No Child Left Behind, the federal education act passed by Congress in 2001, is up for reauthorization this year. Education officials across the country are calling for additional funding and for changes that would give them more flexibility in implementing the law.

By Mary Branham Dusenberry
The community of Ten Sleep, Wyo., includes 82 students in kindergarten through 12th grade—in the entire school district.

Ten Sleep’s tiny school district isn’t alone. One-third of Wyoming’s 48 school districts have fewer than 300 students, according to Jim McBride, the state’s superintendent of public instruction. Those districts are much smaller than what No Child Left Behind, the federal education law adopted in 2001, defines as a small school district—one with fewer than 2,500 students.

“If you have a school that’s failing, you have to offer choice,” McBride said. In Wyoming, there’s no real choice to provide. “That’s an issue. We need additional flexibility to address what other options there might be for that community.”

McBride, like many school officials across the country, thinks NCLB is a good law, for the most part. While they applaud the accountability and focus on every child, they would like to see more flexibility and better funding as Congress considers reauthorization this year.

“This is not going to be a quiet reauthorization,” said Jack Jennings, president and CEO of the Center on Education Policy, a research organization that has monitored the effects of NCLB. “It’s going to be a brawl. I don’t think the states or local school districts understood what No Child Left Behind meant when it passed, but they do today. They want to be heard on how it should be rewritten.”

McBride and other state school chiefs have taken steps to ensure their voices are heard. Like McBride, many have drafted recommendations for consideration by their senators and representatives. Organizations such as the National Governors Association (NGA), the Council of Chief State School Officers (CCSSO) and the National Association of State Boards of Education (NASBE), among others, have collectively and separately made recommendations on what changes are needed to achieve the goals of NCLB.

“States are very concerned about what they see is a rigid approach to No Child Left Behind,” Jennings said, “and a lack of funding.”

States Want More Flexibility

No Child Left Behind was passed in 2001 with overwhelming bipartisan support. It coincided with reform movements in many states, according to Gene Wilhoit the director of the CCSSO and formerly Kentucky’s education commissioner. “It built upon what was happening in many states at the time,” Wilhoit said of NCLB.

“You have to step back and say the overall trend of standards-based reform, which is a bipartisan reform movement going back to the early 1990s, is leading to states taking a much more vigorous role (in education),” Jennings said.

Before NCLB, Jennings said, many states did not have full testing programs and accountability systems. Federal officials believed local control of school districts did not bring about the improvements needed in education. But by stepping in, the federal government has taken a much more active role in education, which traditionally has been a state domain.

“The law was a wake-up call to many states,” Wilhoit said. “The law did provide us a basis for evaluating where we were and where we were going.”

But most see the stringent federal guidelines as a deterrent to carrying out reform in the states, each of which has a variety of school districts.
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“...A widely diverse urban district is, by definition, going to have to meet more targets than a homogenous suburban district,” Wilhoit said. “So we’ve got to begin to develop systems that recognize those differences.”

State and local school officials’ frustration over the years is evident.

Samantha Anderson, media relations director for the Communities for Quality Education (CQE) in Washington which tracks laws related to NCLB, said over the past five years 23 states have considered opting out of the law entirely, and some have studied how opting out would affect funding. While none of these proposals have passed, 49 states have sought waivers, and 29 have called for full funding of the law.

Now, Anderson said, many state legislatures are hoping their congressional delegation will make recommended changes to NCLB.

The federal government provides about 8 percent of the funding for local school districts, Anderson said. So while there is relatively little funding that accompanies NCLB, “there are a lot of hoops to jump through,” she said. “States are still bearing the brunt of education costs, but have the onus of the requirements of the federal government.”

That’s one area governors, along with CCSSO and NASBE, would like to see changed. Wilhoit said it’s critical that the federal government recognize the traditional role, and authority, of states in education, and give states more authority to carry out the NCLB mandates.

“This is a critical time in our history in educational development,” Wilhoit said. “What a shame it would be to thwart that with a one-size-fits-all education plan.

The Assessments

The law’s focus on subgroups—such as students with disabilities, English language learners and minorities—has drawn universal praise.

“What states are telling us is that No Child Left Behind has brought attention to groups that have been ignored before,” Jennings said.

