

Fiscal Impacts

SUMMARY

The No Child Left Behind (NCLB) Act will likely have a significant fiscal impact on Minnesota's education system in the next decade—although the exact magnitude of many of these costs cannot be accurately predicted. The state and school districts will likely spend a total of roughly \$19 million annually to develop and administer reading and math assessments in three additional grades, plus three new science assessments. In addition, most Minnesota school districts will probably have to set aside funds to pay for sanctions and services for low-performing schools, and some districts will incur higher costs to attract or retain staff who meet NCLB's more stringent qualification requirements.

If Minnesota were to “opt out” of NCLB, it is unclear whether the cost savings would be sufficient to offset the annual loss of federal education funds. In fact, less than 20 percent of school district superintendents said they would favor opting out, despite their serious reservations about NCLB. Nevertheless, it is quite plausible that the cost of implementing the new requirements of NCLB (above what the state was doing prior to NCLB) could exceed the increase in funding that Minnesota has received under the act.

Some policy makers are concerned about the costs that NCLB will impose on Minnesota.

Policy makers in several states, including Minnesota, are questioning whether their states should participate in NCLB. In fact, five states (Indiana, North Dakota, Ohio, Utah, and Vermont) passed measures requiring studies to figure out how much it will cost to comply with NCLB's testing and reporting requirements.¹ Similarly, the Minnesota Legislative Audit Commission directed our office to carry out this study. Therefore, in this chapter, we address the following questions:

- **How much will it cost the Minnesota Department of Education, school districts, and schools to carry out the NCLB Act?**
- **Which categories of NCLB-related costs will likely be the most significant, and what factors will affect the magnitude of these costs?**
- **How do the new costs that Minnesota is incurring under NCLB compare with Minnesota's increased revenues under the act?**

¹ Pamela M. Prah, “Utah Considers Opting Out of No Child Left Behind,” *Stateline.org*, December 30, 2003, <http://www.stateline.org/stateline/?pa=story&sa=showStoryInfo&id=341320>, accessed January 16, 2004.

- **How have school districts paid for any increased costs resulting from NCLB?**
- **What would be the likely financial consequences if Minnesota “opted out” of participation in the NCLB Act?**

BACKGROUND

One of the methods we used to evaluate the cost of implementing NCLB’s new requirements was to collect cost estimates from the Minnesota Department of Education and a sample of nine school districts. (The districts were Bloomington, Detroit Lakes, Mahanomen, Minneapolis, Osseo, Rochester, Shakopee, St. Paul, and Willmar.) To facilitate the consistent collection of cost data, we gave instructions to the department and districts regarding how to estimate costs related to Title I, Part A of NCLB. Some of the key instructions included the following:

We obtained and evaluated NCLB-related cost estimates from the Minnesota Department of Education and nine school districts.

- **Cost categories:** We identified over 200 activities needed to carry out Title I, Part A and grouped them into 26 categories of state activities and 25 categories of local activities. (Listings of these activities and cost categories are provided on our web site—<http://www.auditor.leg.state.mn.us/Ped/2004/pe0404.htm>.) We then asked the Minnesota Department of Education to estimate its costs for each category of state activities, and we asked the nine school districts to estimate their costs for each category of local activities. These estimates included (1) the staff time and associated costs needed to carry out the NCLB-related activities, and (2) the cost of significant non-staff items, such as supplies and contracts with vendors.
- **“Total costs” and “NCLB costs”:** For each cost category, we asked for estimates of (1) the total cost of carrying out the NCLB-related activities, even if they would have been carried out without NCLB, and (2) the portion of the total costs directly attributable to NCLB. We defined these NCLB-attributed costs as the resources needed to carry out any activity that is newly required under the NCLB Act and that would not have been carried out by the state, school districts, or schools on their own. Specifically, we did not want the Department of Education or school districts to attribute costs to NCLB for activities required in (1) the previous version of the Elementary and Secondary Education Act (ESEA), (2) a federal law other than the ESEA, or (3) state law. In addition, we wanted to exclude the cost of NCLB-required activities that the department, school districts, or schools would have carried out on their own, even without a federal or state requirement. For example, NCLB requires annual assessment of 3rd graders in reading. While the median school district estimated that it annually spends \$17 per 3rd-grade student to administer this assessment, districts did not attribute these costs to NCLB because they were administering this assessment prior to NCLB in order to comply with the previous version of the ESEA.

- **Time period:** For the NCLB activities with more definitive costs, such as developing and administering assessments, we asked for estimates that spanned state fiscal years 2002 through 2008. In contrast, for the activities with more speculative costs, such as supplemental services provided by Title I schools, we only asked for estimates that spanned fiscal years 2002 through 2005. We requested estimates in today's dollars, without adjustments for price inflation and cost-of-living changes.
- **Financing of costs:** We wanted state and district officials to include costs in their estimates regardless of how they have paid (or will pay) for them—whether through additional federal, state, or local funding or through reallocation of existing resources. For example, implementing additional testing will require teachers to spend additional time proctoring tests rather than teaching; we instructed districts to count these teacher costs in their estimates. Likewise, the state and districts may accomplish other NCLB tasks by reassigning existing staff rather than by spending more money, and state and district officials included these staff costs in their estimates.

We considered the department and district cost estimates to be informative but not definitive because:

- **Identifying and estimating NCLB-related costs is very challenging and can be quite subjective.**

Reliable cost estimates are not yet possible.

First, existing information systems provide a limited basis for attributing state or local expenditures to NCLB. The Minnesota Department of Education has not had an activity-based time-reporting system to track staff time associated with NCLB. In addition, the department's statewide system for reporting school districts' expenditures (UFARS) is limited in its tracking of specific NCLB expenditures. Consequently, in many cases, state and district officials provided NCLB cost estimates based on their best recollection of staff time devoted to specific activities, and these estimates should be considered tentative.

Second, many NCLB-required activities have not yet been undertaken. Thus, there is uncertainty about exactly how these activities will be implemented and what costs will be incurred. For example, to estimate the cost of providing supplemental services to students at schools that have failed to achieve adequate yearly progress (AYP) for at least three consecutive years, districts would have to consider (1) how many schools would fall into this category each year and (2) how many parents would choose to enroll their children in these services. Presently, however, only two districts have had experience offering supplemental services.

Third, in many cases, state and district officials had a difficult time deciding which costs to attribute to NCLB. For example, the St. Paul school district reported:

Superintendent Patricia Harvey brought an agenda to [St. Paul Public Schools] five years ago when she arrived in the district... That agenda has some of the same characteristics as NCLB. From that perspective, it was not an easy task to differentiate between the cost of our own agenda and that of NCLB. We found that it took an incredible amount of time and effort on the part of staff to analyze expenditures and we made some very subjective decisions in arriving at our costs.²

Finally, our sample of nine school districts was neither random nor representative of all districts. The sample contained districts of differing sizes from various parts of Minnesota, and officials from these districts offered a range of perspectives regarding NCLB implementation. Still, it is worth noting that these districts tended to be somewhat larger than the average Minnesota district and have above-average proportions of low income, limited-English, and minority students.

Future NCLB costs will depend on events that cannot be predicted.

OVERVIEW OF NCLB COSTS

We used various methods to explore NCLB's fiscal impacts, but this report does not present a dollar estimate of NCLB's overall cost—either for the present time or for some future date. The primary reason is that the cost of implementing the law depends largely on events that cannot be accurately predicted. Nevertheless, we think that the law will likely have a substantial fiscal impact—based on (1) our analysis of state and local cost estimates, (2) interviews with stakeholders, including state and district officials, (3) our superintendents' survey, and (4) the simulation results presented in Chapter 3.

Although we do not offer a “bottom line” estimate of NCLB's costs, we think that it is possible to identify the expenditure areas that NCLB will most significantly affect. In our view,

- **NCLB's main fiscal impacts will be in the areas of (1) development and administration of student assessments, (2) sanctions and services for low-performing schools, and (3) compliance with requirements concerning teacher and paraprofessional qualifications. School districts also face potentially large curriculum alignment costs, but it is debatable how much of these costs should be attributed to NCLB.**

We discuss these categories in subsequent sections of this chapter. However, Table 4.1 provides an overview of our judgments regarding NCLB's likely statewide fiscal impacts. In this table, we generally classified NCLB-attributed costs as “small” if they were expected to total \$1 million or less annually on a statewide basis.

As part of our assessment of NCLB costs, we also asked superintendents to identify which category of NCLB activities would likely impose the greatest costs on their school districts. The superintendents' most common response was

² Lois Rockney, Executive Director of Business and Financial Affairs, St. Paul Public Schools, letter to John Patterson, Office of the Legislative Auditor, December 23, 2003.

Table 4.1: Fiscal Impact of NCLB-Initiated Activities

Cost Category	Fiscal Impact Attributable to NCLB
General ESEA administration	<p>State—Small impact. Local—Small impact. At both the state and local level, there have been some initial planning and implementation activities required by NCLB, but many of the general administrative and financial duties mandated by NCLB are similar to previous requirements.</p>
Standards development and curriculum alignment	<p>State—Small impact. The state’s cost for developing grade-specific standards in reading, math, and science has been small. Local—Potentially significant impact, but attribution to NCLB is debatable. While aligning school districts’ curriculum with state content standards can be expensive, it is debatable how much of these costs should be attributed to NCLB. NCLB would have required some curriculum alignment by districts, and the high stakes nature of NCLB may have created an urgency for districts to devote more resources to these efforts. But others contend that due to the state’s independent adoption of new content standards in 2003, districts would have had to carry out curriculum alignment without NCLB.</p>
Student assessment	<p>State—Significant future impact. In order to comply with NCLB, the state has to develop and administer (1) reading and math assessments for grades 4, 6, and 8, (2) three science assessments, and (3) English proficiency assessments in listening and speaking. Federal revenues for test development will offset many, or all, of the state’s costs. NCLB appears to have been the major impetus for the development of the reading and math assessments in grades 4, 6, and 8; in contrast, the other reading and math assessments required by NCLB were already in place or were in the planning stages prior to NCLB.^a Local—Significant future impact. Once school districts begin to administer the reading and math assessments for grades 4, 6, and 8 in state fiscal year 2006, and the science assessments in state fiscal year 2008, the districts will face significant new costs.^b</p>
AYP determination	<p>State—Small impact. Federal law prior to NCLB required states to calculate AYP for Title I schools; however, NCLB now requires some additional state effort (e.g., AYP calculations for <u>all</u> schools, rather than just Title I schools; and separate AYP calculations for a variety of subgroups). Local—Small impact. As a result of the high stakes nature of NCLB’s sanctions, school districts have spent additional time verifying demographic and assessment data used to determine schools’ AYP status. Also, as school districts administer assessments at more grade levels, more verification will be required. Nevertheless, these costs should be relatively small.</p>
Reporting (report cards and notices)	<p>State—Small impact. The state developed templates to help school districts provide notices regarding school sanctions. In addition, there will be some staff costs to prepare NCLB-specific school report cards each year, starting in 2004. Local—Small impact. Some NCLB notification requirements (notifying parents of assessment results, providing notices regarding Title I parent meetings) were in federal law before NCLB. But NCLB contained new requirements for parent notices regarding school sanctions and teacher qualifications.</p>
Sanctions and supplemental services	<p>State—Small but growing impact. The state has incurred some additional costs to administer supplemental services. It may incur additional costs as more schools and school districts fail to make AYP, thus requiring more assistance from the state and more time to oversee service providers. Local—Potentially significant impact in the future. Relatively few schools and school districts have been categorized as “needing improvement,” but this number will grow—resulting in implementation of more improvement plans, school choice-related transportation, supplemental services, corrective actions, and school restructuring. NCLB requires affected districts to set aside the equivalent of up to 20 percent of their Title I, Part A funds for school choice and supplemental services.</p>
Teacher and paraprofessional requirements	<p>State—Small impact so far; future costs are unclear. The state has spent staff time determining its qualification standards for teachers and paraprofessionals. Future costs will depend on how the state monitors compliance with its standards and how many districts comply. Local—Variable among districts, but potentially significant impact. To comply with NCLB’s stricter requirements regarding staff qualifications, districts could incur costs for salary increases, training, or hiring additional staff. But the state’s standards were still in flux at the time districts provided estimates, and many districts did not know what actions they would take to comply with the requirements.</p>
Professional development	<p>State—Small impact so far; future costs are unclear. The state has not yet defined or set annual objectives for implementing “high quality” professional development, and it is unclear how the state will monitor professional development activities. Local—Small impact so far; future costs are unclear. Until standards and objectives are set by the state, it is difficult to estimate additional costs that might be incurred by school districts.</p>
Parental involvement	<p>State—No impact. Local—Small impact. Some districts have intensified their parent-related activities in response to NCLB, but the overall cost of these efforts is limited.</p>

