



November 15, 2004

## **Funding the No Child Left Behind Act: How Much is Enough?**

### *Executive Summary*

- In January 2002, the most sweeping reform of federal education policy in a generation – the No Child Left Behind Act (NCLB, P.L. 107-110) – became law. NCLB passed Congress with overwhelming bipartisan support. Yet the law has come under heavy criticism in recent months. Critics charge that NCLB has been underfunded by \$28 billion. Opponents also charge that funding is insufficient to meet the law’s stated goals.
- Former Democratic presidential candidate Senator John Kerry (D-MA) and other Democrats charge Republicans have underfunded the NCLB. These allegations are disingenuous because they refer to authorizing language. Democrats know authorization levels are not mandatory spending levels and do not represent promises of appropriated amounts.
- Compared with the levels of funding under the Clinton Administration, funding under this President and this Congress has been significantly higher. Federal funding for elementary and secondary education has gone from \$27.9 billion in 2001 to \$37.6 billion in 2004. When counting the Senate-proposed FY05 funding, this will represent a more than 40-percent increase since 2001.
- The non-profit group Accountability Works studied new costs associated with NCLB while the Government Accountability Office (GAO) focused on the costs of implementing the testing provisions of NCLB. GAO found adequate funding and Accountability Works found excess funding.
- In addition to these reports, the evidence for sufficient funding comes from the states themselves. The U.S. Department of Education reported that in 2003, states returned \$124 million in appropriated funds for elementary and secondary education to Washington. Another \$4 billion in separate elementary and secondary education funding accounts dating back to 2000 remained unspent as of the beginning of 2004.

## Introduction

In January 2002, President Bush signed into law the No Child Left Behind Act (NCLB, P.L. 107-110) – the most sweeping reform of federal education policy in a generation. The law recognized that, in a world now demanding increasingly complex skills from its workforce, some children have not acquired the knowledge they need to succeed. Some children literally have been left behind.<sup>1</sup> The No Child Left Behind Act addresses this shortcoming by bolstering the Elementary and Secondary Education Act with more accountability to measure students' progress. NCLB passed Congress with overwhelming bipartisan support.<sup>2</sup> And support for this important law continues. An October 2004 survey conducted by the Winston Group found parents of public school children have a favorable view of NCLB, by a 62-to-28 margin.<sup>3</sup>

Yet, despite the strong support of NCLB, the law has come under heavy criticism on a variety of fronts. One such criticism was raised by Senator John Kerry (D-MA), who, during the third presidential debate, charged: “The President, who talks about No Child Left Behind, refused to fully fund – by \$28 billion – that particular program. ...”<sup>4</sup> This claim is staggering based on the fact that federal funding for elementary and secondary education has increased significantly each year since NCLB was enacted; it is now at an historically high level – some 40 percent above the highest level under the Clinton Administration. Additionally, some opponents charge that the funding is insufficient to meet the law's stated goals. But independent studies show the appropriations provided are sufficient to fulfill the purpose of NCLB.

## Background

In reauthorizing elementary and secondary education programs, the No Child Left Behind Act overhauled the federal role in supporting state and local efforts to educate children. As conditions for federal funds, the new law demands stronger accountability for achieving results and greater emphasis on proven education methods. In return, it provides more flexibility for states and communities in the use of federal funds and more choices for parents. These changes address Congress's concern that, for nearly three decades, the National Assessment of Educational Progress has revealed significant achievement gaps between black and white students and between students from low-income and higher-income families.<sup>5</sup> The NCLB seeks to reverse this long-term trend

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<sup>1</sup> “Overview: No Child Left Behind, President Bush's Education Reform Plan, U.S. Department of Education, [http://www.ed.gov/nclb/overview/intro/presidentplan/page\\_pg2.html#foreword](http://www.ed.gov/nclb/overview/intro/presidentplan/page_pg2.html#foreword), 09/07/04.

<sup>2</sup> On December 13, 2001, the House voted to pass the conference report to the No Child Left Behind Act by a vote of 381 to 41. On December 18, the Senate passed it by a vote of 87 to 10.

<sup>3</sup> “No Child Left Behind Extra Credit: New Survey Shows Strong Support for NCLB,” U.S. Department of Education, 10/18/04.

<sup>4</sup> Commission on Presidential Debates, Transcript of the Third Bush-Kerry Presidential Debate, <http://www.debates.org/pages/trans2004d.html>, 10/13/04.

