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PASS/FAIL:

Meeting the Challenges of the State ABC and Federal *“No Child Left Behind”* Accountability Programs

by Trip Stallings



Karen Tam

Summary

The 2002–2003 school year marked the first academic year during which all North Carolina public schools were measured under both the state ABCs of Public Education school accountability standards in place since 1996 and federal No Child Left Behind Act of 2001. The federal act was modeled at least in part on North Carolina's law, and the two have a common goal of boosting accountability for performance in the classroom. Yet implementation of No Child Left Behind (NCLB) produced a curious result: Almost half the schools that achieved what could be equated to a passing grade on state standards failed to meet federal standards.

One reason? The state law holds schools accountable in such a way that a low performance by a small group of students can be pulled up by the overall performance of the student body as a whole. The state also takes academic growth into account. Under federal law, testing results are disaggregated according to racial and ethnic subgroups within a school or school system. If students within that subgroup do not do well enough to meet proficiency standards, the school as a whole does not pass—an “all or nothing” standard. In Onslow and Washington Counties, for example, every school met or exceeded state ABCs expectations, but only 18 of 38 schools in the two districts met all target NCLB goals.

Though they may be confusing, such results were not unexpected. The state itself had projected an NCLB passing rate of 42 percent for Title I schools—those that have a significant population of poor students. These so-called Title I schools represent about half the schools in the state, and the state does not project their passing rate to climb above 90 percent before the 2012–2013 school year. There is work to be done not only in educating children to meet new federal standards but also in establishing the full complement of testing necessary to come into full compliance with the law. Where does North Carolina stand in meeting the requirements of this federal legislation? Is the state running ahead or behind relative to other states? What are the immediate and long-term sanctions North Carolina faces if the state fails to meet the federal requirements, and can the state meet the standards in the time allotted by the federal government?

In terms of meeting requirements for a statewide accountability system, North Carolina is ahead of the curve. The state already has the required statewide accountability testing program in reading and math and is developing a science test, as required by federal law for 2007–2008. The state has the ability to measure student progress in grades three through eight and in one high school year. The state reports its results annually, and administers the National Assessment of Educational Progress as required by the law.

As for how North Carolina stands relative to the nation, as late as 2002, only 15 states had met the reading and math testing requirements (the law requires that these tests be in place by 2005–2006), and only 13—including North Carolina—provided a school and school district (or Local Education Agency) report card as provided in the law.

But for North Carolina, the more difficult requirement is meeting the performance requirements contained in the law. Those requirements call for all students to demonstrate proficiency on the federal standards by the end of the 2013–2014 school year, with incremental progress toward this goal demonstrated each year. As of 2002–2003, only 1,047 of 2,200, or 47.6 percent, of the schools in North Carolina had met all targets in compliance with the federal regulations, while 94 percent had met state standards. The number of schools meeting federal standards rose to 1,600 of 2,270 in 2003–2004 (or 70.5 percent), while 75 percent met state standards. The main stumbling block for the state has been the requirement that not only the student body as a whole make adequate yearly progress (AYP), but also that every racial and ethnic subgroup within that school and school district—American Indians, African Americans, Asians, Hispanics/Latinos, and whites—achieve this goal. In addition, economically disadvantaged students and students with disabilities must make adequate yearly progress. This is true for the school as well as the school district.

What are the consequences of failing to meet the standards? There are no federal sanctions if the school is not one of North Carolina's Title I schools, which are schools that receive federal dollars earmarked for the improvement of education of disadvantaged students. However, about half of North Carolina's public schools are Title I schools, and every school district in the state has at least one. In 2002–2003, 116 out of 117 North Carolina school districts (legally known as LEAs) had at least one Title I school (only Polk County did not), and over half of all charter schools received Title I funds—1,132 schools in all. Schools not making adequate yearly progress for at least two years are deemed in "Title I School Improvement" meaning they must develop school improvement plans and use a percentage of Title I funds to implement them. Schools that fail to meet these standards for three years are labeled "schools not making adequate yearly progress" with sanctions added for each year a school fails to come into compliance, including: offering students the opportunity to transfer to non-sanctioned schools; providing out-of-school tutoring services at LEA expense, planning to restructure the school; and finally, restructuring the school. There will be significant cost associated with implementing these progressively rigorous sanctions.

Will North Carolina be able to meet the requirements of the law? The state faces numerous challenges. These include: closing the achievement gap between whites and Asian students and other racial and ethnic minority subgroups, which becomes increasingly difficult as the gap narrows; closing the achievement gap within subgroups themselves—such as the gap between children with disabilities and those without and between the economically disadvantaged and the affluent; gaining 100 percent proficiency for all sub-groups, which is viewed as politically appealing (and thus hard to change in the law) but very difficult; and meeting costs for school improvement, tutoring, and other measures if the schools and school districts get hit with heavy sanctions.

A key consideration as North Carolina approaches the future is that the state is far from alone in its difficulties with adjusting to the requirements of No Child Left Behind. Indeed, because of its experience with the state ABCs plan, North Carolina is probably ahead of most other states and has the opportunity to take the lead in helping to shape the new law to practical reality while at the same time advancing the noble goal of educating all students.

At the close of the 2002–2003 school year, Southwest Elementary School in Onslow County earned a dubious distinction that none of its students is ever likely to replicate. The school received both an overall passing and failing grade on its end-of-year evaluation. “We were surprised,” recalls former Southwest principal Debbie Bryan. “They [the staff] were devastated.” Puzzling results like this were not limited just to Onslow County or even to primary schools. For example, Plymouth High School in Washington County posted the same results. In fact, in 2003, almost half of *all* public schools in North Carolina (1,070 schools) shared this distinction, falling to 16.5 percent (375 schools) in 2004.

The reason for this perplexing state of affairs is something that is becoming all too familiar to educators in this state and across the nation. The 2002–2003 school year marked the first academic year during which all North Carolina public schools were measured and evaluated under both the state’s homegrown ABCs of Public Education standards and accountability assessments system¹ and the new, parallel, but sometimes incongruent accountability required by the 2001 reauthorization of the federal Elementary and Secondary Education Act

(the major source of federal funding for schools), *No Child Left Behind* (NCLB).²

To be fair, results like those for Southwest Elementary or Plymouth High were not unexpected. As Onslow County School Superintendent Ronald Singletary acknowledges, “We have known all along that the expectation that all [schools] were going to make it this first year was not realistic.” In a May 2003 application for a federal education grant, the North Carolina Department of Public Instruction projected an NCLB pass rate for 2002–2003 for Title I schools (schools with a significant population of students from low-income families) of only about 42 percent. The department does not project the percent passing for these schools to climb above 90 percent until the end of the 2012–2013 school year.³ At the same time, however, because of significant differences between the two accountability systems, the state has seen the overall percentage of schools meeting or exceeding the state ABCs standards climb well above 90 percent.

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"We have known all along that the expectation that all [schools] were going to make it this first year was not realistic."

—RONALD SINGLETARY

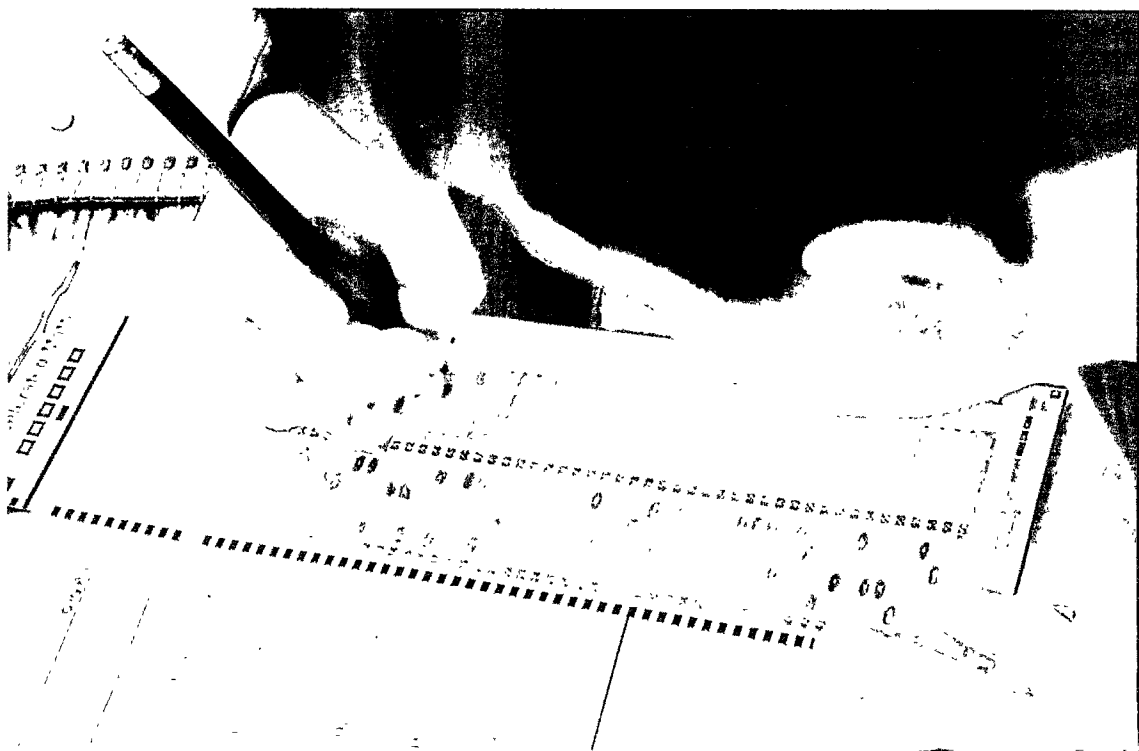
ONSLow COUNTY SCHOOL SUPERINTENDENT

In Onslow and Washington Counties, every school met or exceeded state ABCs expectations in 2002–2003, but only 18 of 38 schools in the two districts met all target NCLB goals. At Southwest, a school that receives Title I funding, the composite pass rate on North Carolina end-of-grade tests was almost 94 percent, and yet the school still failed to meet the standards set by NCLB.

