THE STATUS OF NO CHILD LEFT BEHIND IMPLEMENTATION IN OHIO

FIELD HEARING

BEFORE THE

COMMITTEE ON EDUCATION AND THE WORKFORCE U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

March 8, 2004 in Columbus, Ohio

Serial No. 108-46

Printed for the use of the Committee on Education and the Workforce

Available via the World Wide Web: http://www.access.gpo.gov/congress/house
or
Committee address: http://edworkforce.house.gov

U.S. GOVERNMENT PRINTING OFFICE

92-410 PDF WASHINGTON : 2004

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

COMMITTEE ON EDUCATION AND THE WORKFORCE

JOHN A. BOEHNER, Ohio, *Chairman*

Thomas E. Petri, Wisconsin, *Vice Chairman*
Cass Ballenger, North Carolina
Peter Hoekstra, Michigan
Howard P. "Buck" McKeon, California
Michael N. Castle, Delaware
Sam Johnson, Texas
James C. Greenwood, Pennsylvania
Charlie Norwood, Georgia
Fred Upton, Michigan
Vernon J. Ehlers, Michigan
Jim DeMint, South Carolina
Johnny Isakson, Georgia
Judy Biggert, Illinois
Todd Russell Platts, Pennsylvania
Patrick J. Tiberi, Ohio
Ric Keller, Florida
Tom Osborne, Nebraska
Joe Wilson, South Carolina
Tom Cole, Oklahoma
Jon C. Porter, Nevada
John Kline, Minnesota
John R. Carter, Texas
Marilyn N. Musgrave, Colorado
Marsha Blackburn, Tennessee
Phil Gingrey, Georgia
Max Burns, Georgia

George Miller, California
Dale E. Kildee, Michigan
Major R. Owens, New York
Donald M. Payne, New Jersey
Robert E. Andrews, New Jersey
Lynn C. Woolsey, California
Rubén Hinojosa, Texas
Carolyn McCarthy, New York
John F. Tierney, Massachusetts
Ron Kind, Wisconsin
Dennis J. Kucinich, Ohio
David Wu, Oregon
Rush D. Holt, New Jersey
Susan A. Davis, California
Betty McCollum, Minnesota
Danny K. Davis, Illinois
Ed Case, Hawaii
Raúl M. Grijalva, Arizona
Denise L. Majette, Georgia
Chris Van Hollen, Maryland
Tim Ryan, Ohio
Timothy H. Bishop, New York

Paula Nowakowski, *Staff Director*
John Lawrence, *Minority Staff Director*

C O N T E N T S

	Page
Hearing held on March 8, 2004	1
Statement of Members:	
Boehner, Hon. John A., Chairman, Committee on Education and the Workforce	1
Prepared statement of	3
McCollum, Hon. Betty, a Representative in Congress from the State of Minnesota	4
K-12 Rules/Leave Parts of NCLB Behind, Editorial Submitted for the Record	50
Ryan, Hon. Tim, a Representative in Congress from the State of Ohio	8
Tiberi, Hon. Patrick J., a Representative in Congress from the State of Ohio	6
Prepared statement of	8
Statement of Witnesses:	
Fleeter, Dr. Howard, Levin, Driscoll & Fleeter, Columbus, OH	18
Prepared statement of	23
Rebarber, Ted, President, Accountability Works, Washington, DC	25
Prepared statement of	29
Ross, Dr. Richard A., Superintendent, Reynoldsburg City Schools, Reynoldsburg, OH	15
Prepared statement of	18
Tomalis, Ron, Counselor to the Secretary, U.S. Department of Education, Washington, DC	11
Prepared statement of	14
Additional Material:	
Allen, Gary L., President, Ohio Education Association, Letter Submitted for the Record	49
K-12 Rules/Leave Parts of NCLB Behind, Editorial Submitted for the Record by Rep. McCollum	50
OEA, NEA Leave Facts Behind in Attacks on Bipartisan Education Reform, Fact Sheet Submitted for the Record	48

THE STATUS OF NO CHILD LEFT BEHIND IMPLEMENTATION IN OHIO

Monday, March 8, 2004
U.S. House of Representatives
Committee on Education and the Workforce
Columbus, Ohio

The Committee met, pursuant to call, at 10 a.m., at the State Library of Ohio, Columbus, Ohio., Hon. John A. Boehner (Chairman of the Committee) presiding.

Present: Representatives Boehner, Tiberi, McCollum, and Ryan.

Staff Present: Amanda Farris, Professional Staff Member; Maria Miller, Coalitions Director for Education Policy; Dave Schnittger, Communications Director; and Joshua Holly, Director of Media Affairs.

Chairman BOEHNER. Quorum being present, the Committee on Education and the Workforce will come to order.

We're pleased to be here today to have the Committee here and have this hearing on No Child Left Behind, the implementation of the law. And I'm sure we'll talk about funding and a host of other issues as well.

I want to welcome my colleagues, Mr. Tiberi, who we're in his district and is a Member of the Committee, and two of my colleagues, Betty McCollum, from the great state of Minnesota, and our other colleague from Ohio, Tim Ryan, a new Member of our Committee who represents the northeastern part of the district—part of the state.

I'd also like to welcome this morning State Representative Arlene Setzer, who chairs the House Education Committee here in Ohio; Representative Bill Hartnett, who is the ranking member of the Ohio Education Committee; and Representative Clyde Evans and Representative Bob Gibbs. We also have Senator John Kerry with us, Representative John Schlichter, and Representative Kevin DeWine. We want to thank them for their interest and thank all of you for your interest in coming today.

STATEMENT OF HON. JOHN A. BOEHNER, CHAIRMAN, COMMITTEE ON EDUCATION AND THE WORKFORCE

We're here today because we all believe that every child in America deserves a quality education. We recognize improving our education system is essential not only to our society, but it's also very important to our nation's economy and competitiveness. Even as important as our society and our nation's competitiveness is to our

long-term future. It should be the right of every child to have a chance at a decent education. I'd like to describe the right to an education for all Americans as the new civil right of the 21st century.

Three years ago, President Bush brought Members of our Committee together to write the No Child Left Behind Act. And we produced a law that was uniquely bipartisan, considering what the Congress has become over the last several years. And the real goal of No Child Left Behind was to make sure that all children have a chance to learn. The debate over whether all children can learn, I think, is open. There's ample evidence from one end of the country to the other that all children can learn, but it's also clear, unfortunately, that not all children have an opportunity to learn.

Secondly, when we look at the achievement gap that we have in American education between advantaged students and disadvantaged students, it remains wide, even though the Federal Government has spent almost $300 billion to help disadvantaged students over the last 35 years. The same kind of achievement gap exists between white students and their minority peers. And we know that we as a society and we as a country can't continue successfully unless we get serious about closing the achievement gap in American education. And so when we look at No Child Left Behind, you'll see that we have all of the test data broken down in subgroups, looking at white students, minority students, limited English proficient students, and special ed. students to make sure that these students aren't getting lost in the school-wide averages, that we, in fact, are going to try to make progress with all children in America and all of these subgroups.

There's been an awful lot of talk about funding No Child Left Behind. And someone who was in the room with the President, Senator Kennedy, Senator Greg and Mr. Miller, my democrat counterpart of my Committee, the commitment that we made in those meetings was to have a significant increase in education funding for our schools. And there's never been any discussion in those meetings about full funding of No Child Left Behind or any of the education programs.

And if you look back through the history, the 38-year history of education spending on the part of the Federal Government, never once, not one time in that entire history were ESEA programs fully funded. Not once. During the 8 years President Clinton was in office, there was no funding of ESEA programs, and yet there was no criticism at all by democrats or republicans in the Congress that it wasn't fully funded. And so the question is, have we met our commitment in terms of significant increases in funding for those programs contained in Elementary and Secondary Education Act or, as we like to call it now, No Child Left Behind. And I think that the increases that we see—the year that the bill was signed into law, we were spending $8.8 billion for Title I, the largest of these programs. Last year we spent $12.3 billion, and this year, according to the President's budget, we're hoping to spend $13.3 billion. So you can see that we're well over a 50 percent increase in the Federal Government's commitment to disadvantaged students.

But it's not just disadvantaged students. How about those students who have special needs, our IDEA program, where we're see-

ing a tremendous increase over the last 10 years. As a matter of fact, if you go back to 1996, 1997, we have almost a 300 percent increase in our commitment to help those special needs students. And if you look at just the Ohio numbers by themselves, when the bill was signed in 2001, we were spending about $445 million of Federal funds here in Ohio for all programs that are in No Child Left Behind. When you look at the numbers that are actually appropriated, the Federal Government will spend in this fiscal school year $665 million for No Child Left Behind programs, an increase of over 35 percent.

And so I do believe that the Federal Government is keeping its commitment to helping our schools with the challenges that all of them face.

[The prepared statement of Chairman Boehner follows:]

Statement of Hon. John A. Boehner, Chairman, Committee on Education and the Workforce

Thank you all for being here this morning for this field hearing of the House Committee on Education & the Workforce. Let me first thank Congressman Pat Tiberi for hosting us today. Let me also welcome another fellow Buckeye, Rep. Tim Ryan, as well as Rep. Betty McCollum from the state of Minnesota.

We're here today because we all believe every child in America deserves a quality education. We recognize improving our education system is essential not only to our society, but to our nation's economy and competitiveness as well.

Three years ago, President Bush brought the members of our committee together to write the No Child Left Behind Act. We produced a law that was uniquely bipartisan. We all agreed with the need to bring accountability to federal education spending. For years, states and school districts—pointing to rising overall student test scores—had accepted an ever-increasing amount of federal funding even as they hid the fact that certain groups of children were falling behind. States and schools were able to highlight "aggregate" data showing most students were making progress. But because they were required only to report this data in the aggregate, parents and taxpayers could be kept in the dark when some children were actually losing ground.

No Child Left Behind requires student test data to be broken down by group and reported to the public. Achievement gaps between disadvantaged students and their peers, once hidden from public view, are now public knowledge. The law has shined a brilliant spotlight on the most neglected corners of our public education system—and while we haven't always liked what we've found staring back at us, we're better off as a nation because we've admitted it's there and can now do something about it.

When the President signed NCLB in Hamilton two years ago, we knew the hardest work was still ahead. It's one thing to pass a major law; implementing it is another. The Clinton administration discovered this the hard way during the 1990s when it passed its education reform plan, and ended up issuing dozens of waivers to states exempting them from the requirements. We assumed the education establishment would dig in and fight when it discovered President Bush was not willing to repeat those mistakes with the implementation of No Child Left Behind. That assumption has proved correct.

It's disappointing that instead of working with states and local districts to implement this bipartisan law, the National Education Association and others have tried to dismantle it. In the two years since NCLB was signed, the President and Congress have proposed numerous bills to give teachers and states additional help in achieving NCLB's objectives. The House has passed legislation to reduce paperwork requirements for special education teachers. We've passed legislation to boost loan forgiveness for qualified teachers who agree to teach in high poverty schools. We've passed legislation to strengthen early childhood learning so children enter our elementary schools ready to learn. And President and Mrs. Bush have asked us to let teachers take a $400 tax deduction when they pay money out of their own pockets for classroom expenses such as crayons and books.

All of these proposals have been offered to build on the 35 percent increase in federal teacher quality funding provided to states and schools under NCLB. But none have been enacted. Some of the teachers and school employees I talk to in my dis-

trict have never even heard a word about these proposals from their union representatives. And that's a shame.

What we do hear from union representatives is a lot about funding. So let's talk about that for a moment.

Under NCLB, states have received an increase in federal education funding that can only be described as massive. The federal government is providing more than $1 billion annually to Ohio to implement No Child Left Behind. This includes $661 million in fiscal year 2003 for No Child Left Behind itself, and another $373 million in fiscal year 2003 for the Individuals with Disabilities Education Act (IDEA). These numbers represent large increases over what Ohio was receiving before NCLB.