<sup>5</sup> Krista Kafer, “No Child Left Behind: Where Do We Go From Here?” The Heritage Foundation, 07/06/04. [Note: The National Assessment of Educational Progress is the only national assessment of what America's students know and can do in various subject areas. The Commissioner of Education Statistics at the U.S. Department of Education is responsible for this project.]

and raise achievement for all students. This will be attained by renewing the focus on improving student achievement, and then measuring results with valid and reliable academic tests, and also by providing enhanced options for students in under-performing schools. Americans support this focus on accountability. According to a survey done by the Winston Group, Americans, by a margin of 61 to 32, believe accountability is more important than increased funding.<sup>6</sup>

The concept of accountability standards is not new. The 1994 reauthorization of the Elementary and Secondary Education Act – signed into law by President Clinton – contained accountability measures as well. The 1994 reauthorization required each state to develop comprehensive academic standards and correlate those standards with a curriculum-based exam. At a minimum, math and reading tests were to be administered at three grade levels.<sup>7</sup> However, that 1994 law provided no consequences for non-complying states. As a result, in early 2001, only 11 states were even in minimal compliance – just having put a plan in place – with the 1994 law. In contrast, only 18 months after NCLB was signed into law, all 50 states were in initial compliance, having had their accountability plans approved by the Department of Education.<sup>8</sup>

Under the NCLB, within 12 years all states must bring their students in grades three through eight and high school to “proficient” levels in reading and math. To accomplish this, each state was given the flexibility to create its own reading and math standards detailing what a child should know in those grades. By the 2005-2006 school year, states are required to use annual assessments to track pupil progress, allowing states to identify schools in need of improvement.<sup>9</sup> Requirements are placed on schools that do not make adequate progress: they must provide parents a choice of the student transferring to another public school or receiving supplemental services such as free tutoring or after-school assistance; they must take corrective actions involving a school implementation plan designed to improve student learning; or – if still not making adequate yearly progress after five years – the schools must undergo dramatic changes in the way they are run.<sup>10</sup>

Despite having passed in both houses of Congress with overwhelming bipartisan support, the Act has since come under heavy criticism by various Democrats and their supporters. Unable to attack the specific policy reforms for fear of appearing weak on accountability, they contend that the Republicans – who control both houses of Congress and the White House – have failed to provide enough funding to accomplish the provisions of NCLB. Additionally, they have charged that the President has left a \$28-

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<sup>6</sup> “No Child Left Behind Extra Credit: New Survey Shows Strong Support for NCLB”, U.S. Department of Education, 10/18/04.

<sup>7</sup> “Myths & Facts on No Child Left Behind,” American Legislative Exchange Council, <http://www.alec.org/meSWFiles/pdf/NCLB%20MythsFacts.pdf>, 09/22/04.

<sup>8</sup> U.S. Department of Education, “No Child Left Behind is a Culture Shift,” <http://www.ed.gov/news/newsletters/extracredit/2004/10/1004.html>, 10/04/04.

<sup>9</sup> “Excuses Left Behind: The Facts About NCLB,” American Legislative Exchange Council, <http://www.alec.org/meSWFiles/pdf/0405.pdf>, 03/04.

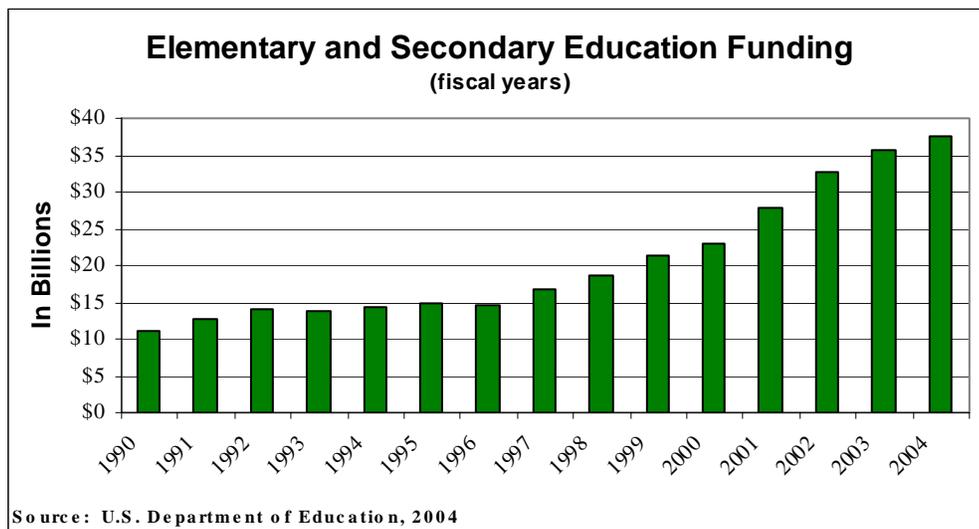
<sup>10</sup> “Stronger Accountability,” U.S. Department of Education, <http://www.ed.gov/nclb/accountability/index.html?src=ov>, 09/28/04.

billion gap between what Republicans “promised” to spend on education, i.e., between what the bill authorized and what was actually appropriated for NCLB. These charges are unfounded.