One of the motivations behind the implementation of the new federal expectations is a growing political will to hold states more accountable for outcomes tied to federal dollars, and the sections of the law dealing with assessment and accountability requirements represent the most comprehensive federal attempt to date to tie federal education funding to outcomes. Though federal funding represents only around 8 percent of all money states spend on education (8.6 percent in North Carolina in 2002–

2003), that 8 percent sometimes means the difference between life and death for a school's programs. Not all schools receive Title I funds—in North Carolina only about half do—so the size of a state's overall federal package can understate the significant help that federal money provides to certain schools and districts. For instance, in 2002–2003, only about 6 percent of all non-child-nutrition education dollars in North Carolina came from the federal government, but in Jones County, where every school in the district except the high school received school-wide Title I funds, the percentage was much greater—12 percent, or more than \$1000 per child—and the actual federal contribution per pupil is probably twice that amount if only those students actually served using Title I funds are included in the calculation.⁴

What will the new federal accountability standards mean for North Carolina, both in the short term and in the long run? We can start to determine the impact on the state by answering four central questions: First, does North Carolina's assessment system meet the requirements of the new legislation, or is there more work to be done? Second, to what degree did the state's first-year results meet national expectations? Third, what are the immediate and long-term sanctions the state will face because of these results? And finally, can North Carolina meet all of the new standards in the time allotted by the federal government?



Karen Tam

Table 1. Federal Progress Toward Meeting No Child Left Behind Assessment System Requirements

Federal No Child Left Behind Assessment System Requirement	North Carolina Progress Toward Requirement
Single, statewide accountability system for use in all LEAs	Met
Standards in reading and math	Met
Standards in science by 2005–2006	Met (standards in place as of 2000–2001)
Assessments linked to those standards for all students in grades 3–8 by 2005–2006 (for science by 2007–2008)	Met (science field testing in 2005–2006 and 2006–2007; official testing in 2007–2008)
Progress assessed annually in grades 3–8	Met
Progress assessed at least once between grades 10 and 12 (including science by 2007–2008)	Met—NC administers a 10th grade comprehensive test
Reading assessed using tests written in English for all students who have lived in the U.S. for three or more consecutive years	Met
English proficiency assessed annually for all Limited English Proficient students	Met
Adequate yearly progress objectives by grade and by subject, with performance results disaggregated in ten prescribed sub-categories	Met
Biennial participation in National Assessment of Educational Progress (NAEP) math and reading testing in 4th and 8th grades	Met
State and Local Education Agency report cards available to the public	Met

1. Assessing the Assessment System

As was true in most states in 2002–2003, a significant number of North Carolina schools failed to meet the proficiency standards established under the new federal legislation and U.S. Department of Education regulations. But in at least one specific area of the legislation, the development of a statewide assessment system, North Carolina is ahead of the national curve. This is due in no small part to the fact that much of the federal assessment legislation was based partially on the system outlined in North Carolina’s ABCs of Public Education, which has guided state assessment since the

1996–1997 school year. In fact, North Carolina’s program of testing students in grades 3–8 in reading and math goes back to the 1992–1993 school year.

Thus, the most significant immediate federal requirement—implementation of statewide tests by the 2005–2006 school year—is not much more than an afterthought for North Carolina. In all, NCLB requires states to: 1) develop a single, statewide accountability system based on standards in reading and math (and science by 2007–2008) with assessments linked to those standards; 2) measure progress for all students in grades 3 through 8 and in one high school year; 3) report the results annually; and 4) ad-

minister National Assessment of Educational Progress (NAEP) tests to 4th and 8th graders every other year to assess the degree to which the state-created tests measure up on a national scale. North Carolina met all of the short-term assessment system goals by 2002–2003 (see Table 1, p. 38), with the only significant task remaining being the construction of science tests for administration starting in 2007–2008. According to Lou Fabrizio, director of Accountability Services at the N.C. Department of Public Instruction, the state is well on its way to meeting that goal as well: “Right now we are in the process of getting an RFP [request for proposals] out for 5th grade and 8th grade items to be written. The only issue we have at the high school level for science is whether we can get the U.S. Department of Education to allow us to use the Biology EOC [End-of-Course test] as the high school science test.”

2. Understanding the First-Year Results: N.C. ABCs vs. the New Federal Standards

Meeting the assessment system requirements is no small accomplishment. While most states already had standards in place for reading, math, and science before the passage of NCLB, by 2002 only

15 states had met the 2005–2006 reading and math *testing* requirements (seven already meet science test requirements as well), and only 14 states provided school and LEA report cards with at least some of the detail required by NCLB.⁵ But, as North Carolina and schools like Onslow’s Southwest Elementary and Washington’s Plymouth High are beginning to learn, putting the assessment system in place is only part of the battle. The more difficult step is meeting the expectations. In addition to the assessment standards described above, schools must meet progressive target proficiency goals for each academic year, with a required terminal goal of 100 percent proficiency for all students by the end of the 2013–2014 school year.

How well did the Local Education Agencies (LEAs) perform in 2002–2003, as measured by the new system? Of the 2,200 schools in North Carolina, more than 94 percent met state accountability goals, but just under half (1,047) met all targets established in compliance with the federal regulations. Of the 119 school jurisdictions assessed,⁶ only two—Hyde County and Ashe County—met every district-wide target. (See Table 2.)

It seems counterintuitive for there to be such a significant discrepancy between the number of schools meeting state expectations and the much

Table 2. Local Education Agency^a Progress Toward Making Adequate Yearly Progress Targets, 2002–2003

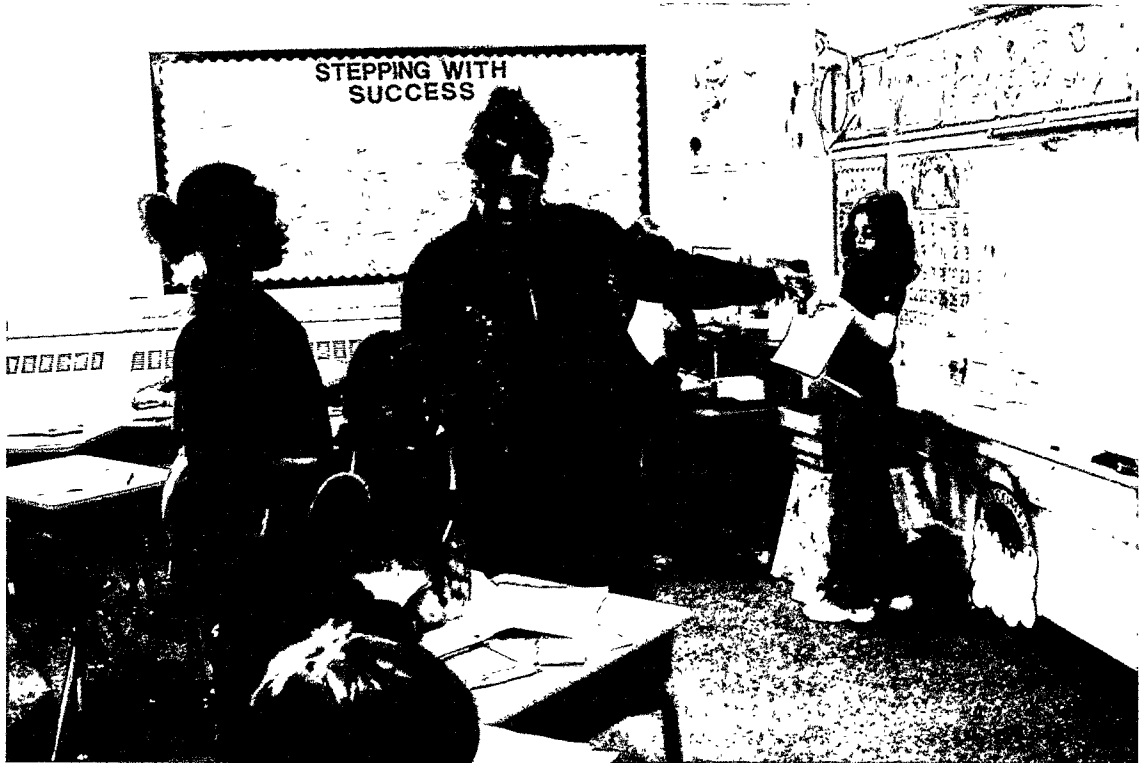
% Targets Met	Number of LEAS
<70%	6 ^b (The six lowest LEAs are N.C. Department of Health and Human Services, Hertford, Hoke, Northampton, and Robeson County Schools, and Weldon City Schools.)
70–79%	20
80–89%	55
90–99%	32
100%	2 ^c (The two highest LEAs are Ashe and Hyde County Schools.)

