



MONTHLY ISSUE BRIEF

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Implementing No Child Left Behind States make progress, but law remains controversial

by Karen Imas, CSG/ERC Publications Manager

Since the passage of No Child Left Behind three years ago, state officials and the federal government have at times clashed over its various provisions and funding levels. In recent months, steps taken by both federal and state education officials have indicated growing compromise. However, NCLB remains controversial and poses many questions for government officials, school administrators, teachers, parents and students.

Facing budget shortfalls, many school districts and state officials were considering opting out of the law, saying its provisions were too cumbersome and costly. States can forego federal funding and use their own accountability measures instead. In Utah, for example, gubernatorial nominee John Huntsman Jr. proposes the state opt out. Several **Vermont** and **Connecticut** school districts chose to forego funds. A **Maine** law prohibits the state education department from using state funds to implement the federal policies and asks the state agency to study the law's costs. While more than 25 states considered legislation to give up the funds, the bills were largely unsuccessful.

The US Department of Education responded to state concerns by loosening regulations for testing of bilingual and disabled students, teacher qualifications and test participation rates. Annual federal funding for K-12 education has increased more than 40 percent since President Bush took office to \$41 billion in the 2003-2004 school year. Federal money represents only about 7 percent of total government spending on public education. The majority of funding comes from states and local governments (see chart, page 3).



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This fall, as states report performance scores, the number of schools labeled "needs improvement" is shrinking in many states. Which provisions will maintain this trend? Will states be adequately equipped with the funds and resources to continue raising the bar? These are questions faced by state lawmakers. The law seeks to achieve 100 percent proficiency in reading and math by 2013-2014—a goal which no previous administration has set or attained. And the final tab of getting there is still unknown.

NCLB demands much of the states, creating a flood of criticism and support. The law seeks to improve the achievement of all students, to guarantee that every classroom is staffed by a highly qualified teacher, and to make all schools safer and more productive learning environments.

Some critics are calling NCLB an unfunded mandate, saying it takes away local control and imposes costly penalties on schools that do not meet requirements.

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Budget shortfalls at the state and local levels have already led to education cutbacks. American Federation of Teachers President Sandra Feldman lauded NCLB's drive for higher standards but contends that progress is threatened because of serious underfunding. Many Democrats in Congress concur, saying the law authorized \$7.2 billion more for fiscal year 2005 than the \$13.3 billion Bush is proposing (see chart, page 4). For example, funding for Title I, a program for disadvantaged students and the largest program within NCLB, is being cut in more than half of the nation's school districts in fiscal year 2005.

Supporters maintain that states have the flexibility to make the law work for their schools.

"Yes, it is a federal law, but it is nothing more than a framework," said U.S. Department of Education Secretary Rod Paige at the National School Boards Association in March. "Elementary and secondary education remains the traditional province of state and local governments."

How are States Doing?

School Improvement

NCLB is actually based on existing strategies and mirrors the accountability and assessment requirements of the 1994 Elementary and Secondary Education Act. With NCLB, the federal government set a national goal for student performance. States then had to up the ante by adjusting

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goals and standards to work toward 100 percent proficiency.

The Education Commission of the States (ECS), chaired by Virginia Gov. Mark Warner, recently released the comprehensive Report to the Nation on State Implementation of NCLB. Notably, states are rising to the challenge in implementing the law's requirements, particularly school improvement.

Areas where states face considerable challenges and could use improvement include implementation of professional development for teachers, ensuring teacher qualifications in subject areas, and the ability of state education officials to collect, disaggregate and report data at various levels.

Dwayne Matthews, senior advisor to the president of ECS, participated in a panel discussion on NCLB at the CSG/Eastern Regional Conference Annual Meeting in August. He strongly advised states to "create a data system that provides accurate, timely and relevant data, and in a form that can be used directly to improve student performance."

Some states, such as **Massachusetts** and **New York**, measure growth along with yearly performance. They use a performance index to evaluate schools that credits them for improving student achievement. This type of system can effectively pinpoint weaknesses in curricula.

The percentage of schools failing to make adequate yearly progress in the 2002-2003 school year varied from a low of 8 percent in Minnesota to a high of 87 percent in Florida. This may be a result of different measuring and reporting standards in states.

The number of schools "in need of improvement" is actually shrinking in many states. As of this writing, just over half the states had released lists of the number of schools that had made adequate yearly progress, based on 2003-2004 test data. Rising achievement and increased flexibility from the federal government are contributing factors.

If a school fails to make adequate yearly progress for two years in a row, it is identified as "needing improvement" and must take certain actions. Schools that are identified for two or three consecutive years must provide extra tutoring or give parents the option to transfer their children to different schools in the same district. Four or five consecutive years of "needs improvement" can mean a major reorganization of the school, including staff and curricula.

