

April 16, 2004

## **The Growing Chorus of Voices Opposing Provisions of the No Child Left Behind Act**

The National Education Association supports the goals of the so-called “No Child Left Behind” (NCLB) Act, including closing the achievement gap and ensuring that all students are held to high expectations of learning. But the law was developed by politicians and bureaucrats, while the many recommendations by teachers, education support professionals, administrators, and others went ignored. The education community wants ESEA/NCLB to allow for alternate ways to measure student performance, remedies for schools that are struggling, and the resources to carry out the objectives of the law.

NEA is not alone in its concerns about the law and its implementation. A growing chorus of voices is calling for changes in the law and additional federal resources for proven methods and practices.

The following is an updated summary of some of the concerns policymakers and the public have expressed. The document includes: state legislative activity, pending federal legislation, letters from congressional representatives, a list of educational organizations demanding change and excerpts from editorials.

- **State Legislative Action**

A rebellion against NCLB continues to grow among state legislatures. To date, 27 states have seen the introduction of bills or resolutions advocating full funding of NCLB, calling for changes or state waivers, authorizing studies of the law’s additional cost, prohibiting spending state funds on its implementation, or seeking to opt out of the law altogether.

In six states (HI, ID, KS, VT, VA, and WV) a bill or resolution has passed the legislature. An additional ten states (AZ, CT, IN, KY, NH, NM, OK, UT, WA, and WI) have had one house of the legislature pass a bill or resolution. For complete details, click on link to jump to “[State legislative activity on ESEA/NCLB](#)”

- **Congressional Amendments**

Concern is rising among Members of Congress from both parties about both the lack of funding and the need for substantive changes to NCLB. To date there have been 16 bills introduced in the House and Senate to either fully fund NCLB, modify its provisions, or suspend its sanctions. A total of 120 House members and 10 Senators have sponsored one or more of these bills. For complete details, click on link to jump to “[Legislation to Amend the Elementary and Secondary Education Act as Revised by the No Child Left Behind Act.](#)”

In addition, many other members have expressed concerns with NCLB or called for changes. See links to several examples of recent letters and statements:

- House and Senate Democrats (March 24, 2004)  
<http://edworkforce.house.gov/democrats/releases/rel32404.html>
- Senate and House Democrats (Jan. 8, 2004) [Click Here](#)

- Rep. Rob Simmons (R-CT) (Oct. 30, 2003) [Click Here.](#)
- Sen. Mark Dayton (D-MN) (March 1, 2004)  
<http://dayton.senate.gov/~dayton/releases/2004/03/2004304258.html>

- **Education Organizations**

A growing number of organizations have called for legislative and regulatory changes to NCLB. A partial list includes:

- American Association of School Administrators  
[www.aasa.org/NewsManager/anmviewer.asp?a=5371&z=3](http://www.aasa.org/NewsManager/anmviewer.asp?a=5371&z=3)
- American Federation of Teachers  
[www.aft.org/esea/downloads/ESEA04ImplementationLettertocommittee.pdf](http://www.aft.org/esea/downloads/ESEA04ImplementationLettertocommittee.pdf)
- Citizens for Effective Schools  
[www.citizenseffectiveschools.org/rollcall.pdf](http://www.citizenseffectiveschools.org/rollcall.pdf)
- Connecticut Association of Public School Superintendents  
[www.aasa.org/nclb/CAPSS\\_NCLB\\_Position\\_Paper.pdf](http://www.aasa.org/nclb/CAPSS_NCLB_Position_Paper.pdf)
- Council for Exceptional Children
- Council of Chief State School Officers  
[www.ccsso.org/Whats\\_New/Press\\_Releases/4408.cfm](http://www.ccsso.org/Whats_New/Press_Releases/4408.cfm)
- Education Officials for NCLB Flexibility (coalition of 14 chief state school officers)  
[www.cde.ca.gov/nclbgrowth/letter.htm](http://www.cde.ca.gov/nclbgrowth/letter.htm)
- FairTest  
[www.fairtest.org/nclb%20flaw%20fact%20sheet%201-7-04.html](http://www.fairtest.org/nclb%20flaw%20fact%20sheet%201-7-04.html)
- Illinois Association of School Administrators  
[www.aasa.org/nclb/IASA\\_NCLB\\_Position\\_Paper.pdf](http://www.aasa.org/nclb/IASA_NCLB_Position_Paper.pdf)
- Maine School Superintendent Association/Maine School Board Association Executive Committee  
[www.aasa.org/nclb/Maine\\_PositionPaperNCLB.pdf](http://www.aasa.org/nclb/Maine_PositionPaperNCLB.pdf)
- Montana South Central Administrators  
[www.aasa.org/nclb/MSCA\\_NCLB\\_Letter.pdf](http://www.aasa.org/nclb/MSCA_NCLB_Letter.pdf)
- National Association of Elementary School Principals  
[www.naesp.org/ContentLoad.do?contentId=1215](http://www.naesp.org/ContentLoad.do?contentId=1215)
- National Conference of State Legislatures  
[www.ncsl.org/statefed/whnclbltr1.htm](http://www.ncsl.org/statefed/whnclbltr1.htm)
- National Indian Education Association (NIEA)
- New Hampshire Association of School Administrators  
[www.nhsaa.org/NCLB8B459.pdf](http://www.nhsaa.org/NCLB8B459.pdf)
- North Carolina Association of School Administrators
- North Carolina NCLB Coalition  
[www.ncpublicschools.org/nclb/coalition/perspective.pdf](http://www.ncpublicschools.org/nclb/coalition/perspective.pdf)
- Pennsylvania School Superintendents (138 superintendents)  
[www.aasa.org/NCLB/PA\\_nclb3.fn1.doc](http://www.aasa.org/NCLB/PA_nclb3.fn1.doc)
- Tennessee School Boards Association  
[www.tsba.net/capitolwatch/Feb2704NCLBPositionPaper.pdf](http://www.tsba.net/capitolwatch/Feb2704NCLBPositionPaper.pdf)
- Washington Area School Study Council
- Washington State's Superintendent of Public Instruction  
[www.aasa.org/nclb/WA\\_Supt\\_Proposed\\_NCLB\\_Changes.pdf](http://www.aasa.org/nclb/WA_Supt_Proposed_NCLB_Changes.pdf)
- West Virginia Association of School Administrators  
[www.aasa.org/nclb/WV\\_Resolution\\_about\\_NCLB.pdf](http://www.aasa.org/nclb/WV_Resolution_about_NCLB.pdf)
- Western States Benchmarking Consortium  
[www.aasa.org/NCLB/WSBCNCLBPOSITIONFINAL.pdf](http://www.aasa.org/NCLB/WSBCNCLBPOSITIONFINAL.pdf)

- **Summary of Opinion Editorials from Local Newspapers**

Newspaper editorial boards across the country have increasingly come out in favor of changing unworkable provisions of the law and providing the resources needed to make it work. Click on a link below to select editorials.