^a Includes students educated in N.C. Department of Health and Human Services and N.C. Department of Juvenile Justice facilities.

^b Low=N.C. Department of Health and Human Services Schools, 11 of 23 (47.8%) targets met.

^c Ashe County Schools met 29 of 29 targets, Hyde County Schools met 25 of 25 targets.

Source: Table generated from data available at *The ABCs Accountability Model* website, North Carolina Department of Public Instruction, <http://abcs.ncpublicschools.org/abcs/>.



Karen Tam

lower number of schools and systems meeting federal expectations under NCLB. After all, the tests used to measure progress in both accountability systems are the same. The major difference between ABCs and NCLB results lies in the rules governing the accountability proposal that all states are required to submit to the U.S. Department of Education. The proposal, once approved by the federal Department of Education, becomes the blueprint for the key NCLB measure and the reason for all of the discrepancies: adequate yearly progress, or AYP.

*All schools for miles and miles around
Must take a special test.*

To see who's learning such and such—

To see which school's the best.

If our small school does not do well,

Then it will be torn down.

And you will have to go to school

In dreary Flobbertown.

—THEODOR GEISEL (DR. SEUSS)

HOORAY FOR DIFFENDOOFER DAY!

To meet adequate yearly progress goals, schools and school systems must meet a range of standards, most of which are related to testing. Under NCLB, states must assess adequate yearly progress annually in reading and math (science must be tested by 2007–2008, but federal law does not require it to be part of adequate yearly progress) for: (1) all students collectively, (2) state-defined sub-groups—in North Carolina, these groups are American Indian, Asian, Black, Hispanic, Multi-Ethnic, and White students, and (3) for students characterized as economically disadvantaged (eligible for free or reduced price lunches), limited English proficient (LEP), and students with disabilities. This tracking of sub-group performance must happen at the state level, the district level, and the school level. A school is held accountable for the adequate yearly progress of a sub-group only when that sub-group includes enough students “to yield statistically reliable information”⁷⁷ (North Carolina set its minimum number at 40 students). Thus, while there may not be enough reading scores for Asian students in a particular school to generate an adequate yearly progress measure for the sub-group at the school level, scores of individual students still count for the school as a whole. Adequate yearly progress for the Asian sub-population will be measured in the school’s district if the overall number of Asian

Table 3. North Carolina's Annual Measurable Objective Targets,^a 2002–2014

2002–2004	Grades 3–8	Grade 10
Reading	68.9%	52.0%
Math	74.6%	54.9%

2004–2007	Grades 3–8	Grade 10
Reading	76.7%	64.0%
Math	81.0%	66.2%

2007–2010	Grades 3–8	Grade 10
Reading	84.4%	76.0%
Math	87.3%	77.4%

2010–2013	Grades 3–8	Grade 10
Reading	92.2%	88.0%
Math	93.7%	88.7%

All Annual Measurable Objectives for the 2013–2014 school year are set at 100%.

^a Percentages represent the proportion of students who must pass end-of-grade and end-of-course tests in order for schools and local education agencies to meet their Annual Measurable Objectives (AMOs). Federal law requires that schools and local education agencies reach annual measurable objectives of 100 percent by the 2013–2014 school year.

*Source: NC Consolidated State Application: May 1, 2003, Submission, pp. 15–16. Base (2002–2004) minimum proficiency rates for North Carolina were set by procedures prescribed by No Child Left Behind and are based on 1999–2000 through 2001–2002 North Carolina performance data; base rates are unique to each state. See *Determining Adequate Yearly Progress*, North Carolina Department of Public Instruction, at <http://abcs.ncpublicschools.org/abcsfiles/apystatus.pdf>.*

students in the district reaches the state's "statistically reliable" threshold. It is possible for a school to meet all of its progress targets but for its district to fail, or *vice versa*. For example, in 2002–2003, Hyde County met all adequate yearly progress targets as a system, but two of its four schools failed to meet some of the same adequate yearly progress targets. In Graham County, all three schools met adequate yearly progress, but the district as a whole failed.

While NCLB prescribes the subject areas for the assessments and the frequency with which states must administer them, the legislation does not mandate that all states meet the same target proficiency goals each year. Instead, each state controls its own destiny by establishing proficiency targets for each subject and grade level that grow in periodic increments called Annual Measurable Objectives (see Table 3), with the only stipulation being that all states must reach 100 percent proficiency in all tested areas by 2013–2014. North Carolina could have chosen to set lower goals for some of the years before 2014 (as long as they were not lower than the baseline goals for 2002–2003 established by federal statute), but schools would then have been faced with the task of improving achievement scores in much larger increments as the 2013–2014 school year approached. Adequate yearly progress must also include *other academic indicators* (OAI), which, in North Carolina, are either attendance rates or graduation rates (for schools that graduate seniors) and percent of students in each sub-group and at each grade taking the tests.⁸ In all, North Carolina must meet 81 separate measures to satisfy adequate yearly progress requirements (in 2002–2003, the state met 65 of 81 of its goals, or 80 percent, improving to 69 of 81, or 85 percent in 2003–2004).

Knowing all of this still does not clarify completely why schools like Onslow's Southwest Elementary and Washington's Plymouth High end up with conflicting end-of-year results. The final piece of the puzzle is that the state and NCLB take markedly different approaches to defining success, distinct in two key ways.

a. Expected Growth vs. Annual Measurable Objectives

North Carolina's ABCs system rewards or sanctions individual schools based on their ability to meet annual *expected-growth measures* that are unique to each school for each grade and subject. A school's target expected-growth numbers are calculated annually using a formula that takes into con-

sideration several factors, including test results from the previous year. The program follows the same students from year to year so that both growth in scale scores and absolute performance can be taken into account. Whether a school is sanctioned or rewarded is based on its ability to meet or exceed a certain *rate of growth* in terms of the *change*.

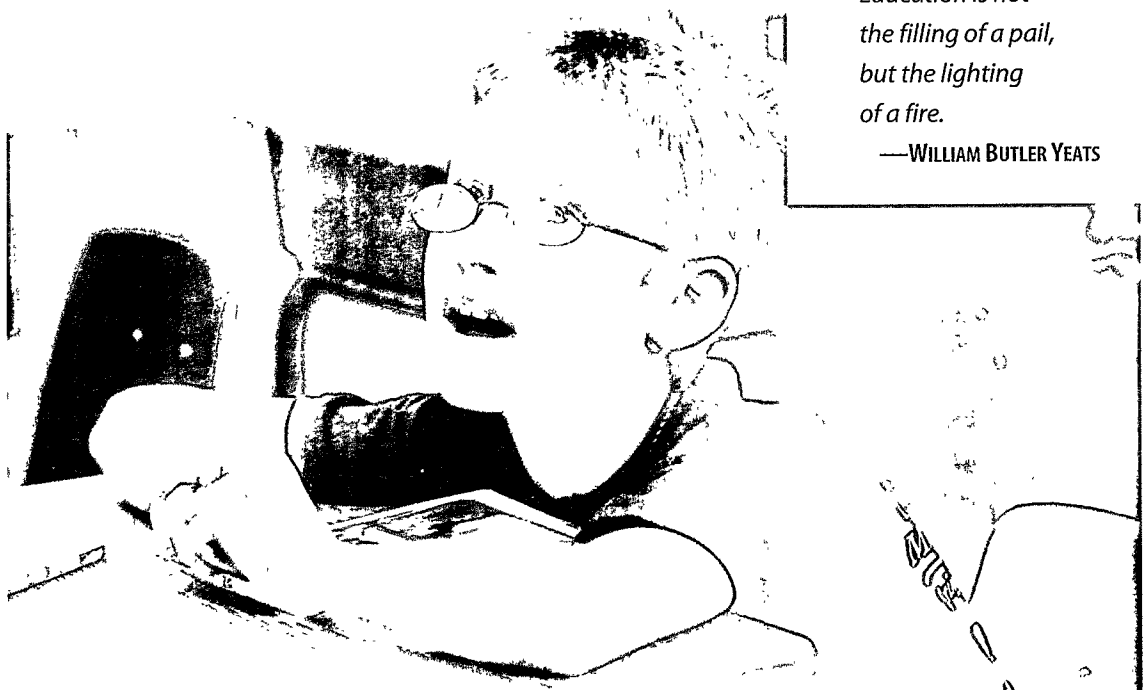
The federal No Child Left Behind legislation, on the other hand, requires all N.C. schools to meet the same proficiency levels. For example, at Durham's Eastway Elementary, only 48 percent of 3rd graders met or exceeded proficiency targets in reading in 2002–2003. Yet the 2003–2004 reading goal is the same as it is for all student populations at high-performing Easley Elementary. There, almost 94 percent of all 3rd graders met their targets. The state's AYP goal for 4th grade reading for 2003–2004 is 68.9 percent proficiency, meaning Eastway had to improve student scores by a significant amount in order to meet its 4th grade reading goal, while Easley is already well above expectation.⁹ Eastway did meet AYP in 2003–2004. Easley did too, but failed to meet all its state ABCs marks.

b. Aggregated vs. Disaggregated Results

Under the state ABCs system, a school must meet expected annual growth on an *average* per-

grade basis. In other words, the underperformance of one sub-population (e.g., Hispanic students) may be mitigated by the performance of the other groups in that subject and at that grade level. The federal No Child Left Behind law requires *disaggregated* results, meaning that a school in which each grade as a whole performs at proficient levels is deemed to have met adequate yearly progress *only if* every sub-population also performs at or above the proficiency percentage standard. One group's strong performance cannot counter the poor performance of another. In North Carolina, these groups are American Indian, Asian, Black, Hispanic, Multi-Ethnic, and White students, as well as students characterized as economically disadvantaged (eligible for free or reduced price lunches), limited English proficient (LEP), and students with disabilities. In addition, NCLB requires that states gather and report extensive data regarding subgroup performance, including economically disadvantaged students, major racial or ethnic groups, students with disabilities, students with limited English capabilities, gender, and migrant status.¹⁰

Eastway Elementary in Durham—which, based on its population in 2002–2003, was measured on 25 goals—did not meet all AYP targets. Easley Elementary—which was measured on only 13—did.



