

NO CHILD LEFT BEHIND COMMITTEE

North Dakota Century Code (NDCC) Section 54-35-21 directs the Legislative Council to appoint an interim committee consisting of five members of the Senate and six members of the House of Representatives for the purpose of studying the No Child Left Behind Act, amendments to the Act, changes to federal regulations implementing the Act, and any applicable policy changes and letters of guidance issued by the United States Secretary of Education. The interim committee, which is named the No Child Left Behind Committee, was also directed to receive three reports. The first report addressed the costs that are likely to be incurred by the state in meeting the requirements of the No Child Left Behind Act. The second report addressed operations of educational associations governed by joint powers agreements, and the third report addressed requests for exceptions to the requirement that individuals be licensed to teach in a particular course area or field before being allowed to teach in such an area or field.

Committee members were Representatives RaeAnn G. Kelsch (Chairman), Bob Hunskor, Joe Kroeber, Darrell D. Nottestad, Margaret Sitte, and John Wall and Senators Dwight Cook, Tim Flakoll, Layton W. Freborg, Gary A. Lee, and Ryan M. Taylor.

The committee submitted this report to the Legislative Council at the biennial meeting of the Council in November 2006. The Council accepted the report for submission to the 60th Legislative Assembly.

NO CHILD LEFT BEHIND ACT

Background

In 1965 President Lyndon B. Johnson signed into law the Elementary and Secondary Education Act. The purpose of the Act was to close the achievement gap that existed between advantaged and disadvantaged children. The Act marked the first time that federal funds had been allocated to the individual states for the purpose of elementary and secondary education. Every six to seven years since the Act's enactment, the Act has been reauthorized by Congress. The 1994 reauthorization was called the Improving America's Schools Act. Congress found that after nearly 30 years of federal intervention in elementary and secondary education, not only did the achievement gap still exist, the gap had not narrowed. As a consequence, the 1994 Act sought to change the manner in which education was delivered.

The Improving America's Schools Act encouraged comprehensive systemic school reform, upgraded instructional and professional development to align with high standards, strengthened accountability, and promoted the coordination of resources to improve education for all children. The Act also imposed requirements on states that received Title I funding. Those requirements included:

- Submitting to the United States Secretary of Education an accountability plan of standards and

assessments, developed in consultation with local education agencies;

- Developing challenging content standards and challenging student performance standards;
- Developing a system of high-quality yearly student assessments, including assessments in reading and mathematics;
- Disaggregating the assessment results by gender, racial and ethnic group, English proficiency status, migrant status, disability, and economic status; and
- Demonstrating adequate yearly progress based on the state's assessment system.

Congress determined that these stringent requirements, together with high academic standards, were needed to promote a national program of education reform. What the 1994 Act lacked, however, was a timeline within which the states were to meet the Act's requirements and consequences for those states that failed to do so. By 2001 when President George W. Bush took office, only 11 states were in compliance with the 1994 Act and no state had been denied funding for not complying with the Act.

In 2001 the Act was again reauthorized and, this time, it was called the No Child Left Behind Act. The No Child Left Behind Act, like its predecessor, required each state to submit an accountability plan of standards and assessments. Unlike its predecessor, the No Child Left Behind Act set a date certain by which all states were to submit their accountability plans to the United States Secretary of Education. That date was June 2003 and all 50 states, together with the District of Columbia and Puerto Rico, met the deadline. Like its predecessor, the No Child Left Behind Act required each state to implement challenging content standards and performance standards, to develop a system of high-quality assessments, and to disaggregate those assessments by subgroups. The No Child Left Behind Act provided funding for the development and implementation of the assessment systems. Like its predecessor, the No Child Left Behind Act requires each state to demonstrate adequate yearly progress. Unlike its predecessor, the No Child Left Behind Act provides options for students who attend schools that do not meet the goal of adequate yearly progress.

In crafting the No Child Left Behind Act, Congress allowed states to define both adequate yearly progress and advanced, proficient, and basic levels of achievement. States were given the flexibility to determine minimum group size for accountability, to define their major ethnic and racial groups, and to determine annual measurable objectives. States were also given the flexibility to integrate adequate yearly progress with previously existing accountability systems, to account for unique schools such as small rural schools, and to determine testing standards for new teachers and evaluation standards for experienced teachers.