- [“Discredited Promises,” Arizona Daily Star, Jan. 12, 2004](#)
- [“Keep Changing No Child Left Behind and It Might Become a Sensible Law,” San Jose Mercury News \[CA\], March 31, 2004](#)
- [“Make No Child a law that all can live with,” Visalia Times-Delta \[CA\], March 18, 2004](#)
- [“Policy Favors Schools That Leave Out Diversity,” Palm Beach Post \[FL\], Jan. 3, 2004](#)
- [“Leave this law behind,” Stuart News \[FL\], March 31, 2004](#)
- [“School ‘reform’ cannot be left to schools alone,” Honolulu Advertiser \[HI\], Jan. 6, 2004](#)
- [“Don’t Blame Schools, Don’t Blame Teachers,” Des Moines Register \[IA\], April 21, 2004](#)
- [“Redetermine No Child Left Behind benchmarks,” Iowa City Press-Citizen, Feb. 23, 2004](#)
- [“Feds Make Overdue Fixes to ‘No Child Left Behind,’” Detroit News \[MI\], March 17, 2004](#)
- [“Revamp NCLB,” \(Worthington\) Daily Globe \[MN\], Feb. 13, 2004](#)
- [“Great goals. Poor provisions to get there,” Minneapolis Star Tribune \[MN\], March 8, 2004](#)
- [“No Child’ changes will help, but more needed,” Great Falls Tribune \[MT\], March 19, 2004](#)
- [“The Texas Shuffle,” Concord Monitor \[NH\], Nov. 12, 2004](#)
- [“Let’s exempt N.M.’s schools from bad law,” Albuquerque Tribune \[NM\], March 3, 2004](#)
- [“Education by edict,” Las Vegas Sun \[NV\], March 17, 2004](#)
- [“Rural school districts need flexibility bill offers them,” Reno Gazette-Journal \[NV\], Feb. 8, 2004](#)
- [“Big ideas, but small funding,” Cleveland Plain Dealer \[OH\], Jan. 22, 2004](#)
- [“A more rational rule on testing,” Cleveland Plain Dealer \[OH\], March 31, 2004](#)
- [“Funding left behind,” Columbus Post Dispatch, \[OH\] March 15, 2004](#)
- [“Softening ‘No Child,’” Toledo Blade \[OH\], March 17, 2004](#)
- [“Bush at his best and worst,” Beacon Journal \[OH\], Jan. 26, 2004](#)
- [“Changing law won’t weaken it,” Worldlink \[South Coast, OR\], March 5, 2004](#)
- [“More states likely to leave testing behind,” Gazette-Times \[Corvallis, OR\], Feb. 11, 2004](#)
- [“No funds left behind,” Pittsburgh Post-Gazette \[PA\], March 22, 2004](#)
- [“Education cannot be one size fits all,” Lansdale Reporter \[PA\], Nov. 11, 2004](#)
- [“Schools need help to achieve federal standards,” Public Opinion \[Chambersburg, PA\], March 27, 2004](#)
- [“Recognize the Differences,” Salt Lake Tribune \[UT\], March 19, 2004](#)
- [“The No-Child Race,” Richmond Times-Dispatch \[VA\], Jan. 29, 2004](#)
- [“Tinkering with No Child Left Behind,” Seattle Post-Intelligencer \[WA\], March 17, 2004](#)
- [“On the No Child Left Behind Act,” Tacoma News Tribune \[WA\], Dec. 23, 2003](#)
- [“Teachers as terrorists,” Capitol Times \[Madison, WI\], Feb. 25, 2004](#)

[“Discredited promises,” Arizona Daily Star, Jan. 12, 2004](#)

“So when the president tells voters that he wants to increase school funding, parents and educators should look at his record of underfunding. Then they should decide whether their schools can live through another promise to increase funding from the federal government.”

<http://www.azstarnet.com/dailystar/opinion/5510.php>

“Keep Changing No Child Left Behind and it might become a sensible law,” *San Jose Mercury News* [CA], March 31, 2004

“For the fourth time in weeks, the federal Department of Education has budged on onerous demands of No Child Left Behind. Throw in a few more changes, and the education law may make sense.” <http://www.mercurynews.com/ml/mercurynews/news/opinion/8318668.htm>

“Make No Child a law that all can live with,” *Visalia Times-Delta* [CA], March 18, 2004  
“Among the problems of the No Child law is its presumption that one size fits all in education.”  
<http://www.visaliatimesdelta.com/news/stories/20040318/opinion/101747.html>

“Policy Favors Schools That Leave Out Diversity,” *Palm Beach Post* [FL], Jan. 3, 2004  
“President Bush's so-called ‘No Child Left Behind’ Act is proving to be full of snares, contradicting state education goals, confusing and demoralizing teachers and principals, penalizing the neediest and, a new study shows, sabotaging schools with diverse student populations.”

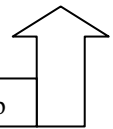
“Leave this law behind,” *Stuart News* [FL], March 31, 2004  
“And, where are the funds coming from to fully implement No Child Left Behind? Not from the federal government. We fully support improving public education and holding schools accountable. No Child Left Behind, however, one of the most ill-conceived laws we have encountered, is not the answer.”  
[http://www1.tcpalm.com/tcp/the\\_news\\_editorials/article/0,1651,TCP\\_1033\\_2769644,00.html](http://www1.tcpalm.com/tcp/the_news_editorials/article/0,1651,TCP_1033_2769644,00.html)

“School ‘reform’ cannot be left to schools alone,” *Honolulu Advertiser* [HI], Jan. 6, 2004  
“The obvious conclusion is that a one-size-fits-all set of standards is both unrealistic and unfair. Schools need time and flexibility to bring struggling students up to their potential. They should not be forced to match a timetable set in Washington.”

“Don’t Blame Schools, Don’t Blame Teachers,” *Des Moines Register* [IA], April 21, 2004  
“Still the federal government has chosen to blame the schools. It has imposed the costly, unrealistic, punitive No Child Left Behind Act.”

“Redetermine No Child Left Behind benchmarks,” *Iowa City Press-Citizen*, Feb. 23, 2004  
“But if improvement is the goal, then the standards schools are expected to meet must be realistic. With No Child Left Behind, however, they're downright oxymoronic...if benchmarks aren't readdressed, the ultimate result of the No Child Left Behind act will not be improved schools but an end to federal spending on education.”

“Feds Make Overdue Fixes to ‘No Child Left Behind,’” *Detroit News* [MI], March 17, 2004  
“The new moves are a start toward rollback. But Congress needs to take a long look at the overall federal intrusion into education. One education plan cannot fit all. No Child Left Behind provisions are an impossible dream, sort of a gimmicky approach to education.”  
<http://www.detnews.com/2004/editorial/0403/17/a10-93996.htm>



“Revamp NCLB,” *Worthington Daily Globe* [MN], Feb. 13, 2004 “The federal law, despite its honorable intentions, tries the personnel and financial resources of many schools. And, if any school struggles and fails to meet No Child Left Behind’s achievement standards, that school will only suffer further as a result.”

“Great goals. Poor provisions to get there,” *Minneapolis Star Tribune* [MN], March 8, 2004  
“NCLB also merits scrutiny as yet another seriously underfunded federal mandate...though some NCLB details are way off base, there is also nearly universal agreement about the importance of its intent – to ensure that all children have a shot at a good education. That is why a “mend, don’t end” approach is in order here, though major adjustments must be made.”

“No Child’ changes will help, but more needed,” *Great Falls Tribune* [MT], March 19, 2004  
“The one-size-fits-all approach of the act is especially -- even impossibly -- hard on rural schools.” <http://www.greatfallstribune.com/news/stories/20040318/opinion/100451.html>

“The Texas Shuffle,” *Concord Monitor* [NH], Nov. 12, 2004  
“The act has focused overdue attentions on the nation’s public schools. But the law is unnecessarily punitive, inadequately funded and guaranteed to add to local property tax burdens.”