NOTE: “Small” impacts are those estimated to cost less than \$1.5 million annually on a statewide basis.

^aSome people contend that the state would have implemented the grade 4, 6, and 8 tests without NCLB, as reflected in the fact that these tests are required in state law. But the Legislature adopted this testing requirement after NCLB was enacted.

^bHowever, there may be some offsetting cost savings if districts decide to discontinue some of their non-NCLB standardized tests.

SOURCE: Office of the Legislative Auditor.

School districts have not yet fully implemented the most expensive components of NCLB.

sanctions and services for low-performing schools, as shown in Table 4.2. It is worth noting that all of the categories in this table reflect costs that have yet to be fully realized. First, while the state will develop and pilot test questions over the next few years, the reading and math assessments for grades 4, 6, and 8 will not be fully operational for AYP determinations until state fiscal year 2006, and the science assessments will not be operational until 2008. Second, the costs associated with sanctions and services—school choice, supplemental services, corrective action, and restructuring—will only increase over the next several years as more schools fail to achieve AYP for multiple years. Finally, current teachers and Title I paraprofessionals do not need to meet NCLB’s qualification requirements until 2006.

Table 4.2: Superintendent’s Opinions Regarding Which NCLB Requirements Will be the Most Costly

NCLB Requirement	Percentage of Superintendents who Identified this Requirement as the Most Costly
Implementing sanctions and additional services for low-performing schools	33%
Implementing additional grade-level tests	26
Complying with new requirements for paraprofessional qualifications	26
Complying with new requirements for teacher qualifications	11
Did not respond to question	4

NOTE: The survey question asked, “In your judgment, which one of the following requirements of the NCLB Act will be the most costly for your district to implement?” The question did not list curriculum alignment as an option for respondents. (N = 326)

SOURCE: Office of the Legislative Auditor, *Survey of School District Superintendents* (November-December 2003).

In our assessment of NCLB costs, we did not try to estimate the cost of ensuring that 100 percent of students are proficient by the 2013-14 school year, which is the ultimate goal of NCLB. The costs associated with such efforts are highly uncertain, and any estimate would be extremely speculative. As we discussed in Chapter 3, there is considerable debate about the role that educational funding plays in increasing achievement. But even with significantly higher spending levels, it might be difficult for all children to become proficient—due to cognitive impairments, English language difficulties, or other factors.

In the following sections, we discuss the significant cost categories—the development and administration of student assessments, sanctions and services for low performing schools, teacher and paraprofessional qualifications, and curriculum alignment—in more detail.

COSTS RELATED TO ASSESSMENT DEVELOPMENT AND ADMINISTRATION

As discussed earlier, NCLB requires states to implement a wide range of annual student assessments, including:

- Reading and math assessments for each grade level between 3rd and 8th and once during the high school grades;
- Separate science assessments for grade spans 3-5, 6-9, and 10-12; and
- Assessments of English proficiency in reading, writing, listening, and speaking for students who speak a foreign language at home and have limited English proficiency.³

NCLB requires an extensive amount of student testing.

Minnesota's assessments of reading, math, and science are the Minnesota Comprehensive Assessments (MCAs). The state has two assessments of English proficiency. The Test of Emerging Academic English (TEAE) assesses proficiency in reading and writing, while the Minnesota Student Oral Language Observational Matrix (MNSOLOM) assesses proficiency in listening and speaking.

According to Minnesota Department of Education cost estimates, the department will spend \$18 million to administer all the NCLB-required assessments (including those developed prior to NCLB) in state fiscal year 2008, when they will be fully operational for accountability purposes. These costs largely involve department contracts with the vendors who develop, distribute, and score the assessments. In addition, based on cost information that districts provided, we estimated that districts and schools will spend roughly \$21 million annually administering these assessments, which involves packing and unpacking the materials, maintaining assessment security and integrity, and proctoring classrooms while students take the assessments.⁴

In our view, however, only the costs of developing and administering the reading and math assessments in grades 4, 6, and 8, the science assessments, and the MNSOLOM should be attributed to NCLB. Unlike the other assessments, the state was under no requirement to implement these assessments prior to NCLB. We estimated that:

- **The Minnesota Department of Education, school districts, and schools will spend roughly \$19 million to implement these new assessments in state fiscal year 2008.**

The Minnesota Department of Education estimated that it will spend \$8 million annually to carry out its part of these assessments, and we estimated that school districts and schools will spend approximately \$11 million annually for their part.

³ No Child Left Behind Act, §1111(b)(3) and (7).

⁴ Our estimate is based on the median per pupil estimate that we received from the districts for each of the assessments multiplied by the number of students taking each of the assessments statewide.

Minnesota was implementing several statewide tests prior to the passage of NCLB.

As stated, the costs of the other assessments should not be attributed to NCLB. Prior to NCLB, the state was already administering the reading and math assessments for grades 3 and 5, and it had plans to develop and administer the reading and math assessments for grades 7, 10, and 11 to comply with pre-NCLB federal law. Table 4.3 shows Minnesota's schedule for implementing the reading, math, and science assessments. Prior to NCLB, the state had also developed the Test of Emerging Academic English (which assesses English proficiency in reading and writing) to identify students eligible to receive additional state funding for English language instruction.⁵

Table 4.3: Minnesota's Schedule for Initiating Assessments for Performance Reporting

<u>Grade</u>	<u>Reading</u>	<u>Math</u>	<u>Science</u>
3	X	X	
4	2005-06	2005-06	2007-08
5	X	X	
6	2005-06	2005-06	
7	2003-04	2003-04	2007-08
8	2005-06	2005-06	
9	—	—	
10	2003-04	—	
11	—	2003-04	2007-08
12	—	—	

NOTE: Where a school year is shown, this is the first year that this test will be used for purposes of performance reporting.

"X" designates a presently-administered assessment that predates NCLB requirements.

"—" designates subjects/grades in which no test is required.

SOURCE: Minnesota Department of Education.

There is some debate about whether the state would have developed and administered the reading and math assessments for grades 4, 6, and 8 if NCLB had never been enacted. In 2001 (prior to NCLB), the Legislature required the state to develop a system for measuring the growth in individual students' educational progress over time based on state or district assessments.⁶ To the extent that Minnesota needs scores from state assessments at each grade level to measure this progress, there is an argument that the reading and math assessments in grades 4, 6, and 8 would have been developed without NCLB and thus should not be attributed to NCLB. On the other hand, Minnesota law did not require annual assessments until 2003, well after the passage of NCLB.⁷ The Minnesota Department of Education did not attribute the costs of the 4th, 6th, and 8th grade assessments to NCLB in the cost estimates it prepared for us; in contrast, the school districts did attribute the costs of these assessments to NCLB.

⁵ *Laws of Minnesota* (1Sp2001), ch. 6, art. 3, sec. 4.

⁶ *Laws of Minnesota* (1Sp2001), ch. 6, art. 2, sec. 5.

⁷ *Laws of Minnesota* (2003), ch. 129, art. 1, sec. 7.

Most Minnesota school districts administer more standardized tests than are required by NCLB.

We based our estimates of statewide school district assessment costs on the median cost estimate that we received from school districts. (The median cost estimate for administering the Minnesota Comprehensive Assessment was \$17 per student taking each subject assessment.) Although there are many similarities among districts in the assessment administration process, we received estimates from districts that varied from \$4 to \$50 per student taking the assessment.⁸ There are several reasons for this variation. Most notably, the districts with higher estimates assumed longer test administration times than the other districts. For, example, one of the high-end districts estimated that each assessment for each subject takes the equivalent of one full day to administer because it is untimed and the district has many students who take a long time, such as limited-English students. In contrast, one of the low-end districts assumed that each assessment takes only three hours to administer.⁹

By administering the NCLB assessments, school districts could potentially achieve some offsetting savings. According to our survey of superintendents, 90 percent of Minnesota school districts have administered standardized tests other than the NCLB-required assessments in order to assess the skills and achievement levels of individual students in their district. (The most common of these tests in Minnesota are the Iowa Test of Basic Skills, the Northwest Achievement Levels Test, and the Stanford Achievement Test.) By discontinuing these non-NCLB tests, districts would avoid the cost of administering them. In fact, in our statewide survey, 64 percent of school district superintendents reported that they have dropped or will likely drop at least some of their non-NCLB tests as a direct result of NCLB. If districts are dropping these tests because the MCAs will meet their student assessment needs, the cost savings are unmitigated. However, if the MCAs will not meet the districts' assessment needs and districts are discontinuing the other tests out of financial necessity, there will be a budgetary savings but also a loss of assessment information that schools and teachers could use to better meet the academic needs of their students. In this latter case, we would consider the cost savings quite tenuous. Many districts appear to fall in this category. Of the 210 districts that reported that they have dropped or will likely drop at least some of their non-NCLB tests, only 37 percent agreed with the statement, "The [MCAs] help teachers understand the specific academic needs of individual students."¹⁰ We did not try to estimate the amount of unmitigated cost savings that districts may incur by discontinuing some of their non-NCLB tests, but it is a potential offsetting factor to the NCLB costs discussed earlier in this section.

