

established an annual measurable objectives trajectory that includes only minor increases in AMO thresholds until only a few years before 2014, perhaps gambling that future reauthorizations will remove the 100 percent target. But for the moment, such speculation is risky at best. Fabrizio says changes to the legislation are "going to really depend on who is in the White House" when reauthorization becomes an issue again in 2007. McGrady is not even that optimistic: "What I think you will see in my opinion will be technical amendments to the law—not a total rewrite of the law."

So, like many other states, North Carolina is already in the process of reformulating key components of its plan for meeting the demands of NCLB, and in all likelihood these changes will help the state project a somewhat rosier picture of the quality of education in North Carolina. For example, in April

2004, the state submitted a proposal to the U.S. Department of Education to make several revisions to its assessment system in terms of how proficiency is measured, how many students must participate in testing, and more.<sup>17</sup> While modifications like these will certainly help,<sup>18</sup> the state will still face several significant challenges in the coming years.

### Challenges:

- *The state's achievement gap closure rate may not keep pace with annual measurable objectives.*

Between the 1992–1993 and 2002–2003 school years, the statewide achievement gap between non-Asian minorities and white students on composite reading and math scores in primary grades closed

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## *Is the Federal "No Child Left Behind" Law An Unfunded Mandate on the States?*

**G**iven the expense of implementing a national school accountability program and the fact that the federal government clearly is passing substantial costs on to state and local government, complaints are rising that No Child Left Behind amounts to a massive unfunded mandate. But does it?

According to the National Conference of State Legislatures, an unfunded mandate is anything required that shifts costs to the state. NCSL describes these cost shifts as "fiscal insults," and identified five ways in which they can occur.<sup>1</sup> These are:

- (1) Imposing mandates as a condition of aid;
- (2) Changing entitlement programs;
- (3) Reducing funds for administering grants;
- (4) Withholding, or failing to release funds, and;
- (5) Using sanctions.

By this test, No Child Left Behind clearly would qualify as an unfunded mandate, though the NCSL position may be a liberal interpretation of what constitutes an unfunded mandate.<sup>2</sup> The No Child Left Behind Act imposes mandates as

a condition of federal Title I money for needy students, it changes the Title I entitlement program, and it uses sanctions against schools and school systems that fail to meet the requirements of the law.

In fact, the National Conference of State Legislatures has identified the No Child Left Behind Act, with \$9.6 billion in unmet costs, as the second worst offender in its fiscal impact on the states, trailing only the Individuals with Disabilities Education Act at \$10.1 billion.<sup>3</sup> Others with significant impact are: state drug costs for dual eligibles (those citizens eligible for both Medicaid and Medicare), \$6 billion; Help America Vote Act implementation, \$2.4 billion; and sundry environmental programs, \$1 billion.

—Mike McLaughlin

### FOOTNOTES

<sup>1</sup> "What Is a Mandate?", *State Policy Reports*, Alexandria, Va., Vol. 22, Issue 5, March 2004, p. 13.

<sup>2</sup> For more on mandates as they apply at the local level, see Mike McLaughlin and Jennifer Lehman, "Mandates to Local Government: How Big a Problem?" *North Carolina Insight*, Vol. 16, No. 3, May 1996, p. 42–75.

<sup>3</sup> Molly Stauffer and Carl Tubbesing, "The Mandate Monster," *State Legislatures*, National Conference of State Legislatures, Denver, Colo., May 2004, p. 22.