The charts you see here show these increases on a national scale. Any way you slice it, federal spending on education has skyrocketed since No Child Left Behind became law. The numbers go nowhere but up.

Pay particular attention to Title I spending. When you do the math, you find Title I received a larger increase during the first two years of the George W. Bush administration than it did under the previous eight years combined under President Clinton.

The numbers for special education tell a similar story. As Education Daily reported on January 8, 2004: "If [the President's 2005 budget] request is approved, Title I spending will have increased by about 50 percent and special education spending will have increased by about 80 percent on his watch."

The truth is, Congress has been increasing spending more quickly than states can spend the money. Last year, states collectively returned about $124 million in federal education aid to the federal Treasury because they couldn't spend it before it expired.

No Child Left Behind isn't about spending money. It's about what we do with the money we're already spending. It isn't about changing funding levels; it's about changing attitudes. It's about high standards, and recognizing all children can learn.

It is a great credit to Ohio—in particular, to Governor Taft, Superintendent Susan Zelman, and the leaders of the Ohio General Assembly—that instead of bowing to those who contend money can solve the problems in our schools, the Buckeye State has taken a stand for high standards and accountability for results. The President signed the law in Ohio—and two years later, it's clear the President chose the right state for that historic action.

I would like to thank everyone for attending today. I would especially like to thank our distinguished witnesses for their participation. I look forward to your testimony.

Chairman BOEHNER. So we're glad that you're all here. With that, let me turn to our friend from Minnesota, Ms. McCollum.

STATEMENT OF HON. BETTY McCOLLUM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Ms. MCCOLLUM. It's a pleasure to join you here today in Ohio, Mr. Chairman. It's very fitting that I be in Ohio. It's because of the educational start I received in Dayton, Ohio as a kindergartner that helped me have a good foundation for having success for the rest of my public education. That is a success I wanted for my children as a parent and I want for all children in America.

I'd also like to thank Mr. Tiberi for having such a wonderful district. I plan on coming back again. There's much to see and do here. And Congressman Ryan and I are also very proud to be here with Congressman Ted Strickland, who also represents a portion of Ohio.

We have some charts in front of us that show educational funding. One of the first books I received when I started doing debate in high school and from my college debate, How to Lie with Statistics. There are things you can do with statistics to make cases both ways. I would just caution people as they look into this to ask some very serious questions about what is the baseline funding that was used and had the funding kept up with inflation in the past.

I believe very strongly in importance of public education. My support for it is unwavering. It's unwavering for the educators, administrators and school board members and parents across the country who commit themselves to educate and improve the future for their children. I'm a Member of Congress today, as I said, because of the strong public education system that gave me the opportunity to achieve my dreams, my hopes. Our nation's democracy, prosperity and success are all built upon a foundation of public schools and every American's right to access a quality education. No one should ever tolerate a tax on our public education or public school teachers who we trust to educate and nurture our children every day.

But as Sherman knows, I voted against Leave No Child Behind because I believe the law can be improved. Others believe Washington has all the wisdom, the wherewithal and the right to dictate to state legislators, school boards and parents what is best for our 84 million children in America's public schools. Some believe Federal mandates will improve educational achievement for our children. They believe that Washington knows better than parents, teachers, administrators, and elected school board members and legislators both here in Columbus or back in Minnesota. But I, along with others, have a different opinion. It does not make us obstructionists because we trust parents, teachers and school boards to determine what is needed for our children to succeed and achieve success in school. Some of us believe the Federal Government's role is to be a partner, supporting states, school districts and parents to achieve educational success based on standards that reflect the needs and the realities of our diverse population. Today we are likely to hear about, as we have, the billions of dollars the Bush administration is showering upon states to meet the public laws mandate, that 100 percent of America's children in public schools will achieve adequate yearly progress by 2014. By 2014, every public school attended by almost 50 million American children will achieve the goals harsh—will achieve either the goals set by the law or the harsh Federal penalties that will be imposed by the law. Perfection or penalties is a new education paradigm now in America. It is too bad that the Federal Government can break its own promises to states, school districts and students without a penalty. Everyone knows that Washington does not meet its commitment to fund special education. The Bush administration is, and I repeat, is increasing education funding. But it's failing to make adequate yearly progress, having already failed to provide the $26 billion to fund Leave No Child Behind that Congress said it would in its initial signing. Should we hold state legislators, school boards and administrators accountable? Yes, we should. We also need to hold the White House and Congress accountable for its funding as mandates move forward.

Last month in Minnesota, my state, a highly respected legislative auditor, Jim Nobles, who by the way is totally nonpartisan, put forth a grim report. Even as student test scores for math and reading improve significantly in the upcoming years, the report estimates that 80 percent of Minnesota's elementary schools will fail to make adequate yearly progress by 2014, resulting in disastrous consequences for the public education system in my state.

A recent report prepared by the Ohio Department of Education raises serious questions about the cost of Ohio's taxpayers in meeting demands in this educational mandate. The report projects an enormous cost to Ohio taxpayers. While Washington adds $44 million in funding a year, it appears that Ohio taxpayers by 2010 could be forced to spend an additional $105 billion in educational costs. The report states, quote, the projected additional cost to fully implement No Child Left Behind will require expenditures beyond the additional Federal dollars committed thus far.

For political reasons, defending Leave No Child Behind will likely result in both Minnesota and Ohio reports being attacked and criticized, but Ohio and Minnesota are not alone in raising these concerns. A list of states that are controlled by both democrats and republicans are protesting the law: Vermont, Hawaii, West Virginia, Arizona, Idaho, Indiana, New Mexico, Utah, Virginia, Washington, Maine, Oklahoma, Iowa, Kentucky, and South Dakota. These states have all voiced valid legitimate concerns about this law, and they need to be addressed by the Department of Education, but it needs to be addressed in public forums and not behind closed doors with offensive name-calling as we have witnessed in recent weeks.

The point is clear, Leave No Child Behind needs to be fixed, and I want to work with the Chairman to fix it. Thank you.

Chairman BOEHNER. The Chair recognizes the gentleman from Columbus, Ohio, Mr. Tiberi.

STATEMENT OF HON. PATRICK J. TIBERI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. TIBERI. Thank you, Mr. Chairman. I'd like to welcome you and the Committee Members to Columbus, Ohio. I know the mayor encourages you to spend as much money as you can while you're here to help our local economy.

I am pleased to be here with you this morning, and thank you for picking Ohio and Columbus, Ohio, to have this hearing to talk about the landmark education reforms in No Child Left Behind and their impact on the state of Ohio.

I'd like to thank the State Library for allowing us to use their facilities today. I'd like to welcome all of our witnesses this morning, particularly Dr. Ross, who is the superintendent of the Reynoldsburg City Schools, which is within the district that I represent.

As most of you know, No Child Left Behind, which reauthorized the Elementary and Secondary Education Act, reflects the four pillars of President Bush's education reform agenda: accountability and testing, flexibility and local control, funding for what works, and expanded parental options.

The legislation requires annual testing of public school students in reading and math in grades 3 through 8, report cards for parents on school achievement levels, improved teacher quality requirements that ensure all students are being taught by a highly qualified teacher, and public school choice and supplemental service options for children in underachieving schools.

State flexibility is a key element within NCLB. Individual states are given the flexibility to determine a variety of factors, including

the definition of student academic proficiency, the starting point for progress measurement, and the amount of progress that must be made from year to year. They also have the flexibility to develop their own test to determine if existing teachers should be deemed highly qualified.

In August of 2003, the Ohio General Assembly passed legislation that laid out exactly how Ohio would utilize this flexibility to meet the goals of No Child Left Behind. We have some of those legislators here today who worked pretty hard on that. As part of that legislation, the General Assembly required the Ohio Superintendent of Public Instruction to commission a detailed financial analysis of the projected costs of compliance with No Child Left Behind.

While I appreciate all of the hard work that Columbus-based researchers Mr. William Driscoll and Dr. Howard Fleeter put into this report, I am concerned about some of the findings. I am particularly troubled by the contention that recent massive increases that the Chairman talked about in Federal education funding have not been adequate to allow Ohio to reach its goals under No Child Left Behind.

President Bush and Congress have provided historic levels of Federal education funding to help states implement No Child Left Behind. In fact, Title I funding received a larger combined increase during the first 2 years of President Bush's presidency than it received in the previous 8 years combined under President Clinton. The Republican-led Congress has also kept special education funding among the highest education priorities, and as a result, special education funding has more than tripled in just 9 years.

In fact, some of the reports indicate, and some of our colleagues have indicated to the Chairman and myself, that the Federal Government has been increasing education spending more quickly than some states can spend the money, raising new questions about the claims No Child Left Behind may be under funded. A recent analysis by the House Education and the Workforce Committee shows that by this summer, states will have received an average increase of 42 percent in Federal Title I aid for disadvantaged students since enactment of No Child Left Behind. These increases are coming even as many states still have not drawn down the $2 billion in Title I funds that were made available to them as far back as fiscal year 2000 before No Child Left Behind went into effect three and a half years ago.

As the first person in my family to have graduated from high school, I personally know how important education and—a quality education is to being successful. As a proud graduate of the Columbus schools, Dr. Ross, I know what it's like to have experienced the education of an urban school and the difference between quality education and unquality education.

I look forward to hearing from the witnesses today on information dealing with No Child Left Behind, how we can reconcile these figures with the findings of the Ohio cost study on No Child Left Behind. I also hope to hear about how No Child Left Behind is benefiting Ohio's parents, its teachers and its students. Thank you, Mr. Chairman.

[The prepared statement of Mr. Tiberi follows:]

Statement of Hon. Patrick J. Tiberi, a Representative in Congress from the State of Ohio

Thank you Mr. Chairman. I am pleased to be here this morning to talk about the landmark education reforms in No Child Left Behind (NCLB), and their impact on the state of Ohio.

I would like to thank the State Library of Ohio for allowing us to use their facilities today. I would also like to welcome all of our witnesses here this morning. I am particularly pleased to welcome Dr. Dick Ross, the Superintendent of the Reynoldsburg City Schools.

As most of you know, NCLB, which reauthorized the Elementary and Secondary Education Act (ESEA), reflects the four pillars of President Bush's education reform agenda: accountability and testing, flexibility and local control, funding for what works, and expanded parental options.

The legislation requires annual testing of public school students in reading and math in grades 3–8, report cards for parents on school achievement levels, improved teacher quality requirements that ensure all students are being taught by a highly qualified teacher, and public school choice and supplemental service options for children in underachieving schools.

State flexibility is a key element within NCLB. Individual states are given the flexibility to determine a variety of factors, including the definition of student academic proficiency, the starting point for progress measurement, and the amount of progress that must be made from year to year. They also have the flexibility to develop their own test to determine if existing teachers should be deemed highly qualified.

In August 2003, the Ohio General Assembly passed legislation that laid out exactly how Ohio would utilize this flexibility to meet the goals of NCLB. As part of that legislation, the General Assembly required the Ohio Superintendent of Public Instruction to commission a detailed financial analysis of the projected costs of compliance with NCLB.

While I appreciate all of the hard work that Columbus-based researchers Mr. William Driscoll and Dr. Howard Fleeter put into this report, I am concerned about some of the findings. I am particularly troubled by the contention that recent massive increases in federal education funding have not been adequate to allow Ohio to reach the goals of NCLB.

President Bush and Congress have provided historic levels of federal education funding to help states implement NCLB. In fact, Title I funding received a larger combined increase during the first two years of President Bush's presidency than it received in the previous eight years combined under President Clinton. The Republican-led Congress has also kept special education funding among the highest education priorities, and as a result, special education funding has more than tripled in just nine years.