⁸ This range applies to seven of the nine districts from which we received cost information. For two of the nine districts (one with a low estimate and the other with a high estimate), we questioned the accuracy of their estimates.

⁹ The districts also varied in the number of classroom teachers and other staff needed to proctor and administer the assessments on a per student basis.

¹⁰ Office of the Legislative Auditor, *Survey of School District Superintendents* (November-December 2003). Fourteen percent neither agreed nor disagreed with the statement, and 50 percent disagreed.

COSTS OF NCLB-PRESCRIBED CONSEQUENCES FOR LOW PERFORMANCE

Low-performing schools face sanctions under NCLB.

Under NCLB, public schools that receive federal Title I funding face consequences if they fail to make AYP.¹¹ If a school fails to make AYP for two consecutive years, parents of all children at the school must be given choices of other schools to attend. After a school has failed to make AYP for three years, low income parents must be offered “supplemental educational services” (tutoring, for example) for their children attending this school. If a school fails to make AYP for four or five years, NCLB requires implementation of “corrective actions” or “restructuring,” respectively.¹² Table 4.4 provides additional details on these consequences. There were no provisions for such consequences in the federal Elementary and Secondary Education Act or state law prior to NCLB, so any costs associated with these sanctions are directly attributable to NCLB.

NCLB establishes spending requirements for school districts that are subject to its school choice or supplemental educational services provisions. Specifically, unless a lesser amount is needed to provide choice-related transportation or satisfy all requests for supplemental educational services, the district must spend the equivalent of 20 percent of its Title I, Part A allocation on these activities. Of this 20 percent, a district must spend 5 percent for choice-related transportation and 5 percent for supplemental services, with the remaining 10 percent divided between transportation and supplemental services according to the district’s wishes.¹³ Districts can pay for choice-related transportation and supplemental services with their Title I funds, or they can use other allowable federal, state, local, or private revenues.

So far,

- **School districts and the Minnesota Department of Education have borne limited costs related to school choice, supplemental educational services, and other NCLB sanctions—mainly because the NCLB Act is still at a very early stage of implementation.**

During the 2003-04 school year, only 5 of Minnesota’s 342 school districts (1.5 percent) and 2 of its 92 charter schools (2.2 percent) were required to implement school choice or supplemental services. The 25 Minnesota schools that were required by NCLB to offer school choice or supplemental services in 2003-04 served about 10,000 students, or 1.2 percent of Minnesota’s total public school enrollment. No school will be considered for “corrective action” until the

¹¹ NCLB also prescribes sanctions for school districts that fail to make AYP for at least two consecutive years, but this section focuses primarily on sanctions for schools.

¹² Under NCLB, schools required to offer supplemental educational services must continue to offer school choice. Schools subject to corrective action or restructuring must continue to offer both school choice and supplemental services.

¹³ No Child Left Behind Act, §1116(b)(10).

2004-05 school year, at the earliest, and no school will have to begin “restructuring” planning until the 2005-06 school year, at the earliest. In the following sections, we discuss costs associated with these NCLB consequences in more detail.

School Choice

Since 1988, Minnesota’s “enrollment options” law has allowed pupils to attend school in a district where the pupil does not reside.¹⁴ In addition, some districts

Table 4.4: NCLB’s Consequences for Repeated Failure to Make AYP

Failing to make AYP for 2 or more years—school choice

After a second year of failing to make AYP, a Title I school is “identified for improvement” under NCLB. Such a school must develop a school improvement plan, and the school district must notify all parents of children in the school that they are eligible to transfer their children to a higher-performing school (that is, one that has not been “identified for improvement”). Districts can determine which of their higher-performing schools will be options from which eligible parents can choose, and districts cannot subsequently deny transfers to these schools due to lack of space. In cases where there are no other schools in the district to which students could transfer, the federal government requires districts “to the extent practicable” to establish agreements with other districts to allow for inter-district choices. If funds are insufficient to provide transportation to each student requesting a transfer, the district must give priority for transportation funding to the lowest-achieving eligible students from low-income families. In Minnesota, the 2002-03 school year was the first year in which some districts were required to offer school choice under NCLB.

Failing to make AYP for 3 or more years—supplemental educational services

If a Title I school fails to make AYP for three consecutive years, it must continue to offer school choice. In addition, its students from low-income families will be eligible to enroll in supplemental educational services outside the regular school day. These services must be “high quality, research-based, and specifically designed to increase the academic achievement of eligible children.” Eligibility for supplemental services is *not* limited to students in those grades or subgroups for which low performance resulted in the determination that the school did not make AYP. Public or private organizations apply to the Minnesota Department of Education to provide supplemental services, and the department determines which organizations meet the state’s criteria. A school “identified for improvement” cannot provide supplemental services to its own students, but school districts (or individual schools) that have not been “identified for improvement” can apply to provide these services. Enrollment in supplemental services is voluntary. Once parents are notified of their child’s eligibility for supplemental services, they may select from the state-approved providers serving that district. The staff of supplemental services providers are not required to meet the NCLB provisions that apply to public school teachers and paraprofessionals. School districts must pay supplemental services providers the lesser of (1) the district’s Title I, Part A per-child allocation (the median per-child allocation among Minnesota districts was about \$1,300 in fiscal year 2003), or (2) the actual cost of the services. If funds are insufficient to provide supplemental services to each eligible student whose parent requests the services, the district must give priority to the lowest-achieving eligible students.

Failing to make AYP for 4 years (corrective action) or 5+ years (restructuring)

If a Title I school fails to make AYP for four consecutive years, NCLB requires the school district to take “corrective action,” including at least one of the following: (1) replacement of staff, (2) implementation of a new curriculum, (3) reduction of school-level management authority, (4) appointment of an outside expert to advise the school, (5) extending the school year or school day, and/or (6) restructuring the school. If an entire school district fails to make AYP for four consecutive years, the Minnesota Department of Education would be required to take similar actions or to reduce district funding for programs or administrative purposes. At the earliest, some Minnesota schools could be subject to corrective actions in the 2004-05 school year. If a school fails to make AYP for five consecutive years, the district must plan for implementation of alternative governance arrangements, such as reopening the school as a charter school, contracting for the school’s management, or turning school operations over to the Minnesota Department of Education. Such plans would be implemented if the school fails to make AYP for a sixth year.

SOURCES: No Child Left Behind, §1116; U.S. Department of Education, *Public School Choice: Draft Non-Regulatory Guidance* (Washington, D.C., December 4, 2002); U.S. Department of Education, *Supplemental Educational Services: Non-Regulatory Guidance, Draft—Final Guidance* (Washington, D.C., August 22, 2003); U.S. Department of Education, *LEA and School Improvement* (Washington, D.C., January 7, 2004).

¹⁴ *Minn. Stat.* (2002), §124D.03.

have provided families with enrollment options within district boundaries—for instance, by allowing students to enroll in “magnet” schools¹⁵ or other schools that have room for additional students. In some cases, families are expected to pay for transportation to schools outside of their designated “attendance areas;” in other cases, districts transport students to these schools free of charge.

Because some districts offered enrollment options with subsidized transportation prior to NCLB, it is difficult to estimate the fiscal impact of NCLB’s school choice requirements.¹⁶ However, officials from four of the five Minnesota school districts that have been required by NCLB to offer school choice told us that these requirements have had minimal impact on their transportation costs so far:

So far, Minnesota school districts have spent relatively little to transport students transferring from low-performing to higher-performing schools.

- **Minneapolis:** For the 2003-04 school year, 13 schools were subject to NCLB’s school choice provisions. District officials said that only eight families requested school transfers for the 2003-04 school year in response to letters informing parents of their NCLB-related school choice options.¹⁷ Staff said that these families have probably been served with existing transportation options, so the main NCLB-related costs to the district have been for mailings to parents and consultations with families considering transfers.
- **St. Paul:** Officials estimated that about 250 families transferred for the 2003-04 school year from the seven schools required by NCLB to offer school choice. However, they said that most of these transfers were unrelated to NCLB, and they said that the level of transfers from these schools did not increase noticeably due to NCLB. Officials said that the few transfers that might be attributed to NCLB have not imposed significant new transportation costs on the district.
- **Mahnomen:** For the 2003-04 school year, 14 students transferred from an underperforming elementary school to the district’s other elementary school. Thirteen of these students are being served by previously existing bus routes, and the district modified a bus route to serve the other student.
- **Red Lake:** For the 2003-04 school year, three children transferred from an underperforming elementary school in response to the NCLB school choice option. These students were served with existing bus routes.

Meanwhile, officials in the Osseo school district attributed significant 2003-04 transportation expenses to the NCLB choice provisions. Specifically, the district is providing transportation to 21 students who transferred from a school that did not make AYP for a second year. District officials estimated that the cost of

¹⁵ Magnet schools often have a unique curriculum focus, and they typically are open to students from throughout a district rather than just students from one part of the district.

¹⁶ If, in the absence of NCLB, a district would have given families school enrollment options and paid for their transportation, then it would not be reasonable to attribute these transportation costs to NCLB. Often, however, it may be difficult to determine what options a district would have offered in the absence of NCLB’s provisions.

¹⁷ For the 2003-04 school year, Minneapolis’ letters were sent by the first day of school and parents had three weeks to request transfers. District staff acknowledged that some parents may have been reluctant to request transfers once their child had already started school in the fall. It is possible that some parents who chose not to transfer during the 2003-04 school year might decide to enroll their children in a different school at the beginning of a subsequent school year.

adding transportation services for these students will be about \$62,000 during the 2003-04 school year.

The Minnesota Department of Education plays only a small role in administering NCLB's school choice provisions, and the department has borne few costs for these activities. The department's main activity has been to develop templates of letters that districts could send to parents regarding school choice, translated into several languages.

Supplemental Educational Services

Supplemental educational services include tutoring and other academic enrichment services that are "high quality, research-based, and specifically designed to increase the academic achievement" of students.¹⁸ The Minnesota Department of Education determines which providers are authorized to provide these services. In November 2003, the department issued a list of 24 state-approved providers, including private agencies and school districts.¹⁹

Currently, only three school districts in Minnesota are required to provide supplemental services for students at low-performing schools.

During the 2003-04 school year, three Minnesota school districts (Minneapolis, St. Paul, and Red Lake) were required to offer NCLB supplemental services.²⁰ Each of these districts had at least one school that had failed to make AYP for a third consecutive year. As of early February 2004, the Red Lake district had not yet entered into a contract with a supplemental services provider.²¹ The other two districts sent letters to eligible parents, informing them of supplemental services options.²² In some cases, the districts made other efforts to publicize supplemental services—such as parent information meetings in the affected schools. Once parents signed up for supplemental services, districts were required by NCLB to specify achievement goals for each child, based on consultation with the parents and service provider.²³ Some district staff said that implementing these tasks for even a limited number of schools was difficult and time-consuming.