“Let’s exempt N.M.’s schools from bad law,” *Albuquerque Tribune* [NM], March 3, 2004  
“It’s time for New Mexico to leave President Bush’s sad excuse for education reform behind. Despite claims to the contrary, the No Child Left Behind Act is a catastrophe in the making.”  
[http://www.abqtrib.com/archives/opinions04/031604\\_opinions\\_edtue.shtml](http://www.abqtrib.com/archives/opinions04/031604_opinions_edtue.shtml)

“Education by edict,” *Las Vegas Sun* [NV], March 17, 2004  
“Paige should announce support for more funding. More importantly, however, he should acknowledge that education is improved by working with states and school districts -- and not by issuing edicts that inspire applause during speeches but are destined for failure in real life.”  
<http://www.lasvegassun.com/sunbin/stories/editorials/2004/mar/17/516542108.html>

“Rural school districts need flexibility bill offers them,” *Reno Gazette-Journal* [NV], Feb. 8, 2004  
“There is too much diversity in the nation’s education system for a single national plan to work for everyone (and to provide the necessary money). The goals of the No Child Left Behind Act are admirable. On that we should be able to agree. But one size does not fit all.”  
<http://www.rgj.com/news/stories/html/2004/02/10/63595.php?sp1=rgj&sp2=Opinion&sp3=Opinion&sp5=RGJ.com&sp6=news&sp7=opinion&jsmultitag=news.rgj.com/news/opinion>

“Big ideas, but small funding,” *Cleveland Plain Dealer* [OH], Jan. 22, 2004  
“In truth, however, the president’s law has significant logistical problems, not least of which is its unrealistic treatment of special education students. In addition, Bush’s recommended budgets have fallen significantly short of the amounts promised when Congress originally backed No Child Left Behind.”  
<http://www.cleveland.com/editorials/plaindealer/index.ssf?/base/opinion/1074767785193441.xm>

“A more rational rule on testing,” *Cleveland Plain Dealer* [OH], March 31, 2004

“The news marks the latest attempt by the Bush administration to quiet increasing protests about the rigor and intrusiveness of his landmark education reform, No Child Left Behind. The rule in question, like many in the law, is a case of good intentions undone by everyday realities.”

<http://www.cleveland.com/editorials/plaindealer/index.ssf?/base/opinion/1080730750194280.xml>

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“Funding left behind,” *Columbus Post Dispatch* [OH], March 15, 2004

“And with every other state contending that No Child Left Behind is too expensive, the burden is on the federal government to prove otherwise. So far, it has failed to do so.”

<http://www.dispatch.com/editorials-story.php?story=dispatch/2004/03/15/20040315-A10-00.html>

“Softening 'No Child,’” *Toledo Blade* [OH], March 17, 2004

“[ESEA/NCLB] appears to be just one more example of a federal program constructed less for practical than for election-year political purposes.”

“Bush at his best and worst,” *Akron Beacon Journal* [OH], Jan. 26, 2004

“All well and good, but where is the money? Between the administration's rhetoric and its purse is a credibility gap as wide as the achievement gap his education policies are supposed to close...For all the Bush team's rhetoric, it offers miserly support of its touted requirements. More frustrating, the administration's failure shifts the financial burden to state governments, most of whom had trouble enough funding adequately their own requirements, even before the enactment of No Child Left Behind two years ago.”

<http://www.ohio.com/mld/beaconjournal/7786498.htm?1c>

“Changing law won't weaken it,” *Worldlink* [South Coast, OR], March 5, 2004

Indeed, instead of encouraging failure, easing the mandates will assure for more success...the ‘all-or-nothing’ approach of the No Child Left Behind law simply cannot work.”

“More states likely to leave testing behind,” *Corvallis Gazette-Times* [OR], Feb. 11, 2004

“Oregon may have to ask if they want to continue a testing program that has generated a lot of heat, but has shed little light on just how to improve teaching with larger class sizes, old textbooks — and no solution in sight.”

<http://www.gazettetimes.com/articles/2004/02/12/news/opinion/1ed12.txt>

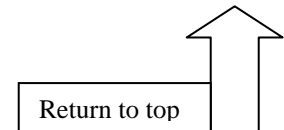
“No funds left behind,” *Pittsburgh Post-Gazette* [PA], March 22, 2004

“No Child Left Behind, however, appears to be one more federal program constructed less for practical than political purposes.”

<http://www.post-gazette.com/pg/04082/289474.stm>

“Education cannot be one size fits all,” *Lansdale Reporter* [PA], Nov. 11, 2003

“It does not seem fair or reasonable that to think that all students are the same or that all students can attain the same levels of proficiency. Addressing the needs of the individuals and ensuring that everyone receives a quality education – not scoring ‘X’ on any one test – should be the focus.”



“Schools need help to achieve federal standards,” *Public Opinion* [Chambersburg, PA], March 27, 2004

“Schools have too far to go to reach No Child Left Behind standards. Either the law must change or schools need to be given more help to be successful.”

<http://www.publicopiniononline.com/news/stories/20040327/opinion/157180.html>

“Recognize the Differences,” *Salt Lake Tribune* [UT], March 19, 2004

“Instead of inspiring them to improve their skills, which is what NCLB should be about, this kind of dictatorial approach by Washington simply has teachers throwing up their hands and accepting that they will never be "highly qualified" by federal standards.

It is a self-defeating strategy that won't improve the quality of teaching or help reform public schools.”

<http://www.sltrib.com/2004/Mar/03192004/opinion/opinion.asp>

“The No-Child Race,” *Richmond Times-Dispatch* [VA], Jan. 29, 2004

“Washington should find a way to acknowledge that not all states came to the No-Child starting line in the same shape. The law was passed to bring up the stragglers, not hobble the leaders. Those at the front of the pack should not be punished but praised.”

[http://www.timesdispatch.com/servlet/Satellite?pagename=RTD%2FMGArticle%2FRTD\\_BasicArticle&c=MGArticle&cid=1031773354715&path=%21editorials&s=1045855934983](http://www.timesdispatch.com/servlet/Satellite?pagename=RTD%2FMGArticle%2FRTD_BasicArticle&c=MGArticle&cid=1031773354715&path=%21editorials&s=1045855934983)

“Tinkering with No Child Left Behind,” *Seattle Post-Intelligencer* [WA], March 17, 2004

But revision to encourage performance rather than punish imperfection deserves a look from Congress. Much more generous federal support for improvements in needy schools also would help. The law's goal of providing a good education to all students remains compelling. It will take a lot of learning as we go by local, state and federal leaders to eliminate the achievement gaps that harm America.”

“On the No Child Left Behind Act,” *Tacoma News Tribune* [WA], Dec. 23, 2003

“Bush administration officials have given in slightly on one of the most obvious problems with the No Child Left Behind Act: the fact it makes no exception for special-education students in its strict testing requirements for school districts.

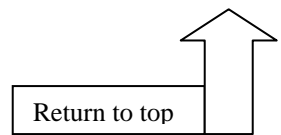
But that grudging bit of compromise doesn't fully address the overreaching inflexibility that mars the administration's signature education-reform measure.”

“Teachers as terrorists,” *Capitol Times* [Madison, WI], Feb. 25, 2004

“Secretary of Education Rod Paige is one of the least recognizable members of the president's Cabinet. The Bush administration has not taken education particularly seriously - as the failure to fund the ridiculously named No Child Left Behind Act illustrates.”

<http://www.madison.com/captimes/opinion/editorial/68796.php>

## State Legislative Action



### Requesting changes in ESEA/NCLB and/or additional funding

*Many state legislatures have passed resolutions or other measures proposing changes in the Elementary and Secondary Education Act, the so-called No Child Left Behind Act (NCLB), which was signed into law in 2001. Virtually all of them have bipartisan support. Most of them commend the goals of better serving all children, and many focus on the need for additional resources to help students achieve.*

**ALASKA:** SJR30 calls on the President and Congress to allow states, such as Alaska, to receive waivers if they can demonstrate increases in student achievement. The bill was pending in committee as of 02/16/04.

**ARIZONA:** SCM 1006 calls for full funding of the Individuals with Disabilities Education (IDEA) Act and the NCLB. It passed in the Senate on 02/23/04.

HB2696 and HB 2596 would call for Arizona to "opt out" of NCLB. HB2696 passed in House committee 2/26/04. HB2594 was pulled from consideration.