In fact, some reports indicate that the federal government has been increasing education spending more quickly than states can spend the money, raising new questions about the claims that NCLB is "underfunded." A recent analysis by the House Education and the Workforce Committee shows that by this summer, states will have received an average increase of 42% in federal Title I aid for disadvantaged students since enactment of No Child Left Behind—and these increases are coming even as many states still have not drawn down $2 billion in Title I funds that were made available to them as far back as fiscal year 2000, three and a half years ago.

I look forward to hearing more information from all of our witnesses about how we can reconcile these figures with the findings of the Ohio cost study on No Child Left Behind. I also hope to hear about how NCLB is benefiting Ohio's parents, teachers and students. Thank you, Mr. Chairman.

Chairman BOEHNER. Mr. Ryan.

STATEMENT OF HON. TIM RYAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. RYAN. Thank you, Mr. Chairman. It's a pleasure to be in the great state of Ohio, and I represent the city of Youngstown and part of the city of Akron and everywhere in between. So everyone here can thank me for Jim Tressel coming to Columbus later.

The issue today, obviously, is the No Child Left Behind Act, the funding and the implementation of this program.

A couple things I would like to touch upon before I get into my formal statement. One is the issue of funding and how funding wasn't an issue for such a long period of time, and no one was really discussing the fact that there wasn't full funding with the No Child Left Behind. This Committee made a commitment, as the Chairman said, an appropriate commitment, to say, some would say, a civil rights issue, and many of us would agree with that. Maybe it is a civil rights issue. But when we passed the Civil Rights Act in the 1960's, you have to pay for poll workers, you have to pay for the voting machines, you have to pay to train your workers. There was a cost associated with making sure that every citizen in our country had an opportunity to exercise their franchise. And that commitment needs to be made here, too. So if this is a civil rights issue, we need to fund it.

Another point I would like to make, as well as we have these discussions in Washington D.C. on a variety of other issues, there's always this 800-pound elephant that's sitting in the middle of the room that no one wants to talk about. It's the tax cuts that we passed and we want to continue to pass in the next Congress. I think we can't talk about priorities, we can't talk about full funding the education or veterans without addressing what our priorities are going to be as a nation. Are they going to be these tax cuts that many would say, and I would certainly say, are reckless at this point, or are we going to make the proper investments in our education system. I think that's the issue that really undergirds the whole debate that we're having here today on No Child Left Behind. I do believe we must stay the course on No Child Left Behind. We must embrace it, while understanding that we have room for growth.

The two areas I would like to emphasize that are needed areas for growth are funding and implementation of leadership and technical assistance. The need to fully fund the No Child Left Behind Act is paramount to its success. Funding is what enables our school districts to pay for teacher training and technical assistance and professional development, pay for salaries of highly qualified teachers, administrative costs, implementation costs, intervention costs. All of this costs money.

When Congress took on this task—and I commend them for doing so, and I commend the Chairman for taking the leadership role in this—they also took on a measure with a hefty price tag that would be due to the states to help pay for these mandates. Congress knew the costs and now the bills are due. What do we say to our fellow states? Sorry, but this payment is going to be $7.5 billion short of what we owe you.

President Bush's budget request, coupled with the appropriations bill passed by the Republican Congress, show a blatant disregard to keeping the commitments to ensure a high quality education system in our country. The Republican education spending bill provides only 4.8 percent increase for education, the smallest dollar increase in 5 years and the smallest percentage increase in 8 years. Less money at a time when we have higher expectations. What does this mean? It means nearly 5 million needy children won't get

the extra academic help and services that the law promised if the President's budget becomes law. It means over 1 million children will find their schoolhouse doors locked to afterschool programs if the President's budget becomes law. It means 54,000 teachers won't be able to participate in professional development programs if the President's budget becomes law.

What does this mean for Ohio? Which we are going to discuss today the study that says the cost of complying with the No Child Left Behind will reach 1.447 billion annually, annually in fiscal year 2010. I am aware of the many criticisms of this report, but I would like to emphasize there may be disagreements with whether this report overstates or understates the price tag of No Child Left Behind, but the common agreement is that we can and we should do more to put the resources in place to achieve our end goal, which is student success. The need for increased funding cannot be underestimated. There were 220 Ohio school districts that had issues on the March 2004 ballot, and Ohio voters approved less than half, the lowest in the past 10 years.

I recently heard our Federal reserve chairman, Greenspan, say providing rigorous education and ongoing training to all members of our society is critical for the economy overall and for individuals benefited by its changing nature. He went on to say better education, particularly in elementary, middle and high schools, would go a long way toward boosting the wages of low-skilled workers and diminishing the inequality that has become more pronounced over the last 2 years, basically saying if we want to close this achievement gap we must make these investments in education.

Chairman Greenspan is 100 percent right. If we do not invest more into our education system, we will continue to lose ground as a leader in high-skilled, high-wage jobs. The two go hand-in-hand. Investment into education is an investment into our economy and into the stability of our country. Our children deserve better. Thank you, Mr. Chairman.

Chairman BOEHNER. I want to thank all my colleagues and welcome our witnesses, and let me begin to introduce them.

Our first witness today will be Ron Tomalis. Mr. Tomalis is a counselor to the U.S. Secretary, Department of Education. Additionally, he serves as the chief of staff for the secretary. Mr. Tomalis served as acting assistant secretary for elementary and secondary education. Welcome him this morning.

Our second witness will be Dr. Richard Ross. He's currently the superintendent of Reynoldsburg City Schools here in Columbus, suburb of Reynoldsburg, where he has served since 1988. Pretty long time for a superintendent to stick around. Previously he was a superintendent for several other Ohio school districts, including Bryant City Schools and Ottawa Schools. Dr. Ross has served as an instructor in the Department of Education at Bowling Green State University, additionally has received various awards including the Pioneer in Education Award and the A Plus Breaking the Mold Award. I want to thank Mr. Tiberi for inviting you here. Thank you for being here.

Then we're going to hear from Dr. Howard Fleeter. He is a partner at Levin, Driscoll & Fleeter, a research firm that focuses on public policy, education finance, and state and local tax budgeting

issues. He's served at the state and local government level since 1990. Additionally, Dr. Fleeter worked as an assistant professor at the School of Public Policy and Management to Ohio State and he's a four-time recipient of the Ohio School of Public Policy and Management Faculty of the Year Award.

Then we're going to hear from Dr. Ted Rebarber. Mr. Rebarber is president and founder of Accountability Works, a nonprofit research and consulting work. Its mission is to assist states and districts in implementing high quality accountability systems. Previously he was cofounder and chief executive education officer of Advantage Schools, Inc., a charter school management company that achieved high grades and test scores for disadvantaged students. He served in various capacities up on Capitol Hill and the U.S. Department of Education and the Vanderbilt Institute for Public Policy students. We'd like to thank all of you for coming.

The Committee rules you have 5 minutes to make your opening statement. We're not going to take your head off if you go beyond that, but if you get carried away, we'll probably rein you in a little.

Mr. Tomalis, why don't you begin.

STATEMENT OF RON TOMALIS, COUNSELOR TO THE SECRETARY, U.S. DEPARTMENT OF EDUCATION, WASHINGTON, DC

Mr. TOMALIS. Good morning, Mr. Chairman. Good morning, Members of the Committee. It's a pleasure for me to be here in Ohio this morning.

Thank you for this opportunity to testify on behalf of the No Child Left Behind Act, President Bush's signature education reform legislation that is designed to bring stronger accountability and better results to Federal education programs, both across the Nation and here in Ohio.

A lot of myths have sprung up regarding No Child Left Behind over the 2 years since it was signed into law. The current election season is giving these myths a new currency. Perhaps the biggest myth, and one that has become a significant issue here in Ohio, is that President Bush and the Congress have not provided sufficient funding to pay for the new law.

The truth is that when Congress passed No Child Left Behind it also provided the largest funding increase in history for the elementary and secondary programs that would be authorized by the new law. The 2002 appropriations act provided an increase of $4.6 billion, or 27 percent, for NCLB programs. That nationwide increase was nearly matched here in Ohio, which received an additional $119 million, or 26 percent, in the first year of NCLB funding alone.

It is also important, though, to point out that this new funding comes on the heels of very rapid growth in education spending over the past 10 years.

Combined Federal, state and local spending on elementary and secondary education grew from $280 billion in 1993, '94, to over $500 billion over this past decade. That's a substantial increase over 10 years. To put that in perspective, half a trillion dollars a year on K-12 education is 125 billion a year more than is spent on defense in our country. That's the way it should be. Federal fund-

ing for the Elementary and Secondary Education Act has more than kept pace with this increase, nearly tripling over the same period. In view of these figures, a reasonable response to charges of underfunding education might be, what might we be talking about.

The specific figures for NCLB tell a similar story nationwide and here in Ohio, building on a large first year increase in 2002. Funding for NCLB is up $7 billion, or 40 percent, in just 3 years. We have provided $1.1 billion to pay for the additional assessments that are required by law, and the new law more than doubled the funds available to help low-performing schools by providing nearly $500 million.

Here in Ohio, Congress has appropriated more than $1.9 billion. For fiscal year 2004, the $666 million provided to Ohio for NCLB programs reflects an increase of $206 million, or 45 percent, over the 2001 level.

Consider just one major new requirement, the new assessments. Ohio will receive a total of $47 million in assessment funding before it even has to implement the new tests, which must be in place in the '05-'06 school year. Compare this to the previous ESEA reauthorization, which also required testing when it was reauthorized in 1994, but there was not a penny that was appropriated to put the assessment into place.

This doesn't sound like an unfunded mandate to me. But you don't have to take my word on this issue. There are some fair and balanced studies that reach the same conclusion. I would like to briefly summarize one study in particular for the Committee, one that was provided by education officials from Massachusetts. I respectfully ask the Chairman to place a copy of it in the hearing record.

Chairman BOEHNER. Without objection, it's ordered.

Mr. TOMALIS. The authors found that provided funding for No Child Left Behind is adequate to pay for the marginal costs of meeting the new law requirements at this stage of the implementation. They also found that while funding targeted to school improvement is short of their estimated need, other sources of Federal funds could more than close the gap, if they were directed to low-performing schools.

The authors then looked specifically at the growth in Federal education funding. With the permission of the Chairman, I would like to read their conclusions into the record.

"If this spending increase does not fully cover the fiscal gap, it would appear to come pretty close, especially when combined with state-level spending increases already required under various state laws and court decisions. Given that many states have been slow to implement the statewide assessment and accountability systems required by NCLB, one might even argue that in some instances Federal spending growth has overshot the target."

The "overshot the target" has particular resonance here in Ohio, where U.S. Department of Education figures showed that, as of last Friday, the state has yet to spend an estimated $322 million in Federal education funds appropriated from fiscal years 2000 through 2002. It is reasonable to ask why some in Ohio are demanding more Federal funds when the state has been unable to

spend a significant portion of the funds that it has already received.

My testimony suggests that it is long past time to put an end to debates about unfunded mandates and return to the business of implementing No Child Left Behind. As Secretary Paige pointed out recently, critics of No Child Left Behind too often ignore the depth of the problem in our schools. I believe that has been true to some degree here in Ohio as well.

I know, for example, many in Ohio are concerned about the No Child Left Behind requirement for 100 percent proficiency in reading and math, especially since the state was previously aiming for 75 percent proficiency. We know the NCLB goal is an ambitious one, with only one third of Ohio's fourth-graders currently scoring at the proficient or advanced levels in reading on the National Assessment of Educational Progress, and with just two thirds of fourth-graders currently at grade level of Ohio's own reading test.

