding they're failures and

going away and never coming back? We know that their prospects for responsible adulthood and economic independence are greatly challenged by the fact that they didn't pass the CAHSEE. So we need—that is going to take a lot of work.

I have authored a number of bills on high stakes testing which I just want to run briefly by you, because some of them are coming back this year, and also, a little bit about something I think that is coming up that is an opportunity for us.

During my first session, I worked on primary grades tests. California's one of a very few states that starts the high stakes testing in the second grade. Almost every other state starts in the third grade. The Association for the Education of Young Children⁶ says you should absolutely not start this high stakes testing before the third grade. But here we are, testing seven year olds. Actually, a cynical viewpoint floating around the capitol now is that the reason we do it is because you know students can't read well enough in the second grade to read the questions on the test, so the teacher reads the test to the children and then the children fill in the bubble with their pencil, that the tests are actually kind of inflated for the second grade test so everybody's so worried that we are all going to be failing and we don't want to do anything to make ourselves fail any sooner, so there is an effort to keep the test beyond its sunset date, even though it doesn't test very much and it is very scary for a lot of teachers and a lot, a lot of our kids. We were able to amend a Senator Alpert testing bill, so in July of this year, we will stop testing second graders. We did pass a bill allowing a subject matter testing in first language, primary language, for students who haven't been here very long. Seemed sensible, but the bill that I did last year which was actually a result of the work of the Select Committee on Bridging the Achievement Gap and the—based on a recommendation by the Legislative Analyst's Office, which is the nonpartisan research recommendation arm of the State Legislature, AB 2975⁷ dealt with one of the

6. National Association for the Education of Young Children Home Page, <http://www.naeyc.org> (last visited May 7, 2007).

7. Assemb. B. 2975, 2005-06 Leg., Reg. Sess. (Cal. 2006), available at <http://www.assembly.ca.gov/acs/acsframeset2text.htm> (choose "(2005-2006)" from "Session" drop-down menu; then enter "2975" in "Bill Number" field; then

core problems that I have alluded to about No Child Left Behind, which is that you set a very high standard, CSU eligibility, as proficient.

And you know, the only leeway that the No Child Left Behind Act gives the states is that they can set the proficiency standard, as a result of poor results, a lot of states are adjusting it. California has not. We have a really rigid ideology here about never lowering the standards. So we have a standard for proficiency that may not make any logical sense. It's way higher than any other states in the country. And what my bill would have done is set a more realistic level for that test. At the time we suggested the CAHSEE—the high school exit exam—and that being on track to achieve that should be proficient, since that is the only high school test given to all high school students. But we did it for a very, a very important reason that you should all realize, which is we are now hearing across the country about, if you're in a high stakes test situation and you have to get a certain percentage more students being labeled proficient at the end of every year, who do you focus on? You don't focus on the kids that have no chance to get over the bar—the kids at the bottom—the kids who we're not supposed to be leaving behind with all of this. You focus, if you are using your time efficiently, as many school coaches are telling teachers, on the kids who are just below the bar, and you focus on them and you push them over the bar. There have been articles published in research journals about how teachers are being advised to rate their students in three ways: the green light students who are going to pass the test—don't worry about them; the students that are so far down they will never pass the test—don't worry about them; and focusing on the yellow light students, they call them “students on the bubble,” push them over the bar, get your test scores up, live to fight another day. Now this is leaving children behind very profoundly and we believe affects the high school drop out rate because if a child, a young person, is no longer in school, they can't be tested. They don't count against you. Now, our teachers are idealistic. They care about kids. But if you got a kid that you know would take a lot of work and you don't have the time, the work, and you know that the test scores

are coming in and they're drifting away from school, maybe they just drift away.

We have a thirty percent drop out rate from high school in this state with a close to fifty percent drop out rate in many districts for African American and Hispanic young men. That is not tolerable, and we've got to not have high stakes tests that lead to that outcome. AB 2975 did pass the state legislature.⁸ It was vetoed by the Governor,⁹ saying you can't lower standards, and I have to tell you, even when you explain things to people, there is an aura right now, it's almost like "no new taxes, can't lower standards." What does that mean? We need to talk seriously about the impact of what we are doing on the kids that are being left behind.

I just have two thoughts I'd like to leave you with. One is that, I have believed for many years that when we test students with high stakes testing, we're testing ourselves as policymakers, ourselves as community leaders, as much as we're testing the students and the teachers. If we're—if our teachers, our schools—if our young people are failing these tests, we have to ask ourselves what do we need to know and be able to do better with these young people so they'll achieve these goals that we've set? We are accountable and we so far as community leaders and policymakers have pretty much pointed the finger at the schools and the kids and said that we expect them to achieve to levels that really throughout our history have not been achieved by virtually any society, and it is going to cost money to do it. Which leads me to the fact that there has been in the works for the last two years, I think, what they are calling the State Adequacy Study, and it is a study of what it would cost to actually achieve the goals that we've set. It is due to come out in a couple of months. I hope you will all get it and read it because we don't know what it is going to say. Maybe it will say, oh, we have plenty of money in the system, we just have to fine-tune how people use it. What if it says we need a billion dollars a year more in education? What if it says we need ten billion a year more?

8. *Id.* (choose "(2005-2006)" from "Session" drop-down menu; then enter "2975" in "Bill Number" field; then click "Search" button; then follow "Assembly Floor" and "Senate Floor" hyperlinks).

9. *Id.* (choose "(2005-2006)" from "Session" drop-down menu; then enter "2975" in "Bill Number" field; then click "Search" button; then follow "Veto Message" hyperlink).

What if it says we need 20 billion a year more? I think these are all figures in the ballpark. Will we hold ourselves accountable? Will we increase taxes? Will we find the money to do what it takes to leave no child behind and if not, what will happen?

I have to observe that I've gotten a new appreciation for lawyers in our society, lawyer jokes notwithstanding—where would we be with our prison system and education system without some of the recent lawsuits that have brought these things to light and have really forced the state into realizing that it has to deal with problems; it can't blame the victims. I truly believe, if we take on the high stakes testing issues that will be coming up and the funding issues that surround them, we may be able to leave no child left behind—or leave no child behind—in the next decade or so. It is a great goal and it is a worthy goal for all of us. I just thank you lawyers for what you do to move it forward in the many ways that you do. Thank you very much.