But it’s created some disparity among school districts, some of which may have more diversity than others. School districts with several subgroups can fall in the failure category of adequate yearly progress (AYP) measurement more quickly than a district with less diversity.

Wilhoit said a school district could miss AYP in multiple subgroups, and would be considered at the same failure level as a district with more subgroups that missed AYP in just one area.

“An urban district … one year may not make AYP because they’re not reaching the goal for, let’s say, non-English speaking students,” he said. “They may deal with that and make that goal next year and miss another single one. They’re still not going to make AYP. That’s a tough game for them to play. They’re bouncing around from one subpopulation to another.”

Wilhoit believes states should have some flexibility in dealing with those districts. While the federal government has granted waivers to states in various areas, NCLB still places some fairly onerous requirements on schools across the country.

The law includes a mandate that every student be proficient by 2014. Most people, including the bill’s co-sponsor Sen. Edward Kennedy, now believe that timetable is unrealistic.

A CQE study of school districts in Pennsylvania and Massachusetts projected that 77 percent and 74 percent of the schools, respectively, would fail to meet the law’s proficiency requirement by 2014, according to Anderson.

Since Wyoming districts have fewer subgroups to measure, McBride believes his state would have an easier time meeting the 100 percent proficiency goal than other states with more diverse and needy students. But he believes attaining that goal will still be mathematically impossible in his state.

“We have 3 or 4 percent (of students) who are cognitively disabled,” he said. “Some of those children, when achieving at their very best, won’t reach that goal.”

Many in education are recommending growth models, which measure individual students’ achievement. McBride believes those models could more accurately gauge students’ education as they progress through school.

Anderson said the current system compares classes from one year to classes from the previous year. “They’re not looking at students as they progress from third grade to fourth grade,” she said. “Growth models do give a much better picture of student improvement.”

Wilhoit believes if growth models are approved, they should not be a one-size-fits-all. “What we want is growth models identified within the context of the different states being able to come forth with models they see fit,” he said.

Four of the 11 joint recommendations of CCSSO, NGA and NASBE deal with assessment. In addition to the growth models, the groups are asking Congress to allow states and local districts
to determine the appropriate testing instruments; to create rewards and penalties for schools that fail to make progress based on tiered success levels rather than the current pass/fail, all-or-nothing guidelines; and to allow flexibility in testing students with disabilities or those who are English language learners.

“I use the word innovation,” Wilhoit said. “Anytime we talk about flexibility and innovation, some people immediately say ‘all they want is to get away from requirements and standards.’ That’s not the case. We’re willing to stand up to scrutiny. We’re willing to be judged. We’re willing to be held accountable. What we don’t see occurring right now is this ability, this encouragement and support for systems that honor states, recognizes our context, our history, and provides an ability for us to move ahead in ways that would improve teaching and learning.”

Funding Falls Short

Implementing No Child Left Behind has been costly to states and local school districts.

“Local school people and state leaders say there’s not enough money to carry out the demands,” said Jennings. “That’s clearly a major complaint about the act.”

Wilhoit said the law created several critical funding needs. States need money for teacher incentives, the additional assessments required under the law, data systems development, research and development, and support for low-performing schools, he said.

“No Child Left Behind is requiring an unbelievable amount of data gathering and data reporting,” he said, adding that states need more money for data systems development. “Five years ago, you probably couldn’t have found 10 states that had individual student identifiers that would track student progress over time.”

Growth models considered by several states would require those identifiers.

In addition, Wilhoit said more schools soon will be identified as low-performing. “It’s not enough to label something as non-performing,” he said. “If this is going to be successful, we’ve got to get in there and help them.”

He’d like to see states receive funding for research and development, and have that research focused on what is happening in the states.

“States need a lot of feedback about what works, what doesn’t work, and we need more money in research to provide the support that’s going to be necessary,” Wilhoit said. “There are a lot of concerns out there. If we don’t get more federal resources, this is not going to be a successful intervention strategy over the next five years. It’s incumbent on Congress to come forward with resources and help us in these areas.”

The penalties in NCLB, including one that requires school districts to offer choice to students at failing schools, add other costs to states and local districts.