*Education is not
the filling of a pail,
but the lighting
of a fire.*

—WILLIAM BUTLER YEATS

Upon the subject of education, not presuming to dictate any plan or system respecting it, I can only say that I view it as the most important subject which we as a people may be engaged in. That everyone may receive at least a moderate education appears to be an objective of vital importance.

—PRESIDENT ABRAHAM LINCOLN

The mysteries of Plymouth High in Washington County and Southwest Elementary in Onslow County (and, indeed, of more than 1,000 other schools statewide) can now be solved. Because of its overall *improvement* in average scale scores from 2001–2002 to 2002–2003, Plymouth High met state expected-growth goals, but because its proficiency rate *level* for several sub-groups was below the state's annual measurable objectives (AMOs) for 2002–2003, the school did not make adequate yearly progress. (The school fell short of both federal and state standards in 2003–2004.) Similarly, because of Southwest's high *overall* proficiency rates at all grades and in all subjects, it was designated a School of Excellence by the state, but because it failed to meet one of its 21 AYP *sub-population* targets it did not make adequate yearly progress.¹¹ Southwest made AYP in 2003–2004. But the differences between state ABCs and federal NCLB results are so extreme, says Bill McGrady, N.C. Department of Public Instruction Coordinator of Federal Programs (and formerly Section Chief for Compensatory Education, which that oversees Title I compliance), that the state now has separate designations for Schools of Excellence that make adequate yearly progress like Southwest (the designation is "Honor Schools of Excellence") and Schools of Excellence that don't.¹²

Few question the value and importance of supporting sub-group progress in North Carolina, as these subgroups are comprised of minorities and others who have had too little attention paid to their educational progress in the past. (See Kerra L. Bolton, "Educational Achievement: Bridging the Gap?", *North Carolina Insight*, Vol. 21, Nos. 1–2, June 2004, pp. 76–103 for more on this topic.) The North Carolina Department of Public Instruction (DPI) even maintains a "Closing the Gap" Section in the Division of School Improvement and has sponsored a statewide conference on closing the educational achievement gap for several years now.

But some of the federal regulations have left school officials scratching their heads, most particularly in the areas of special needs and limited English proficiency.

Even after recent U.S. Department of Education concessions that grant states more flexibility when evaluating the proficiency of certain sub-populations,¹³ there is still concern among educators about North Carolina's ability to meet testing and adequate yearly progress demands for these sub-groups. One issue that troubles N.C. DPI's Lou Fabrizio is the fact that students in North Carolina speak more than 160 different languages, and the state does not have the capacity or the funding to support multiple translations of every test administered by DPI. The end result is that in some schools, a portion of the student population may have to take a math test in a language other than their own, which will not only negatively affect their own performance but also their schools' performance.

Rebeca Gomez Palacio, education advocate and policy analyst for the North Carolina Justice and Community Development Center's Education and Law Project, sees another potential problem with the sub-group approach. Until they are required to meet 100 percent proficiency goals in 2013–2014, schools and local education agencies may stop short of meeting individual student needs when the focus is placed so squarely on improving overall sub-group performance. For instance, in the case of limited English proficient students, says Palacio, "The [recent evaluation] changes allow them to demonstrate adequate yearly progress, whereas without the adjustment, this could never happen. These adjustments certainly support the efforts of the schools. It remains unclear, however, as to how they will support *individual* students with limited English if enough of the subgroup qualifies as proficient. In other words, as long as enough limited English proficient (LEP) students meet the targets under the new rules so that the sub-group is never labeled 'failing,' individual students who still did not demonstrate proficiency after two years will still lack support. The results at the end of the 2003–2004 school year will clarify whether the adjustments are simply a logistical one made to support the school at the expense of individual students or whether all LEP students will benefit."

3. Sanctions New and Old

In 2002–2003, sub-group performance, more than any other measure, was the leading reason for the failure of so many schools to meet federal adequate

yearly progress standards. No Child Left Behind also requires states to put in place a reward system for schools and local education agencies that meet or exceed adequate yearly progress. But because of the first-year results, required sanctions are garnering much more attention. Schools and local education agencies not receiving Title I funds are not subject to sanctions, but in 2003–2004, all LEAs had at least one school that received Title I money (in all, 1,096 regular [non-charter] schools).¹⁴ There are three levels of NCLB assessment—school-level, LEA-level, and state-level—each with its own special sanctions.

School-Level Sanctions

Schools not meeting adequate yearly progress for two consecutive years are designated as being in “Title I School Improvement,” which means that they must develop improvement plans incorporating strategies from “scientifically based research” and face the first year of sanctions. In 2003–2004, 18 regular schools (up from four the previous year) and 18 charter schools (up from 11 the previous year) already have earned this designation, based on failure to meet preexisting and new adequate yearly progress standards. Sanctions are added for each year that a school designated as being in Title I School Improvement does not meet adequate yearly progress, in this order:

- *Public school choice*—Families of any student at a Title I school can request student transfer to a non-sanctioned school designated by the LEA at LEA expense.
- *Supplemental educational services*—Students receiving free or reduced lunch are eligible to receive out-of-school tutoring services at LEA expense from a list of State Board of Education approved providers.
- *Corrective action*—LEAs must take at least one of several prescribed actions (like replacing staff who are relevant to the failure to make adequate yearly progress, or extending the school year).
- *Plan for restructuring*—The LEA will have one year to plan for the implementation of one of several options for the school for the following year (like re-opening it as a charter school or turning the operation of the school over to the state).
- *Restructuring*—the plan devised during the preceding year will be put into place.¹⁵

Once a school is designated as in School Improvement status, its LEA must be prepared to dedicate an amount equal to up to 20 percent of its *total* Title I allotment for transportation and supplemental services, even if only one school in the LEA is

What's in Store for Schools Not Progressing Under No Child Left Behind

Schools that fail to make adequate yearly progress will face the following consequences:

2 Years—Get Labeled” in need of improvement,” must allow students to choose another school in the district, and must be provided with technical assistance from the state.

3 Years—Receive state-financed supplemental services, such as additional tutoring and remedial services, usually in reading, math, or science.

4 Years—Must replace school staff, institute a new curriculum, extend the school year or school day, or restructure the internal organization.

5 Years—Must reopen as a charter school, replace all or most of the staff, enter into a contract with an entity such as a private management company, turn operations to the state, or undergo major restructuring.

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under sanction. There are only two fiscal safety nets for an LEA in this situation: 1) it does not have to set aside the full amount if a lesser amount is needed to meet all sanction requirements; and 2) this figure can be scaled back to prevent the total amount of funds provided to individual schools from decreasing by more than 15 percent.

LEA-Level Sanctions

LEAs in which the overall assessment of all schools (not just Title I schools) indicates that adequate yearly progress was not met for two consecutive years must take the following actions: the LEA must present a plan to the state outlining how it plans to address the problem(s); the plan must be implemented by the beginning of the next school year; the state must send a report to all parents with children enrolled in schools in the LEA explaining the LEA's status and how they can take part in correcting the problem(s); and no later than the end of the second full year beyond the initial identification that an LEA needs improvement, if the LEA still does not meet adequate yearly progress requirements, the state must take corrective action. Corrective actions a state must take must include at least one of the following measures:

- Deferring programmatic funds and/or reducing administrative funds;
- Implementing a new LEA-wide curriculum;
- Replacing relevant LEA personnel;
- Removing certain schools from LEA governance and placing them under alternate forms of public governance;
- Supplanting the superintendent and school board with a "receiver or trustee;"
- Abolishing or restructuring the LEA; and/or
- Authorizing students to transfer—at no cost to them—to schools operated by another LEA.

State-Level Sanctions

States failing to comply with standards, assessments, and accountability system requirements can have their state's Title I funds withheld.

Many of these sanctions are not new. The previous reauthorization of the Elementary and Secondary Education Act—1994's Improving America's Schools Act¹⁶—introduced several of these measures. However, as Bill McGrady, N.C. Department

"What I think you will see in my opinion will be technical amendments to the law—not a total rewrite of the law."

—BILL MCGRADY

N.C. DEPARTMENT OF PUBLIC INSTRUCTION
COORDINATOR OF FEDERAL PROGRAMS

of Public Instruction Coordinator of Federal Programs, notes, under No Child Left Behind, many measures that were once optional are now mandatory. NCLB introduced a "strengthening of the language from 'mays' and 'coulds' to 'shalls' and 'wills,'" says McGrady. "The changes are pretty significant. . . . You had sanctions in the old law but the language on [sanctions like] public school choice was much softer." For example, an LEA no longer can give lack of capacity as a reason for not offering public school choice. "If you've got [capacity] as an issue, then the ways you [might have to] resolve that are to build new classrooms or work out agreements with other school systems."