The number of students who enrolled in supplemental services in the 2003-04 school year was about 1,420 in Minneapolis and 90 in St. Paul. The total supplemental services enrollment in these districts represented less than 0.2 percent of all students in Minnesota public schools. In the Minneapolis and St. Paul districts, a large majority of the enrollees signed up for supplemental services offered by the respective school districts.

¹⁸ No Child Left Behind Act, §1116(e)(12)(C).

¹⁹ Once approved by the state, a supplemental services provider remains on the list of approved providers for three years. School districts may be approved as providers, but only if the district as a whole has not failed to make AYP for two consecutive years. Minnesota's list of state-approved providers included the Minneapolis and St. Paul school districts, 16 other Minnesota providers, and 6 providers based in other states.

²⁰ The number of affected schools were ten in Minneapolis, three in St. Paul, and one in Red Lake. In addition, one Minnesota charter school was required to offer supplemental services.

²¹ The private provider that the district initially intended to contract with went out of business.

²² In schools where supplemental services must be offered, students eligible for free and reduced-price lunches are eligible to receive supplemental services.

²³ No Child Left Behind Act, §1116(e)(3)(A).

For fiscal years 2004 and 2005, the Minnesota Department of Education estimated that it will incur about \$52,000 in staffing costs per year to fulfill its responsibilities to administer NCLB-required supplemental services. Although the department has not yet started to systematically monitor the performance of supplemental services providers, it does not anticipate that such monitoring will increase the department's annual costs above the \$52,000 cited above. However, in our view, if a large percentage of districts are required by NCLB to implement supplemental services in future years, the department may need to consider devoting additional resources to ensuring the quality and effectiveness of supplemental services, as required by NCLB.²⁴

Future District Costs

As discussed earlier, we asked Minnesota school superintendents in a statewide survey to identify which requirement of NCLB will likely be the most costly for their districts to implement. The most common response—by 33 percent of superintendents—was “implementing sanctions and additional services for low-performing schools.”²⁵ Thus, although the fiscal impact of these consequences has been very limited so far, school officials expect a larger impact in the years to come. In addition, our simulations in Chapter 3 suggest that:

- **A much larger number of schools will likely fail to make AYP in coming years, leading to significant growth in the cost of NCLB-related sanctions and services for low-performing schools.**

As more schools fail to make "adequate yearly progress," more schools will face NCLB sanctions.

Table 4.5 shows the percentage of schools that our simulations indicate would be subject to NCLB sanctions under various scenarios. With modest improvement in Minnesota's student test scores, our simulations indicate that 42 percent of Minnesota's elementary schools with Title I services would be required to offer school choice for the 2008-09 school year. Furthermore, most of these schools would also be required to offer supplemental services, often in conjunction with corrective actions or restructuring. In 2014, following full implementation of NCLB's requirements, our simulations indicate that parents in 93 percent of Title I elementary schools would be offered school choice—again, assuming modest improvement in student test scores over time.

Even if Minnesota were to sustain a much larger increase in test scores over time, it is still likely that a large percentage of schools would face NCLB sanctions. As Table 4.5 shows, our simulations indicate that parents in 56 percent of Title I schools would be offered school choice in 2014 under the “high improvement” scenario.

At Title I funding levels for fiscal year 2005, Minnesota school districts would be required to spend as much as \$20 million annually for NCLB-required school choice and supplemental services. This upper estimate assumes that (1) all Minnesota school districts would have at least one Title I school subject to NCLB sanctions, and (2) each of these districts would spend 20 percent of its Title I, Part A allocation on school choice and/or supplemental services. It is worth reiterating

²⁴ *Ibid.*, §1116(e)(4)(D).

²⁵ Office of the Legislative Auditor, *Survey of School District Superintendents* (November-December 2003).

Table 4.5: Estimates of the Percentage of Minnesota Title I Schools Offering School Choice and Supplemental Services, 2008 and 2014

	Percentage of Schools Required to Provide School Choice and Supplemental Services		
	No Improvement Scenario	Modest Improvement Scenario	High Improvement Scenario
<u>2008</u>			
School Choice	47%	42%	28%
School Choice and Supplemental Services	36	32	21
<u>2014</u>			
School Choice	99	93	56
School Choice and Supplemental Services	94	86	47

NOTE: The percentages exclude 22 Title I schools in 2008 and 21 Title I schools in 2014 that would have fewer than 20 tested students.

SOURCE: Office of the Legislative Auditor analysis of Office of Educational Accountability’s simulation of school performance. (N=735 for 2008 and N=736 for 2014)

Statewide, NCLB may require Minnesota school districts to annually spend as much as \$20 million to transfer students out of low-performing schools and to provide supplemental services.

that NCLB-required expenditures for school choice and supplemental services would not necessarily lead to increases in districts’ overall levels of education expenditures. Some districts might decide to pay for these costs through reallocations of existing funds (Title I or other), while other districts might seek new revenues (for example, through levy increases).²⁶

To some extent, school districts’ future level of spending for school choice and supplemental services will depend on parents’ level of interest in these options. On the one hand, perhaps parents will be reluctant to transfer their children from low-performing schools—due to (1) the attachment of parents or children to a school, (2) concern about the disruption that transfers might cause, (3) the lack of a guarantee in subsequent years that children who transfer to another school will receive district-provided transportation to that school,²⁷ or (4) differences in the specialized services available at the schools to which the children could transfer.²⁸ On the other hand, it is likely that some parents will choose not to keep their children in a school identified as underperforming. In fact, officials in one Minnesota school district expressed concerns to us that a “mass exodus” might occur if a junior high school was required to offer school choice—because, they

²⁶ Districts that decide to use Title I revenues to pay for NCLB-required costs will bear an “opportunity cost” even if their overall district expenditures do not increase. That is, by using some Title I revenues to pay the cost of complying with NCLB sanctions, these districts will have fewer revenues available to serve disadvantaged students in their regular Title I programs.

²⁷ Assuming that a student transfers from a school failing to make AYP to a school making AYP, there is no guarantee that the original school will continue to fail to make AYP or that the destination school will continue to make AYP.

²⁸ For example, students who transfer to a higher-performing school may find that Title I services are not available at that school.

said, students and parents feel less allegiance to junior high schools than to elementary schools.

Similarly, various factors may affect the extent to which parents enroll eligible children in supplemental educational services. For instance, enrollments may depend on the convenience of the service providers' tutoring times and locations, the types of information parents receive on the tutoring services, the reputation of the service providers, the interest of parents in the academic performance of their children, and the alignment of tutoring services with regular school curricula. Perhaps parents will be attracted to services that they perceive as individualized or innovative. Also, no-cost, afterschool tutoring programs may appeal to some parents as a form of child care. On the other hand, many school districts in other states have experienced limited levels of enrollment in supplemental services, according to a sample of districts whose experience we reviewed. For example, in the current school year, New York City enrolled 50,000 students in supplemental services out of more than 212,000 eligible students;²⁹ Chicago enrolled 15,000 out of 133,000 eligible students; and Los Angeles enrolled 18,500 out of 186,000 eligible students.³⁰

NCLB requires school districts to "restructure" persistently failing schools, which could be costly and disruptive.

Finally, the costs of NCLB-related sanctions for schools failing to make AYP for four or more years could be large, depending on the types of sanctions pursued. NCLB requires "corrective actions" for schools that have failed to make AYP for four years, and it requires schools that have failed to make AYP for five years to plan for implementation of "restructuring" one year later. The law outlines various options in these categories, but it gives state and local education agencies discretion regarding which specific actions to pursue. The Commissioner of Education has established a committee to further explore these options (including legislative changes that may be necessary), and the department will present recommendations to the 2005 Legislature.

Some of the options for corrective action or restructuring could be expensive, such as replacing a school's curriculum, replacing its staff, or extending the school year. Others might have relatively low costs, such as having school district officials assume responsibility for some decisions that were previously made by school officials. Again, the costs of implementing corrective actions and restructuring will depend considerably on the number of districts statewide that fail to make AYP for at least four consecutive years. According to our simulations (described in Chapter 3), the percentage of Minnesota's Title I schools that would require corrective action or restructuring by 2014 ranges from 41 percent (assuming "high improvement" in student test scores) to 88 percent (assuming "no improvement" in student test scores). Thus, even our most optimistic estimate suggests that a substantial number of schools will be subject to NCLB's strictest sanctions. While it is not possible to precisely estimate the fiscal impact of these sanctions, the large-scale implementation of corrective actions and

²⁹ New York's preliminary estimate was that 212,000 students were eligible, although district officials told us that this number will likely increase. In 2002-03, New York enrolled 30,000 out of 243,000 eligible students.

³⁰ We collected information from two state education agencies (regarding all of their districts), plus we reviewed the experience of more than 20 individual districts in other states through phone contacts and reviews of published documents. The largest supplemental services enrollment we encountered was in Nashville, which enrolled 29 percent of eligible students according to a published account (Julian E. Barnes, "Off to a Slow Start," *U.S. News & World Report*, November 25, 2002, <http://www.homeroom.com/press/article.asp?display=36>, accessed November 17, 2003).

restructuring in Minnesota schools would, by its very nature, result in a high level of disruption in Minnesota's school system.

COSTS RELATED TO TEACHER AND PARAPROFESSIONAL QUALIFICATIONS

NCLB establishes minimum qualifications for instructional staff.

As outlined in Table 4.6, NCLB establishes minimum qualifications for all teachers of core academic subjects and for paraprofessionals working in a Title I program.³¹ Each state receiving Title I, Part A funds must develop a plan to ensure that all teachers of core subjects are "highly qualified" by the end of the 2005-06 school year.³² Districts failing to achieve the plan's objectives after two years must develop an improvement plan. After three years of failing to meet the objectives (and failing to make AYP), the act imposes sanctions on districts, such as limitations on the use of Title II, Part A funds (which districts use to improve teacher quality).³³ In addition, districts must ensure that all paraprofessionals working in a Title I program meet NCLB qualifications by January 2006.³⁴ To reach the goal of having all teachers and all Title I paraprofessionals meeting NCLB qualifications by 2006, the law also requires new teachers and paraprofessionals working in Title I programs to meet NCLB qualifications at the time of hiring.³⁵

The cost to districts of complying with these requirements depends, in large part, upon how many teachers and paraprofessionals already meet NCLB qualifications. At this time,

- **Most teachers in Minnesota are "highly qualified," as defined by NCLB. Meanwhile, it is unclear what proportion of Minnesota's paraprofessionals meet NCLB's qualification requirements.**

While the exact proportion of teachers who already meet the definition of "highly qualified" is unknown, it is quite likely that most teachers currently meet it. In January 2004, the Minnesota Department of Education, in collaboration with the Board of Teaching, released guidelines for determining which teachers in the state are "highly qualified."³⁶ All teachers of core subjects teaching in their field of licensure will meet the "highly qualified" definition because the state's licensure system already requires teachers to demonstrate subject matter competence

³¹ NCLB defines the core academic subjects as English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. No Child Left Behind Act, §9101(11).

