

Background

The federal law called "No Child Left Behind" (NCLB) took effect in January 2002.

SUMMARY

In January 2002, President Bush signed into law the No Child Left Behind (NCLB) Act with the goal of closing the educational achievement gap among students. In Minnesota and across the country, low income and minority students have not had the same level of academic success as their counterparts. By increasing educational funding and demanding greater accountability, the federal government hopes to close this gap and make every child proficient with respect to state academic standards in reading and math by the 2013-14 school year. However, while Minnesota received an increase in funding during the first two years of NCLB, the state's NCLB funding is projected to decline in state fiscal year 2005.

The federal "No Child Left Behind" Act was passed by Congress in late 2001 and signed into law by President George W. Bush on January 8, 2002. The act is the most recent reauthorization of the Elementary and Secondary Education Act (ESEA), enacted in 1965.¹ This chapter reviews the provisions of NCLB and addresses the following questions:

- What is the purpose of the NCLB Act?
- What are the main requirements of the NCLB Act, particularly those related to standards, accountability, and staff qualifications?
- How much funding does Minnesota receive under the act, and how has Minnesota's federal funding changed over time?

TARGETING "ACHIEVEMENT GAPS" AMONG STUDENTS

The stated aim of the NCLB Act is "to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind."² The act says that this "achievement gap" refers to the differences between high- and low-performing children, "especially the achievement gaps between minority and

¹ By periodically "reauthorizing" an act, Congress extends the act and may amend its provisions.

² No Child Left Behind Act of 2001, Pub. L. No. 107-110. This law's full title is "An Act to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind."

Nationally and in Minnesota, the achievement levels of some categories of students have persistently lagged behind their peers.

nonminority students, and between disadvantaged children and their more advantaged peers.”³

The only nationally representative assessment of American students—the National Assessment of Educational Progress (NAEP)—has consistently documented the existence of such achievement gaps. For example, the average 2003 NAEP reading score for 4th-grade students nationally was 229 for white students, 226 for Asian students, 202 for American Indian students, 200 for Hispanic students, and 198 for black students. In addition, 4th-grade students from lower income families (specifically, students eligible to receive free or reduced-price lunches) had an average reading score of 201 in 2003, well below the average score of 229 for other students.⁴

Similarly, results from standardized tests given to Minnesota students have shown persistent achievement gaps. On the basic skills test that Minnesota students must pass to graduate from high school, the percentage of 8th-grade students passing the 2003 reading test ranged from 87 percent for white students to 49 percent for black students.⁵ Likewise, the average 3rd-grade reading score on the 2003 Minnesota Comprehensive Assessment (MCA) was 1548 for white students, compared with 1442 for American Indian students, 1435 for Asian students, 1382 for black students, and 1375 for Hispanic students. Third-grade students eligible for free and reduced-price lunches had an average MCA reading score of 1425, compared with an average score of 1559 for other students. Such results led Minnesota’s education commissioner to conclude: “The sad fact is that Minnesota, while a national leader in overall student achievement, ranks near the bottom [among states] in terms of the achievement gap. This is unacceptable.”⁶

Recently, a respected educational research and testing organization issued a report summarizing previous research about factors associated with educational achievement. As shown in Table 1.1, the report identified 14 “correlates of achievement”—some that are within the control of a school system, and some that are not. The report said that “gaps in school achievement... have deep roots—deep in out-of-school experiences and deep in the structures of schools. Inequality is like an unwanted guest who comes early and stays late.”⁷

³ No Child Left Behind Act, §1001.

⁴ National Center for Education Statistics (NCES), “Average Reading Scale Scores, by Race/Ethnicity, Grades 4 and 8: 1992-2003,” <http://nces.ed.gov/nationsreportcard/reading/results2003/raceethnicity.asp>, accessed December 19, 2003; NCES, “Average Reading Scale Scores, by Student Eligibility for Free/Reduced-Price School Lunch, Grades 4 and 8: 1998-2003,” <http://nces.ed.gov/nationsreportcard/reading/results2003/lunch.asp>, accessed December 19, 2003.