"While much of the debate and headlines have focused on test scores and lists of failing schools, the law's requirements for additional help for schools that need it-and the states' and school districts' ability to provide that support-will have a more profound effect over time," said Jack Jennings, director of the Center on Education Policy (CEP), in a press release.

Critics question how schools, particularly those serving diverse student populations and English language learners, can reach full proficiency under the weight of extra requirements such as providing tutoring or transportation for students who transfer.

The Education Commission of the States' analysis of NCLB implementation efforts shows that states have made considerable progress, particularly over the past year. As of March 2004:

- All 50 states had met or were partially on track to meeting half of the 40 NCLB requirements being tracked by ECS-an 11 percent increase over March 2003.
- All but two states and Washington, D.C., had met or were partially on track to meet 75 percent of requirements-a 109 percent increase over March 2003.
- Five states-Kentucky, Connecticut, New York, Oklahoma and Pennsylvania-had met or were partially on track to meet all 40 NCLB requirements.

www.ecs.org/ecsmain.asp?page=/html/special/nclb/reporttothenation/reporttothenation.htm

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Currently, 40 state agencies are negotiating with the federal government to reduce the number of schools penalized under the act. The federal government recently allowed schools to average the participation rate of subgroups to 95 percent over two or three years.

States have responded to the call to close the achievement gap by recognizing the need to increase their capacity to provide assistance. The **Connecticut** General Assembly passed legislation that requires schools to make taking the test part of their graduation requirements. A recently passed Kentucky law (SB 168) requires schools and districts to regularly review and revise their plans, strategies and timelines for improving achievement of groups of low-performing students.

Virginia's Gov. Warner created a program designed to develop a cadre of principals that specialize in turning around troubled schools. In **Delaware**, the state Department of Education commissions an annual survey by an outside entity to determine the level of satisfaction among school boards, administrators, parents and teachers with the department's services and policies.

Instituting such programs is challenging since state education departments across the country are experiencing cutbacks.

According to a CEP study, *From the Capital to the Classroom: Year 2 of the No Child Left Behind Act*, 24 of 40 responding states reported that fiscal problems are adversely affecting their ability to carry out the law.

Standardized testing, a key component of NCLB, is a major expense according to a General Accounting Office report which found that the costs for states to implement tests could range from \$1.9 billion to \$3.9 billion by 2008. States are required to give annual reading and math tests to students in the third through eighth grades and the tenth grade starting in the 2005 school year. Currently, students are tested once in elementary, middle and high school.

Many school district officials contend that annual improvement gains should be defined not only through tests, but also through attendance, parental involvement, disciplinary programs and numbers of advanced placement students. Another point of contention is that the law focuses on math, reading and science assessments while shortchanging other areas such as history and the arts.

The Need for Better Prepared Teachers

The need for better prepared teachers is a crucial component of the law. Progress toward meeting requirements for improved teacher quality has lagged, according to the ECS report. In the 1999-

Adequate Yearly Progress

NCLB holds states accountable for improving all students' performance. States must determine whether schools make adequate yearly progress, as defined by each state and measured by the following:

- Students' progress toward full proficiency, as measured by statewide tests
- Progress of subgroups of students (racial/ethnic, low income, students with disabilities and those with limited proficiency in English) toward proficiency on those tests
- 95 percent participation of each subgroup in tests
- Students' progress on indicators, including high school graduation rates and a state-determined indicator for elementary and middle schools.

Source: *The Education Commission of the States*

2000 school year, 24 percent of teachers in U.S. secondary schools lacked even a minor in their core academic subject.

"Highly qualified teacher standards, if rigorously implemented, could be the most significant element (of NCLB) and have a great impact for children in poverty," said Michael Sentance, New England regional representative for the U.S. secretary of education.

The ECS report concludes that no state is on track to meet the law's requirements for

Figure 1. The public education dollar: Revenues by source: School year 2001-02 (Total revenues: 420 billion)