³² *Ibid.*, §1119(a)(2).

³³ *Ibid.*, §2141.

³⁴ *Ibid.*, §1119(c)-(d).

³⁵ New teachers working in a Title I program hired after the beginning of the 2002-2003 school year must be "highly qualified." Paraprofessionals hired after January 8, 2002 must meet NCLB qualifications. *Ibid.*, §1119(a)(1), §1119(c); 34 C.F.R. §200.58 (2003).

³⁶ Minnesota Department of Education, *The Minnesota Plan for Verifying "Highly Qualified" Teachers* (Roseville, MN: January 2004); and Minnesota Department of Education, *Highly Qualified Teacher Criteria for Unique Instructional Settings* (Roseville, MN: February 2004).

Table 4.6: NCLB Teacher and Paraprofessional Qualification Requirements

“Highly Qualified” Teacher

A “highly qualified” teacher^a:

- Has full state certification (not an emergency, temporary, or provisional license),
- Holds at least a bachelor’s degree, **AND**
- Has demonstrated subject matter competence.
 - Demonstration of subject matter competency by elementary teachers:
 - New teachers must pass a state test of subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum.
 - Current teachers^b can (1) meet the same standard as new teachers **OR** (2) meet the state’s high, objective, uniform state standard of evaluation (HOUSSE).
 - Demonstration of subject matter competency by middle and secondary level teachers:
 - New teachers must (1) pass a state subject matter test in each subject taught **OR** (2) have an academic major, graduate degree, coursework equivalent to a major, or advanced certification in each subject taught.
 - Current teachers can (1) meet either of the two options for new teachers **OR** (2) meet the state’s high, objective, uniform state standard of evaluation (HOUSSE).

There are several ways for instructional staff to meet NCLB's requirements.

Qualified Paraprofessional

A qualified paraprofessional working in a Title I program^c:

- Has completed two years of study at an institution of higher education,
- Has obtained an associate’s (or higher) degree, **OR**
- Has met a rigorous standard of quality and has demonstrated through a state or local assessment knowledge of reading, writing, and mathematics and instruction of these subjects.

^a Only teachers of core academic subjects must be “highly qualified.” Core academic subjects include English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

^b Current teachers are those who are not new to the profession.

^c Current Title I paraprofessionals have until January 8, 2006 to meet these requirements, but all Title I paraprofessionals, regardless of their hiring date, must have at least a high school degree. Paraprofessionals work in a Title I program if they (1) work in a school with a schoolwide Title I program, or (2) work in a school with a targeted assistance program and their salaries are funded with Title I funds.

SOURCE: No Child Left Behind, §§1119, 9101(11), and 9101(23).

through an academic major or a subject matter test.³⁷ In the 2002-03 school year, only about four percent of Minnesota teachers were not “highly qualified” because they were teaching a core subject outside their field of licensure.³⁸ At this time, however, the department has not assessed the impact of the guidelines

³⁷ All teachers are required to have an academic major in their subject area, and new rules effective in 2001 require new teachers to pass a subject matter test. Minnesota Department of Education, *Consolidated State Application: September 1, 2003 Submission* (Roseville, MN, September 1, 2003), 17; and *Minn. Rules* (2003), ch. 8710.0500, subp. 1.

³⁸ Minnesota Department of Education, unpublished document, “General Teacher Data, 2002-03,” as submitted to the Senate Education Committee on February 5, 2004.

Most Minnesota teachers meet NCLB requirements, although the exact impact of these requirements is still being assessed.

on special education, English as a Second Language (ESL), and alternative learning center teachers.³⁹

In our survey of superintendents, 64 percent reported that it is “likely” or “very likely” that all of the teachers in their districts would be “highly qualified” by 2005-06. However, superintendents from rural districts expressed more doubts than other superintendents about their ability to meet this goal. Sixty-one percent of superintendents from outstate districts with fewer than 2,000 students reported that it is “likely” or “very likely” that all of their teachers would be “highly qualified” by 2005-06; in contrast, 73 percent of superintendents from all other districts reported the same.⁴⁰

Although the department routinely collects data on the qualifications of teachers, statewide data on the qualifications of paraprofessionals are not available. In the future, the department will be required to report to the U.S. Department of Education regarding statewide compliance with paraprofessional requirements.⁴¹ Based on interviews with staff from nine school districts, districts vary in their progress in determining whether current paraprofessionals meet NCLB qualifications. Some districts collected the necessary information through the hiring process or by surveying paraprofessionals specifically for this purpose, while others have yet to collect this information.

In complying with the teacher and paraprofessional qualification requirements, districts may incur costs for (1) determining which staff already meet the requirements, (2) monitoring staff progress in meeting the requirements, (3) planning and administering assessments or evaluations of staff competency, and (4) increasing compensation. When we examined districts’ estimated costs of complying with the these requirements, we found that:

- **Estimates of the cost of complying with NCLB staff requirements varied widely among school districts—due to (1) still-evolving state policies, (2) differences in district compliance with NCLB requirements, and (3) differing assumptions about how to get into and remain in compliance with NCLB staff requirements.**

The Minnesota Department of Education only recently determined which methods teachers and paraprofessionals could use to meet NCLB requirements. As shown in Table 4.6, one way current teachers may demonstrate subject matter competence is to meet a “high, objective, uniform state standard of evaluation” (HOUSSE). NCLB permits each state to design its HOUSSE standard. The department announced the final version of its HOUSSE standard in January 2004. In addition, the department finalized the options available to districts for helping

³⁹ Special education, ESL, and alternative learning center teachers may teach more than one core subject. If these teachers are the “teacher of record” for a core subject, they must be licensed in that subject area to be “highly qualified.” If special education or ESL teachers are not the “teacher of record” for a core subject, they must have the appropriate special education license or an ESL license to be “highly qualified.”

⁴⁰ Office of the Legislative Auditor, *Survey of School District Superintendents* (November-December 2003).

⁴¹ The department stated in its September submission to the federal government that it would report on compliance with paraprofessional requirements by January 2004. However, the department has not yet collected this data from school districts. Minnesota Department of Education, *Consolidated State Application: September 1, 2003 Submission*, 28.

Complying with NCLB's staff qualification requirements may be costly for some districts.

paraprofessionals meet the NCLB qualifications in the fall of 2003.⁴² At the time we solicited estimates from school districts regarding the costs associated with meeting NCLB's teacher and paraprofessional requirements, districts were not fully informed about which options would be available to teachers and paraprofessionals and how burdensome they might be.

For the nine districts providing cost estimates, annual costs of complying with NCLB's teacher and paraprofessional requirements ranged from over \$60 per pupil to less than \$1 per pupil. Districts with low and high estimates differed in both the extent to which they were already in compliance with the requirements and the assumptions they made about what costs would be incurred. One district with a low estimate had already collected qualification data for existing paraprofessionals through the hiring process, and most paraprofessionals met the NCLB qualifications. This district assumed that salary increases for paraprofessionals would be unnecessary. In contrast, one district with a high cost estimate projected it would hire an additional staff person to monitor staff progress in meeting NCLB qualifications. This district also assumed that it would need to increase the wage rate for paraprofessionals in the next contract negotiation.

While districts vary in their estimates of the costs of complying with NCLB's teacher and paraprofessional requirements,

- **Local school district officials are more concerned about the cost of meeting NCLB's *paraprofessional* requirements than they are concerned about the cost of meeting *teacher* requirements.**

In our statewide survey, 26 percent of school district superintendents reported that the paraprofessional qualification requirements would be the most costly NCLB requirement to implement, while 11 percent said the teacher requirements would be the most costly. Furthermore, when asked about the need to increase average salaries, 39 percent of superintendents said that they have increased or are likely to increase average compensation levels to attract and retain qualified paraprofessionals as a direct result of NCLB. In contrast, 19 percent reported the same for "highly qualified" teachers.⁴³

Superintendents may be more concerned about paraprofessional requirements than the teacher requirements because most teachers are already "highly qualified." In addition, the requirements for *new* teachers working in a Title I program have had less impact on districts than the requirements for *new* paraprofessionals. (As we discussed earlier, in order to reach the goal of having *all* teachers and *all* Title I paraprofessionals meeting NCLB qualifications by 2006, NCLB also requires *new* teachers and paraprofessionals working in Title I programs to meet NCLB qualifications at the time of hiring.) According to

⁴² Districts may choose which options they will permit paraprofessionals to use. Paraprofessionals can pass the state-approved test (ParaPro) or demonstrate the Minnesota paraprofessional competencies through a training program. Districts may develop their own local assessments, but they must be approved by the Minnesota Department of Education.

⁴³ Office of the Legislative Auditor, *Survey of School District Superintendents* (November-December 2003).

officials with the Minnesota Department of Education, if districts have difficulty hiring licensed teachers in core subjects, the shortage is generally at the middle or high school level, rather than at the elementary school level. Because most schools receiving Title I funds are elementary schools, the requirement that new teachers working in Title I programs be “highly qualified” has had little impact. In contrast, districts have hired paraprofessionals for Title I schools following the enactment of NCLB and have had to ensure that they meet the new qualifications.

In addition, NCLB requires school districts to meet goals for increasing the percentage of teachers receiving “high-quality” professional development.

NCLB requires not only that districts meet annual objectives in the state plan for increasing the number of “highly qualified” teachers, but also that districts meet annual objectives for increasing the percentage of teachers “who are receiving high-quality professional development.”⁴⁴ (“Professional development” is training that licensed teachers receive as part of their employment by a school district.) As of late 2003, the Minnesota Department of Education had not collected data from districts needed to establish a baseline level of professional development and the future annual objectives. Costs of compliance with this requirement are difficult to estimate because the extent to which districts will need to increase professional development opportunities is unclear.

In addition to meeting annual objectives for professional development, school districts receiving Title I, Part A funds must spend at least 5 percent of their Title I, Part A funds on professional development activities to ensure that all teachers are highly qualified by the end of the 2005-2006 school year.⁴⁵ NCLB also requires school districts and schools failing AYP for two consecutive years to spend at least 10 percent of their Title I, Part A funds on professional development.⁴⁶ However, these requirements might not impose significant new costs on school districts and schools because the previous version of the Elementary and Secondary Education Act (ESEA) required districts to provide professional development using Title I, Part A funds and established minimum expenditure levels for professional development for schools failing to make AYP for two consecutive years.⁴⁷ Furthermore, professional development activities provided to comply with the new NCLB minimum expenditure requirements may help school districts and schools achieve the annual objectives for increasing professional development opportunities.