⁵ These white and black rates only include non-Hispanic persons. Other passage rates were 62 percent for Asians, 59 percent for American Indians, and 55 percent for Hispanics. See Minnesota Department of Education, “State of Minnesota Data Analysis,” http://education.state.mn.us/html/intro_schools_mde_analysis.htm, accessed January 26, 2004.

⁶ Commissioner Cheri Pierson Yecke, “Closing the Achievement Gap: Why Minnesota’s Accountability Plan Must Address Achievement Disparities Among Our Students,” Presentation to Citizen’s League Forum, Minneapolis, May 22, 2003, http://education.state.mn.us/stellent/groups/public/documents/translatedcontent/pub_041625.jsp, accessed February 2, 2004.

⁷ Paul E. Barton, *Parsing the Achievement Gap: Baselines for Tracking Progress* (Princeton, NJ: Educational Testing Center, October 2003), 36.

Table 1.1: Factors Associated With School Achievement

School-Related Factors

- Rigor of curriculum
- Teacher preparation
- Teacher attendance and experience
- Class size
- Use of technology-assisted instruction
- School safety

External Factors

- Parental involvement in children's schooling
- Student mobility
- Birth weight
- Lead poisoning
- Hunger/nutrition
- Reading to young children
- Television watching
- One- vs. two-parent families

NOTE: The author identified these "correlates of achievement" based on a review of existing research. He concluded that research has documented differences between minority students and other students in each of these areas.

SOURCE: Paul E. Barton, *Parsing the Achievement Gap: Baselines for Tracking Progress* (Princeton, NJ: Educational Testing Service, October 2003), 7.

NCLB aims to ensure that all children meet challenging academic standards, but each state is allowed to set its own standards.

The NCLB Act sets an ambitious goal for closing student achievement gaps. The portion of the act that focuses on educational services for disadvantaged students (called "Title I") says:

The purpose of [Title I] is to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging state academic achievement standards and state academic assessments.⁸

The act requires each state to define "proficiency" and set a timeline for achieving proficiency among all students.⁹ However, each state's timeline must ensure that all students are proficient by the 2013-14 school year.¹⁰

NCLB REQUIREMENTS AND FUND ALLOCATION

In order to achieve the goal of 100 percent proficiency for all children by the 2013-14 school year, NCLB outlines extensive educational activities that all states

⁸ No Child Left Behind Act, §1001.

⁹ Minnesota defines "proficiency" as a level of performance where students are working successfully on materials at their grade level. In Chapter 3, we describe the scoring levels on Minnesota assessments that indicate "proficiency."

¹⁰ No Child Left Behind Act, §1111(b)(2)(F).

receiving NCLB funding must carry out. The act itself is large—encompassing 670 pages, 10 titles, and 43 parts. Yet, the heart of the act is contained in Title I, Part A, which funds educational services for disadvantaged students. As we discuss later, Title I, Part A accounts for roughly half of the funding that Minnesota receives under NCLB. In addition, Title I, Part A establishes NCLB’s key accountability requirements—shown in Table 1.2—to help ensure that all students become proficient. While other titles and parts of the act provide additional grants to improve educational performance, they largely support the efforts of schools under Title I, Part A. In addition, based on a review of NCLB