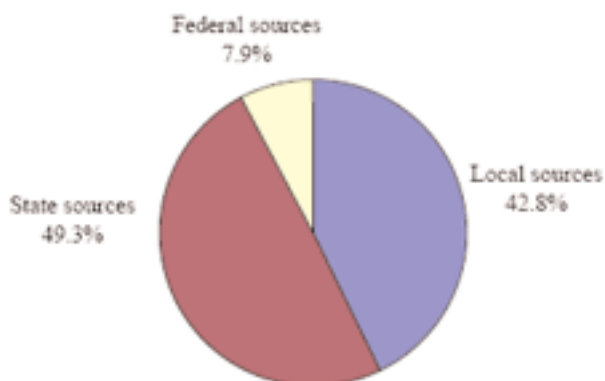
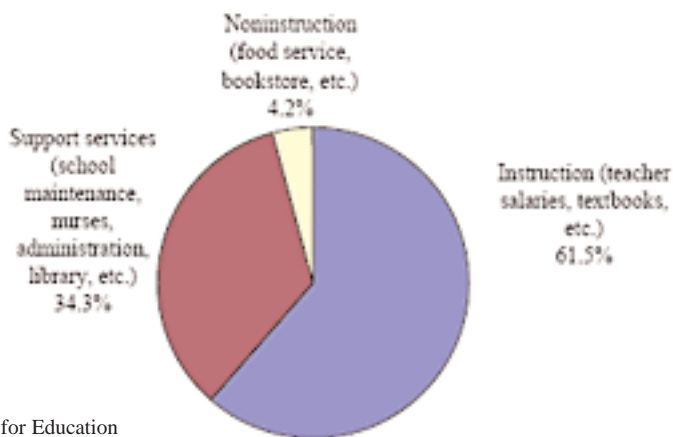


Figure 2. The public education dollar: Current expenditures by function: School year 2001-02 (Current expenditures: 368 billion)



Source: Data reported by states to the U.S. Department of Education, National Center for Education Statistics, Common Core of Data (CCD), "National Public Education Financial Survey," 2001-02.

a highly qualified teacher in every classroom by the 2005-2006 school year and only 11 states are developing ways for teachers to prove strong subject matter competence as mandated by the law. According to NCLB, highly qualified is defined as having a college degree, full certification, and demonstrated subject knowledge.

States and districts are working to increase the supply of well-qualified teachers through a number of programs, including professional development and alternative certification routes for mid-career job switchers. Many schools are using Title II funds, Teacher Quality State Grants, to recruit more teachers, thus reducing class size. Georgia is using its Title II funds to hire consultants to work with school districts to improve professional development and increase the number of highly qualified teachers. **New York** has a Teacher Quality Plan that requires districts and schools to establish a plan for annually increasing percentages of highly qualified teachers. Mississippi has developed a four-step process aimed at ensuring that current teachers of core academic subjects will be "highly qualified" by the end of the 2005-2006 school year.

In March 2004, Secretary Rod Paige allowed states a measure of flexibility by relaxing requirements for teachers in rural areas, particularly those who teach multiple subjects, giving them more time to comply. Multi-subject teachers in eligible rural districts who are highly qualified in one subject will have three years to become highly qualified in their remaining subjects.

"New NCLB guidelines announced by the DOE are a positive step in responding to the concerns of America's rural schools and districts and the 8 million children they serve," said a press release by the Rural Trust, a national nonprofit advocacy group for rural schools.

A Funding Gap?

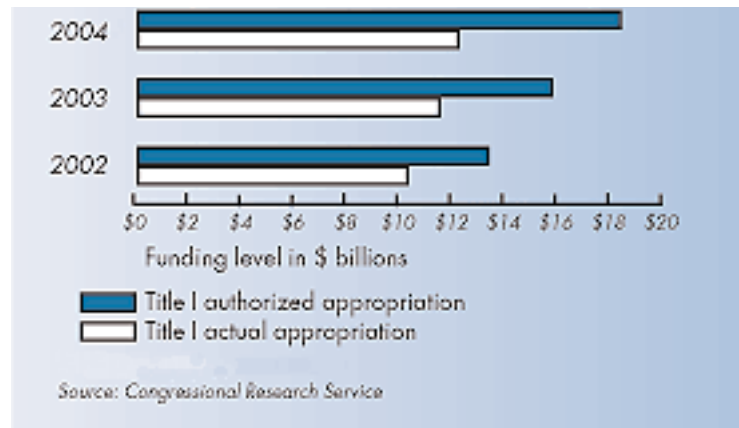


Chart from American Teacher magazine - September 2003

Conclusion

States and school districts are making substantial progress in implementing the law, and federal changes will make it easier for states to meet targets.

Next year, states must raise their annual yearly progress benchmarks and increase testing. It may be too early to tell the real amount of money it will take to fulfill the law's goals, but federal education funding levels are sure to be high on state lawmakers' agendas as they work to meet NCLB performance requirements. ■

For more information on No Child Left Behind:

Education Commission on the States - <http://www.ecs.org>
US Department of Education - <http://www.ed.gov>
Council of Chief State School Officers - <http://www.ccsso.org>
Center for Education Policy - <http://www.ctredpol.org>
National Education Association - <http://www.nea.org>
American Federation of Teachers - <http://www.aft.org>
Education Trust - <http://www.edtrust.org>