For fiscal years 2004-06, the Minnesota Department of Education estimated that it would incur approximately \$187,000 in staffing costs per year to implement NCLB’s teacher and paraprofessional qualifications provisions. These costs include the costs of (1) developing policies to implement the provisions, such as developing the HOUSSSE standard for teachers and the test/training options for

⁴⁴ No Child Left Behind Act, §1119(a)(2)(B).

⁴⁵ *Ibid.*, §1119(l). Regulations clarify that a district is not required to spend 5 percent of Title I, Part A funds if a lesser amount is sufficient to ensure that the district’s teachers and paraprofessionals meet NCLB qualification requirements. 34 *C.F.R.* §200.60(a)(2).

⁴⁶ No Child Left Behind Act, §§1116(b)(3)(A)(iii) and 1116(c)(7)(A)(iii). A school district may count the 10 percent of funds that schools set aside for this purpose towards its 10 percent set-aside, but it may not count towards its 10 percent set-aside the 5 percent of funds that are set aside for professional development to ensure that teachers are “highly qualified.”

⁴⁷ Improving America’s Schools Act of 1994, Pub. L. No. 103-382, §1119.

paraprofessionals, and (2) monitoring districts' compliance with the requirements.⁴⁸

COSTS RELATED TO CURRICULUM ALIGNMENT

Under NCLB, school districts are supposed to align their curricula with state standards.

NCLB requires each state to have challenging academic standards that specify what children are expected to know in reading, math, and science.⁴⁹ In addition, NCLB requires state education agencies and local school districts to help schools identify or develop “high-quality effective curricula aligned with [the state standards].”⁵⁰ If there is inadequate alignment between local curricula and the standards, students may have difficulty demonstrating proficiency on the state’s assessments in reading, math, and science. These assessments are supposed to measure each student’s academic performance against state standards.⁵¹ Consequently, without curriculum alignment, school districts and schools risk failing to achieve AYP, as defined under NCLB.

The content of Minnesota’s academic standards has changed considerably in the last year. At the time NCLB was enacted, Minnesota already had academic standards outlined in the Profile of Learning, and the Minnesota Department of Education originally planned to use the Profile to comply with NCLB. However, the Profile of Learning standards applied to grade *spans* (K-3, 4-5, 6-8, and 9-12), which is contrary to the NCLB requirement of grade-*specific* standards.⁵² Consequently, the department indicated in June 2002 that it would develop grade-level benchmarks within the Profile of Learning’s grade-span standards in order to comply with NCLB.⁵³ However, this plan changed in 2003 when the Legislature repealed the Profile of Learning and replaced it with a new set of academic standards.⁵⁴

To develop these new academic standards, the Minnesota Department of Education estimated that it spent \$96,000 last year and will spend \$61,000 this year. The department’s standard setting process has largely involved (1) coordinating and supporting citizen committees, which established the standards, (2) holding public meetings concerning draft standards, and (3) soliciting reactions from national experts. The reading and math standards

⁴⁸ The department also estimated that it will spend \$160,000 per year to monitor or assist districts as they try to meet NCLB’s professional development requirements. However, the department did not attribute any of these costs to NCLB.

⁴⁹ No Child Left Behind Act, §1111(b)(1).

⁵⁰ *Ibid.*, §§1111(b)(8)(D) and 1112(c)(1)(O).

⁵¹ *Ibid.*, §1111(b)(3)(A).

⁵² U.S. Department of Education, *Standards and Assessments: Non-Regulatory Draft Guidance* (Washington, D.C., March 10, 2003), 2-6.

⁵³ Minnesota Department of Children, Families and Learning, *Consolidated Plan for the Elementary and Secondary Education Act (ESEA)* (Roseville, MN, June 12, 2002), 5-11.

⁵⁴ *Laws of Minnesota* (2003), ch. 129, art 1, secs. 1-5.

Minnesota adopted new academic standards in reading and math in 2003.

were established last year, while the science standards will be finalized this year.⁵⁵ The department did not attribute any of these costs to NCLB.

We found that:

- **Some school districts plan to devote considerable resources to bringing their curricula into alignment with the state's new academic standards, but it is debatable about how much, if any, of these costs should be attributed to NCLB.**

The annual curriculum alignment estimates that we received from nine school districts ranged from over \$100 per pupil to less than \$1 per pupil, depending on the amount of alignment required in each district. On the high end, one district assumed that the state's new academic standards would require a substantial curriculum overhaul for the district—including large costs for staff training and the purchase of textbooks and instructional materials. According to staff from this district, the overhaul is needed because the Profile of Learning focused on broad concepts, while the new standards will require a teaching approach that drills students on specific facts.⁵⁶ On the low end, another district told us that its existing curriculum was mostly aligned with the new standards. This district's main curriculum alignment activity has been developing instructional calendars for each grade level and subject. These documents identify which of the state's standards are covered in each instructional unit, what activities will be carried out during each unit, and when during the school year each unit should be taught.

Even if some districts will incur significant curriculum alignment costs because of the new standards, it is debatable whether such costs should be attributed to NCLB. Prior to NCLB, there were serious legislative efforts to replace the Profile of Learning with different standards.⁵⁷ If Minnesota would have adopted new standards without NCLB, then most, if not all, local curriculum alignment costs should not be attributed to NCLB because districts would have had to carry out these activities anyway. This is the position of the Minnesota Department of Education. However, it is impossible to prove what the state would have done without NCLB. In fact, some school district curriculum directors expressed the opinion that NCLB played a direct role in the adoption of the new standards. Specifically, they contended that the Minnesota Department of Education told people that the state needed to adopt the new standards to comply with NCLB. Furthermore, it is possible that the high stakes nature of NCLB made curriculum alignment more important than it would have otherwise been, thus leading districts to devote more resources to it. In our November 2003 survey, 91 percent

⁵⁵ To carry out its original plan of developing grade-specific benchmarks under the Profile of Learning, the Minnesota Department of Education estimated that it spent \$82,000 in state fiscal year 2002 and \$87,000 in state fiscal year 2003.

⁵⁶ In addition, according to the superintendent, the district has added advanced courses in junior high science and math so that high-performing students would not be held back by the "skill and drill" approach required for the regular students.

⁵⁷ Patricia G. Avery, Richard Beach, and Jodiann Coler, *The Impact of Minnesota's "Profile of Learning" on Teaching and Learning in English and Social Studies Classrooms* (Minneapolis: Department of Curriculum and Instruction at the University of Minnesota's College of Education and Human Development, April 30, 2002). This report provides a history of the Profile of Learning up to April 2002.

The Minnesota Department of Education believes that curriculum-alignment costs should not be attributed to NCLB, but many school district officials disagree.

of superintendents said that their district revised (or will likely revise in the next two years) classroom curricula as a *direct result* of NCLB.⁵⁸

To the extent that curriculum alignment costs are attributed to NCLB, there is an argument that they should largely be considered one-time, rather than ongoing costs. State law already requires districts to periodically review and improve their instruction and curriculum.⁵⁹ The adoption of the state's new academic standards has caused many school districts to alter their curriculum review cycles and implement new curricula earlier than they otherwise would have. However, under this argument, once the new curricula are fully in place and school districts go back to their traditional review process, the curriculum review costs of districts should generally *not* be attributed to the new standards. Yet some districts may face additional alignment costs that are ongoing. While Minnesota law requires the Commissioner of Education to establish a system for reviewing the new academic content standards every four years,⁶⁰ some school districts have traditionally reviewed their curricula on a longer cycle, such as seven years. If the state standards are significantly changed every four years, some districts will be required to adjust their curricula more often than they otherwise would have.

OTHER COSTS

Besides the major cost categories discussed above, we also examined some other potential costs—specifically, costs associated with (1) expanding school buildings at higher performing schools to accommodate school choice, and (2) NCLB-related lawsuits.

Capital Costs

In our review of NCLB's potential fiscal impacts, we focused on operating costs, not capital expenditures. However, it is important to note that some school districts might have to undertake capital projects to comply with NCLB requirements.

When a school has failed to make AYP for at least two consecutive years, NCLB requires the school district to inform parents in the low-performing school about transfer options to higher-performing schools. According to the U.S. Department of Education's guidance on this issue,

The bottom line, then, is that every student enrolled in a Title I school [that has failed to make AYP for two years] who wishes to transfer to a school that is not in need of improvement must have that opportunity. Thus, if [a school district] does not have sufficient capacity in the schools it has offered under its choice plan to accommodate the demand for transfers, the [school

To accommodate student transfers, high performing schools may have to add building space.

⁵⁸ Office of the Legislative Auditor, *Survey of School District Superintendents* (November-December 2003).

⁵⁹ *Minn. Stat.* (2002), §120B.11.

⁶⁰ *Laws of Minnesota* (2003), ch. 129, art. 1, sec. 5.

district] must create additional capacity or provide choices of other schools.⁶¹

If a large number of schools in Minnesota fail to make AYP, as the simulations in Chapter 3 suggest, there may be many parents who are offered the option to transfer their children to a limited number of high-performing schools. The schools that receive these transferring students could find that they have to expand school facilities, perhaps at significant cost. However, it is worth noting that most of the new federal funding provided through the NCLB Act cannot be used for school construction costs.

Lawsuits

Some legislators are concerned that states will be sued if students fail to meet NCLB's goals.

Legislative leaders in various states have expressed concern about the potential for NCLB-related lawsuits against states. NCLB requires that every child be proficient by 2013-14. Recently, officers of the National Conference of State Legislatures said that such requirements could be the basis for court judgments regarding the adequacy of education funding or the need for school finance system reforms.⁶²

Our simulations of school performance (Chapter 3) show that it will be very difficult for the state, school districts, and individual schools to meet NCLB's ambitious expectations. Still, we have no basis for judging whether lawsuits are possible or what their outcomes might be. In addition, as we discuss in Chapter 3, there is considerable debate in education literature regarding whether—or how much—additional spending would be required to achieve significant improvements in student achievement.

WILL NCLB'S NEW REVENUES COVER ITS NEW COSTS?

Some Minnesota legislators have questioned whether the federal government will provide Minnesota with a sufficient increase in funding to cover the additional costs imposed by the act. In addition, many local officials expressed concerns to us that NCLB is an unfunded (or insufficiently funded) federal mandate. For example, in our statewide survey, less than 3 percent of school district superintendents said that they think that new federal revenues for their districts will be sufficient to cover the cost of new spending required by NCLB.⁶³

Our analysis of this issue examined costs and funding levels in the long run, when NCLB's requirements are fully in place. We used Minnesota's NCLB funding

⁶¹ U.S. Department of Education, *Public School Choice: Draft Non-Regulatory Guidance* (Washington, D.C., December 4, 2002), E-7.