Table 1.2: Significant Title I, Part A Requirements

- Plan a single, statewide accountability system that will track each school district’s and school’s progress toward 100 percent proficiency.
- Develop statewide content standards in reading, math, and science that identify what students are expected to know.
- Develop and administer reading and math assessments in grades 3, 4, 5, 6, 7, and 8 and once in high school that measure each student’s proficiency with respect to the state’s content standards.
- Develop and administer science assessments for grade spans 3-5, 6-9, and 10-12 that measure each student’s proficiency with respect to the state’s content standards.
- Develop and administer assessments of English proficiency in reading, writing, listening, and speaking.
- Annually collect, verify, and analyze test scores to determine if school districts and schools are making “adequate yearly progress” (AYP) toward 100 percent proficiency in reading and math by the 2013-14 school year.
- Produce state, school district, and school report cards. Disseminate this and other information to parents and the public.
- For schools that receive Title I, Part A funding and fail to make AYP for two or more consecutive years, develop and implement improvement plans and provide students with the option of transferring to schools that make AYP.
- For schools that receive Title I, Part A funding and fail to make AYP for three or more consecutive years, offer supplemental services outside the school day to low-performing students.
- For schools that receive Title I, Part A funding and fail to make AYP for four or more consecutive years, take corrective actions, such as curriculum or staff changes.
- For schools that receive Title I, Part A funding and fail to make AYP for five or more consecutive years, plan and later implement school restructuring.
- Ensure that all teachers of core academic subjects are “highly qualified” by the end of the 2005-06 school year.
- Ensure that all paraprofessionals working in Title I, Part A programs meet NCLB qualifications by January 2006.
- Set annual measurable objectives concerning the provision of “high-quality” professional development for teachers. Ensure that school districts and schools meet these objectives.
- Implement activities to involve parents in programs funded by Title I, Part A.

NOTE: For school districts that repeatedly fail to make AYP, NCLB imposes an analogous set of sanctions to those outlined in this table for failing schools.

SOURCES: No Child Left Behind Act, Title I, Part A; U.S. Department of Education, Office of Elementary and Secondary Education, *No Child Left Behind: A Desktop Reference 2002* (Washington, D.C., 2002), 9-21; Education Commission of the States, *No Child Left Behind: The Challenge and Opportunities of ESEA 2001* (Denver, CO: Education Commission of the States, March 2002), 1-24; Education Commission of the States, *No Child Left Behind: State Requirements Under NCLB* (Denver, CO: Education Commission of the States, January 2003); and Education Policy Reform Research Institute, “No Child Left Behind Act of 2001: Title I-Related Provisions,” <http://www.epri.org/title1.html>, accessed July 9, 2003.

States receiving NCLB funding are required to implement new accountability measures.

States must establish a single "accountability system" for all schools, not just for schools receiving federal funds.

summaries and interviews with stakeholders, including state and district officials, we believe that requirements in sections of NCLB other than Title I, Part A will likely have relatively minor impacts.¹¹ Consequently, our study focused on Title I, Part A.

NCLB differs from previous versions of the Elementary and Secondary Education Act because it requires states to establish a single accountability system for all schools, not just schools receiving Title I, Part A funds. As described in Table 1.2, states are required to evaluate each school's progress toward the goal of having all children proficient in math and reading by the 2013-14 school year. However, only Title I schools are subject to the sanctions prescribed in NCLB for low-performing schools.

Under Title I, Part A, schools receive federal funding to help ensure that children, particularly the disadvantaged, have the opportunity to receive a quality education and reach proficiency. Schools use these funds to provide such things as additional instruction, teachers, and professional development. For schools in which at least 40 percent of students come from low income families, Title I, Part A funds can be used for school-wide educational enhancements. However, for schools with less than 40 percent of students from low income families, the educational enhancements must be targeted toward students who are at risk of failing to meet the state's academic standards.¹²

The amount of Title I, Part A funding that the federal government allocates to school districts depends on several factors, including the number of low income children in each district and the level of per-pupil educational spending in each state.¹³ School districts that receive Title I, Part A funding face some restrictions on how they allocate these funds to their schools. For example, districts must rank order all their schools by the percentage of students from low income families. Schools with the highest percentage of low income students receive their funding first. After districts have funded all of their schools with more than 75 percent low income students, the districts can then concentrate their funding on schools with certain grade spans—for example, funding elementary schools first. Districts are required to work their way down their rank-ordered lists until the