## Education Funding Has Dramatically Increased

Some Democrats and their allies – particularly the teachers’ unions – contend that Republicans have failed to adequately fund elementary and secondary education since the passage of NCLB. The American Federation of Teachers contends that federal funding is “woefully inadequate” to deal with the provisions of the NCLB.<sup>11</sup> Left unstated is the fact that, compared with the highest levels of funding under the eight years of the Clinton Administration, this President and Congress have provided significantly more.

Elementary and secondary education funding has increased annually – and substantially – since the passage of NCLB. Federal funding for elementary and secondary education has gone from \$27.9 billion in 2001 to \$37.6 billion in 2004. The chart below shows the dramatic increases following the passage of NCLB compared to prior-year funding levels.



A significant increase for Fiscal Year 2005 is likely: the Senate appropriations bill that funds the Department of Education (S. 2810, as reported by the Senate Appropriations Committee), provides \$39.8 billion for elementary and secondary education, an increase of \$2.2 billion from the 2004 appropriations.<sup>12</sup> Cumulatively, this will represent *more than a 40-percent increase* since President Bush took office. The

<sup>11</sup> Sandra Feldman, “A Commentary from President Feldman on the No Child Left Behind Act,” [www.aft.org/presscenter/speeches-columns/wws/2003/0503-special.htm](http://www.aft.org/presscenter/speeches-columns/wws/2003/0503-special.htm), 05/03.

<sup>12</sup> U.S. Department of Education, “Department of Education Fiscal Year 2005 Congressional Action”, <http://www.ed.gov/about/overview/budget/budget05/05action.pdf>, 09/15/04.

House-passed bill also provides increased funding for elementary and secondary education for FY 2005 (\$38.9 billion).

Not only has the absolute dollar amount increased following the passage of NCLB, but so too has the federal share of education spending. In school year 1990-1991, the federal share of total elementary and secondary education spending was 5.7 percent. Since then, it has risen to 8.2 percent – *a 44-percent increase*.<sup>13</sup>

## **Funding Increases Not Only Dramatic, But Sufficient**

Despite these increases in funding, Democrats still charge they are insufficient to cover states' costs for meeting the new law's requirements. Senator Edward Kennedy (D-MA), for example, charges that Republicans are "not making a sufficient financial commitment to educational reform,"<sup>14</sup> and so, in September, he and others introduced legislation to authorize even more funding.<sup>15</sup> Yet, according to two different analyses – one by a nonprofit group and one by the Congress's nonpartisan auditor – adequate funding has been provided to accomplish NCLB's objectives.

### **Private-Sector Study Predicts Funds Will More Than Cover Costs**

A nonprofit group, Accountability Works, conducted a study comparing costs associated with NCLB to federal funding. It found that sufficient funding has been provided to cover states' costs. Furthermore, it found that states may end up with a surplus in each fiscal year through 2008 after they have covered their "hard costs," (which it defined as those costs that have a fiscal impact on states and local education agencies associated with each of the new requirements).<sup>16</sup>

For its study, Accountability Works analyzed the four new activities required by NCLB: 1) the costs of implementing new accountability requirements, including new testing requirements; 2) the costs of meeting the requirement for "highly qualified" teachers; 3) the costs associated with information management, such as those incurred to "disaggregate" student data; and 4) the costs associated with school improvement, such as school-improvement plans and choice initiatives.<sup>17</sup>

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<sup>13</sup> U.S. Department of Education, "Ten Facts About K-12 Education Funding," <http://www.ed.gov/about/overview/fed/10facts/index.html>, 09/28/04.

<sup>14</sup> Education World, "Paige, Kennedy on No Child Left Behind," [http://www.education-world.com/a\\_issues/issues309.shtml](http://www.education-world.com/a_issues/issues309.shtml), 05/02/02.

<sup>15</sup> Senator Edward Kennedy, "Senate Democrats Call for Effective Implementation of School Reforms," <http://kenedy.senate.gov/~kenedy/statements/04/09/2004913B41.html>, 09/13/04.