⁶² Senator Angela Monson (Oklahoma), NCSL President, and Speaker Martin Stephens (Utah), NCSL President-Elect, memorandum to state legislative presiding officers, chairs of education committees, and legislative education staff, July 7, 2003.

⁶³ Office of the Legislative Auditor, *Survey of School District Superintendents* (November-December 2003).

In state fiscal year 2005, Minnesota will receive \$42 million more in federal funding under NCLB than under the previous Elementary and Secondary Education Act.

level for state fiscal year 2005 as an estimate of future funding levels. We focused on the costs of new NCLB requirements after they are fully implemented. Furthermore, we adjusted both the funding and cost figures for inflation to reflect 2004 prices.

Table 4.7 shows the increase in federal education funding that Minnesota is expected to receive since NCLB became law. Minnesota is expected to receive \$42 million more from the entire Elementary and Secondary Education Act (ESEA) in state fiscal year 2005 than it did in the pre-NCLB baseline year of state fiscal year 2002, which includes an increase of \$3 million in Title I, Part A funding. To determine whether new funding will be sufficient to cover the cost of new Title I, Part A activities, we think that it is generally appropriate to focus on the \$42 million ESEA increase rather than the \$3 million Title I, Part A increase. First, Minnesota has received increased funding from portions of the ESEA other than Title I, Part A explicitly for the purpose of covering Title I, Part A costs. For example—beyond the funding provided through Title I, Part A—Minnesota received \$7 million for student assessments and \$8 million for improving teacher quality. Second, as noted in Chapter 1, the federal government has granted states and districts the authority to transfer much of their new funding from sections of NCLB other than Title I, Part A to their Title I, Part A programs. Finally, the federal government provides funding for all ESEA programs largely to support the efforts of school districts and schools under Title I, Part A. For example, the purpose of the Reading First program (Title I, Part B) is to help ensure that every student is reading at or above grade level by the end of the third grade, which will help ensure that all students are proficient by the 2013-14 school year.⁶⁴ In

Table 4.7: New ESEA Formula Funding

<u>Funding Category</u>	<u>State Fiscal Year 2002-05 Increase in Funding (Millions of \$)</u>
Title I, Part A	\$ 3
Assessments ^a	7
Improving teacher quality ^b	8
Other ESEA funds	<u>25</u>
Total ESEA funds	\$42

NOTE: The 2005 funding levels are preliminary estimates from the U.S. Department of Education.

In calculating the increase, the 2002 and 2005 funding levels were adjusted for inflation to reflect 2004 prices.

^aAs specified in federal law, the Minnesota Department of Education uses these funds for its own assessment development and administration costs.

^bPrior to NCLB, these funds were provided under two programs—the Eisenhower Professional Development program and the Class Size Reduction program.

SOURCE: Compiled by Office of the Legislative Auditor from 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.

⁶⁴ U.S. Department of Education, Office of Elementary and Secondary Education, *No Child Left Behind: A Desktop Reference, 2002* (Washington, D.C., 2002), 23.

general, the administrative requirements in these other portions of NCLB are relatively minor compared with those in Title I, Part A.

Table 4.8 summarizes our discussion of NCLB costs from earlier in this chapter. The eventual costs of some of the major NCLB requirements are difficult to accurately estimate, or it is debatable how many of these costs should be attributed to NCLB. For instance, statewide, school districts could eventually be required by NCLB to spend as much as \$20 million annually for school choice-related transportation and supplemental educational services. For

Table 4.8: New Title I, Part A Costs

Cost Category	New Long-Term Annual Costs (Millions of \$)
School choice and supplemental services (maximum cost) ^a	\$20
State implementation of assessments ^b	8
District/school implementation of assessments (mid-range estimate) ^c	11
Curriculum alignment	Debatable Costs
Corrective action and restructuring for failing schools	Unknown
Teacher and paraprofessional qualifications	Unknown
<u>Making all students proficient by 2014</u>	<u>Unknown</u>
Total Title I, Part A costs	Unknown

^aAssumes that all school districts that receive Title I, Part A funding will have to devote a full 20 percent of their allocation to choice-related transportation and supplemental services.

^bThese assessments include the reading and math assessments in grades 4, 6, and 8, the science assessments in three grade spans, and the listening and speaking assessments for limited-English students.

^cThese assessments include the reading and math assessments in grades 4, 6, and 8, the science assessments in three grade spans, and the listening and speaking assessments for limited-English students. The districts provided us with estimates that ranged from \$4 to \$50 per student taking each assessment. For each of the reading, math, and science assessments, we used the median estimate of \$17 per student taking the assessment. This cost figure does not include any potential cost savings that school districts could achieve by discontinuing some of their local, non-NCLB assessments.

SOURCE: Office of the Legislative Auditor.

purposes of comparing new revenues and expenditures, it is debatable how much of these costs should be considered “new.” Some schools may use Title I funds to pay for supplemental services; others may spend revenues from other sources to pay for these services. If schools redirect Title I funding to supplemental services, these expenditures could be viewed as an alternative approach to serving disadvantaged students, rather than a “new cost.” On the other hand, any expenditures incurred to meet new NCLB requirements might be regarded as “new costs” to the extent that they require districts to spend funds on services they would not otherwise purchase.

In addition, school districts face the general challenge of ensuring that 100 percent of their students achieve proficiency by 2014. In Chapter 3, we questioned whether academic research has identified ways to accomplish such an ambitious goal. Even if existing research has identified excellent models for schools to consider, it is doubtful that schools could implement these approaches

with consistently excellent results, and there may be some types of students that even the best programs cannot help succeed within NCLB's timelines. Furthermore, we noted that there are debates about how much additional funding would be necessary to dramatically increase student achievement.

As states continue implementing NCLB and incurring additional costs, it is possible that Congress may increase NCLB funding rather than hold it at current levels. However, Minnesota's NCLB allocation is expected to decline in state fiscal year 2005, and under President Bush's proposed budget for the following year, Minnesota's allocation is expected to decline even more.⁶⁵

Overall, we conclude that:

- **In the future, it is quite plausible that the cost of NCLB's new requirements for Minnesota could exceed the increase in federal funding that the state receives under the act, but this will be unclear until school districts proceed further with implementing the act and the federal government determines future funding levels.**

According to NCLB, states are not required to spend more to carry out the act than the act provides in funding.

Finally, it is worth noting NCLB's own language regarding state and local fiscal obligations:

Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to...mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for by this Act.⁶⁶

A legal analysis commissioned by the National Conference of State Legislatures concluded that the "plain meaning" of this language is that NCLB does not require states and school districts to spend more on NCLB than the act itself provides.⁶⁷ However, it is unclear how this provision might be interpreted and enforced by the U.S. Department of Education and, potentially, the courts.

SCHOOL DISTRICT RESPONSES TO NCLB COSTS

Although many school districts have received substantial increases in their NCLB/ESEA funding and are only now starting to face most of the new NCLB costs,

⁶⁵ 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.

⁶⁶ No Child Left Behind Act, §9527(a).

⁶⁷ Senator Angela Monson (Oklahoma), NCSL President, and Speaker Martin Stephens (Utah), NCSL President-Elect, memorandum to state legislative presiding officers, chairs of education committees, and legislative education staff, July 7, 2003.

- **School district superintendents reported in our statewide survey that they have primarily paid for NCLB-required activities through reallocations of existing funds.**

As shown in Table 4.9, 72 percent of superintendents said that their districts have paid for new, NCLB-required activities in the past two years primarily through spending reductions or reallocations, rather than through new revenues. Likewise, 73 percent of superintendents anticipate that they will pay for NCLB-related

Despite receiving an increase in federal funding, few school district superintendents in Minnesota identified federal funds as their primary means of financing NCLB costs.

Table 4.9: Ways That School Districts Have Funded (or Intend to Fund) New Requirements of the NCLB Act

Funding Method	Percentage of Superintendents Who Identified This As Their Primary Funding Method:	
	In the Past Two Years	In the Next Two Years
Spending reductions or reallocations	72%	73%
Increases in district's federal revenues	7	4
Increases in district's state revenues	<1	1
Increases in district's local revenues	6	6
Other	9	6
Don't know/didn't respond	6	10
Total	100%	100%

SOURCE: Office of the Legislative Auditor survey of school superintendents, November-December 2003. (N=326)

activities during the next two years primarily through spending reductions or reallocations. It is possible that school districts will allocate most of their new NCLB funding to direct services for students—to improve student performance—and pay for the NCLB-specific requirements, such as test administration, by reallocating existing resources.

Table 4.10 shows specific changes that superintendents said their districts made (or expect to make) as a direct result of NCLB. Seventy-nine percent of superintendents said that NCLB caused their districts to revise classroom curricula in the last two years. Also, the table shows that a majority said that NCLB caused them to revise the jobs of their existing instructional and administrative staff. Much smaller percentages of superintendents said that they have hired additional staff or increased compensation levels in response to NCLB.

“OPTING OUT” OF NCLB

Some legislators have questioned whether Minnesota should “opt out” of the Title I, Part A program—that is, forgo NCLB federal funding and refuse to comply with the law’s requirements. Some think that the federal government should not be so involved in state education issues, while others believe that the law’s requirements are onerous. While legislators might consider a variety of issues when making a decision about opting out of NCLB, we were asked to

Table 4.10: Changes that School Districts Made (or Will Likely Make) As a Direct Result of NCLB

District Action	Percentage of Superintendents Who Said That Their District:	
	Made This Change In the Past Two Years As a Direct Result of NCLB	Will Likely Make This Change in the Next Two Years As a Direct Result of NCLB
Revised classroom curricula	79%	87%
Reassigned (or redefined the jobs of) existing instructional staff	65	70
Reassigned (or redefined the jobs of) existing administrative staff	61	56
Discontinued some standardized assessments not required by NCLB	44	49
Increased average compensation levels to retain/attract NCLB- qualified paraprofessionals	17	36
Hired additional instructional staff	29	29
Increased average compensation levels to retain/attract "highly qualified" teachers	9	16
Hired additional administrative staff	6	8

SOURCE: Office of the Legislative Auditor survey of school superintendents, November-December 2003. (N=326)

Some legislators have asked whether Minnesota should "opt out" of NCLB.

assess the financial implications. Assessing the financial ramifications of opting out is different than comparing the increase in federal funding under NCLB with the cost of the act's new requirements, which we did earlier in this chapter. If Minnesota opted out, it could lose most of its NCLB/ESEA funding, not just the increase the state has received under the act. Also, Minnesota would have the option of averting all NCLB/ESEA requirements, not just the new ones created in this most recent reauthorization of the ESEA. In the following sections, we discuss these issues in more detail.