**CONNECTICUT:** SJR4 calls for waivers for states that can demonstrate increases in student achievement. It also calls for additional federal resources for school readiness, reading and school construction. The measure was passed by the Senate on 03/03/04 and was introduced in the House on 03/09/04.

**HAWAII:** HCR62 calls for waivers and changes NCLB and HR42 calls for additional resources to help Hawaii use the law to improve education. Both resolutions were reported favorably by committee 3/31/04.

SCR60 and SR28 are companion bills calling for waivers and additional resources that were reported favorably by committee 4/5/04.

HR118 Resolution urges the board of education and superintendent of education to consider declining any further participation in NCLB and to return all federal funds conditioned on the implementation of the act by the state of Hawaii, unless Congress fully funds the act. Adopted 5/13/03.

**IDAHO:** SJM108 urges Congress to adopt a growth model for student assessment and more flexibility for English language learners. It was passed unanimously in the Senate on 02/23/04, and it passed the House on 03/04/04.

**INDIANA:** SB 258 seeks waivers from NCLB provisions that conflict with Indiana school accountability measures. The resolution passed the Senate on 01/27/04, and it is in the House committee.

**IOWA:** SCR105 seeks waivers from NCLB mandates if states can demonstrate increased student achievement. The resolution was in committee on 02/19/04.

**KANSAS:** HR6028 calls for changes in NCLB that would allow states that are meeting high standards to receive waivers. The resolution calls for additional federal resources to complement law and grant certain waivers. The resolution was in committee on 03/18/04.

SCR1621 calls on Congress to fully fund NCLB and grant certain waivers. The bill was in committee on 03/23/04.

SR1834 urges Congress to reevaluate NCLB and provide full funding. The bill passed the Senate unanimously on 3/26/04 and is being sent to Congress.

**KENTUCKY:** HR174 calls for full funding of NCLB mandates and more flexibility to implement the law. The House unanimously passed it on 03/11/04.

SR 172 is a resolution that calls for additional funding and waivers. The bill was in committee on 03/11/04.

**LOUISIANA:** HCR12 and HCR13 state that Louisiana has to right not to comply with NCLB unless Congress provides full funding. The bill was in committee as of 3/29/04.

HCR20 calls for Congress to fully fund NCLB mandates. The bill was in committee as of 3/29/04.

**MAINE:** LD1716 directs the state department of education not to use any state funds to implement NCLB and calls for an investigation of the costs and benefits of not participating in NCLB. It passed the Senate 3/29/04 and House 4/6/04.

**MINNESOTA:** SF1853 and HF1917 call for waivers from NCLB mandates if the state is performing acceptably under state adopted standards. Both bills were in committee on 02/08/04.

HF2042 and SB1921 call for the state department of education to revise its NCLB implementation plan to specify that the plan will be nullified by June 1, 2004, unless the Minnesota legislature specifically affirms the implementation plan before that date. Passed by committee.

**NEW HAMPSHIRE:** HB 786 prohibits the state department of education using state general fund resources to comply with NCLB. Passed the House, died in Senate committee 1/28/04.

**NEW JERSEY:** ACR142 calls for additional time for education support professionals to meet the higher standards, as long as they are making progress to the defined qualifications. It was in committee on 02/11/04.

**NEW MEXICO:** HJM09 calls for more funding to supplement education improvement efforts and waivers when the state can demonstrate increased student achievement. It was passed in House on 02/09/04 but died in the Senate on 02/16/04.

SJM56 calls for a study of unfunded mandates. The bill passed the Senate on 02/13/04, and it was in the House committee on 02/16/04.

SB513 would have: New Mexico "opt out" of NCLB. The bill was in committee as of 2/4/04.

**OHIO:** SCR25 calls for waivers and full funding of the NCLB. It was in committee on 03/11/04.

**OKLAHOMA:** HCR1052 calls for appropriate testing of special education students and English language learners, as well as changes in the federal definition of highly qualified teachers. The House passed the bill on 03/03/04.

HR1037 calls for waivers for states that already are meeting high standards and improving student achievement. It passed the House on 03/22/04.

**SOUTH CAROLINA:** HCR4891 calls for changes in assessments for special education and English language learners. It calls for altering the timeframes for the federal definition of highly qualified teachers and paraprofessionals. The resolution also calls for changes in how student performance is measured and how supplemental services are provided. It was passed by committee on 03/22/04.

**SOUTH DAKOTA:** HCR1018 calls for full funding of NCLB. The bill was introduced on 02/24/04.

**TENNESSEE:** SJR 694 urges members of the Tennessee congressional delegation to seek full funding of NCLB and all federal education mandates. The resolution was in committee on 01/26/04.

HR2979 and SB 2256 both require the select committee on education oversight to conduct studies of the NCLB accountability plans. The bills were in their respective houses on 02/04/04.

**UTAH:** HCR09 calls on Congress to change the NCLB and seeks more flexibility in assessments for English language learners. The resolution was in committee on 01/12/04, but it died when session ended.

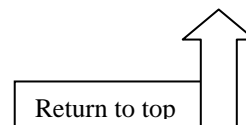
HB43 states that Utah will comply with NCLB in the areas fully funded by the federal government. Passed House 2/10/04; sent for an interim study by the Senate on 2/26/04.

HB43 would have Utah opt out of NCLB participation. The bill was amended to allow state education agencies to participate in No Child Left Behind programs to the degree they are adequately funded. The bill passed as amended 2/10/04.

**VERMONT:** SR23 calls for waivers for states that meet high standards and already are improving student achievement. It was in committee on 03/12/04.

HR29 urges members of Congress to grant waivers to states whose students perform at a high academic level. It was in committee on 03/18/04.

SB185 prohibits school districts from incur any costs related to NCLB that are not paid for by the federal government. Passed and signed by the Governor, 6/11/03.



**VIRGINIA:** HJR192 and SJR77 call for automatic waivers in NCLB for states that can demonstrate increased student achievement. HJR192 returned to the House on 02/19/04. The Senate passed SJR77 on 02/19/04.

**WASHINGTON:** HJM4042 calls for clarity in assessment standards for students with disabilities and English language learners. It also urges additional funding for the NCLB and more flexibility to ensure nationwide implementation. The bill passed the House on 02/13/04, and it was referred to the Senate education committee.

**WEST VIRGINIA:** HR6 calls for waivers for states that can demonstrate improved student achievement through their own standards and accountability programs. The bill also urges waivers to continue to be available should states maintain their high standards. The House passed it on 02/04/04.

SCR32 calls for full federal funding of NCLB and Individuals with Disabilities Education Act. It was passed in the Senate on 02/10/04.

**WISCONSIN:** SR19 calls for waivers for states that can demonstrate increases in student achievement. The bill was in committee on 10/15/03.

SR32 urges more federal funding to implement the NCLB. It was passed by the Senate on 03/12/04.

**WYOMING:** HJR06 calls for waivers to exempt the state from NCLB mandates. The bill was in committee on 02/10/04.

HB127 would prohibit Wyoming's participation in NCLB. (In committee 2/10/04. Not heard in time for consideration.

### **Fiscal studies conducted or underway**

**CONNECTICUT:** HB 5584 calls for a cost study of NCLB implementation to be given to Legislature 1/1/05. Substitute reported to House on 4/5/04.

**OHIO:** A study commissioned by the Legislature to investigate the cost of implementing NCLB reported in January that it would take \$1.4 billion beyond what the federal government is supplying to comply with all NCLB mandates.

**MINNESOTA:** The state auditor found difficulties with NCLB to be widespread, including assessments of students with disabilities and limited English students. According to simulations they developed, it is possible that 80% to 100% of Minnesota schools will not make AYP by 2014. In a survey of superintendents, only 7% said that the educational benefits of NCLB would outweigh any adverse impacts the act will have on their districts.