4. Next Steps: Can the State ABCs and Federal No Child Left Behind Co-exist?

If North Carolina were evaluated on its compliance with and success on assessment and accountability standards under NCLB, the results might look a lot like those of Southwest Elementary and Plymouth High. The state would both pass and fail. The assessment system is in place and on schedule, but some of the results are disheartening and the associated expenses daunting. Part of the difficulty is that North Carolina wants to keep its own deeply rooted school accountability model, the ABCs plan, while aligning with the federal law. That's because the state plan takes into account academic growth of students, rather than imposing a single rigid standard for all schools.

It is tempting to wager that many of the difficulties resulting from the legislation will disappear over time as the U.S. Department of Education continues to modify the language of the legislation and as the time for reauthorization looms nearer. N.C. DPI's Lou Fabrizio suggests that some states may even have hedged their bets a little bit in anticipation of never actually having to face the 100 percent proficiency mark in 2013–2014. Ohio, for example,

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.¹⁷ While modifications like these will certainly help,¹⁸ 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

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

Given 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.¹ 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.² 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.³ 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

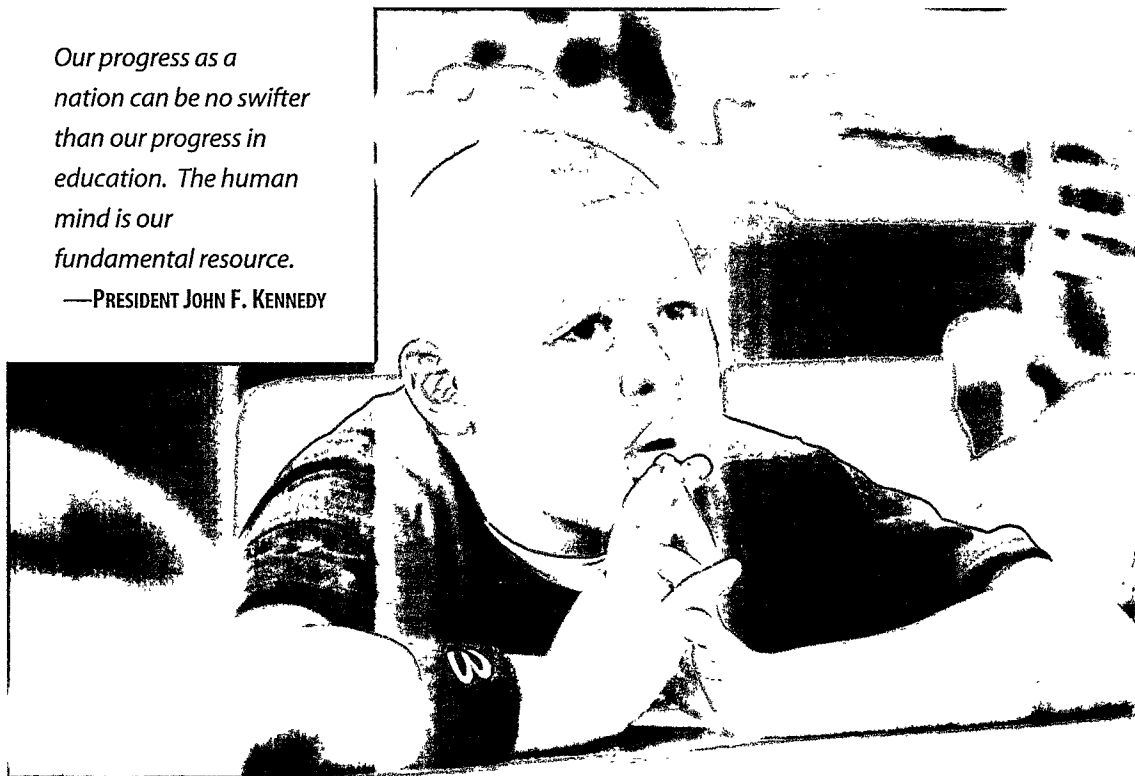
¹ "What Is a Mandate?", *State Policy Reports*, Alexandria, Va., Vol. 22, Issue 5, March 2004, p. 13.

² 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.

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

Our progress as a nation can be no swifter than our progress in education. The human mind is our fundamental resource.

—PRESIDENT JOHN F. KENNEDY



Karen Tam

from 33 percentage points to about 20 percentage points (see Figure 1, p. 49). Although it is difficult to project accurately how much progress these student sub-groups will continue to make in coming years, a continued and steady closure of 2 percentage points annually will lead to elimination of the gap by the 2012–2013 school year. This progress appears to parallel nicely with NCLB’s attention to sub-group performance, but closing the gap is primarily an indication of *improvement* relative to another group rather than of *proficiency*, and even at the current pace, scores for minority students may still fall short of the 100 percent proficiency mark required by 2013–2014. Unless minority populations are able to maintain the progress demonstrated between the 1992–1993 and 2002–2003 school years (an average gain of about 3.9 percentage points per year¹⁹)—and improvement is likely to decelerate as sub-groups reach higher levels of achievement—there is a chance that minority proficiency in the state could fall behind annual measurable objectives for many of the years between now and 2013–2014, leading to school, LEA, and statewide sanctions. For instance, even if improvement cools only slightly and proficiency levels for minority populations rise at a rate of 2 percentage points a year instead of 3.9, the state

might not meet all of its annual yearly progress goals in any year between now and 2013–2014 (see Figure 2, p. 50).

- *Even with recent relaxation of regulations for testing cross-ethnic groups like special needs and limited English proficient students, North Carolina—like most other states—will struggle to find ways to help these particular populations meet the new testing standards.*

The only adequate yearly progress target that Onslow County’s Southwest Elementary missed was in reading proficiency for its special needs population, and Superintendent Ronald Singletary says this is a trend district-wide. “What we are primarily seeing in our district is a challenge within the exceptional children band,” says Singletary. Adds Gongshu Zhang, statistician for N.C. DPI’s Compensatory Education Division, “The biggest student gap is not between [ethnic] groups but within groups” because of factors like limited English proficiency and special needs. For example, the gap between African-American students designated as having special needs or as being disadvantaged and their non-designated peers is around 53 percentage points; the gap between white students in these two groups is 46 percentage points.

Further, in the case of children with special needs, producing grade-level performance on a standardized test may be in conflict with both a student's innate abilities and learning goals as outlined in the federally required individualized education program. As *State Policy Reports* puts it, "Educators are now faced with the choice of working toward the goals outlined in each student's IEP or trying to prepare students for the assessments. For example, a fourth grade special ed student's IEP may call for him to reach a first-grade reading level,

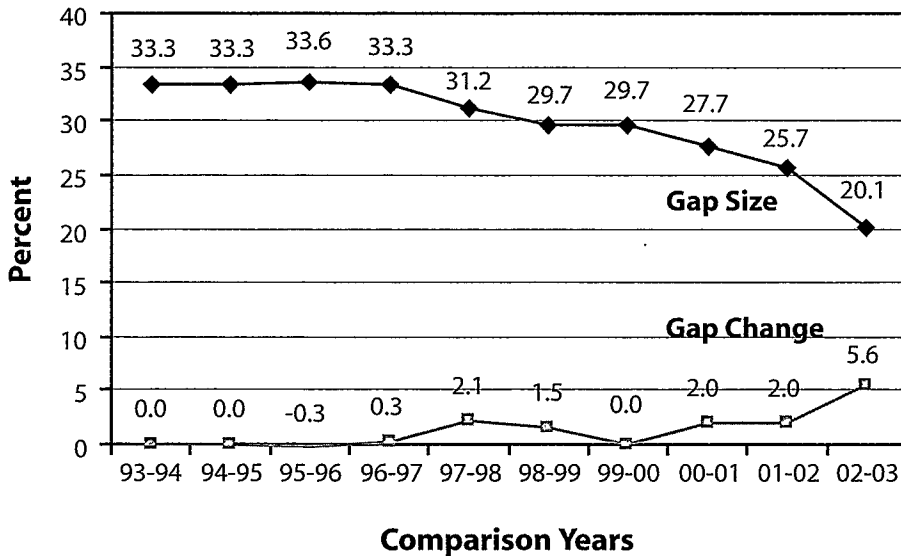
while NCLB requires that he be tested at the fourth grade level. Educators must decide which federal mandate takes precedence."²⁰

Zhang supports a definition change for adequate yearly progress that is more reflective of the current ABCs expected-growth approach. "We need to consider [a] very important fact for a 12-year marathon. We must ask if each group is 'on the right track'" for proficiency improvement instead of just whether these sub-groups have met the adequate yearly progress bar or not. But as McGrady, Fabrizio, and

Figure 1
Closing the Educational Achievement Gap in
North Carolina—1992–2003^a

Achievement Gap

(Percent At or Above Proficiency, Composite Math and Reading, Grades 3-8),
 White v. Minority (non-Asian), 1992-1993 through 2002-2003



^a Data for Figures 1 and 2 are from the following sources: *Minority Achievement Report 2001: Trends in Subgroup Performance*, North Carolina Department of Public Instruction, August 2001. <http://www.ncpublicschools.org/accountability/reporting/mar/2001/mar2001.pdf>; *The North Carolina State Testing Results ("The Green Book")*, North Carolina Department of Public Instruction, October 2001, <http://www.ncpublicschools.org/Accountability/Testing/reports/green/01PrelimGB.pdf>; *Reports of Supplemental Disaggregated State, School System (LEA) and School Performance Data for 2000-2002*, North Carolina Department of Public Instruction, <http://www.ncpublicschools.org/vol2/rsds2002/index.html>; *Reports of Supplemental Disaggregated State, School System (LEA) and School Performance Data for 2001-2003*, North Carolina Department of Public Instruction, <http://disag.ncpublicschools.org/disag03.html>.

others have intimated, the likelihood of legislative changes of this magnitude in the near future are slim.