“The costs that are involved with school choice can be phenomenal, just for busing alone,” Anderson said.

State departments of education are struggling because of the additional tasks placed on them by NCLB, according to Jennings.

“In this whole reform movement, state departments of education are expected to do all sorts of things they haven’t done before, like setting academic standards, setting up accountability systems, judging the qualifications of local teachers, providing assistance to schools considered failing,” said Jennings. “Most of them say they don’t have the resources to carry out the act adequately.”

State Goals for Reauthorization

While state and local school officials are asking Congress to loosen up on the requirements in NCBL and to more adequately fund the law, the Bush administration and the Commission on No Child Left Behind are seeking new requirements in the act that will put additional burdens on the state.

“You have state officials and local school districts saying the federal government is asking us to do too much without flexibility and enough money,” Jennings said. “The Bush administration and the NCLB Commission, backed by the business community ... are saying American schools need to be improved much more, therefore you have to increase the requirements.

“That’ll be the debate,” he said.

Jennings predicts that if Congress does not bring about changes that states and school districts are seeking, there may be another round of lawsuits from school districts wanting to opt out of the law.

Some people on Capitol Hill predict NCLB won’t be reauthorized until after the 2008 presidential election. Wilhoit and others hope that’s not the case.

“If we continue down this path and with the kinds of criteria, regulations and rules and operational interactions we have, it’ll be stifling,” Wilhoit said. “We don’t see a way that we’ll be able to reach the lofty goals, the ideals laid out in No Child Left Behind, with that kind of model.”

—Mary Branham Dusenberry is managing editor for State News magazine.
Three proposals for the reauthorization of No Child Left Behind call for more flexibility and funding, but there are some differences among them.

**The Bush Administration**

President Bush and Education Secretary Margaret Spellings have been traveling to different states to promote the administration’s “Building on Results: A Blueprint for Strengthening the No Child Left Behind Act.” Among other things, their plan proposes:

- Giving more flexibility for states to measure individual student progress;
- Allowing states to target resources to the most needy students, and improve assessments for students with disabilities and limited English proficiency;
- Incorporating growth models to measure individual progress toward proficiency by 2014;
- Allowing states to prioritize school improvement activities based on school needs;
- Developing a teacher incentive fund, and allowing new teachers in small rural school districts additional time to meet the Highly Qualified Teacher requirements; and
- Allowing vouchers that would allow federal money to follow students at schools in troubled schools to another public or private school in a geographic area.

**Commission on No Child Left Behind**

The Commission on No Child Left Behind released a 230-page bipartisan report in February that called for a wide-reaching expansion of the law. Among other things, it would:

- Allow states to include achievement growth in calculations for AYP (adequate yearly progress);
- Require schools to ensure all seniors are proficient in reading and math;
- Hold schools accountable for raising science test scores by 2014;
- Establish a definition of a “Highly Effective Principal,” similar to the “Highly Qualified Teacher” designation, and require principals at Title I schools to meet that designation;
- Judge teachers based on student performance;
- Require schools that make AYP to make 10 percent of their seats available for transfers from schools in which students are eligible for choice. If a school district is unable to provide for transfer, the district must offer tutoring to eligible students;
- Create national standards and tests that states would be encouraged to adopt; and
- Provide aggressive and effective interventions for schools targeted for corrective action.

**Coalition of State Groups**

A coalition of the National Governors Association, the Council of Chief State School Officers and the National Association of State Boards of Education in April recommended, among other things:

- Enhancing state accountability systems by allowing growth models to complement existing status measures and promoting the use of multiple measures aligned to state standards;
- Allowing states to retain the authority to determine the appropriate testing instruments in schools;
- Creating a rewards system for states to recognize schools making progress, and assistance for states to help schools that aren’t;
- Providing flexibility in assessing students with disabilities or English language learners;
- Providing flexibility and assistance in helping states develop a highly qualified teacher work force;
- Allowing states to target resources to close the achievement gap
- Expanding high school programs such as Advanced Placement (AP) and International Baccalaureate (IB), and providing more funding for such programs; and
- Reinforcing the role of the states’ governors and education departments by recognizing and reinforcing states’ authority over K–12 education.