Studies are underway in Massachusetts, Utah, North Dakota, and Vermont. Fiscal studies are under consideration by the Virginia and Maine legislatures.

Prepared by Kay Coles, NEA Government Relations - State Policy and Politics  
April 9, 2004

## **LEGISLATION TO AMEND THE ELEMENTARY AND SECONDARY EDUCATION ACT AS REVISED BY THE NO CHILD LEFT BEHIND ACT**

March 30, 2004

NEA supports the following twelve bills that would improve ESEA/NCLB. Ask your members of Congress to cosponsor:

- **S. 956, The Student Testing Flexibility Act of 2003 by Sen. Feingold (D-WI)** would require the Secretary of Education to grant a State's request to waive the required annual testing in each of grades 3-8, if the State demonstrates that it has significantly closed the achievement gap or for two consecutive years exceeded the State's AYP standards. Local school districts in States without such waiver could receive a waiver directly from the Secretary if they meet the same criteria.  
Cosponsors (3): Dayton (D-MN), Jeffords (I-VT), Leahy (D-VT),
- **S. 1189, The Federal Education Fair Accountability Act of 2003 (FedFAIR) by Sen. Durbin (D-IL)** would defer the school improvement, corrective action, and restructuring "sanctions" imposed on school districts and schools for failure to meet AYP, for any year in which the Federal government provides less than 95% of the yearly amounts authorized for Title I.  
Cosponsors (4): Feingold (D-WI), Mikulski (D-MD), Nelson (D-NE), Rockefeller (D-WV)
- **S. 2164, Assisting America's Rural Schools Act by Sen. Reid (D-NV)**, would allow rural school districts to request a one-year deferral from the Secretary of Education of one aspect of the highly qualified teacher requirement. The deferral would allow any secondary school teacher who has met the requirement to demonstrate competency in an academic subject they teach to have one additional year to demonstrate competency in an additional subject they are also assigned to teach. [**Note:** On March 15, Sec. Paige announced new rules for the highly qualified provisions of NCLB, that provide a three-year time extension for rural teachers to become highly qualified in other subjects, thus eliminating the need for this bill.]

- **HR 947, The School Capacity Relief Act by Rep. Weiner (D-NY)** would allow local school districts to prohibit the transfer of students from schools identified for school improvement to another school if that school is at or above capacity or if such transfer would increase that school's average class size above what the State prescribes. Authorizes funds to increase school capacity.  
Cosponsors (4): Case (D-HI), Filner (D-CA), Frost (D-TX), Lowey (D-NY)
- **HR 2107, The Keep Our Promise to America's Children and Teachers Act (Keep our PACT Act) by Rep. Van Hollen (D-MD)** would guarantee full funding for both NCLB and the Individuals with Disabilities Education Act (IDEA).  
Cosponsors (34): Abercrombie (D-HI), Andrews (D-NJ), Ballance (D-NC), Bishop (D-NY), Case (D-HI), Davis (D-IL), Davis (D-CA), Delahunt (D-MA), Deutsch (D-FL), Filner (D-CA), Frank (D-MA), Grijalva (D-AZ), Hinojosa (D-TX), Holt (D-NJ), Kildee (D-MI), Kind (D-WI), Kucinich (D-OH), Lantos (D-CA), Lofgren (D-CA), Majette (D-GA), McCarthy (D-NY), McCollum (D-MN), Miller (D-CA), Moran (D-VA), Owens (D-NY), Payne (D-NJ), Rahall (D-WV), Rush (D-IL), Ryan (D-OH), Schakowsky (D-IL), Tierney (D-MA), Woolsey (D-CA), Wu (D-OR)
- **HR 2394, the Keeping Our Promises to America's Children Act of 2003 by Rep. Moore (D-KS)** would allow States or school districts to suspend, modify or defer any of the sanctions for failing to meet AYP in any year in which Title I is not funded at its authorized level.  
Cosponsors (63): Abercrombie (D-HI), Alexander (D-LA), Allen (D-ME), Andrews (D-NJ), Baca (D-CA), Ballance (D-NC), Berry (D-AR), Brown (D-FL), Case (D-HI), Clay (D-MO), Conyers (D-MI), Cooper (D-TN), Costello (D-IL), Davis (D-TN), Davis (D-CA), Deutsch (D-FL), Eshoo (D-CA), Etheridge (D-NC), Filner (D-CA), Ford (D-TN), Frank (D-MA), Frost (D-TX), Gordon (D-TN), Grijalva (D-AZ), Hastings (D-FL), Holden (D-PA), Hoeffel (D-PA), Israel (D-NY), Jones (D-OH), Kilpatrick (D-MI), Kind (D-WI), Kucinich (D-OH), Larsen (D-WA), Larson (D-CT), Langevin (D-RI), Lee (D-CA), Lipinski (D-IL), Matheson (D-UT), McCollum (D-MN), McNulty (D-NY), Michaud (D-ME), Millender-McDonald (D-CA), Moran (D-VA), Nadler (D-NY), Oberstar (D-MN), Owens (D-NY), Pallone (D-NJ), Payne (D-NJ), Peterson (D-MN), Ramstad (D-MN), Rodriguez (D-TX), Rush (D-IL), Sanchez, Linda (D-CA), Sandlin (D-TX), Schiff (D-CA), Spratt (D-SC), Strickland (D-OH), Stupak (D-MI), Tanner (D-TN), Taylor (D-MS), Udall (D-NM), Wexler (D-FL), Woolsey (D-CA)
- **HR 3049, the Student Testing Fairness Act by Rep. Strickland (D-OH)** would make numerous improvements to the assessment and adequate yearly progress provisions of NCLB by requiring accountability provisions to include multiple measures of student achievement; giving credit to schools for improving student achievement on all parts of the achievement scale, including growth over time; utilizing more accurate and equitable methods to assess academic achievement of students with disabilities and English Language Learners; and targeting school choice and supplemental services to students in the specific subgroups that fail to make AYP.  
Cosponsors (33): Allen (D-ME), Baca (D-CA), Baird (D-WA), Baldwin (D-WI), Bishop (D-GA), Boucher (D-VA), Brown (D-OH), Case (D-HI), Davis (D-TN), Filner (D-CA), Frank (D-MA), Frost (D-TX), Gordon (D-TN), Grijalva (D-AZ), Hinojosa (D-TX),

Hoeffel (D-PA), Jones (D-OH), Kilpatrick (D-MI), Kucinich (D-OH), Langevin (D-RI), Matheson (D-UT), McCollum (D-MN), Michaud (D-ME), Millender-McDonald (D-CA), Moran (D-VA), Oberstar (D-MN), Payne (D-NJ), Ross (D-AR), Rush (D-IL), Ryan (D-OH), Serrano (D-NY), Spratt (D-SC), Watson (D-CA)