<sup>16</sup> Accountability Works, "NCLB Under A Microscope: A Cost Analysis of the Fiscal Impact of the No Child Left Behind Act of 2001 on States and Local Education Agencies," [www.educationleaders.org/elc/events/elc\\_cost\\_study-04.pdf](http://www.educationleaders.org/elc/events/elc_cost_study-04.pdf), 01/04.

<sup>17</sup> Kafer, p. 7. Note that because the study sought to isolate and analyze those new costs associated with NCLB (i.e. not previous laws), it did not include the testing costs associated with the pre-existing 1994 reauthorization of the ESEA (in contrast to the GAO study, discussed later in the paper, which did).

The study added up the costs required by the law and compared the total to the amount appropriated by Congress. It found that for every year studied (2002-2008), the additional revenues provided exceeded the state and local hard costs expected to result from specific NCLB requirements. According to the Accountability Works report, “Nationally, the money left over for general school improvement and raising student achievement levels ranges from a low of approximately \$785 million in the 2004-05 school year to a high of approximately \$5 billion in the 2007-08 school year.”<sup>18</sup> That “left over” money still will benefit the states because NCLB offers schools the flexibility to use these funds for general school improvement and additional reforms.

### **GAO Study Examined Cost of Testing Provisions**

Last year, the Government Accountability Office (GAO, formerly the General Accounting Office) studied the costs of implementing the testing provisions contained in NCLB. The conference report to NCLB required GAO to study the costs to the states between fiscal years 2002 and 2008 for developing and administering the testing provisions of NCLB.<sup>19</sup> GAO reported three estimates of the total spending for the 50 states to fully implement their testing standards for these fiscal years. The three estimates ranged from \$1.9 billion to \$5.3 billion cumulatively for the period stretching from 2002 through 2008. GAO explained the wide range was due to the variety of means available to the states for compliance. For example, the lower-cost estimate of \$1.9 billion is based on the assumption that all states would administer tests using multiple-choice questions, which are machine-scored and less expensive than testing that uses an essay format that would require hand scoring.<sup>20</sup> On an annual basis, the lower-cost estimate reported by GAO would break down to \$317 million. At GAO’s higher-cost estimate, this would amount to an annual cost of \$883 million; this figure would apply only if every state used the most expensive testing and scoring options, a scenario that is unlikely.

The GAO report noted that the No Child Left Behind Act makes funds available for states to develop these assessments in fiscal years 2002 through 2008. Of the additional funding, each state is to receive \$3 million, plus an amount based on its share of the nation’s school-age population. Appropriated to date has been \$370 million in 2002, \$380 million in 2003, and \$390 million in 2004. This funding is provided on top of the central pillar of the Elementary and Secondary Education Act, Title I, the long-standing federal program dedicated to helping disadvantaged children reach high academic standards. (Note that Title I funding also can be used to help states develop and administer their student assessments.) Additionally, \$400 million is authorized in 2005, 2006 and 2007.<sup>21</sup> Thus, when comparing the GAO cost estimates on an annual basis, appropriated funding to date is well within the cost range anticipated by GAO.

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<sup>18</sup> Accountability Works, p. 3.

<sup>19</sup> Government Accountability Office (GAO), “Title I: Characteristics of Tests Will Influence Expenses, Information Sharing May Help States Realize Efficiencies,” 05/03, p. 2.

<sup>20</sup> GAO, p. 3.

<sup>21</sup> GAO, p. 6.

In responding to the GAO report, Senator Judd Gregg (R-NH), chairman of the Senate Health, Education, Labor and Pensions Committee said that it “confirms that states are being provided with the resources they need to adequately and accurately assess student progress and make sure no child is left behind.”<sup>22</sup> It is important to note that the GAO report looked at the aggregate number for the 50 states; as to each individual state’s new costs, the report noted that for some, implementation costs will be less because they already are conducting school assessments. As a result, for these states, the additional testing funds actually represent a windfall.

### **Unspent Federal Education Money Returned**

The Accountability Works and GAO studies both demonstrate that states have been provided sufficient funding. This is underscored by the fact that, according to the U.S. Department of Education, in 2003, *states returned to the federal government \$124 million in appropriated funds for elementary and secondary education.*<sup>23</sup> This occurred even though states generally have more than three years to draw down the appropriated federal funds before they revert back to the federal government.

Additionally, according to data from the Department of Education, at the beginning of 2004, *\$1.9 billion in Title I funding* (the largest sub-account of elementary and secondary education funding) from two, three, and four years ago remained unspent, and *another \$2.1 billion in other elementary and secondary education accounts remained unspent.*<sup>24</sup> These funds were appropriated between 2000 and 2002 and are nearing the end of their three-year window for states to claim the money and the five-year window to spend it or lose it.