If you consider that what we are talking about here is bringing all students up to grade level in basic reading and math skills, I think it is very hard to make a case for setting our goal anywhere below 100 percent. Are Ohio's schools successful if they have 25 percent of the graduates, one in four graduates, without the basic skills needed for either the workplace or for meaningful participation in our democracy? President Bush doesn't think so, neither does Secretary Paige or the Chairman of this Committee, and I have to say I utterly agree with them.

In conclusion, in my view, the myth of No Child Left Behind as an unfunded mandate simply does not stand up to scrutiny. Even in an election year. It is a falsehood that diverts attention from the admittedly hard work we all face in realizing the promise of No Child Left Behind. I hope that by helping to dispel this myth, this hearing will refocus our attention where it needs to be: on the students of Ohio in their classroom. Thank you.

[The prepared statement of Mr. Tomalis follows:]

Statement of Ron Tomalis, Counselor to the Secretary, U.S. Department of Education, Washington, DC

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to testify on behalf of the No Child Left Behind Act, President Bush's signature education reform legislation that is designed to bring stronger accountability and better results to Federal education programs, both across the Nation and here in Ohio.

A lot of myths have sprung up regarding No Child Left Behind over the two years since it was signed into law. Perhaps the biggest myth, and one that has become a significant issue here in Ohio, is that President Bush and the Congress have not provided sufficient funding to pay for the new law.

THE DEBATE OVER FUNDING

Complaints about funding have been a staple of opposition to No Child Left Behind almost since the law was passed. This is a little strange given that the new law was accompanied by the largest funding increase in history for the Elementary and Secondary Education Act programs that it reauthorized. The 2002 appropriations act, which funded the first year of the new law, provided an increase of $4.6 billion, or 27 percent, for these programs. That nationwide increase was nearly matched here in Ohio, which received an additional $119 million, or 26 percent more than in 2001.

Because these numbers are hard to argue with, opponents of the law have adopted a tactic of promoting various "studies" as evidence for the alleged underfunding of its programs. Some of these studies do not even pretend to address the true costs of implementing the new law, but instead simply total up the maximum authorized levels that are included in the authorizing statute.

A second approach has been to attempt to identify the costs of complying with some of the key requirements of No Child Left Behind, including the additional assessments, assistance to schools identified for improvement, and ensuring that all teachers are highly qualified. This approach is similar to the one taken by the authors of a study here in Ohio.

Even this second approach, however, is subject to such a broad range of assumptions that it tends to be more of a political than an analytical exercise. The result is some studies that support additional funding for No Child Left Behind, and others that argue persuasively that the law is already adequately funded.

I do not want to go into great detail about these studies, but I do want to emphasize three reasons why many of them should be viewed with skepticism.

First, the primary role of States and local communities in our education system means that the Federal role tends to be incremental and thus difficult to measure. For example, most States already have assessment and accountability systems with their own reporting and data-collection procedures. If some aspect of these systems, which change fairly often in response to State requirements, must be modified to comply with No Child Left Behind, there is certainly a cost involved, but probably only a marginal one.

Second, there tends to be an assumption that existing activities and expenditures are untouchable, regardless of their effectiveness. For example, it is possible to see school improvement as an add-on—hiring an extra teacher or adding a summer program—or as a wholesale reconsideration of how a school uses its resources to achieve its goals. No Child Left Behind is based on the latter approach, trying to leverage all the resources available to a school, rather than simply looking for new dollars.

Third, because there is no definitive research demonstrating a connection between the expenditure of a certain sum of money and a high-quality education, it is impossible to put a dollar figure on the goals required by No Child Left Behind. Many districts do very well with modest expenditures, while others fail to graduate most of their students despite very large investments.

WHAT UNFUNDED MANDATE?

As I said earlier, these and other factors tend to make funding a political rather than an educational issue. We do recognize, however, that the new law imposes some additional costs on States and school districts. We also believe that the President and the Congress have responsibly funded these additional costs. Moreover, this new funding comes on the heels of very rapid growth in education spending over the past 10 years.

For example, combined Federal, State, and local spending on elementary and secondary education grew from $300 billion to $500 billion over the past decade. Federal funding for the Elementary and Secondary Education Act has more than kept pace with this increase, nearly tripling from $8.5 billion to $24 billion. In view of these figures, a reasonable response to charges of underfunding education might be: "What are you talking about?"

The specific figures for No Child Left Behind tell a similar story, both nationwide and here in Ohio. Nationally, funding for No Child Left Behind programs is up almost $7 billion, or 40 percent, in just three years. We have provided $1.1 billion to pay for the additional assessments that are required by the new law. And the new law more than doubles the funds available to help low-performing schools by providing nearly $500 million.

Here in Ohio, Congress has appropriated $1.9 billion since fiscal year 2001 to implement No Child Left Behind. For fiscal year 2004, the $666 million provided to Ohio for NCLB programs reflects an increase of $206 million, or 45 percent, over the 2001 level.

And consider just one major new requirement—the new assessments. Ohio will receive a total of $47 million in assessment funding before it even has to implement the new tests, which must be in place by the 2005-2006 school year. Compare this to the previous ESEA reauthorization, which did not fund the new assessments that it required.

This doesn't sound like an unfunded mandate to me.

It also doesn't sound that way to many others, including some officials who are responsible for implementing No Child Left Behind in their own States. I mentioned earlier that there are some studies that argue persuasively that No Child Left Behind is not an unfunded mandate, and I would like to talk briefly about one study in particular.

A MORE BALANCED APPROACH

James Peyser is the chairman of the Massachusetts Board of Education, and Robert Costrell is a professor of economics currently serving as chief economist in the Massachusetts Executive Office for Administration and Finance. Peyser and Costrell have examined the costs of No Child Left Behind, both in the context of Massachusetts and nationally, and reached some interesting conclusions. Their work is published in an article called "Exploring the Costs of Accountability," which appears in the Spring edition of *Education Next*, and which I respectfully ask the Chairman to place in the hearing record.

Peyser and Costrell begin by observing that "much of what is alleged to be an NCLB mandate is either not new or actually results from states' actions," and that "no one—neither critics nor supporters of NCLB—really has any idea what it would cost to bring all students to proficiency by 2014." They then claim, based both on their experience in Massachusetts and on a national perspective, that funding for assessments is adequate to cover the marginal costs of the new NCLB assessments. They also assert that although funding specifically targeted to school improvement is short of their estimated need, "other sources of federal funds could more than close the gap, if they were directed to low-performing schools."

Finally, Peyser and Costrell look at the growth in Federal education funding that I described earlier. With the permission of the Chairman, I would like to read their conclusion to the Committee:

> *If this spending increase does not fully cover the fiscal gap, it would appear to come pretty close—especially when combined with state-level spending increases already required under various state laws and court decisions. Given that many states have been slow to implement the statewide assessment and accountability systems required by NCLB, one might even argue that in some instances federal spending growth has overshot the target.*

Peyser and Costrell's "overshot the target" comment has particular resonance here in Ohio, where US Department of Education figures show that, as of March 3, 2004, the State had yet to spend an estimated $322 million in Federal education funds appropriated from fiscal years 2000 through 2002. It is reasonable to ask why some in Ohio are demanding more Federal education dollars when the State has been unable to spend a significant portion of the funds it has already received.

TIME TO FOCUS ON THE GOALS OF NO CHILD LEFT BEHIND

At a minimum, my testimony today suggests that it is long past time to put an end to speculative debates about unfunded mandates and return instead to the business of implementing No Child Left Behind. As Secretary Paige pointed out recently, critics of No Child Left Behind too often ignore "the depth of the problem in our schools," and I believe that has been true to some degree here in Ohio as well.

I know, for example, that many in Ohio are concerned about the NCLB requirement for 100 percent proficiency in reading and math, especially since the State was previously aiming for 75 percent proficiency. We know the NCLB goal is an ambitious one, with only one-third of Ohio's fourth-graders currently scoring at the Proficient or Advanced levels in reading on the National Assessment of Educational Progress, and with just two-thirds of fourth-graders currently at grade level on Ohio's own reading test.

On the other hand, if you consider that what we are talking about here is bringing all students up to grade level in basic reading and math skills, I think it is very hard to make a case for setting our goal anywhere below 100 percent. Are Ohio's schools really successful if they leave 25 percent of their graduates without the basic skills needed for either the workplace or for meaningful participation in our democracy? President Bush doesn't think so, and neither does Secretary Paige or the Chairman of this Committee, and I have to say I agree with them.

CONCLUSION

In my view, the myth of No Child Left Behind as an unfunded mandate simply does not stand up to scrutiny. It is a falsehood that diverts attention from the admittedly hard work we all face in realizing the promise of No Child Left Behind. I hope that by helping to dispel this myth, this hearing will refocus our attention where it needs to be: on the students of Ohio in their classrooms.

Chairman BOEHNER. Dr. Ross.

STATEMENT OF RICHARD ROSS, SUPERINTENDENT, REYNOLDSBURG CITY SCHOOLS, REYNOLDSBURG, OH

Dr. ROSS. Good morning, Mr. Chairman, Committee Members.

I'm here today to share with you my support for the No Child Left Behind legislation. I'm going to speak as a school superintendent of a suburban district here in Franklin County.

Your Committee is looking into the costs associated with No Child Left Behind. I think this is an important question that needs to be answered. I do believe, however, there is a more important question, and that is, what will it cost America if we fail to achieve the goals of No Child Left Behind?

In my opinion, being an old social studies teacher, No Child Left Behind is the most important piece of educational legislation since the passage of the Northwest Ordinance of 1779, which provided land for the establishments of schools in the northwest territory

here, including Ohio. At that time, Congress set an ambitious goal of providing an opportunity for an education of every child; in other words, universal access to an education.

Today, with the NCLB legislation, I think Congress is giving America a new and more ambitious goal than just universal access, it's universal achievement. We've been challenged to become accountable for the academic achievement of all of our students. It is a guarantee that every child in America will have a mastery of basic knowledge and skills that are prerequisites for good employment and good citizenship in this country and state. And I think to argue that—and I hear that argument a lot—that it is not a possible goal, it's an impossible goal, is ludicrous, as I believe we can do that.

What does this mean to our classroom teachers, our school principals, superintendent? I believe we're finally being required to take notice, not only of those children who are failing to learn the basic skills and knowledge sets, but we almost must be directing our attention toward the most talented students we have to ensure on the other end that their learning potential is not limited either. We are required to do that, and we are required to make adjustments in our instructional programs, and we must do that. We must know what works and what doesn't work.

Many educators that I talk with discuss about not having the resources to fill the expectations of No Child Left Behind. It's my belief that we must therefore look at what we have and pull the weeds from our resource garden that exists in our schools. We must eliminate innovations and programs that are determined to be unsuccessful. We must marshal our resources in the manner that would be most effective in improving our students' learning.

I also believe that the financial resources are not the most important ingredient in this task that we have in front of us. The most essential prerequisite for success of NCLB is that the student, the teacher, the administrator, each and every one of them individually believes that it's possible for them to achieve that. Countless times I've had expectations when I was teaching, coaching, and as principal and as superintendent, where we have set expectations in front of our classroom teachers, principals, students and athletes to achieve beyond what normal people or average people would expect is possible. You know what? Kids can do that. They can do that. These people must believe that they do have the resources from the garden. They have to believe that they have the skills and ability to reduce these achievement gaps. Especially with our poor and minority students.

Reynoldsburg—I'm not portraying to be a panacea of anything. Just telling you that we're working hard to accomplish that. We're a diverse, middle-class, suburban community that has the lowest expenditure per pupil in Franklin County in fiscal year '03. It would be easy for us to come up with a lot of excuses. Easy. We can't because we don't have enough resources. We can't because we have a large number of poor students and more moving in. We can't because of the number of minority students. We can't because of the number of our ESL students. I think that is the very point that we're here to talk about. We can be successful, and I think we must be successful. We must cease using excuses and commit that

this must occur if this great country is going to provide equal opportunity for all our children.