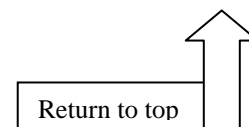
- **HR 3341, the Adequate Yearly Federal Funding Report Act by Rep. Allen (D-ME)** would require an annual Report by the General Accounting Office on whether the amounts appropriated to carry NCLB grant programs are adequate to permit grant recipients to meet the conditions and mandates imposed by receipt of the grant.  
 Cosponsors (18): Ballance (D-NC), Boucher (D-VA), Brown (D-OH), Case (D-HI), Etheridge (D-NC), Farr (D-CA), Filner (D-CA), Frost (D-TX), Hoeffel (D-PA), Israel (D-NY), Jones (D-OH), Kucinich (D-OH), McDermott (D-WA), Michaud (D-ME), Moore (D-KS), Spratt (D-SC), Strickland (D-OH), Watson (D-CA)
- **HR 3450 by Rep. Wu (D-OR)** would amend ESEA by restoring the Class Size Reduction program that was consolidated with professional development programs in NCLB. It would authorize a \$2 billion per year program to provide funds to school districts to hire highly qualified teachers to reduce class sizes in order to improve student achievement for both regular education and special education students. Other allowable uses of funds include recruiting and training new teachers, testing new teachers for content knowledge, and providing professional development and mentoring.  
 Cosponsors (26): Boucher (D-VA), Brown (D-OH), Conyers (D-MI), Etheridge (D-NC), Faleomavaega (D-AS), Frank (D-MA), Frost (D-TX), Green (D-TX), Grijalva (D-AZ), Jones (D-OH), Kucinich (D-OH), McCollum (D-MN), McDermott (D-WA), Meeks (D-NY), Millender-McDonald (D-CA), Norton (D-DC), Owens (D-NY), Pascrell (D-NJ), Pastor (D-AZ), Payne (D-NJ), Sanchez, Linda (D-CA), Schiff (D-CA), Serrano (D-NY), Stark (D-CA), Waxman (D-CA), Wexler (D-FL)
- **HR 3582, the Every Child Created Equal Act of 2003 by Rep. Baldwin (D-WI)** would ensure that supplemental education service (SES) providers are covered by all applicable federal civil rights laws, that faith-based SES providers may not discriminate on the basis of religion in employment, and that SES providers must serve all eligible children including those with disabilities and English Language Learners.  
 Cosponsors (32): Boucher (D-VA), Brown (D-FL), Carson (D-IN), Christensen (D-VI), Conyers (D-MI), Frost (D-TX), Grijalva (D-AZ), Gutierrez (D-IL), Hinojosa (D-TX), Hoeffel (D-PA), Jones (D-OH), Kildee (D-MI), Kucinich (D-OH), Lee (D-CA), Majette (D-GA), McCarthy (D-NY), McCollum (D-MN), McDermott (D-WA), McGovern (D-MA), Meeks (D-NY), Miller (D-CA), Norton (D-DC), Owens (D-NY), Payne (D-NJ), Schakowsky (D-IL), Scott (D-VA), Serrano (D-NY), Slaughter (D-NY), Smith (D-WA), Towns (D-NY), Van Hollen (D-MD), Woolsey (D-CA)
- **HR 3781, Assisting America's Rural Schools Act by Rep. Gibbons (R-NV)**, would allow rural school districts to request a one-year deferral from the Secretary of Education of one aspect of the highly qualified teacher requirement. The deferral would allow any secondary school teacher who has met the requirement to demonstrate competency in an academic subject they teach to have one additional year to demonstrate competency in an additional subject they are also assigned to teach.  
 Cosponsors (6): Bartlett (R-MD), Bereuter (R-NE), Neugebauer (D-TX), Nunes (R-CA), Paul (R-TX), Pomeroy (D-ND) [**Note:** On March 15, Sec. Paige announced new rules

for the highly qualified provisions of NCLB, that provide a three-year time extension for rural teachers to become highly qualified in other subjects, thus eliminating the need for this bill.]

- **HR 4002, the No Qualified Teacher Left Behind Act of 2004 by Rep. Matheson (D-UT)** would provide additional flexibility and resources for schools and teachers in meeting the “highly qualified” rules under NCLB. It would allow an academic minor, as well as a major, to meet the requirement of demonstrating subject matter competency; extend by three years (until the end of the 2008-09 school year) the time teachers in rural schools have to meet the “highly qualified” rules; require that the High Objective Uniform State Standard of Evaluation (HOUSSE) take into account professional development; require all entities receiving ESEA funds comply with the “highly qualified” teacher rules; and provide an additional \$50 million for rural schools for teacher recruitment, retention, and professional development activities.

NEA supports the concepts of the following two bills and is working with their sponsors to address our concerns:

- **HR 2348, the American ParaProfessional Learning Equity Act of 2003 (APPLE Act) by Rep. Duncan (R-TN)** would add a fourth option for paraprofessionals to be considered qualified under NCLB. In addition to the current three options (an Associates degree, two years of college, or demonstrating through a rigorous state or local assessment their knowledge of and ability to assist with instruction of reading, writing, and math), paraprofessionals would also have a new option to meet a rigorous standard of quality through an evaluation of job duties based on state criteria and procedures. While NEA supports the additional flexibility this would provide to paras, we are concerned that the job evaluation must be performed either by a State employee or an employee of an LEA other than the one employing the para. Cosponsors (2): Ballance (D-NC), Shimkus (R-IL)
- **HR 2366, the Fully Fund the No Child Left Behind Act by Rep. Etheridge (D-NC)** would suspend for any year in which Title I was not funded at its authorized level, all the Title I provisions of NCLB and revert back to the Title I provisions of the 1994 ESEA. The same suspension would also apply under Title II Teacher Quality for any year it was not funded at its authorized level. While NEA strongly supports suspending unfunded requirements of NCLB, this bill might suspend positive provisions such as increased targeting of funds to high-poverty schools and allowing use of Teacher Quality funds for class size reduction. Cosponsors (40): Acevedo-Villa (D-PR), Ballance (NC), Berry (D-AR), Bishop (D-NY), Brown (D-FL), Cardoza (D-CA), Case (D-HI), Davis (D-AL), Davis (D-IL), Davis (D-CA), DeFazio (D-OR), Filner (D-CA), Frost (D-TX), Green (D-TX), Hinchey (D-NY), Israel (D-NY), Jackson (D-IL), Jones (D-OH), Lantos (D-CA), Lowey (NY), Lucas (D-KY), Matheson (D-UT), Matsui (D-CA), McCollum (D-MN), McGovern (D-MA), McIntyre (D-NC), McNulty (D-NY), Meeks (D-NY), Millender-McDonald (D-CA), Moore (D-KS), Owens (D-NY), Pallone (D-NJ), Pastor (D-AZ), Payne (D-NJ), Schiff (D-CA), Strickland (D-OH), Stupak (D-MI), Taylor (D-MS), Watson (D-CA), Wexler (D-FL)



NEA has not taken a position on the following two bills:

Rep. Owens (D-NY) has introduced **HR 3315, the Emergency Moratorium Testing Act of 2003**, which would delay the required annual math and reading assessments for grades 3-8 from the 2005-06 school year until the 2008-09 school year. The current requirement for such tests to be given at least once in each of grades 3-5, 6-9, and 10-12 would remain in force. It would also delay the required science assessments from 2007-08 to 2008-09, and delay the annual assessment of English proficiency of English Language Learners from 2002-03 to 2008-09.

Rep. Ballance (D-NC) has introduced **HR 3975, the Respecting Our Leaders in Education Model Act of 2004 (the ROLE Model Act)**, which would in any year in which IDEA was not fully funded at the 40% federal share, allow states to suspend for up to three consecutive school years, the sanctions against schools which fail to make AYP.

In addition, **S. 1248, the Individuals with Disabilities Education Improvement Act of 2003 by Sen. Gregg (R- NH) and Sen. Kennedy (D-MA)** contains a provision to modify the “highly qualified” teacher definition of NCLB for special education teachers. As reported unanimously from the Senate Health, Education, Labor, and Pensions (HELP) committee, this bill to reauthorize IDEA recognizes that many special education teachers teach multiple core academic subjects and would provide needed flexibility for such teachers in meeting the NCLB requirements. NEA supports this provision and is working for further improvements in the specific language.