The No Child Left Behind Act passed by an overwhelming bipartisan vote in Congress and was signed into law on January 8, 2002.

Standards and Assessments

The No Child Left Behind Act requires each state to adopt challenging academic content standards and challenging student achievement standards that are applicable to all schools and all students in the state. The academic content standards must:

- Specify what students are expected to know and be able to do;
- Contain coherent and rigorous content; and
- Encourage the teaching of advanced skills.

The student academic achievement standards must:

- Be aligned with the state's academic content standards;
- Include two levels of achievement that indicate students' mastery of the material in the academic content standards; and
- Include a third level of achievement that can provide information about lower-achieving students and their progress toward mastery of the material.

Accountability

The No Child Left Behind Act requires each state to develop and implement a single statewide accountability system that will be effective in ensuring that all local school districts and all public elementary and high schools make adequate yearly progress. Each state accountability system must be based on the state's academic standards and academic assessments and must take into account the achievement of all public school students. The accountability system also must include methods by which a state can hold its school districts and public schools accountable for student achievement and for ensuring that adequate yearly progress is made.

Statewide Student Achievement

CTB/McGraw-Hill, LLC, was the primary contractor for the development and administration of North Dakota's state assessments. The assessments were developed according to industry standards, validated for content alignment, calibrated to state achievement standards by North Dakota teachers, and peer reviewed by the United States Department of Education. These assessments became the base on which achievement proficiency ratings were established for all participating students. North Dakota also developed alternate assessments for students with significant disabilities. These assessments are based on differentiated content standards and alternate achievement standards.

During the 2004-05 school year, North Dakota administered state assessments to 53,000 students in grades 3 through 8 and 11. Alternate assessments also were administered to 825 students with significant cognitive disabilities.

Adequate Yearly Progress

The No Child Left Behind Act requires each state to demonstrate adequate yearly progress toward meeting the academic achievement standards with respect to the state, each of its school districts, and all of its public schools. While each state may define what constitutes adequate yearly progress, those definitions must:

- Apply the same high standards of academic achievement to all public school students in the state;
- Be statistically valid and reliable;
- Result in continuous and substantial academic improvement for all students;
- Measure the progress of public schools, school districts, and the state on the basis of academic assessments;
- Include separate measurable annual objectives for continuous and substantial improvement in the achievement of all public school students, economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency;
- Include graduation rates for public high school students; and
- Include at least one other academic indicator, as determined by the state, for all public elementary school students.

The definitions may also include other academic indicators, as determined by the state for all public school students, and measured separately for each subgroup. Examples of such indicators include achievement on additional state or locally administered assessments, decreases in grade-to-grade retention rates, attendance rates, and changes in the percentage of students completing gifted and talented, advanced placement, and college preparatory courses.

The student performance data for the 2004-05 school year was released in September 2005 and indicated that of the state's 486 public schools, 419 made adequate yearly progress, 43 did not make adequate yearly progress, and 24 had insufficient data for purposes of reporting adequate yearly progress. Among the state's 202 school districts, 168 made adequate yearly progress, 21 did not make adequate yearly progress, and 13 had insufficient data for purposes of reporting adequate yearly progress. Each school's and school district's adequate yearly progress report is posted on the Department of Public Instruction web site.

If a Title I school is identified as not making adequate yearly progress for two consecutive testing periods, the school is placed on program improvement. If a school then makes adequate yearly progress for two consecutive testing periods, the school is removed from program improvement. Schools that have been removed from program improvement tend to have certain commonalities. Those include:

- Having strong leadership, generally by an individual who coordinates the school's program improvement and professional development efforts;

- Having a low administrative turnover rate;
- Having consistent access to program improvement funding;
- Developing a strong school improvement plan that includes research-based reforms;
- Implementing a full-day kindergarten program;
- Incorporating strong professional development activities; and
- Implementing an extended schoolday and an extended school year.

During the 2005-06 school year, North Dakota administered state assessments to 52,000 students in grades 3 through 8 and 11. Alternate assessments also were administered to 1,100 students with significant cognitive disabilities. The Superintendent of Public Instruction reviewed the assessment results with the committee and indicated that the final adequate yearly progress reports would be posted on the Department of Public Instruction web site upon certification.