¹¹ There are two requirements of particular interest in portions of NCLB other than Title I, Part A. First, Title III requires state educational agencies to develop annual measurable achievement objectives for limited-English students and to hold school districts accountable for meeting these objectives. In our view, this requirement is a subset of the Title I, Part A requirement ensuring that all limited-English students become proficient. Second, section 9532 of the NCLB Act requires states to allow students who attend persistently dangerous schools or have been the victim of a violent criminal offense while at school to transfer to a safe school. From a cost perspective, it is unclear how this requirement will interact with the Title I, Part A requirement that school districts allow students who attend schools that have repeatedly failed to make "adequate yearly progress" to transfer to a higher-performing school. It is possible that many of the unsafe schools are also low-performing schools.

¹² No Child Left Behind Act, §§1114(a)(1) and 1115(a) and (b). For purposes of the 40 percent threshold, low income families are primarily those whose children are eligible to receive free and reduced-price meals at school.

¹³ *Ibid.*, §§1124, 1124A, 1125, and 1125A. For purposes of the federal allocation of Title I, Part A funds to school districts, low income families are primarily those with incomes below the federal poverty level. For purposes of the district allocation of Title I, Part A funds to schools, low income families are those with children who are eligible for free and reduced-price meals.

funding runs out.¹⁴ In the 2002-03 school year, only 42 percent of Minnesota's 2,329 schools received Title I, Part A funding, and the majority of these schools were elementary schools.¹⁵

NCLB REVENUES

Minnesota received \$231 million in NCLB "formula funding" for the current school year.

Besides imposing significant education accountability requirements on Minnesota, the federal government also provides the state with considerable financial assistance under NCLB. In state fiscal year 2004, Minnesota received \$231 million through formulas prescribed in NCLB, as shown in Table 1.3. (The state and school districts also receive some discretionary/non-formula grants under NCLB, but these grants account for a small fraction of the overall NCLB funding.¹⁶) From this \$231 million allocation, the federal government made available nearly \$118 million for school districts' Title I, Part A programs and \$114 million for 22 other NCLB programs. Table 1.3 describes the ten largest programs. Table 1.3 also shows that Congress recently decreased the funding that Minnesota is projected to receive for state fiscal year 2005. We discuss this decline in more detail later in this chapter.

While Minnesota receives over \$200 million annually in NCLB funding,

- **NCLB funding represents a relatively small proportion of school districts' operating budgets.**

Statewide, Minnesota's NCLB funding for state fiscal year 2004 accounted for less than 4 percent of school districts' operating budgets, and the Title I, Part A portion accounted for less than 2 percent.¹⁷ In fact, the state provides more money for the education of disadvantaged students than the federal government provides. Specifically, for state fiscal year 2004, the Minnesota Legislature appropriated \$354 million for basic skills instruction, which is substantially more than the \$231 million provided by the federal government under NCLB.¹⁸

¹⁴ U.S. Department of Education, Office of Elementary and Secondary Education, *Non-Regulatory Guidance: Local Educational Agency Identification and Selection of School Attendance Areas and Schools and Allocation of Title I Funds to Those Areas and Schools* (Washington, D.C., undated), <http://www.ed.gov/programs/titleiparta/wdag.doc>, accessed December 29, 2003.

¹⁵ Based on the school listing and Title I status reported in Minnesota Department of Education, *Adequate Yearly Progress 2003: AYP Status, Consequence and Goals (August 14, 2003)*, <http://children.state.mn.us/content/031412.xls>, accessed August 27, 2003.

¹⁶ According to the Minnesota Department of Education, the department received only two discretionary/non-formula grants under NCLB for state fiscal year 2004—\$8.0 million from the Public Charter School program and \$2.3 million from the Voluntary Public School Choice program. These two grants are only 4 percent of the state's formula grant allocation. Of the nine school districts that we visited, seven provided us with a listing of all the NCLB funding that they received; none listed a discretionary/non-formula grant. (We did not receive this listing from the Minneapolis or St. Paul school districts.)