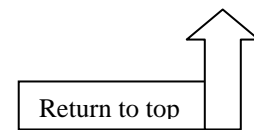
January 8, 2004

The Honorable Roderick R. Paige  
Secretary  
Department of Education  
400 Maryland Ave. S.W.  
Washington, DC 20202

Dear Secretary Paige:

We are writing to urge you to support a more effective effort to implement the No Child Left Behind Act. Two years ago, by enacting that landmark Act, Congress and the Administration made a clear federal commitment to improve the education of millions of students across the country. But the potential of the Act has yet to be realized in large numbers of communities because of the failure to properly implement and fund the law. Last year alone, the Act was underfunded by \$7.5 billion. Underfunding by such a drastic amount undermines not only successful implementation, but the very spirit of the law.

Congress and the Administration can do more through the Act’s reforms to bring the promise of a quality education for all to schools across the country. The leadership in the nation’s public schools is up to the task of helping every child succeed. Recently, we received a



letter from over 200 school superintendents, leaders of education, and civic leaders from all parts of the country, affirming their support for the high standards and strict accountability contained in the Act. Despite the commitment of these leaders and school districts nationwide, implementation of many of the law's provisions pose an immense challenge. States and schools that have committed to the reforms in the Act have been undermined by the failure to provide the necessary funding and proactive and timely assistance on a variety of levels.

### **Leadership and Technical Assistance**

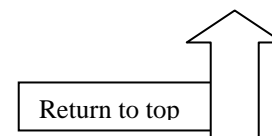
We are greatly disappointed with the delay by the Department in releasing regulations and guidance on the Act. Too often, states and school districts have been left without appropriate guidance. As a result, misinformation and speculation are rife in local school districts and are contributing to their reluctance to implement the Act's provisions. For example, final regulations and guidance under Title I of the Act were not released until November 26, 2002, over 10 months after the law was enacted. As a result, schools were obliged to implement accountability, teacher training, school choice, and other reforms without adequate assistance from the Department. Since then, regulations and other policies have been released in multiple formats, causing needless confusion and inconsistencies in the field. We urge the Department to adopt a sound and consistent policy on the promulgation of rules and regulations, so that states, school districts, and schools will have ample planning time to comply with the Act.

To date, the technical assistance and information provided by the Department to states on implementation plans and funding applications under the Act have been inadequate. Since the initial deadline for submission of state consolidated applications, some states have struggled through technical revisions to their accountability plans and reconciled differences between their prior systems and those required by the Act. As they work through the process, many of these efforts have been hindered by the Department's failure to disseminate valuable information on model accountability plans that could serve as templates for states struggling to put in place a strong and responsible plan.

More troubling, and further hindering state efforts to comply with the Act, is the fact that confusing messages have been sent about what revisions and changes to such plans are deemed acceptable or unacceptable by the Department, including revisions in adequate yearly progress, assessments, and the composition and size of subgroups under the law. This lack of guidance has sometimes led to unnecessary public confusion about school performance, with schools in some circumstances forced to meet two different sets of performance measures, with separate reports for student achievement.

It is important for the Department to adopt a formal process for facilitating amendments to state accountability plans. A uniform policy should be adopted for extending flexibility to states, and determining whether revisions are acceptable under the law. We also urge you to provide a more open exchange of information to the public, including the disclosure of details in implementation plans, applications, and policy letters.

Certain policy areas in the Act are also proving to be particularly challenging in the initial



implementation phase. For example, Title III requires states to set standards and objectives for programs serving limited English proficient children, and Title I provides for the assessment of English language skills for such children. Many states have faced challenges in addressing these accountability elements. The law directs the Department of Education to provide technical assistance to states on these requirements. Yet little assistance, if any, has been provided. We urge you to finalize policy guidance in this area and provide adequate technical assistance. Offering clear and timely guidance is also essential to facilitate the further development, improvement, and revision of implementation plans. The Department should work more actively with states to reconcile discrepancies in their accountability plans, consider fair revisions in such plans, and assist in the development of Title III plans under the law, if the reforms outlined in the Act are to be achieved.

It is regrettable that the Department has yet to acknowledge the challenges that teachers and school personnel are experiencing with implementation of the Act. There is much confusion at the local level about the Act, and we are disappointed in the lack of a plan to provide greater information and technical assistance to teachers and school personnel on implementation, and to strengthen communication with those primarily responsible for carrying out reforms in the classroom. The Department has efforts underway for outreach, but these efforts often neglect the

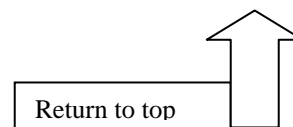
detailed information on regulations and requirements that teachers need, and rely largely on brief overviews and materials that merely promote the law. Much can be accomplished to improve implementation by working actively with teachers and other school staff at the local level to enhance their understanding of the requirements of the law.

### **Key Policy Issues**

We also have several serious concerns with specific instances of the Department's implementation of the Act that undermine the letter of the law. These cases threaten to weaken the impact of reforms targeted to schools and students in greatest need. Among our concerns in this area are the following:

- **Weakened Protections Against High Dropout Rates.** Graduation rates are a central component of accountability under the Act. Department regulations allow schools to make academic progress toward their achievement targets, even if dropout rates for at-risk students are increasing. Schools should not be allowed to claim academic progress and increasing test scores while ignoring high dropout rates.
- **Denial of Civil Rights Protections for Children.** The Act expressly prohibits discrimination on the basis of race, color, religion, and sex (except as otherwise permitted under Title IX of the Education Amendments of 1972). However, the Department's regulations permit organizations such as supplemental service providers to discriminate on the basis of religion in hiring persons for federally supported positions. The Department's rules also allow supplemental service providers to discriminate in delivering services to children by refusing services to students with a disability or a non-English language background. The intent of federal civil rights laws continues to be to ensure that federally funded programs are free from discrimination. All children should have equal access to services under the Act, including publicly-funded tutoring assistance.

- **Guarantee of a “Highly-Qualified” Teacher in Every Classroom.** The Act requires schools to ensure that all teachers are “highly qualified,” including obtaining state certification. Yet the rule established by the Department continues to permit uncertified teachers to be deemed “highly qualified.” Consolidated applications do not address the statutory requirement to ensure equity in highly qualified teachers for poor and minority students. Given the letter of the law, it is wrong to perpetuate the status quo by allowing the most disadvantaged students to be taught by teachers lacking proper training and credentials. The Department should do more to fulfill the promise of a highly qualified teacher in every classroom, including in small and rural schools.
- **Inadequate Assessments for Limited English Proficient Students.** The Act requires the inclusion of these students in assessments in a valid and reliable manner, and requires them to be tested in content areas in a language most likely to yield accurate data, to the extent practicable. The Department has largely ignored these provisions on the appropriate assessment of such children under Title I. Nor has it provided guidance to states on developing native language assessments for these children or on appropriate accommodations. This lack of guidance threatens the ability of schools to reach their adequate yearly progress goals, because of inadequate measures of content knowledge for these children.
- **Poor Implementation of School Choice.** The Department’s guidance and regulations on school choice provide no consideration of capacity in school districts with already overcrowded schools. Under the regulations, school districts are expected to build more schools and hire more teachers to comply with choice requirements, and must designate more than one option for students in schools “in need of improvement” to transfer. This interpretation is inconsistent with the law, and is counterproductive to improving student achievement. The interpretation is incredibly troubling, because of the Administration’s opposition to federal assistance for school construction, and the lack of funding for class size reduction under the Act.
- **Confused Guidance on Adequate Yearly Progress Rules.** Final rules and regulations on such progress and accountability have already been released to the states. But some states have been granted additional flexibility in defining subject and subgroup accountability for such progress, and other states have been granted flexibility in defining their population of limited English proficient children for accountability purposes. Clear rules should be established for these practices and communicated in a uniform and fair manner.
- **Recognizing “Highly Qualified” Veteran Teachers.** The Act recognizes highly qualified veteran teachers who have a B.A. degree and pass an assessment of subject knowledge and teaching skill. However, the Department has not required states to implement the “alternative uniform and high state standard of evaluation” for recognizing veteran teachers as highly qualified. This concession has already led to confusion in the



field in recognizing highly qualified teachers, and will lead to further problems in retaining such teachers in the nation's schools.