Loss of Federal Funding

In state fiscal year 2005, Minnesota is expected to receive \$104 million in Title I, Part A funding and \$216 million in overall NCLB funding. (These funding levels have been adjusted for inflation to reflect prices in state fiscal year 2004.) Based on interviews with federal and state officials and technical guidance provided by the U.S. Department of Education, we found that:

- **Minnesota would lose the majority of its federal NCLB funding if it opted out of Title I, Part A, but the exact amount is unclear.**

On February 6, 2004, the U.S. Department of Education issued an informal statement concerning the federal funds that states would lose if they opted out of Title I, Part A.⁶⁸ According to the department, programs with grants that are allocated to states and school districts based on their share of Title I, Part A funding would be “negatively affected.” The department specifically identified six such programs—(1) Even Start, (2) Comprehensive School Reform, (3) Education Technology Grants, (4) Safe and Drug Free Schools and Communities, (5) 21st Century Community Learning Centers, and (6) Education of Homeless Children and Youth. In Minnesota, the portion of the funding for these six programs that is linked to the state’s Title I, Part A allocation will total \$22 million in state fiscal year 2005. Thus, if Minnesota opted out of Title I, Part A, the state would annually lose at least \$126 million—\$104 million of Title I, Part A funding and another \$22 million from the programs listed above.

The federal government has provided only limited guidance regarding the amount of funding states would lose if they opted out of NCLB.

However, this is not an exhaustive list of the funding that could be lost. The U.S. Department of Education’s statement left open the possibility of other programs being affected, and our review of the NCLB law indicates that several other NCLB programs appear to be linked to a state’s participation in Title I, Part A. For example, the federal government annually provides Minnesota about \$7 million to develop and administer the new assessments required in Title I, Part A. If Minnesota opted out and did not implement these assessments, it seems unlikely the state would receive this funding. As another example, a few non-Title I, Part A programs require schools or school districts to be held accountable for making AYP.⁶⁹ If Minnesota opts out and does not establish an AYP process as defined in Title I, Part A, funding in these programs may be jeopardized. In the end, the amount of funding that Minnesota would lose if it opted out of Title I, Part A depends on how strictly the U.S. Department of Education (and possibly the courts) interprets these linkages between Title I, Part A and other parts of NCLB. Although it is doubtful that Minnesota would lose its entire NCLB funding (\$216 million) if it opted out of Title I, Part A, it is clear that the state would lose a large percentage of these funds.

The department’s statement also discusses whether states will lose federal funding outside of NCLB if they opt out. The U.S. Department of Education wrote:

Nonparticipation . . . in programs under [NCLB] does not disqualify [a state] from receiving funds under the Carl D. Perkins Vocational and Technical Education Act, the Adult Education and Family Literacy Act, and the Individuals with Disabilities Education Act (IDEA).⁷⁰

However, it is important to note that the department provided this statement as technical assistance and not as a formal legal opinion. The department qualified

⁶⁸ Eugene W. Hickok, Acting Deputy Secretary, U.S. Department of Education, letter to Dr. Steven O. Laing, Superintendent of Public Instruction, Utah State Office of Education, February 6, 2004.

⁶⁹ These programs include (1) English Language Acquisition (Title III, Part A), (2) Small, Rural School Achievement (Title VI, Part B, Subpart 1), and (3) Rural and Low-Income Schools (Title VI, Part B, Subpart 2). Other programs also have linkages to Title I, Part A. For example, the Improving Teacher Quality grant program (Title II, Part A) has several requirements that are intertwined with those in Title I, Part A.

⁷⁰ Eugene W. Hickok, Acting Deputy Secretary, U.S. Department of Education, letter to Dr. Steven O. Laing, Superintendent of Public Instruction, Utah State Office of Education, February 6, 2004.

the information by stating, “Each program, within and outside our Department, must be reviewed to determine whether any of the respective program’s requirements are linked to or otherwise reference requirements of the ESEA.”⁷¹

Cost Savings

Minnesota would likely continue to bear the cost of some accountability activities even if the state opted out of NCLB.

We examined whether Minnesota could achieve annual cost savings by opting out that would offset the loss of federal funding discussed above. If Minnesota opted out, it would have the option of discontinuing all the activities required in Title I, Part A. Yet, it is quite possible that the state would still carry out many of these activities on its own. In fact, Minnesota now requires some of the NCLB activities in state law. Thus, to consider cost savings that might result from opting out, policy makers should contemplate what type of statewide educational accountability system Minnesota would have without NCLB. In the following paragraphs, we discuss possible cost savings in more detail.

General NCLB/ESEA Administration. If Minnesota did not participate in NCLB, the Minnesota Department of Education and school districts would not have to carry out general NCLB/ESEA administrative activities, such as managing grant funds and preparing plans and reports. The department reported to us that it annually spends \$2.5 million to carry out these general administrative activities. In addition, we estimated that school districts across the state annually spend about \$7 million on their administrative activities.⁷²

Development of Academic Standards and Curriculum Alignment. By opting out, the state would likely achieve little, if any, cost savings in this area. Specifically, the state would probably not abandon statewide academic standards if it opted out of NCLB. Minnesota was moving toward implementing statewide standards prior to NCLB (and the federal law that preceded it), and state and local officials are now implementing academic standards adopted by the 2003 Legislature. However, without the accountability and sanctions imposed by NCLB, school districts might focus fewer resources on aligning curricula and measuring of proficiency against state standards.

Student Assessments. If the state reverted to its pre-NCLB assessment requirements, it would drop (1) the reading and math assessments in grades 4, 6, and 8, (2) the science assessments, and (3) the listening and speaking assessments for limited-English students. This would potentially save the Minnesota Department of Education and school districts roughly \$19 million annually, in the long run. In the event that the Legislature decided to abandon all the other assessments required by NCLB, the department and districts would save a total of about \$39 million annually. However, to the extent that school districts would have used these NCLB assessments to gather information about their students’ academic skills and achievement levels, some districts may decide to start

⁷¹ *Ibid.*

⁷² We based our estimate on the median estimate that we received from eight school districts. (Minneapolis did not provide an estimate for the total general administrative costs it will incur.) The median estimate was 6 percent of a district’s Title I, Part A allocation, and we multiplied this by the statewide district allocation for Title I, Part A in state fiscal year 2004. While the cost of general ESEA administration applied to all programs (not just Title I, Part A) we used the Title I, Part A allocation as the basis of our extrapolation.

administering other assessments on their own to gather similar information. The cost of these new, non-NCLB assessments would offset some of the savings achieved by opting out.

AYP Determination and Reporting. Minnesota could avoid the costs associated with the AYP determination and reporting process prescribed by NCLB if it opted out, but these costs are relatively small statewide. Furthermore, if the Legislature decided to keep some sort of statewide accountability system in the absence of NCLB, state and local officials would still need to carry out some performance reporting activities.

Sanctions and Supplemental Services. Without NCLB, the state would not be required to impose consequences against under-performing schools and school districts. School districts would no longer be required to spend an amount up to 20 percent of their Title I, Part A allocations on supplemental services and school choice-related transportation—an amount up to \$20 million statewide. In addition, they would not have to carry out corrective actions and restructuring for schools that fail to make AYP for at least four consecutive years.

Teacher and Paraprofessionals Requirements. Statewide, there could be significant savings if school districts did not have to comply with NCLB requirements, although the exact magnitude of the savings is unclear. Nine school districts estimated that their savings per K-12 pupil would range from less than \$1 to over \$60 if teachers and paraprofessionals only had to meet qualifications specified by the state and school districts. In addition, school districts would not have to meet the NCLB goals for increasing the amount of high quality professional development that teachers receive.

Parental Involvement. If Minnesota opted out of NCLB, Minnesota would not have to provide the parental involvement activities required by the Title I, Part A program. Based on information provided by nine school districts, we estimated that school districts annually spend about \$2 million statewide on these activities.⁷³

Overall. The potential cost savings from opting out of NCLB might be somewhat larger than the cost of the new NCLB requirements outlined in Table 4.8. But,

- **Without knowing the size of NCLB’s least predictable costs, it is unclear whether Minnesota’s annual cost savings from opting out of Title I, Part A would exceed the loss of federal funding.**

Without question, Minnesota could avert some costs if the state opted out of NCLB. While it is possible to make reasonable estimates of some of these costs, it is difficult to accurately estimate how much Minnesota would save if school districts did not have to meet NCLB’s requirements for staff qualifications and performance-related sanctions. It is even more difficult to estimate what costs might be saved if Minnesota was not required to ensure that all students are proficient by 2014. However, NCLB funding accounts for less than 4 percent of

⁷³ The median estimate was 2 percent of a district’s Title I, Part A allocation, and we multiplied this by the statewide district allocation for Title I, Part A in state fiscal year 2004. No Child Left Behind Act §1118(a)(3)(A) requires districts to set aside not less than 1 percent of their Title I, Part A funds for parental involvement activities.

A majority of school district superintendents oppose opting out of NCLB.

school district budgets, so it would not take a large percentage increase in education spending for NCLB costs to exceed NCLB revenues.

Although it is unclear whether the cost savings that Minnesota would achieve by opting out of Title I, Part A would be sufficient to offset the loss of funding, most school district superintendents do not want the state to opt out. In our statewide survey of superintendents, we found that:

- **Seventeen percent of Minnesota’s superintendents said that they favored Minnesota “opting out” of NCLB, while 51 percent opposed it and 31 percent offered no opinion.**⁷⁴

The Minnesota Department of Education should track NCLB-related costs.

TRACKING NCLB COSTS IN THE FUTURE

To make effective decisions about Minnesota’s K-12 education system, legislators need a good understanding of the costs that NCLB is imposing on the state. The act will have a large impact on the way schools and school districts operate. In addition, the Legislature may want to continue examining the option of opting out of NCLB, or it may wish to challenge the federal government under the provision of the act that says that states are not required to spend more on NCLB activities than the act provides in funding.⁷⁵ However, the exact magnitude of many of the NCLB costs will only become clear after Minnesota is further along in implementing the act.

RECOMMENDATION

The Legislature should require the Minnesota Department of Education to annually prepare a report identifying, at a minimum, the expenditures incurred by school districts (regardless of funding source) to comply with NCLB-required sanctions for low-performing schools.

This report does not recommend that the Minnesota Department of Education track *all* NCLB-related state and local costs on an ongoing basis. Determining which costs to attribute to NCLB requires many judgments, and we are skeptical that such judgments could be made consistently for costs incurred by numerous education agencies in many separate cost categories. However, we think that some potentially large, readily-defined NCLB costs should be tracked regularly. As a starting point, we suggest that the department collect and summarize data regarding local expenditures for NCLB-related school choice, supplemental education services, corrective actions, and restructuring. For example, such a report could indicate whether school districts are spending the full amounts they are required to set aside for school choice and supplemental services—or less, due to low demand for these services. In addition, such reports could indicate the nature and cost of the corrective actions and restructuring sanctions that some districts will be required to implement in the future.

⁷⁴ Office of the Legislative Auditor, *Survey of School District Superintendents* (November-December 2003).

⁷⁵ No Child Left Behind Act, §9527(a).