Highly Qualified Teachers

Under the No Child Left Behind Act, "highly qualified" means that an individual has passed the state teacher licensing examination, holds a license to teach, and has not had licensure requirements waived on an emergency, temporary, or provisional basis. To be deemed "highly qualified" under the Act, an elementary teacher who is new to the profession must hold at least a bachelor's degree and have demonstrated, by passing a rigorous state test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum.

To be deemed "highly qualified" under the Act, a middle school or high school teacher who is new to the profession must hold at least a bachelor's degree and have demonstrated a high level of competency in each academic subject in which the individual teaches. This may have been done by passing a rigorous state test in each academic subject the individual teaches or by successfully completing, in each academic subject the individual teaches, an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing.

To be deemed "highly qualified" under the Act, an elementary, a middle school, or a high school teacher who is not new to the profession must hold at least a bachelor's degree and either have met the requirements applicable to new teachers at the appropriate level of instruction or have demonstrated competence in all the academic subjects the individual teaches, based on a high-objective uniform state standard of evaluation that:

- Is set by the state for both grade-appropriate academic subject matter knowledge and teaching skills;
- Is aligned with challenging state academic content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals, and school administrators;

- Provides objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects that the individual teaches;
- Is applied uniformly to all teachers in the same academic subject and at the same grade level throughout the state;
- Takes into consideration, but is not based primarily on, the time the individual has been teaching the academic subject;
- Is made available to the public upon request; and
- May involve multiple objective measures of teacher competency.

As of September 2006, 1,896 North Dakota teachers became highly qualified using one of the multiple options available to attain that status. The portfolio option was the means by which 667 of those teachers became highly qualified.

The Federal Perspective

The committee was told that the United States Department of Education will continue to implement the No Child Left Behind Act in a way that retains the focus of accountability and the goal of grade level proficiency by the 2013-14 school year. The department believes the Act has provided unprecedented data about student performance and school performance. The department believes that the Act has raised standards and resulted in the educational progress of more children than ever before. The department also believes that its role is to insist on standards, provide resources, hold people accountable, and help school districts meet the standards.

The State Perspective - Resolution to Congress

The committee emphasized that it supports accountability in education and it recognizes the need for highly qualified teachers. The committee further emphasized that it did not want to leave any child behind. However, the committee also wanted Congress and the United States Department of Education to recognize that the education of students is a state responsibility and that, as a state, North Dakota is not enamored with having the federal government run its education system.

North Dakota Century Code Section 54-35-21 allows the No Child Left Behind Committee to communicate directly with the United States Secretary of Education, employees of the United States Department of Education, and any other federal officials, both elected and appointed, regarding implementation of the Act. The committee acted on this authorization and crafted a resolution urging Congress to amend the No Child Left Behind Act. Specifically, the resolution urged the creation of a new state-federal partnership, which recognizes that school improvement takes place at the state and local levels, that the role of the federal government must be limited to supporting state and local efforts, and that with appropriate encouragement and resources, every state can ensure that each child, regardless of race, income, ethnicity, or disability, will have access to rich and challenging curricula, will be taught by teachers who have outstanding academic

standards and expectations, and will demonstrate achievement through valid and reliable assessments and measurements. A copy of the resolution was forwarded to the President of the United States, to the United States Secretary of Education, and to each member of the North Dakota Congressional Delegation.

ESTIMATED COSTS OF THE NO CHILD LEFT BEHIND ACT - REPORT

The No Child Left Behind Act, depending on its print size, can run several hundred pages or more than 1,000 pages. The Act is accompanied by equally voluminous regulations and policy letters from the Secretary and the Deputy Secretary of the United States Department of Education. These policy letters, according to the United States Department of Education, are designed to provide guidance and insight to state educational agencies, school districts, federal program directors, and others charged with implementing the Act. To date, the policy letters have addressed accountability, adequate yearly progress in Title I targeted assistance schools, adjustments to Title I allocations, alternative methods for distributing Title I funds, assessments, calculating participation rates for adequate yearly progress determinations, choice, flexibility, highly qualified teachers, identification of districts for improvement, identification of schools for improvement, and paraprofessionals.