¹⁷ The data for district operating expenditures are from Minnesota Department of Education, "2002 District Total Expenditures," <http://cfl.state.mn.us/content/035532.xls>, accessed November 28, 2003.

¹⁸ Minnesota Department of Education, "Estimated Revenues, FY 2000 to FY 2005: Laws 2003 First Special Session Chapter 9," <http://education.state.mn.us/content/010811.xls>, accessed November 13, 2003. The basic skills funding includes compensatory, assurance of mastery, limited English proficiency, and extended time revenue.

Table 1.3: Major NCLB Programs and Funding

NCLB Title and Part	Program Name	Purpose	Minnesota's Funding	
			FY 2004 (in Millions)	FY 2005 (Inflation Adjusted, in Millions) ^a
Title I, Part A	Grants to School Districts for Basic Programs	Ensure that all children, particularly the disadvantaged, have the opportunity to obtain a high quality education and reach proficiency.	\$ 117.7	\$104.4
Title I, Part B, Subpart 1	Reading First	Help ensure that every child can read at or above grade level through the implementation of instructional programs, assessments, and professional development.	9.6	8.2
Title II, Part A	Improving Teacher Quality	Increase student achievement by elevating teacher and principal quality through recruitment, hiring, and retention strategies.	38.9	37.5
Title II, Part D	Educational Technology	Improve student academic achievement through the use of technology, and assist every student to become technologically literate.	6.1	5.0
Title III	Language Instruction for Limited-English Students	Assist school districts in teaching English to limited-English students and in helping these students meet the same academic standards required of all students.	5.3	6.0
Title IV, Part A, Subpart 1	Safe and Drug-Free Schools and Communities	Prevent violence in and around schools; prevent illegal use of alcohol, drugs, and tobacco; and foster safe and drug-free learning environments.	5.9	5.9
Title IV, Part B	21 st Century Community Learning Centers	Provide services, during non-school hours or periods, to students and their families for academic enrichment, including tutorial and other services.	5.9	9.1
Title V, Part A	Innovative Programs	Assist local education reform efforts that are consistent with and support statewide reform efforts.	6.6	4.9
Title VI, Part A, Subpart 1	State Assessments	Help states develop the assessments required under NCLB.	6.9	6.9
Title VIII	Impact Aid	Provide financial assistance to school districts that contain federal property, which is exempt from local property taxes.	12.0	13.2
Other Titles and Parts	Other NCLB programs that provide formula funding	Carry out other NCLB activities.	16.5	15.1
Total NCLB Formula Funding			\$ 231.2	\$216.0

NOTE: Congress appropriated these funds for federal fiscal years 2003 and 2004, but the funds were made available in Minnesota for state fiscal years 2004 and 2005. The 2005 figures are preliminary estimates by the U.S. Department of Education and are subject to change.

^aThese funds have been adjusted for inflation to reflect prices in state fiscal year 2004.

SOURCE: Compiled by the Office of the Legislative Auditor from information contained in (1) U.S. Department of Education, Office of Elementary and Secondary Education, *No Child Left Behind: A Desktop Reference 2002* (Washington, D.C., 2002); and (2) U.S. Department of Education, "Fiscal Year 2001-2005 State Tables for the U. S. Department of Education," <http://www.ed.gov/about/overview/budget/statetables/index.html?src=rt>, accessed February 16, 2004.

To implement NCLB, the federal government is providing states with increased funding for elementary and secondary education.

Federal funding under NCLB plays a greater role in some districts than others. For example, the Pine Point school district in Becker County currently receives \$1,093 in Title I, Part A funding per K-12 student, which accounts for roughly 6 percent of the district's operating budget.¹⁹ At the other extreme, the Minnetonka and Wayzata school districts in Hennepin County do not receive any Title I, Part A funding. The variation occurs because NCLB bases each district's allocation on its poverty level.