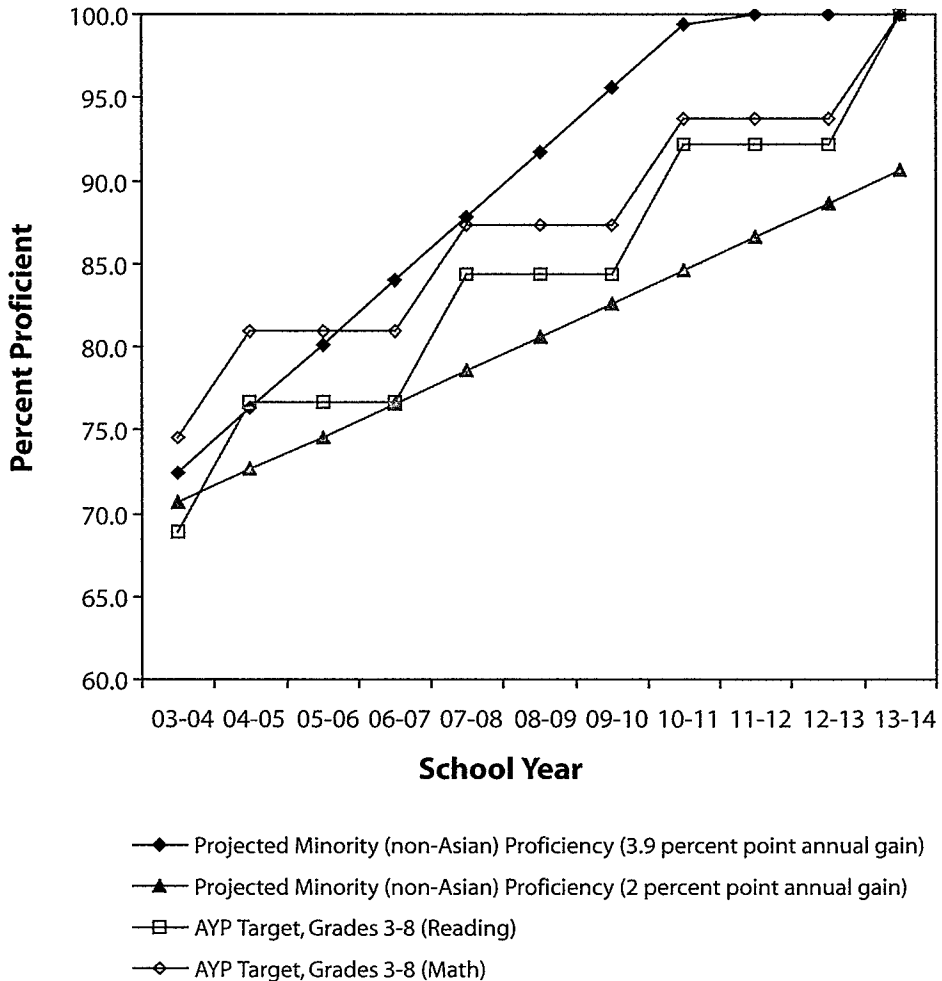
- *The ultimate goal of 100 percent proficiency, while politically sound, may not be realistic without significant changes to state standards for proficiency.*

A more far-reaching problem than the issue of achievement for certain sub-populations is the long-term expectation that, starting with students enter-

ing 3rd grade during the 2013 school year, *all* cohorts will demonstrate 100 percent proficiency in reading and math every year. It does not take an extensive background in either mathematics or education to deduce that even in the best of scenarios, this rate is very difficult to achieve at the LEA or state level only once, much less consistently.

North Carolina continues to fine tune its current assessment and accountability plan, however, and McGrady points out that the state has learned a lot

Figure 2
Minority Composite Achievement Projections,
Grades 3–8, 2003–2014



Note: This figure illustrates the difficulty the state will have in moving minority sub-groups to 100 percent proficiency on state accountability standards by 2013–2014. Even an average gain of 2 percent annually will leave the state short of the target.

from the plans submitted by other states. "When we submitted our definitions, there were [only] a few states that had approved plans," says McGrady. But now, after reviewing the plans of several other states, the state has proposed new strategies to the U.S. Department of Education for determining whether a school meets adequate yearly progress in North Carolina. One of the proposals the Department of Education has accepted is the use of *confidence intervals*—or statistical parameters within which the true proficiency of the student population is likely to lie. Use of a confidence interval is a way of acknowledging that there is likely to be a difference between the proficiency levels of a school's population as indicated by the results of a single test and the actual proportion of students who are proficient. The use of a confidence interval, adds Fabrizio, could play a role in determining whether a school does or does not meet adequate yearly progress. "It is very possible that you could have a situation where 98 percent of the students at a school are proficient and the confidence interval could bump it [to 100 percent]."

For example, if 49 out of 50 students demonstrate proficiency in reading based on the test (a proficiency rate of 98 percent), the calculated confidence interval may indicate that the actual proficiency level of that particular group of students is somewhere within 2 percentage points of the test results, meaning the true proficiency level for the group is between 96 percent and 100 percent. In fact, says Zhang, if the state had used its proposed confidence interval system for 2002–2003, the number of LEAs making adequate yearly progress would have increased from two to 10, and the number of schools meeting AYP would have reached almost 1,300, instead of 1,058.

But using a confidence interval approach for determining adequate yearly progress, demonstrating consistent proficiency levels above 95 percent will always remain a problem in a state with even moderately high standards. Alfie Kohn, longtime standardized testing critic and author of books like *What Does It Mean To Be Well Educated?* and *More Essays on Standards, Grading, and Other Follies*, explains it this way: "The phrase 'high standards' by definition means standards that everyone won't be able to reach."²¹ Zhang predicts that states will be faced with one of two choices—either maintain their current definitions of proficiency and accept the inevitable sanctions, or lower state standards until schools and sub-groups are more likely to meet the 100 percent proficiency rate. Adequate yearly progress is, after all, determined based on student

"[W]e feel . . . that if we stay with the standards we have and continue to enjoy the growth we enjoy under our ABCs program . . . then in the long run . . . we will continue to be a leader in this whole area of raising standards."

—HOWARD LEE

STATE BOARD OF EDUCATION CHAIR

performance on a state-administered and state-scored test. Although the second option might be more practical, Zhang notes, any solution that lowers standards is not in the best interest of any student, a sentiment shared by others in Raleigh and across the state. As State Board of Education Chair Howard Lee explains, "[W]e understood going in that we probably would not look as good as some other states, and the reason for that is we simply refused to lower our standards. However, we feel . . . that if we stay with the standards we have and continue to enjoy the growth we enjoy under our ABCs program . . . then in the long run . . . we will continue to be a leader in this whole area of raising standards."

- *The differences between the state's and No Child Left Behind's assessment and accountability systems have already generated contradictions in state and federal school labeling and will continue to lead to contradictions that may confuse the general public and erode confidence in the public schools.*

The current confusion created by schools that pass one set of standards and fail another is only the first stage of what could be an ongoing communications problem for the state. In 2002–2003, 473 schools earned the state's highest distinction of being "Schools of Excellence" (schools in which 90 percent or more of students' test scores were at or above grade level and the school met growth standards under the ABCs formula), but of those 473, 102 failed to meet adequate yearly progress standards, and 22 of those schools (including Onslow's Southwest Elementary) were Title I schools. Schools that again fail to meet AYP in 2003–2004 are for the first time faced with the possibility of being identified both as Schools of Excellence and as being in School Improvement. Such a scenario will undoubtedly make it much more difficult for

parents to decide whether to leave their children in a school or to demand a transfer.

The possibility of this contradictory labeling may be reduced to some extent if the U.S. Department of Education approves the state's recent requests to only identify schools as being in School Improvement if they fail to meet AYP *in the same subject* for two consecutive years. Even without that concession, the chance of such a labeling snafu seems low. But the fact that there is any chance of such an occurrence at all points to a larger problem that the state must address: differences in the ABCs accountability model and the NCLB model will continue to surface, and with them the possibility of ongoing public confusion. The state will need to find ways to address clearly the public's questions about just how good the state's schools really are.