The Act itself consists of numerous funded subparts, including Title I grants, school improvement grants, Reading First grants, Even Start grants, migrant grants, neglected and delinquent grants, comprehensive school reform grants, impact aid grants, improving teacher quality grants, mathematics and science partnership grants, educational technology grants, 21st century community learning center grants, innovative program grants, state assessment grants, rural and low-income school grants, small rural school achievement grants, Indian education grants, safe and drug-free school grants, and language acquisition grants. North Dakota's level of federal funding for the No Child Left Behind Act reached a high of \$96.3 million during the 2005-06 school year. For the 2006-07 school year, federal funding is set at \$91.6 million and is estimated to be \$93.2 million for the 2007-08 school year.

Attributing costs specifically to the No Child Left Behind Act remains difficult, largely because doing so would require a monumental effort on the part of each school district and because there is no framework within which one can distinguish those expenses that result strictly from the verbiage of the No Child Left Behind Act versus those expenses that would have resulted in the normal delivery of education services.

OPERATIONS OF EDUCATIONAL ASSOCIATIONS GOVERNED BY JOINT POWERS AGREEMENTS - REPORT

The Constitution of North Dakota requires the provision of a free and uniform system of education. The committee was told that the greatest challenge to

this directive comes from demographics, particularly declining enrollment and enrollment concentration. In 1966, public school enrollment was 148,000 students. Today, public school enrollment is approximately 98,000. In a normal school district population, there will be more students in grades 1 through 3 than in grades 10 through 12. North Dakota high schools having an enrollment of more than 550 students are seeing a reversal in this pattern and a consequent enrollment shift of -8.1 percent. The enrollment shift is -29.1 percent for school districts having 150 to 549 students enrolled in their high schools. The smallest high schools, i.e., those that have student enrollments below 75, are experiencing an enrollment shift of -29.8 percent. The eight largest districts are educating 52 percent of the students. The other 188 districts educate the remaining students. Those are the districts that are declining at a very significant rate. In fact, 99 of the state's school districts have fewer than 185 students. Fifty-two high schools have enrollments of fewer than 60 students.

No school district is totally independent. Even the state's largest districts rely on collaboration in order to provide services, such as distance learning and career and technical education. As districts become smaller, their reliance on other organizations for services increases.

The nine educational associations governed by joint powers agreements have become such service providers. Today, these educational associations serve 94 percent of all North Dakota students and allow participating school districts to obtain multiple services in a very cost-effective fashion. The committee was told that educational associations governed by joint powers agreements are school district support organizations. They are capable of providing even more services and support than they do now. However, in order to grow and better serve their school district constituencies, educational associations governed by joint powers agreements will need the ability to hire staff and to receive adequate funding levels. The Superintendent of Public Instruction will request an appropriation of at least \$5 million for the 2007-09 biennium.

Because the interim Education Committee included educational associations governed by joint powers agreements in its study of elementary and secondary education, and considered a bill draft addressing the needs of such associations, the interim No Child Left Behind Committee did not engage in a detailed and duplicative study of the topic.

EXCEPTIONS TO LICENSURE - REPORT

North Dakota Century Code Section 15.1-09-57 states that if the board of a school district or of a nonpublic school is unable to fill a particular position by recruiting or assigning an individual who is licensed to teach in that particular course area or field, the school board may fill the position with an individual who is not licensed to teach in that particular course or field, provided the individual is licensed to teach by the Education Standards and Practices Board or is approved to teach by the Education Standards and Practices Board, holds at least a minor or a minor equivalency in

the course area or field in which the individual seeks to teach, and has received a temporary exception from the Education Standards and Practices Board.

Temporary exceptions are valid only through the conclusion of the school year in which a request for the exception is submitted to the Education Standards and Practices Board. The board may, however, extend such exceptions by one-year increments.

The Legislative Assembly also placed on the Education Standards and Practices Board the requirement that it report all requests for exceptions under this section, together with the board's response to each request and a brief description of the board's rationale. The committee was told that during August and September 2006, five requests were filed for teaching alternative flexibility endorsements and all five were granted.