Now, the very people on my left and right, my question is, what does it really cost to implement NCLB? I think it costs us to work even harder. It will cost us more time, more commitment. It costs more love to be able to absolutely guarantee that all our children, every one of them, meets their full potential. That is what it costs us.

Sometimes, in direct terms, this could be extra tutoring, summer school. It could be before-school and after-school programs. It possibly could be differentiated materials, differentiated instructional techniques. There are other costs. Will this end up costing us more dollars? Perhaps it will. I ask myself and I ask you, what would it cost to assure that every child learned in school without this law? My answer would be, the cost in money, in effort, in creativity and in commitment are exactly the same.

How can we not want high achievement for all our students? How can we not want accountability measures that are consistent from school to school, or effective instructional programs that have been researched and proven to work with various populations? Yes, how can we not want highly qualified teachers? If we really want all our students to master basic skills and knowledge, then the extra cost of NCLB is zero.

On the other side of the coin, if we're OK with only some of our children learning the standard, and I want to say this has been the history of public schools, then we probably can actually cut costs and still call ourselves successful. Seventy-five percent standard for excellence in Ohio would be an example of that.

Simply stated, NCLB is the right thing to do. I'm grateful for the President and the Congress for bringing this necessary mandate to our national agenda to debate.

I would like to close by giving special thanks to our State Superintendent Susan Zelman and the Ohio Board of Education for establishing an exemplary set of academic content standards in reading, language arts, math, science, and social studies. I believe these standards provide every teacher, parent, child in the state of Ohio clear guidance defining minimum performance expectations for each and all of us. We no longer can hide behind low standard and, worse, no standards.

The Congress and the Ohio legislature have given me and Ohio new goals. It is now up to the school leaders, superintendents, principals, teachers, students to discover and create the pathways that will lead each of our students to academic success and achievement. I appreciate the opportunity to testify today.

Chairman BOEHNER. Thank you.

[The prepared statement of Dr. Ross follows:]

Statement of Richard A. Ross, Superintendent, Reynoldsburg City Schools, Reynoldsburg, OH

Thank you,

Good morning Mr. Chairman, Congressmen, Congresswomen. It is my pleasure to share with you my support for the No Child Left Behind legislation.

Your committee is looking into the costs associated with NCLB. I think this is an important question that needs to be answered. I do believe, however, that the more important question is, "What will it cost America if we fail to achieve the goals of NCLB?"

In my opinion, NCLB is the most important piece of educational legislation since the passage of the Northwest Ordinance of 1779, which provided land for the establishment of schools in the Northwest Territory. At that time, Congress set an ambitious goal of providing an OPPORTUNITY for an education to every child … in other words, universal access to an education.

Today, with the NCLB legislation, Congress has given America a new and more ambitious goal than just universal access ... universal achievement. We have been challenged to become accountable for the academic achievement of all our students. It is a guarantee that every child in America will have mastery of the basic knowledge and skills that are a pre-requisite for good employment and good citizenship. And, to argue that this is an impossible goal is ludicrous.

In practical language, what does this mean to our classroom teachers, school principals, and superintendents? We are finally being required to take notice, not only of those children who are failing to learn these basic skills and knowledge sets, but also be alert to the most talented students - to ensure that their learning potential is not limited. We are required to make adjustments in our instructional programs and we must do that. We must know what works and what doesn't.

Many educators talk about not having the resources to fulfill the expectations of No Child Left Behind. Therefore, we need to pull the weeds from our resource garden. We must eliminate innovations and programs that are unsuccessful. We must marshal our resources in the manner they will be most effective in improving our students' learning. It is my opinion that financial resources are not the most important ingredient. The most essential pre-requisite for success with NCLB is that the student/teacher/administrator individually believes that it is possible for them. They must believe that they do have the essential resources from the garden … the skills and the ability to reduce the achievement gaps, especially with our poor and minority students.

Reynoldsburg is trying to be an example of that. We are a diverse, middle-class, suburban community that has the lowest expenditure per pupil in Franklin County. It would be easy enough for us to come up with excuses: we *can't* … because we don't have enough resources; we *can't* …because of the number of poor students; we *can't* … because of the number of minority students; we *can't* … because of the number of ESL students. But, that is the point. We can be successful. We must be successful. We must cease using excuses and commit that this must occur if this great country is to provide equal opportunity for all of our children.

What does it cost to implement NCLB? It costs us to work even harder. It costs us more time and more commitment, and it costs us more love to be able to absolutely guarantee that all of our children, every one of them, meets their full potential.

That is what it costs us. Sometimes we call this extra tutoring or summer school. Sometimes, it is before-school and after-school programs. Possibly, it is differentiated materials or differentiated instructional techniques. These are the costs. Will this end up costing more dollars? Perhaps it will. But, I ask myself and I ask you, "What would it cost to assure that every child learned in school without this law?" My answer is: the costs in money, in effort, in creativity and in commitment are exactly the same.

How can we not want high achievement for all students, accountability measures that are consistent from school to school, effective instructional programs that have been researched and proven to work with various populations, and yes, how can we not want highly qualified teachers? If we really want all our students to master basic skills and knowledge, then the extra cost of NCLB is ZERO.

On the other side of the coin, if we are OK with only some of our children learning the standard, and this has been our history, we can actually cut costs and still call ourselves successful.

Simply stated, NCLB is the right thing to do and I am sincerely grateful to the President and the Congress for bringing this necessary mandate to the center of our national agenda.

Let me take a quick moment to give special thanks to State Superintendent Susan Zelman and the Ohio Board of Education for promulgating an exemplary set of academic content standards in Reading, Language Arts, Math, Science and Social Studies. These standards provide every teacher, every parent, and every child in the state of Ohio clear guidance defining minimum performance expectations for each and all of us. We can no longer hide behind low standards and, worse, no-standards.

The Congress and the Ohio legislature have given me and all educators in Ohio our new goals. It is now up to school superintendents, principals, and teachers to discover or create the pathways that will lead each of our students to academic achievement and success.

Chairman BOEHNER. Dr. Fleeter.

STATEMENT OF HOWARD FLEETER, PARTNER, LEVIN, DRISCOLL & FLEETER, COLUMBUS, OH

Dr. FLEETER. Thank you, Chairman, Members of the Committee. I appreciate the opportunity to testify. I appreciate that you picked a location that's probably closer to where I live than anybody else in the room.

We've got a 60-page report that there's been many references to. I've got 5 minutes to discuss the pertinent facts. I pledge to do the best I can in that timeframe.

Let me first say for the record that our objective here, as Congressman Tiberi said, is to do a study for the state Department of Education in compliance with a mandate from the Ohio legislature to look at the cost of compliance of No Child Left Behind. We did that. And we want to stress that what we did was try and figure out what the cost of this law would be and what the cost is of Ohio meeting all the mandates and complying with it. And we're not making any judgment that says that there's—we have a disagreement with the goals. In fact, we agree—I agree with what Mr. Tomalis and what Dr. Ross said about the goals, and what every one else has said, that these are the right goals. That the Federal Government is on the track we should have been on for many years to close the gap. I think that we can do this and figure out how to get that done. Whatever it costs would be money that is well worth spending and the best investment I think our country can make.

In terms of a little background about Ohio's context, accountability didn't come to Ohio with No Child Left Behind. That Ohio has been rated—the last 2 years in education, they're one of eight states to be given A for accountability system. There's been state and local and district report cards issued for the last 5 years here that—there have been statewide proficiency tests for over 10 years that there's a good accountability system in place in this state.

In terms of teacher quality, education, Ohio is one of the top ten states in terms of improving teacher quality, and they received a B in that area of the report card as well. That's the good news about what Ohio's been doing.

Mr. Tomalis referred to some figures before that in terms of the nature of scores and Ohio's percentages of passage rates on the proficiency tests. That's the bad news, that 35 percent of our students in the 4th and 6th grade failed the reading, 44 percent failed the math test. That's a challenge that Ohio faces in terms of complying with the law.

The focus that we made in our study was figuring out the marginal cost of complying with the law, in terms of what additional dollars will it take to go beyond the accountability system that the state has had in place. They made the reference that Ohio's accountability system, if every district received 75 percent of their students passing these tests, they would be rated an excellent district in this state. You can make a very compelling argument that says that having 25 percent of your kids fail is too low a standard. In terms of looking at the right standard saying eliminating the achievement and having 100 percent of our kids passing this test, that's the right standard.

In terms of what we had to cost out, there are four areas of cost. One of them is the mandatory testing. There is criteria for highly qualified teachers and professionals. There's increasing the passage rates to a standard of 100 percent beyond Ohio's current standard of 75 percent, and then there's consequences cost. The third one, getting the standard up to 100 percent, that's where the bulk of the

cost is going to be. If you do that, then the consequences cost should go away.

In terms of the focus of our study, looking at the cost of compliance, we made a decision which I think is the right one from what the legislature asked us to do is what would it take for Ohio to comply with the standard. We're not going to cost out what the consequence would be of failure because we want to cost out the consequence of success.

How do we do this? The main focus of our report was looking at what it would take to get 100 percent of our students passing Ohio statewide proficiency tests. For that, as Dr. Ross said, is a variety of different types of interventions that can be done. There are aspects that don't have to do with interventions that have to do with getting everybody on the same page of the playbook. I have 14 years of experience in working with this state on education funding. We have a list in our report that has nine or ten interventions. We didn't pull that out of thin air. We worked with personnel and staff from the Ohio Department of Education. We had focus groups within the district. We worked closely with the city of Columbus Public Schools. And I thank them for their participation. We drew that list that we have as based on those data and also based on research and education about what types of programs are effective in terms of getting students up to speed and learning. The 3 years that we picked that are the 1.5 billion roughly in our cost, 1.4 billion of that is in the area of the interventions that are necessary to get students up to 100 percent proficiency. That's where the bulk of my comments will be because that's where the bulk of the cost is.

The three intervention programs that we costed out, we have a series of tables through our report. The key table is table 23. It shows that we have summer school, which is consistent with the extended school year idea; after-school intervention, consistent with the idea of extending the school day before school or after school; and intensive in-school intervention.

Each one of those interventions is based on research for the summer school program. I would direct people to the Johns Hopkins Center for Summer Learning. They've been doing research for many, many years looking at the learning loss that occurs over the summer, particularly for lower social economic groups. If you test them at the end of the school year and beginning of the next one and compare where they're at, they're going down, while the other groups are going—holding steady or going up. That's a major problem. The intensive in-school intervention. It's on the U.S. Department of Education's own web site they have an Institute for Education Sciences that identifies educational practices supported by evidence. They can cite that one-on-one tutoring by qualified teachers for grades 1 to 3 is one of the gold standard intervention approaches, and that that's something that may be incorporated into our report very consistent with that. In fact, we base what Columbus does on the reading recovery model, which is one of the most well supported intervention programs in education that I know of.

Finally, the after-school interventions is based simply on the idea of the supplemental services which is one of the consequences that's spelled out by No Child Left Behind. Our logic in including

that is if that was a program which the authors of No Child Left Behind felt would be an appropriate consequence for schools and districts that are failing, then I think it would be an appropriate intervention so you can head that off before they fail. So we have a basis for including those three programs.