- **Recognizing Paraprofessional Qualifications.** The Act gives paraprofessionals the option to demonstrate that they are highly qualified by meeting strict quality standards and by demonstrating, through an assessment, their knowledge and ability to assist in the classroom. Unfortunately, many states and local school districts have not yet given paraprofessionals this option. By allowing this delay, the Department is making it difficult for paraprofessionals to demonstrate their qualifications by the deadline specified in the Act.

- **Inadequate Focus on Parent Involvement.** The Act requires every school district to reserve at least one percent of its Title I funds to support programs and activities for parent involvement. New parental involvement provisions are embedded throughout the Act. States, school districts, and schools need the direction and leadership of the Department in implementing these key provisions. But rather than effectively implementing these provisions, the Department has chosen instead to focus largely on parental choice in supplemental services and on school choice. Parents need to be actively involved in many other aspects of their public schools and must have an integral role in their own children's education to help them succeed. Without their active involvement and leadership, the Act will not be adequately implemented.

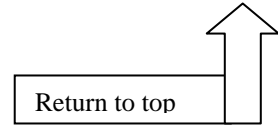
- **Scientifically-Based Research.** The Act contains new requirements for initiatives and strategies to utilize scientifically-based research. It remains important for educational strategies to be rooted in science. However, we take strong issue with the Department's use of such requirements to promote vouchers and other approaches that are based on ideology, not reliable data. States, school districts, and schools must be given the flexibility to follow the law's requirements in this area.

- **Supplemental Services.** The Act does not prohibit states from requiring supplemental service providers to meet the same high qualifications as teachers. Yet state plans that have sought to include this requirement in their accountability provisions have been rejected. It is important to ensure adequate training for supplemental service providers, who can provide individualized and valuable services to our neediest children, and states that seek to require high qualifications for such providers should be given fair consideration by the Department.

## **Funding**

We remain profoundly disappointed that the Administration refuses to fulfill its commitment to provide states and local communities with the resources to raise achievement substantially for the neediest children. The continuing shortfall in funding is a primary obstacle to achieving the improvements in education sought under the law. We urge the Administration to keep its promise under the Act.

The pending Fiscal Year 2004 budget underfunds the Act by \$7.5 billion, including underfunding the critical Title I program by over \$6 billion. Almost 5 million children are gone



behind, even though they are fully capable of learning to high standards. The underfunding of the Act breaks the promise of better schools for all children and undermines support for the reforms we agreed upon in the Act to improve public education. We are disappointed that the

President recently announced he would propose a Fiscal Year 2005 funding level for Title I that is only 65% of the amount agreed to in the Act. A teacher grading a test would give a 65% score a “D minus” grade.

We urge you to address these implementation challenges and strengthen the Department’s role in each of the areas we have mentioned. Equally important, we strongly urge you to support full

funding of the No Child Left Behind Act in your budget submission for Fiscal Year 2005. We look forward to working with you to do all we can to achieve the full potential of the No Child Left Behind Act for all of America’s children. The nation deserves no less.

With respect and appreciation,

Sincerely,

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Senator Edward M. Kennedy

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Senator Christopher J. Dodd

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Senator Tom Harkin

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Senator Barbara A. Mikulski

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Senator Jeff Bingaman

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Senator Patty Murray

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Senator Jack Reed

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Senator John Edwards

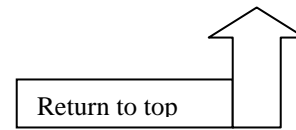
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Senator Hillary Rodham Clinton

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Representative George Miller

October 30, 2003



The Honorable Rod Paige  
Secretary of Education  
Department of Education  
400 Maryland Avenue SW  
Washington, D.C. 20202

Dear Secretary Paige:

Since the passage of HR 1, *No Child Left Behind*, I have made very deliberate efforts to communicate with educators who will be responsible for implementation of the law. Like most of them, I remain committed to the goals and the general strategy of the policy.

Toward this effort I have established an Education Roundtable with whom I have met several times to discuss this reform. On October 9, 2003, I hosted a public forum on the new law. Maria Hernandez-Ferrier, Director of the Office of English Language Acquisition for the Department of Education,

Millicent Bentley-Memon and Socorro Lara were members of our panel. More than 100 educators and parents from across Connecticut attended the forum to ask questions and share their concerns with us regarding. Below, find several of the most common concerns. I suggest these specific items could be addressed as reforms to the broad and complex legislation without compromising it's worthy intent.

#### Non-English Speaking Students

There is broad objection to the testing of non-English speaking students. It is not productive as a measure of abilities and the testing process only frustrates and confirms a sense of inadequacy for students who are already keenly aware of their unequal footing. If a student is not fluent in English, a test in history becomes more a test in English that the student is likely to fail. Neither the State of Connecticut nor local school districts have the resources necessary to fund the development of tests in a variety of languages. There are more than 40 different languages spoken in the Norwich, Connecticut school district.

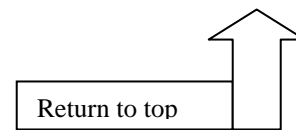
Most education professionals suggest the law require testing these students only after two years of English immersion or upon acquisition of English language skills, whichever comes first. Others asked if it would be possible to treat these students as the law permits transient students to be treated, that is, testing them but do not count the scores towards measuring Adequate Yearly Progress until they have been at the school for a specified period of time.

#### Special Education Students

The testing of special education students also is a source of unease. Students in special education programs, by definition, are under-performers. To include their scores with students in the general population is to guarantee that the level of performance at a school will automatically drop. As one individual noted, students who are tested at a lower level than their grade are automatically counted as under-performing, even though they may be at their maximum ability. Changes need to be made with respect to the way HR 1 addresses special education students while retaining a high overall participation rate for each school.

#### Schools in Need of Improvement

Recognizing a 14% federal increase for Title I funding; Connecticut has enjoyed only a 2% increase in 2002-2003 **and next year we are expected to see an actual decline in these funds.** At the same time,



our school systems are small, often with a limited number of elementary schools and one middle and high school. Our schools are at or over capacity now. Parents who opt to transfer their children to a higher performing school will find there aren't any within the district, or they are at capacity already and cannot accommodate additional students. There is a severe lack of funding for transportation and school construction to arrange the transfer. Adjacent school districts that are not failing are similarly crowded and under *No Child Left Behind* are given no incentive to accommodate a student from an under-performing school. One parent said this policy could create a "domino effect of failure" because the transferring students might lower a school's test scores to the point where the successful school would be classified as failing next year. Funding for transportation and school construction must accompany this option to transfer students if it is to be real.

#### Homeless Students

The ability of parents to identify a "home district" and require transportation by the school district has already caused considerable expense and, some feel, abuse. In some cases where families of 5 or more children are being transported for a whole year, it may prove more cost effective for policymakers to fund housing! The definition of "homeless" is so broad as to allow abuse. Children living with relatives can be considered homeless and demand transportation to a highly desirable town. Educators agree a return to the former standard of educating these students where they live and providing services to insure their success would better serve this population.

These are real issues raised by parents and educators who care deeply about their children and their schools. Clearly, we have encountered some unintended consequences with HR 1. If we are not able to restructure the law to address these issues we run the risk of losing the worthwhile goals that motivated the passage of this important legislation. I look forward to working with you and my colleagues to meet the challenges that have been brought to our attention by educators and parents who deal with these issues every day at the local level. I am confident that we will be able to successfully address these matters and make *No Child Left Behind* an even stronger educational tool.

All the best,

Rob Simmons  
Member of Congress  
Second District, Connecticut

RS: jb