That's particularly important since national polls find the parents of school-age children generally supportive of the law's intent. A January 2004 poll of 699 parents nationwide finds 68 percent support the ideas behind the No Child Left Behind Act, while 46 percent say they think the law is improving instruction in the public schools. However, 34 percent see the law as "punishing schools for failure rather than rewarding them for success," and 25 percent say they believe it is "limiting learning." Parents expressed ambivalence about high-stakes

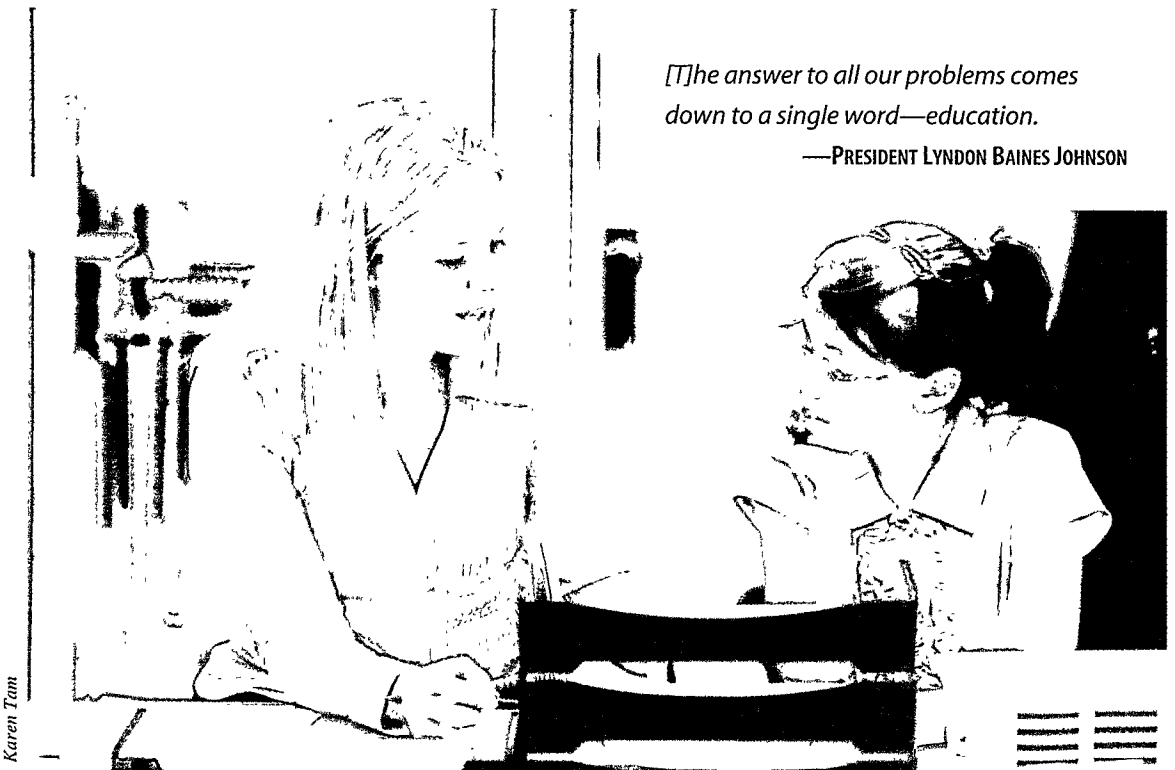
testing necessary to implement the law, with 51 percent supporting and 45 percent opposed. Additionally, 73 percent opposed withholding federal funds from their own child's school if it were failing or otherwise underperforming, compared to only 21 percent who would support such a move.²² A separate survey funded by the National Education Association found 37 percent believe the law has had a positive impact on the schools, 21 percent see the impact as negative, and 42 percent don't know or say it is too soon to tell.²³

■ *A requirement that all classrooms be staffed by a highly qualified teacher by 2005–2006 will aggravate an already-difficult teacher supply situation, particularly in hard-to-staff subjects such as math, science, and special education in rural areas.*

This standard is one step below the highest certified level in most states, according to the National Conference of State Legislatures.²⁴ To obtain highly qualified status, teachers must have a bachelor's degree, pass a state proficiency test, and have more than an emergency teaching license. North Carolina educators fear the requirement could aggravate a looming teacher shortage, particularly in rural areas and in difficult-to-staff subjects such as science and math.²⁵ Among the difficulties are that in some

[T]he answer to all our problems comes down to a single word—education.

—PRESIDENT LYNDON BAINES JOHNSON



Karen Tam

rural areas, teachers are asked to teach multiple subjects, meaning that they would be required to prove proficiency in more than one area. As the North Carolina Center for Public Policy Research learned in its 1982 study, "Teacher Certification: Out of Field Teaching in North Carolina,"²⁶ the state has a long history of using teachers who are not certified in the field in which they teach, so the proficiency requirement may prove a particular burden. Additionally, schools where students are taught by educators who do not earn the highly qualified designation will likely be required to notify parents in writing, which could further aggravate relations with the public.

■ *An increase in the number of sanctioned schools will lead to multiple new expenses without a clear funding source to pay for them, and activities mandated by NCLB are already under-funded at the federal level.*

Educators at all levels appear to be ready to offer help in any way they can to assist schools in their efforts to meet adequate yearly progress targets. For example, Charlene Evans, a math teacher at Plymouth High, notes that there has been no lack of support for the work ahead at Plymouth: "Our principal and school system are willing to do anything to help; [they have been] very supportive. Any time workshops come available for changing curriculum, they encourage us to go. We are already involved in several different programs that should help."

But because of changes made to the sanctions components of the Elementary and Secondary Education Act, the immediate problem of providing support for an increasing number of schools not meeting annual yearly progress very quickly will give way to a longer-term problem of how to pay for the services and actions required by looming sanctions. In addition, even though Title I funding continues to increase annually (fiscal year 2005 allocations are up \$1 billion over fiscal year 2004 allocations²⁷), the total amounts available have so far fallen well below the funding promised in the legislation,²⁸ funding that many states argue is necessary to keep pace with all of the new requirements.

Overall, Congress authorized \$18.5 billion for Title I No Child Left Behind in the 2004 fiscal year, but only \$12.3 billion was actually appropriated. In North Carolina, that meant a difference of about \$136.5 million.²⁹ One part of the legislation earmarks \$500 million in additional funding for school improvement, but Congress did not appropriate funding for this section of the law for school year

2002–2003,³⁰ creating what many at the state level are calling an unfunded mandate. (See "Is the Federal No Child Left Behind Law An Unfunded Mandate on the States?", p. 47.) The end result is that funding to meet NCLB sanction requirements must either come from existing Title I funds or from the states themselves. North Carolina is now required by law to set aside 4 percent of its total Title I grant for school improvement, where before it was only required to set aside 2 percent. And, as noted earlier, local education agencies are also required to provide up to 20 percent of their Title I funding to pay for implementing sanctions. In other words, in order to pay for the sanctions, the state and the LEAs have to use part of their Title I allotment that would otherwise have gone to Title I programs, without any of the promised additional support outlined in the legislation to offset these costs.

How North Carolina will finance this burden—whether through additional funds from the state, the LEAs, or other parties—is still unclear. "I don't get any sense of [who will pay] yet," says Superintendent Singletary of Onslow County. Singletary adds that he is not even sure what the costs will be or how they will be shared. "Somebody's going to have to pay the price," says Singletary. "I don't think we can excuse this away and say the money's there [in Title I], because that just means that [another program] is going to go lacking."

Looking Ahead

Like many of his colleagues, Singletary readily identifies the major disconnect between No Child Left Behind assessment intentions and implementation. "We all support the broad concept of 'we want all kids to learn,'" he says, "but the issue of [declaring that] they can all learn in the same time frame is something you can't legislate." Indeed, the goal of leaving no child behind academically is one that almost everyone—parents, educators, and lawmakers—embraces; but since the passage of NCLB in early 2002, it has become increasingly clear that there is much disagreement about the appropriateness of the federal government's approach to reaching this goal. "This [legislation] is saying you've got to hit it over the fence every time you step up to the plate," says Singletary. Recent legislative action and grumblings in states as disparate politically as Arizona, Hawaii, Maine, Minnesota, New Hampshire, New Mexico, Utah, and Virginia³¹ indicate that objections to the law are not isolated to educators and are bipartisan and growing. Even with the best effort, North Carolina—like most other states—will

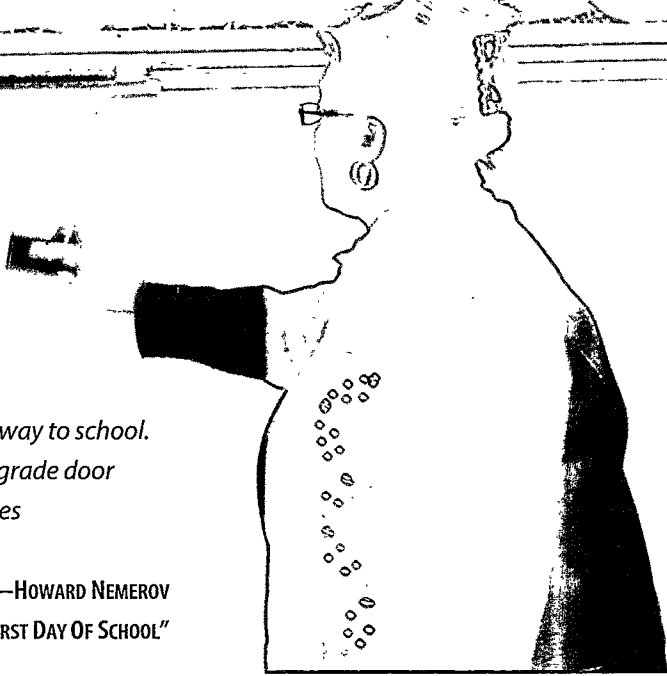
The Learning Cooperative

Adapted
Photo

*My child and I hold hands on the way to school.
And when I leave him at the first-grade door
He cries a little but is brave; he does
Let go. . . .*

—HOWARD NEMEROV

“SEPTEMBER, THE FIRST DAY OF SCHOOL”



Karen Tam

continue to fall short in at least one of the areas detailed in the federal plan, and not necessarily because of actual shortcomings in the education provided by the state.