We also have a rationale in terms of it's one thing to include them and you've got to attach some costs. If you don't have a good rationale for that, you don't have a good cost estimate. Our rationale for how we costed out the programs is based on two fundamental economic assumptions. The first is the premise of increasing marginal cost. This is the most fundamental assumption in microeconomic theory. As you produce increased units of output, each unit of output is going to cost a little bit more, require a little bit more input. That's a fundamental pinprick of microeconomics. It's one that no one has disagreed with. I think the table that we have that shows the differences in the backgrounds of students as we broke them into their performance groups and you can see very clear patterns that the students that are highest achieving have the lowest percentage of economic disadvantagement, the lowest percentage of special education, the lowest percentage of English as a second language, and that you can see very clear patterns as you go down the performance scale that each one of those challenges increases, and for the lowest couple of groups of students we have they increase to a dramatic rate.

So that's our evidence that the challenge of this, the cost of getting the last student to clear the bar is going to become the highest and the cost of getting the student that's closest right now to clearing the bar is going to be the lowest.

The second premise that we used when we estimated the cost was the idea it's almost what I called the Fram oil filter for Ohio, the pay me now, pay me later. The idea would be that the earlier you intervene, the more effective it would be, and the more cost effective it would be as well. That's the idea behind these one-on-one interventions and the reading recovery types of programs. The earlier you start, the more effective you are.

And in our cost estimate, the $1.4 billion that we came up with, that if you look at how that's structured, that the cost for kindergarten and first grade is the highest, the cost for second and third grade goes down from that, and the cost in the out years after that of what we call sort of maintenance, once you get kids on track—it's not an inoculation. You still need to be doing work, but that's going to be a declining rate. That that 1.4 billion you have is an annual cost. That's the cost—if you look at it in two ways, it would be either the cost of taking the student right now who's in kindergarten and serving all those students who need the interventions over the course of their 13 years that they're going to be in school, or you could alternately think of that as the cost once this is up and running, you'll have interventions for kids at all different grade levels at any different times. You'll have some kids in kindergarten getting interventions, second, third, fourth, eight. So that cost is a cumulative cost for either serving the group of students throughout the duration of their time in school or it would be the cross-section of students at all the grades in any given year. I've seen some people take the number and divided it by the 130,000

students that we say need intervention and they get a figure that's almost $11,000, and that's an inappropriate way to think of it like that. The cost estimate applies to more than just the group of kids in K through third grade.

Finally, in terms of—there's more detail about how we did the estimate. The last thing would be the cost that we attach once we define the programs and how they work, and they're consistent with those ideas of increasing marginal costs and the earlier intervention being more effective than the later intervention. We then had to attach some cost estimates. We tried to be very conservative in how we attached those costs. One person commenting on our report said he thought we so severely underestimated the cost of what a teacher would be, that they thought that it made our estimate invalid. If it's invalid, it would be on the low side, not on the high side.

Lastly, I guess what I'd like to say, there's been discussion about the increases in Federal money, and I want to clarify that we're not disputing that there have been increases in Federal money. We see those. And that the two points I would like to make in that regard would be, first, that these percentage increases that Mr. Boehner talked about and Mr. Tomalis talked about, they're on a fairly low base. Historically, Federal funding has fluctuated between five and 7 percent of total education resources in the state of Ohio. So we made significant increases in what's the smallest component of the funding. We're not saying that we don't appreciate those increases. We're not saying that those increases aren't going to make a difference. I think there's a mathematical issue that the bar has been raised appropriately so by the Federal Government. I think now we're going to need to get to a point where five or 7 percent of the share of education that may have worked when our standard was 75 percent, that's not going to work when our standard is really 100 percent.

The last point I would like to make about that. There have been some suggestions that we shouldn't be looking at the increases, what we ought to be talking about is the whole pot of money that's there. And that's a view that we disagree with. Our premise is that the money that has been there in the past has been part of the system which has gotten us to the point where we have 35 percent of our kids not passing reading and 34 percent not passing math. We're taking the premise that the money that's in the system has gotten us to where we are. And there have been allegations that we haven't taken into account any efficiency. We did do that on our report. There's a whole report—I'm just about done. I appreciate your indulgence. I'm talking as fast as I can. That we did make assumptions that there are ways to reach that money. I think that we're at the point where if someone can demonstrate that beyond where we are right now, if that were to lower the cost, I think if anybody can convince me the cost is going to be lower, I'm in favor to that because it's going to suggest to me that we're closer to getting in compliance with this law. Thank you very much.

[The prepared statement of Dr. Fleeter follows:]

Statement of Howard Fleeter, Levin, Driscoll & Fleeter, Columbus, OH

In January 2004, the Ohio Department of Education released a study prepared by our firm of Levin, Driscoll, & Fleeter. The study was prepared pursuant to an enactment of the Ohio General Assembly for the purpose of estimating the additional cost to the State of Ohio as a result of the requirements imposed by the federal No Child Left Behind (NCLB) legislation. Our study is entitled *Projected Costs of Implementing The Federal "No Child Left Behind Act" In Ohio.* Since the study is freely available at the Ohio Department of Education website (http://www.ode.state.oh.us/), this testimony will summarize its findings only in a brief way.

Our analysis of NCLB showed four areas in which the law will require additional expenditures. First, states must provide for mandatory tests in grades 3 through 8. Second, teachers and aides must meet higher standards of preparation and ongoing professional development. Third, student performance levels on mandatory tests must improve from passage rates below 60% to perfect passage rates of 100% and constant improvement must occur in the form of higher attendance rates and lower dropout rates. Fourth, when schools fail to meet these standards, they incur costs associated with supplemental services, transportation, and school reorganization.

The first two areas imposed additional costs of about $103 million per year. These additional costs included about $30 million for test administration. Most of that estimate relied directly upon contracts already concluded between the Ohio Department of Education and test companies. The other $73 million per year resulted from a computation of the additional professional development costs associated with NCLB's higher teacher preparation and continuing education requirements. The new law requires a higher standard of training as indicated in the mandate for "highly effective" professional development. According to the Department of Education, the meaning of professional development includes training that is, "High quality, sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction and the teacher's performance in the classroom and are not 1-day or short-term workshops or conferences." Consistent with these high standards, we projected an increase in teacher training from 36 hours per year to 54 hours per year. The standard of 54 hours per year actually falls slightly below the average training per employee by "training investment leaders" in 2001 (57 hours) as determined by the American Society for Training and Development. Thus, our marginal cost approach to training assumed that NCLB would increase training by 50%. The cost for this increase would equal about $600 per teacher per year.

The third and fourth areas of additional costs are mutually exclusive. The achievement of the required performance standards renders unnecessary any cost of consequences. Failure to expend sufficient amounts to achieve the required performance standards will result in consequences with their set of costs. Our analysis concluded that the estimate consequence related costs would require many assumptions about which districts would fail to meet the standards, when they would fail to meet them, and what methods would be selected from among many to address the consequences of failure. With the exception of a small amount related to transportation consequence cost already being incurred ($2 million per year), we decided to ignore all consequence costs and focus on the cost of success. It was more consistent with the legislative mandate to estimate the cost of accomplishing NCLB goals rather than to project the cost of failure.

To succeed, we concluded that schools would need additional expenditures for intervention. "Intervention" means additional efforts designed to meet performance standards. The cost of intervention was tied directly to the pattern of performance on existing tests. We determined that pupils would require more intervention as their performance scores fell further below the performance standard. To estimate the cost of intervention, we constructed a model of intervention programs based on the cost of existing intervention programs, the number of pupils in grades K-3, performance data on existing proficiency tests, and an emphasis on the early grades as the most cost-effective method for maximizing academic achievement. The model projected a cost of $923.7 million for grades K-3. An additional allowance of $462 million was included for grades 4-12 to maintain achievement level attained in the first four years. This conservative aspect of the model projects that the achievement levels attained by the expenditure of about $230 million per grade in the first four years can be maintained with expenditures of less than one-quarter that amount or about $51 million per year from grades 4 through 12. In this way, the model produced an estimate of $1,385.7 million as the cost of compliance with NCLB mandates.

The total cost of the four types of NCLB mandates included in the study equaled $1,491.1 million. Against this cost, we applied the net increase in federal dollars received by Ohio to pay for NCLB costs. The net cost equaled the amount of federal dollars in excess of the amount Ohio would have received based on historical growth in federal aid for similar education programs prior to NCLB. This net increase in federal aid equaled $44 million. The availability of this additional federal aid reduced the total cost of NCLB to $1,447 million to the State of Ohio and its school districts.

The preceding overview summarizes the findings of our study. Several points about the nature and design of the study deserve emphasis. The rest of my testimony enumerates those points.

1) Marginal cost – The concept of marginal cost (and marginal analysis generally) is central to the discipline of economics. In an economic system, the additional cost to raise production by one more item increases as the number of items produced approaches the full capacity of the system. The application of this principle to the marginal cost study of NCLB means that, as the system attempts to add each additional student to the ranks of successful performers on standardized performance measures, the per student cost increases.

Our study found confirmation of this concept in the data about the students who fail the existing performance requirements. We divided these unsuccessful students into four equal groups based upon their test scores. The lowest performing group received the label "Q1" (for first quartile). The next two lowest performing quarters of failing students received the labels "Q2" and "Q3," respectively. Finally, "Q4" contained the quarter of failing pupils closest to, but not equal to, the required performance.

The table below reproduces Table 19 from our study. It shows the characteristics of pupils in each of the four quarters of failing pupils. It also shows successful students divided into the two groups of "Proficient" and "Advanced."

Table 19: 2003 Grade 4 Reading Characteristics of Students by Performance Level

Scaled Score Range	Number of Students	% Econ. Disadvantaged	% Students with Disabilities	% LEP	%Students not in Subgroup*	% Tested without Accommodations
Alternate Assessment	N=2300	55.8%	All	1.3%	--	--
Zero-194 (Q1)	N=9,708	67.9%	56.3%	2.5%	11.8%	60.1%
195-204 (Q2)	N=11,184	57.2%	28.8%	1.7%	28.4%	80.9%
205-210 (Q3)	N=11,688	50.5%	18.6%	1.4%	38.6%	88.7%
211-216 (Q4)	N=13,047	43.4%	14.3%	1.0%	47.6%	91.8%
Proficient	N=77,670	27.2%	6.1%	0.8%	68.1%	97.2%
Advanced	N=12,874	16.9%	3.5%	0.6%	80.1%	98.7%

* For the purposes of this table, subgroup does not refer to student race or ethnicity.

The table shows a clear and consistent relationship between the percentage of economically disadvantaged or disabled students in each group and declining performance. Thus, among the Q4 students, the students closest to passing, 43% have an economic disadvantage and 14% have a disability. In Q3, the prevalence of economic disadvantage increases to 50%, and the frequency of disability increases almost to 19%. In Q2, economic disadvantage accounts for 57% of the students, and disability frequency rises again to almost 29%. Finally, in Q4, where students have the furthest to go to achieve success, two-thirds of the pupils are economically disadvantaged and 56% have a disability.

This pattern of increasing incidence of economic disadvantage and disability as performance levels worsen reinforces the marginal cost principle that the unit cost of reaching each student with sufficient intervention will increase as one proceeds from higher to lower scores.

2) A Cost Model and Not a Program – Some commentators on the study have assumed mistakenly that it represents a combination of programmatic recommendations. It does not. The marginal cost analysis developed a model of progressively more intensive interventions based directly on the principle that marginal improvement, as the system seeks success with each progressively less successful group of failing students, will require more intervention activity. The interventions included in the model provide a sample of intervention techniques characterized by increasing intensity. The costs associated with these techniques rely upon current data from Ohio's education system. While these interventions are based upon the premise that students with low achievement will require additional instructional time in order to improve their rate of learning, the study does not recommend these specific interventions. It uses the examples of specific intervention as a way to arrive at marginal cost estimates consistent with economic theory and the increasing levels of economic and disability status associated with lower performance levels among students.