However, not all of this unspent amount can be considered a case of “too much too soon.” In defense of the states’ actions, the National Conference of State Legislatures argues that when Congress passes its education spending bill late (as it has in the last three years), states have less time to spend the money.<sup>25</sup> Even so, it surely should not be argued that states are insufficiently funded when such a substantial amount of federal dollars go unspent.

### **Education Funding Promise Fulfilled**

Despite the evidence of sufficient funding, some Democrats contend that Republicans have failed to live up to the promises made regarding education funding following the passage of NCLB. In order to make their claim, however, they must resort

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<sup>22</sup> Senator Judd Gregg, “New GAO Report Confirms Congress Providing More Than Enough Funding to Implement ‘No Child Left Behind’ Testing Provisions,” <http://gregg.senate.gov/press/press050803.pdf>, 05/08/03.

<sup>23</sup> Nancy Zuckerbord, “Data Show States Return Millions to Feds Instead of Spending it on Schools,” Associated Press story, [www.detnews.com/2004/schools/0401/10/schools-31658.htm](http://www.detnews.com/2004/schools/0401/10/schools-31658.htm), 01/10/04.

<sup>24</sup> Figures provided by Republican staff to the Senate Health, Education, Labor and Pensions Committee, 09/15/04.

<sup>25</sup> David Shreve, Memorandum to State Legislative Education Chairs, <http://www.ncsl.org/standcomm/sceduc/memoedfunds.pdf>, 01/15/04.

to arcane “inside the Beltway” terminology. Note that Senator Kerry used the term “fully fund” when he spoke of the supposed \$28 billion “deficit” for the NCLB. On this same note, Senator Kennedy charged that the Administration “has refused to support full funding as promised.”<sup>26</sup>

To those without federal budget expertise, “fully fund” may suggest a commitment was made to equate appropriated amounts with authorized amounts. Yet Democrats know authorization levels are not mandatory spending levels or “promises.” According to the Congressional Research Service, “the authorization of appropriations is intended to provide guidance regarding the appropriate amount of funds to carry out the authorized activities of an agency.”<sup>27</sup> Practically speaking, in recent times when Members of Congress have been wary of adding to the budget deficit, an authorization has typically been understood as a maximum level of funding, or a spending cap.

As a case in point, when Democrats controlled the Senate in 2002, neither their budget resolution for FY 2003 nor their proposed FY 2003 appropriation for Title I met the authorization level. For Fiscal Year 2003, the authorization level was \$16 billion, but the Democrats’ budget and funding bills provided \$11.85 billion – a full \$4.2 billion less for that year alone. In 1995, when the Democrats controlled both the Senate and the White House, \$13 billion was authorized for elementary and secondary education, yet \$10.3 billion was appropriated.<sup>28</sup> Clearly, authorization levels provide a ceiling – not promises of funding.

## Conclusion

Between 2001 and 2005, Republicans will have increased federal elementary and secondary education funding by more than 40 percent. Since the passage of the No Child Left Behind Act, federal spending has increased both in absolute dollars and in terms of the federal share of education funding. The contention that Republicans have not fulfilled their promise to adequately fund No Child Left Behind is untrue. Authorizations levels are not promises. More important, however, than a dissection of arcane “inside the Beltway” terms, is the fact that critics fail to acknowledge that federal funding has increased so much in recent years that some states have been unable to spend all of the federal funding available to them.

Republicans recognize that while more funding than ever before has been made available, what is most important is that the money is being spent more wisely. Schools that receive federal funds are now held accountable for their students’ progress — all of their students, not just the ones who test well. The success of No Child Left Behind lies less with the specific federal-dollar contribution it provides than with the hope it offers students and their families. Vice President Cheney recently made that point clear:

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<sup>26</sup> Kennedy.

<sup>27</sup> Bill Heniff Jr., “Guide to the Federal Budget Process: Overview of the Authorization-Appropriations Process,” Congressional Research Service, <http://www.crs.gov/products/guides/budget/overview/authorizeappropriateprocess.shtml>, 10/22/99.

<sup>28</sup> Senator Judd Gregg, *Congressional Record*, 01/09/03.

“We are closing the achievement gap. The results coming in from a number of studies show, without question, that on math and reading, that in fact, our minority students, our Hispanic and African American students, are doing better and that the gap between them and the majority population is, in fact, closing.”<sup>29</sup>

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<sup>29</sup> Commission on Presidential Debates, Transcript of the Cheney-Edwards Vice Presidential Debate, <http://www.debates.org/pages/trans2004b.html>, 10/05/04.