In support of NCLB's ambitious goals, the federal government increased its Elementary and Secondary Education Act (ESEA) funding under NCLB. However, we found that:

- **Minnesota's federal funding increase under NCLB has been smaller than that of other states.**

Nationwide, the federal government has increased formula allocations for ESEA programs by 49 percent from a pre-NCLB base of \$14.8 billion in state fiscal year 2002 to \$22.1 billion in state fiscal year 2005.²⁰ In contrast, during the same period, Minnesota's overall NCLB formula allocation has increased 24 percent, from \$174 million to \$216 million.²¹ With respect to Title I, Part A funding, the federal government has increased the national appropriation 34 percent between state fiscal years 2002 and 2005, while Minnesota's allocation has increased 3 percent, from \$102 million to \$104 million. (NCLB funds appropriated by Congress for a federal fiscal year are made available to states for the following state fiscal year. For example, the NCLB funds just appropriated by Congress for federal fiscal year 2004 will be made available to Minnesota for state fiscal year 2005, which begins July 1, 2004.) When we asked officials from the Minnesota Department of Education to explain why Minnesota's allocation did not rise as fast as that of other states, the department reported that the distribution of funds for most education programs is tied to federal poverty measures. Consequently, when Minnesota experienced economic growth and declining poverty in the late 1990s that outpaced the national averages, the state started to receive a smaller share of federal education funds.²²

¹⁹ While the Title I, Part A funding applies to the 2003-04 school year, the enrollment figures are from October 1, 2002, and the operating budget figures are from the 2001-02 school year. Minnesota Department of Education, unpublished table "Minnesota Department of Education: Title I, 03-04 Entitlements/Concentration Grants," received November 7, 2003; Minnesota Department of Education, "School and District Fall Population Files," <http://cfl.state.mn.us/datactr/fallpops/index.htm>, accessed September 29, 2003; and Minnesota Department of Education, "2002 District Total Expenditures," <http://clf.state.mn.us/content/035532.xls>, accessed November 28, 2003.

²⁰ We adjusted the funding levels for fiscal years 2002 and 2005 for inflation to reflect prices in fiscal year 2004.

²¹ U.S. Department of Education, "Fiscal Year 2001-2005 State Tables for the U.S. Department of Education," <http://www.ed.gov/about/overview/budget/statetables/index.html?src=rt>, accessed February 16, 2004.

²² When computing funding allocations, the federal government uses poverty data that are a few years old. Therefore, funding levels lag economic trends.

It is particularly noteworthy that:

- **Minnesota's NCLB funding is projected to decline between state fiscal years 2004 and 2005, while NCLB funding is increasing nationwide.**

Table 1.3 shows that Minnesota's NCLB funding is projected to decline from \$231 million in state fiscal year 2004 to \$216 million in state fiscal year 2005—a 7 percent reduction. This decline primarily reflects a projected reduction in Title I, Part A funds. In contrast, formula grants under NCLB are projected to increase by about 2 percent nationwide between state fiscal years 2004 and 2005, after adjusting for inflation. (The figures for 2005 are based on preliminary estimates by the U.S. Department of Education and are subject to change.)

Besides giving states more ESEA-related funding under NCLB, the federal government has also granted states greater flexibility in the use of these funds. NCLB authorizes states to transfer up to 50 percent of their non-administrative funds from five ESEA programs (Improving Teacher Quality, Educational Technology, Safe and Drug-Free Schools and Communities, 21st Century Community Learning Centers, and Innovative Programs) to the Title I, Part A program. Alternatively, states can transfer funds among these five programs. School districts have a similar transfer authority, but it extends to only four of the five programs. (Districts cannot transfer funds from the 21st Century Community Learning Center program.)²³ As shown earlier in Table 1.3, Minnesota's allocation for these five programs is about \$63 million annually. While the Minnesota Department of Education has not taken advantage of this transfer authority, some districts have.

²³ No Child Left Behind Act, §6123.