3) Marginal Costs Compared to Marginal Revenue – No basis exists in reason, data, or economic theory for a comparison of the *marginal* costs associated with NCLB to the *total* revenue provided under NCLB. Some commentators have argued that the total amount of federal revenue received by the state should apply to the marginal cost of the NCLB requirements. Even though the notion of comparing total revenue to marginal costs in this context on its face violates logic, we will emphasize here the meaning of marginal cost analysis.

Prior to the enactment of NCLB, the federal government provided aid to schools, primarily in the form of Title I assistance for disadvantaged pupils and grants for teacher professional development and class size reduction. Along with several other programs, the total assistance equaled about $500 million in the last year prior to the enactment of NCLB. The use of these funds was an integral part of the system upon which the basis was defined for purposes of estimating the marginal cost of the new law. For example, reference back to Table 19 above shows that about 17% of students with "advanced" performance were economically disadvantaged, and about 27% of "proficient" students were economically disadvantaged. Federal funds were part of the combination of programs delivered to these students. No basis exists for separating out these pre-NCLB federal dollars pursuant to a determination that those dollars were not necessary to register the achievement levels already shown in the data. In fact, pre-NCLB federal funds logically affect performance data in two ways. First, the existing programs play an inseparable role in the success of those disadvantaged students who passed the existing performance measures. Second, even among those who did not achieve a passing score, the existence of the pre-NCLB federal dollars constituted a part of the system by which those students scored as well as they did. Thus, no basis exists for proving that Q4, Q3, or Q2 students would not have fallen into a lower quarter but for the pre-NCLB levels of federal aid.

The argument that the full amount of federal dollars provided under NCLB should apply to the *marginal* cost of NCLB ignores the economic basis for defining marginal costs. It ignores the role of federal aid in the pre-existing system. It implicitly assumes without any factual basis that the pre-NCLB federal aid did not accomplish anything because it would apply all post-NCLB federal dollars only for the sake of improvement in the passage rate on required tests from 75% to 100% even though past federal aid contributed to the achievement of the (approximately) 50% passage rate in place when NCLB took effect.

4) Efficiency in the Model – A number of commentators have mistakenly accused our report of excluding any effect for improved efficiency in the education system. In fact, the report assumed that the mandated improvements in teacher preparation and more efficient use of the pre-NCLB base of federal aid would achieve significant improvements in

performance when coupled with other State contributions. Specifically, in arriving at the cost estimate of $1,385.7 million for intervention, the model does not attribute *any* marginal costs to the quarter of failing students closest to a passing grade. In other words, out of the population of failing students, the model assumes that better use of existing State and federal dollars will boost 25% of failing pupils over the bar with no additional federal funds beyond pre-NCLB levels. (This does not mean that the State will have no increased costs for these students, but that the proportionate benefit of federal support within the pre-NCLB system will not need to increase.)

While the report does in fact assume more efficient use of federal funds, no statistical or other objective basis exists to justify *any* increase in achievement associated with greater efficiency. Given the population targeted by the intervention model, no basis exists for concluding that the pre-existing federal programs failed to reach as many possible students with as successful results as possible. Without specific analysis of existing programs that have been ineffective coupled with specific delineation of new programs that will be more effective, the contention that improved efficiency can result in higher achievement without significantly higher *marginal* costs amounts to little more than wishful thinking.

5) Exclusion of IDEA Funds – Our analysis did not apply additional IDEA (special education) funds provided under NCLB as a resource applicable to the marginal cost of NCLB. Congress' original commitment to fund 40% of special education costs has never been achieved. Even the addition of some more IDEA funds simultaneously with the enactment of NCLB, leaves the federal contribution to IDEA mandates at no better than one-half of that original commitment. For this reason, the suggestion that IDEA funds should count as a contribution to NCLB mandates would amount to double-counting.

6) Uncounted Costs – Our report made no attempt to include in the marginal cost of NCLB any additional salary premium required to attract "highly qualified" teachers to areas where current student failure rates are disproportionately high. The report also made no attempt to estimate the enforcement costs associated with the practical implementation of extensive intervention programs. Consistent with the report's model of focusing on intervention costs rather than the costs consequential to failure, the report does not project significant additional interim costs associated with districts whose initial interventions do not succeed.

7) Reality Check – The bottom line is that our report projects a marginal cost for NCLB of $1,447 million relative to current total education expenditures in Ohio of $13,322 million. This means that the marginal cost equals 10.9% of current expenditures. The improvement projected by additional expenditure equal to the marginal cost would achieve improvement in performance from the 75% standard defined by the State to the 100% standard defined by NCLB. An increase in success by 25 percentage points from 75% to 100% means a marginal improvement of 33% (25% divided by 75%) for a marginal increased expenditure of 10.9%. The conclusion that an increase in expenditures of 10.9% could leverage a 33% improvement in outcome is an indication of an impressively high rate of return on an investment of this type. This relationship between marginal cost and projected marginal improvement shows that the cost estimates produced by our study are well within the bounds of reality.

8) Conclusion – The over-riding goal of "No Child Left Behind" to close the achievement gap that has long-plagued primary and secondary education in the United States is societally and educationally proper and deserving of support. The concept of connecting education funds, performance, and accountability also has great merit. Our report does not contest those goals. It simply shows how much they cost.

Chairman BOEHNER. Mr. Rebarber.

STATEMENT OF THEODOR REBARBER, PRESIDENT, ACCOUNTABILITY WORKS, WASHINGTON, DC

Mr. REBARBER. Thank you, Mr. Chairman, Members of the Committee, for this opportunity to address you on this vital topic of national significance.

The reform challenge set out in the No Child Left Behind is not going to be easy to attain. It's going to be a challenge. But it's the right goal at this time. I think there's consensus among everybody on this panel that it is the right goal. Given that, the concentration and concern that many of you and all of us occurred among states and at the local level raised questions. But in my mind it's understandable that when we make that level of change in the goals, when we're saying for the first time that we're going to educate all of our students as opposed to just some of our students, that there will be some change and there will be an impact.

The other major change in No Child Left Behind we had before is the imposition of some significant accountability for lack of success. Accountability, in our view, contains three components: One is clear goals that are measurable; second is a way of assessing progress and measuring whether we've attained those goals; and, third, which we really have not had historically, is interventions,

sanctions in the cases where we don't have success. Those interventions should be carefully designed so that they help students. They can't just punish students. But at the same time, there have to be some interventions in those cases where we have persistent failure and lack of success educating all our children. We haven't had that before in many cases. Certainly not in the No Child or Improving America's Schools Act, until No Child created some significant interventions in the form of public school choice, supplemental services and some other kinds of interventions that are based on even more persistent failure. So it's understandable that people are concerned, that people are somewhat fearful of the impact of what this is going to mean. And it's understandable that funding, which is a legitimate question, is on the table. We think there ought to be careful analysis. We think that this is a legitimate issue to debate.

To the credit of the Ohio state superintendent Susan Zelman, in addition to the main study that Driscoll & Fleeter conducted, they had ten nationally recognized groups or individuals review that study. And it's interesting to see the discrepancies between the reviewers. As Dr. Zelman pointed out, several of the reviewers felt that the study was underestimating cost, several reviewers felt that it was right about the cost, and several reviewers felt that it was overestimating the cost. So trying to come up with a rigorous analysis of the cost is also a difficult challenge.

Now, given that, our organization was one of those that reviewed the initial Ohio study. We've also reviewed cost analysis of No Child Left Behind in other states, these kinds of analysis states have been conducting for some time. We find a couple of consistent flaws in many of these studies. And I regret to stay in the Ohio study. One of them is the assumption—and there is an assumption in the Ohio report that significant improvements cannot be attained through efficiencies and reallocation of resources. I could find the quote saying that. There was an assumption that some improvements could continue just based on trends. The major improvements as a result of reallocation of resources, restructuring the current system is assumed to not be possible. There's very little evidence—there's no research provided to support that. We think there's a wealth of evidence on the other side suggesting that we can show significant improvements in what we're doing today and what we're spending today. We're not against increasing education funding. We know that the Federal Government has increased education funding, as have states and communities. The bulk of the increases over the last 10 years has come from states and local communities even though the Federal Government has also increased its share. We expect those increases to continue. We've done our own analysis in addition to reviewing the Ohio study and we projected just historical increases in education funding going forward for the life of No Child Left Behind both Federal, state and local.

We found that for the specific requirements of No Child Left Behind the additional testing, the Ohio qualified teacher requirements, the initial data base tasks that need to be done, that the increases in Federal funding are sufficient to pay for those specific requirements. On the other hand, what some of the other studies have done, including the Ohio study, is say that now because the

Federal Government has worked with states to set these goals for general achievement, educate all students to minimal levels in reading and math, that now the bulk of the responsibility for funding education, particularly any new funding, now falls to the Federal Government. One could question the legitimacy of changing that historical role of the Federal Government from a support to a main funding of education. But even putting that aside, when we look at the studies, we find very little in the way of actual evidence to suggest that more funding for general education is truly necessary beyond the regular increases that have occurred and will continue to occur beyond inflation. The evidence is just not provided. It's usually assertions. For example, not to pick on the Ohio study, but I'm afraid that's the example here that we've been talking about, but anyway, the Ohio study, for example, the references to research to the Hopkins Center, to the Federal Department of Education's listing of programs, that wasn't present in the actual study, but even if that had been, there was no analysis between different kinds of interventions to determine which ones are the most cost effective. If we're going to be prudent with taxpayer's dollars, we would expect that a rigorous and compelling case for new funding would do several things. First of all, it would look at how are we spending money today. Is there evidence that that money could be reallocated, reformed and we could get substantially better achievement. And then if it demonstrated that the evidence suggests that we cannot, then it would look at what are the different types of interventions that we could add, which ones are the most cost effective and get you the best results for the most kids, the most limited amount of dollars. That wasn't done. And it hasn't been done in any of these studies. So these are significant problems.

Now, in our study, after we looked at the specific mandates, we looked at a general achievement group. And I just want to give you a limited number of examples of evidence we found that we could be improving academic achievement by reallocating our current dollars. There are many examples. First, our country is subsidizing preservice education for teachers through all grades. States are funding that. There's grants to support the student portion of those fees, et cetera. There's public dollars being spent. The research indicates, and I can give you a particular citation, find that the effectiveness of teachers with elementary certification, a critical foundation that all students need, their effectiveness is no greater in raising student achievement today than teachers, other teachers who are on emergency certification and who have not completed all the subsidized education courses and so forth. That is not to say we don't have many very talented, dedicated hard working elementary teachers. But the certification and training they receive is of limited value.

If you ask most teachers when they walk into the classroom after coming out of your average preservice elementary program, do you feel you're well prepared for that first day in the classroom, for that first year, very few teachers support the idea that they were. In fact, there have been many studies to show that they think they have not.

To give you a specific reason why, and I'll be wrapping this up, the American Federation of Teachers has cited the difference between the reading research on what works on training, on materials, on all kinds of other things that we're currently spending quite a bit of money on today and what actually will work.

In closing, the challenge of our teachers, our principals, someone who's worked at many levels in the system, that is a very substantial challenge, working very hard, the hardest thing I've had to do is actually step in and be a principal for a limited period of time in an inner-city functional school with difficult behavior, with low morale, it's tough work. But also someone who attended an inner-city school myself, who came into this country not speaking a word of English and with many classmates in that school who did not have the educational opportunities I was lucky enough to have, I think it's just unacceptable that we not succeed. It's unacceptable that we decide that huge amounts of funding are not necessary. And then when those funding, that unrealistic funding is not provided, that it's defensible that we've not succeeded with all children. Thank you.

[The prepared statement of Mr. Rebarber follows:]

Statement of Ted Rebarber, President, Accountability Works, Washington, DC

Mr. Chairman, Members of the Committee, thank you for this opportunity to testify on a topic of historic significance: whether our nation can move forward on elementary and secondary education reform at current and likely future levels of federal spending.