As long as the federal government provides a significant level of support for the education of disadvantaged children, North Carolina will strive to make innovative adjustments to its assessment and accountability plan and find funding to support the growing number of schools and LEAs that will face sanctions in the coming years. But as this state and others continue to find flaws in the construction of and funding for the legislation, North Carolina may also need to take the lead in lobbying for necessary and fair changes to the law that will indeed allow no child to be left behind. State education officials are pressing hard for changes in the law that will make it less prescriptive and more workable, and these efforts will continue. Yet, State Board of Education Chair Howard Lee says North Carolina should continue to make a best-faith effort to comply with the legislation. “We can’t just sit around and complain about how bad this is. We have to put in the effort.” Doing so will increase the state’s legitimacy as an agent for change, allowing it to “be more aggressive in advocating for what we think is more realistic.”

In the meantime, school officials will have to depend on the state’s educators to approach the challenges posed by NCLB in the same way Principal Debbie Bryan and her staff at Onslow County’s Southwest Elementary School did after finding out their school had both passed and failed in 2002–2003: “[Our] children have grown by leaps and bounds the last several years. . . . We just have to encourage all of these children [and say to ourselves] ‘Here’s what we know we did that was good. What can we do now to make it better?’” ☞

FOOTNOTES

¹ Chapter 716 (S.B. 1139) of the 1995 Session Laws (Reg. session, 1996), now codified as N.C.G.S. 115C–105.20 *et seq.*

² PL 107–110, The No Child Left Behind Act of 2001, Section 1111(b)(2)(C)(v)(II).

³ *NC Consolidated State Application: May 1, 2003, Submission*, p. 18. The actual pass rate for Title I schools in 2003 was much higher than projected, with more than 55 percent meeting the new federal standards.

⁴ All calculations based on data in Tables 23, 24, and 26 in *North Carolina Public Schools Statistical Profile 2003*, North Carolina Department of Public Instruction, pp. 44–45, 49–51. <http://www.ncpublicschools.org/fbs/stats/statprofile03.pdf>.

⁵ *No State Left Behind: The Challenges and Opportunities of ESEA 2001*, Education Commission of the States, March 2002, pp. 15, 20–21. In 2002, Florida and Wisconsin led all states in development of these report cards.

⁶ 117 LEAs plus schools administered by the N.C. Department of Health and Human Services and the N.C. Department of Juvenile Justice.

⁷ PL 107–110, The No Child Left Behind Act of 2001, Section 1111(b)(2)(C)(v)(II).

⁸ Although *adequate yearly progress* is defined by the state, the resultant definitions must comply with regulations in Section 1111(b)(2)(B) of ESEA. Among those regulations are stipulations that OAI measures (other than participation rates, which must be 95 percent for all sub-groups) must increase 0.1 percent annually for a school (not for subgroups) or be equal to or greater than 90 percent. Before going to press, the U.S. Department of Education was considering changes to the mandatory 95 percent participation rate. S. Dillon, “U.S. set to ease some provisions of school law,” *New York Times*, March 14, 2004. <http://www.nytimes.com/2004/03/14/education/14CHIL.html>.

⁹ NCLB does allow some leeway for schools and LEAs that demonstrate significant growth but do not meet the adequate yearly progress threshold. A school can still meet an AYP goal if the percent of students failing falls by at least 10 percent from the previous year’s level.

¹⁰ *No Child Left Behind: Fiscal Issues for the States*, National Conference of State Legislatures, Denver, Colo., p. 7.

¹¹ The reverse, though much less frequent, is also possible. In 2002–2003, almost 30 schools met federal adequate yearly progress standards, but not state ABCs expected growth standards.

¹² Schools of Excellence under the state ABCs program are schools where more than 90 percent of children’s test scores are at grade level or above on end-of-grade tests and where students achieve expected academic growth over the course of the year.

¹³ In December 2003, the U.S. Department of Education modified the language regarding special needs student assessment to allow up to 1 percent of all students tested to be measured using alternate achievement (typically below grade-level) standards (68 *Federal Register* 236, December 9, 2003). In February, it ruled that states could waive the reading/language arts content test for limited English proficient (LEP) students during their first year in school, and that states could include students no longer identified as LEP in their LEP calculations for up to two years after they gain English proficiency in order to demonstrate growth among students in that sub-group (“Secretary Paige announces new policies to help English language learners,” U.S. Department of Education, February 19, 2004. <http://www.ed.gov/news/pressreleases/2004/02/02192004.html>).

¹⁴ 2003–2004 *Title I-Served Schools* (by LEA), North Carolina Department of Public Instruction, September 15, 2003. http://www.ncpublicschools.org/nclb/03_leatotals.pdf.

¹⁵ *Title I School Improvement Schools*, North Carolina Department of Public Instruction. Revised November 24, 2003. <http://www.ncpublicschools.org/nclb/03title1sis.html>.

¹⁶ Public Law 103-382, The Improving America’s Schools Act of 1994.

¹⁷ There were 10 total proposed changes, the most significant of which include: use of a confidence interval to determine whether a school meets adequate yearly progress (this approach is discussed later in the article); stipulation that a school must fail to meet adequate yearly progress for two years in a row in the same subject area before entering School Improvement status (currently, a school enters School Improvement status when it fails to meet adequate yearly progress in *any* tested subject for two years in a row, whether that subject is the same in both years); and calculation of participation rates based on two- or three-year averages rather than on participation rates for each

year (N.C. Superintendent of Public Instruction Mike Ward, letter to Raymond J. Simon, Assistant Secretary for Elementary and Secondary Education, U.S. Department of Education, April 1, 2004). Nine of 10 changes were approved, including all those mentioned above, according to the N.C. Department of Public Instruction.

¹⁸ One estimate indicates that as many as 15 percent more schools might meet AYP requirements if the new amendments are approved. See Todd Silberman, “N.C. seeks ‘No Child’ law tweaks so schools will pass,” *The News & Observer*, Raleigh, N.C., May 12, 2004, p. 1A.

¹⁹ Figure includes the 2002–2003 gain of 9.9 percent, which, because of its magnitude, may be a unique outlier and not an indication of a trend of greater annual proficiency gains in coming years.

²⁰ “Making Special Education Count,” *State Policy Reports*, Washington, D.C., Vol. 22, No. 5, March 2004, p. 3.

²¹ A. Kohn, “Standardized Testing and Its Victims,” *Education Week*, September 27, 2000, pp. 60, 46–47.

²² “Poll of Parents on ‘No Child Left Behind,’” Opinion Research Corporation, Princeton, N.J. Survey of 699 respondents with children in grades K–12 conducted January 22, 2003, through February 1, 2003. Margin of error plus or minus 4 percent.

²³ Poll for the National Education Association by Greenberg Quinlan Rosner Research Inc., Washington, D.C., and the Tarrance Group Inc., Alexandria, Va. Telephone survey of 1005 registered voters conducted January 4–7, 2004. Margin of error plus or minus 3.1 percent. http://www.nea.org/esea/bipartisan_poll.html.

²⁴ Josiah Pettersen, *No Child Left Behind: Fiscal Issues for the States*, National Conference of State Legislatures, Denver, Colo., July 2002, p. 12.

²⁵ Todd Silberman, “N.C. gets to waive federal teacher rules,” *The News & Observer*, Raleigh, N.C., June 7, 2003, p. 1B.

²⁶ James E. Woolford *et al.*, *Teacher Certification in North Carolina: Out-of-Field Teaching in Grades 7–12*, North Carolina Center for Public Policy Research, Raleigh, N.C., 1982.

²⁷ *The President’s FY 2005 Education Budget: Summary and Analysis*, House Appropriations Committee—Minority Staff, February 13, 2004, p. 3. http://www.house.gov/appropriations_democrats/report_040213budget.pdf.

²⁸ The National Conference of State Legislatures estimates that, since its passage, NCLB has been under-funded by about \$27 billion, and it projects an additional \$10 billion shortfall for the 2005 fiscal year. D. Steil *et al.*, *Mandate Monitor*, National Conference of State Legislatures, March 10, 2004, p. 5. <http://www.ncsl.org/programs/press/mandatemonitor.pdf>.

²⁹ *FY 2004 Omnibus Shortchanges America’s Children by Underfunding Key Education Priorities: A State-by-State Report*, prepared by the Office of Democratic Leader Nancy Pelosi and the Democratic Staff of the House Appropriations Committee, January 28, 2004, p. 36. http://www.house.gov/appropriations_democrats/NCLBstaterereport.pdf.

³⁰ P. McClure, *No Child Left Behind Act: A Description of State Responsibilities*, Council of Chief State School Officers, Division of State Services and Technical Assistance, p. 10. <http://www.ccsso.org/content/pdfs/NCLB2002.pdf>.

³¹ See, for example, Greg Toppo, “States fight No Child Left Behind, calling it intrusive,” *USA Today*, February 11, 2004. http://www.usatoday.com/news/education/2004-02-11-no-child-usat_x.htm.

See www.abcs.ncpublicschools.org/abcs/ for complete ABCs/No Child Left Behind results for the 2003–2004 school year.