The No Child Left Behind Act (NCLB), approved by a bipartisan majority in Congress, represents an important break with the past. For the first time, Congress and the President demanded educational results in exchange for federal K-12 spending. In particular, students from historically disadvantaged groups are to be educated to common, state-established standards of proficiency. Well-established patterns of unequal educational opportunity are to be broken, replaced by an adequate education for all students regardless of race or background. In today's competitive workplace, where skills are ever more critical, NCLB calls for all children to have a meaningful opportunity to succeed.

This reform built on a history of promising state and local efforts in the 1990s, as well as previous federal initiatives, which included standards-based reform and assessment at selected grade levels. In addition to increased attention to disadvantaged groups, NCLB also included two very important changes related to accountability: first, students are to be assessed at every grade (3 through 8) to ensure that no child falls through the cracks; second, meaningful consequences exist for schools that persist in demonstrating inadequate performance.

We are now faced with a new and vitally important challenge: the oft-repeated educational mantra "all children can learn" has now been modified to "all children *must* by taught successfully." NCLB calls on us to do whatever it takes to educate our children.

Now that the magnitude of this change has become apparent, it should not be surprising that there is much consternation as well as serious debate over what it will take to achieve this goal. For many, the first impulse has been to argue that massive new funding, particularly federal funding, is essential. The implicit assumption—sometimes even stated explicitly—is that current practices are as effective and efficient as they could possibly be, meaning that improvement could only result from large new expenditures. If such increases do not then, in fact, materialize, the result is that failure becomes defensible.

Educational spending—*if* properly directed and managed—can improve results. Yet, elected officials and policymakers must consider many non-educational factors when setting educational funding levels, including trade-offs with other worthy expenditures (such as homeland security or health research).

The issue of whether federal funding for NCLB and related activities is sufficient is a serious question, worthy of careful consideration and debate. In our work in this area, my organization has reviewed a number of analyses that purport to find that far greater federal expenditure is necessary—that NCLB is an "unfunded mandate." Further, we reviewed other widely cited studies that do not focus on NCLB per se, such as the various "educational adequacy" analyses, but that come to more or less the same conclusion. We also conducted our own estimates of the costs and revenues associated with NCLB. I am attaching and submitting for your review some of our detailed work in this area.

Frankly, we were surprised to discover the extent of the weaknesses in the studies calling for large increases in federal education funding. These studies typically suffer from some of the same limitations. They:

- ignore the extensive research documenting that current expenditures are not being used nearly as effectively as they could be;
- almost *never* provide solid evidence supporting the relatively expensive additions they propose (especially, in comparison to other less costly approaches);
- usually overlook some of the available federal revenues while misinterpreting what is truly required to comply with the federal statute;
- sometimes attribute to NCLB the cost of compliance with mandates from previous federal statutes, such as the Improving America's Schools Act (IASA);
- too often contain computational errors that inflate costs or underestimate revenues.

In the study by Driscoll and Fleeter that we were asked to review for the Ohio state department of education, we found that only 7% of the estimated costs were based on compliance with specific NCLB mandates. While one could question some of those, a far bigger concern is the other 93% of estimated costs. This far larger sum is assumed for the general effort to increase student achievement so that all students achieve competence in reading and math, including achievement increases long after the expiration of NCLB.

One could reasonably question whether the passage of NCLB altered the historically limited federal role in funding K-12 education and resulted in broad federal responsibility for general academic improvement. But, even on the merits of the arguments presented, we found little reason to accept the study's conclusion that NCLB is an unfunded mandate.

The study simply asserts, contrary to much evidence, that no academic improvement could be achieved as a result of reforms to allocate current expenditures more effectively. Further, the study provides no research citation, or any other type of evidence, to support the pricey tutoring and other interventions that consume 93% of the estimated costs. It simply states that such programs are believed to be necessary by unnamed educators with which the authors happen to interact. A compelling argument for additional expenditure would, instead, rigorously review the achievement gains that could be accomplished through the reform of current expenditures and, if additional improvement is still necessary, would determine which additional reforms are the most cost effective. Quite a contrast.

I focus on this study not because it is unusually weak—in fact, it demonstrates an extensive development effort by the authors and is arguably more sophisticated than many of the other studies that come to the same conclusion. Yet the conclusion is simply not supported by the evidence provided. There are similar problems in the other studies.

In developing our own analysis of the cost and revenues associated with NCLB, we found that recent funding increases, as well as likely future increases for the duration of the statute, were sufficient to pay for ambitious initiatives to comply with all of the specific mandates. While every state is addressing NCLB requirements in different ways, we assumed some reforms that implied fairly conservative (high) cost estimates where these would benefit students, but we did *not* assume unnecessarily expensive options with limited benefits.

For example, NCLB requires that "highly qualified" paraprofessionals demonstrate competence in core subjects, either through the attainment of two years of undergraduate credits or by passing an assessment of core skills. For many reasons, including the fact that some paraprofessionals without two years of higher education are already competent in core skills, an assessment is the more cost efficient approach for satisfying this mandate. If the chosen assessment is of high quality, it is also likely to be the more reliable approach.

Further, we assumed that state and local policymakers should be expected to implement whatever policies would benefit students or taxpayers, even if such reforms break with established practices or require some political courage. There are many innovative reforms, such as alternative routes for qualified non-traditional teacher candidates, which could be implemented to recruit and retain highly qualified teachers. But given the possibility that even such bold reforms may be insufficient to address shortage areas where there is a substantial pay differential between public schools and the private sector—such as math and science—we included the cost of *eliminating* this pay differential. Some studies assume across-the-board increases for *all* teachers because that is the accepted, politically easier approach; but there is no reason to think that such broad increases are truly necessary to meet NCLB requirements (even if they might be socially desirable).

These are just some of the costs included in our detailed analysis. Other included costs address new testing requirements, databases to disaggregate and report test scores and other areas.

In addition, we found extensive evidence that the reform of *existing* expenditures, policies, and practices could lead to substantial progress toward the goal of helping all students achieve proficiency in reading and mathematics.

Here in Ohio, a number of predominantly low-income, minority schools are succeeding at current expenditures where many others are not. For example, 21 Ohio elementary schools serving majority low-income, minority students surpass state averages in 4th grade math. Eight such schools even performed in the top 25 percent of all schools in the state. As The Education Trust and NCEA have documented, such successful schools exist in every state. The challenge is to restructure our school system so that such schools are the norm rather than the exception.

I will summarize just a few examples of reforms in our *current* federal, state or local expenditures that could lead to substantially improved achievement results. There are many others.

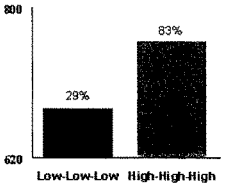
Public dollars currently subsidize the cost of pre-service training for elementary teachers. Goldhaber and Brewer, as well as others, have demonstrated that fully certified elementary teachers are no more effective in raising student achievement than elementary teachers on emergency certification (teachers who have not yet completed the requisite coursework). We should either demand that the funds spent on pre-service training actually improve teacher effectiveness, or we should re-direct those funds towards other uses that can raise student achievement.

The poor use of funds related to the preparation, ongoing professional development, and curriculum tools provided for teaching reading are especially well-documented. These weaknesses have led to ineffective reading instruction, remedial efforts to teach reading, and other expensive consequences. The American Federation of Teachers (AFT) has noted that:

> ...a chasm exists between classroom instructional practices and the research knowledge-based on literacy development. Part of the responsibility for this divide lies with teacher preparation programs, many of which, for a variety of reasons, have failed to adequately prepare their teacher candidates to teach reading...
> (see "Teaching **Is** Rocket Science: What Expert Teachers of Reading Should Know and Be Able to Do," by the AFT)

The AFT goes on to summarize the limitations of many of the most widely used reading curricula as well as much ongoing professional development in reading. If the large current expenditures devoted to ineffective reading preparation, instruction and remediation were re-directed to scientifically-validated approaches, we should see substantial improvements in student achievement. Some of this has begun to change in recent years, but much still has not.

Sanders and Rivers, and others, have identified the enormous performance gap between effective teachers and ineffective teachers in our schools, as well as the impact on our students.



Children assigned to three effective teachers in a row scored at the 83rd percentile in math at the end of 5th grade, while children assigned to three ineffective teachers in a row scored at the 29th percentile.

We currently do not recognize effective teachers with higher compensation, so current expenditures on ineffective teachers are as high as expenditures on effective teachers. It should be unacceptable to continue to spend educational dollars in perpetuity on ineffective teachers. Well-designed training and support should be focused on assisting under-performing teachers to reach their full potential. Those who still do not perform adequately should be replaced.

As one more example, Harvard economist Caroline Hoxby has found that wider parental choice among schools is associated with higher student achievement. If this is correct, NCLB's public school choice and supplemental services provisions for low-income families should increase equity and benefit all students in the affected schools. State and local initiatives to extend choice could also lead to gains.

Given our finding that new federal dollars are sufficient to cover specific new requirements in NCLB, as well as the evidence that the reform of current federal, state and local expenditures could lead to substantial achievement gains, it would seem fiscally prudent to first determine what could be accomplished as a result of these reforms before

Our nation has increased its investment in elementary and secondary education steadily over many decades. This has been true at the federal, state and local levels. There is little reason to doubt that such real, non-inflationary increases are likely to continue. I am certainly not arguing against continuing this historical trend.

Yet, we are at a crossroads. The NCLB consensus that we must truly educate all students, including students from historically disadvantaged groups, is still very fragile. As we move forward, debates over funding are inevitable. But we should be careful not to endanger this still tentative consensus.

Unrealistically high demands for funding increases, coupled with arguments that such expenditures are absolutely essential to achieving improved results, risk diverting attention from the many improvements that research suggests can be accomplished by reforming current expenditures. Further, when the large sums do not materialize, the process could encourage the acceptance of failure.

As someone who has been involved in education at many levels, I agree with those who say that accomplishing the goals of NCLB will be *hard*. Many talented and dedicated teachers, principals, and other educators are already working long hours toward these goals. We must reform our current system to provide them with the training, tools and management they need to succeed.

But as someone who arrived in this country with no English skills and attended an inner city public school, I also believe that failure in this instance is unacceptable—regardless of how much additional spending is provided. There is good reason to believe we could be serving our students far better than we do today, even with current funding. Many of my former classmates were not fortunate enough to receive the same opportunities that I did, and they suffered the consequences. We must not permit another generation of disadvantaged students to pass through our schools without providing all of them with the skills they need to succeed.

Thank you.

Chairman BOEHNER. We thank all the witnesses for your testimony today. And let me agree with part of Mr. Rebarber's opening statement that none of us ever thought this was going to be easy. Nowhere in our 200-year history have we ever attempted to educate all of our children. We made a lot of nice, happy talk about it, but we've never attempted to do it. And we knew when we passed this act that we were challenging the status quo in a way in education that had never occurred before. And we know that our teachers, our schools, by and large, are doing a very good job.

And I have to say it's difficult from where I sit as a public policymaker to ask that more be done. But as I'm fond of saying, it's not that poor minority child's fault that they may have lost the lucky lottery in terms of who their parents were or what neighborhood they grew up in or what school they may have been assigned to. Every child in America deserves to have a chance at a good education. My colleagues have heard me talk about my eleven brothers and sisters, and the fact that if it weren't for my parents, you know, all of us may not have gotten a decent education. But for those children who may not have parents around, may not have parents engaged—we know that if they are, there's a pretty good chance that the kids will do well, but it's not that child's fault if their parents aren't engaged. We, as a society, have to figure out how do we help that child get an education.

Now, when I say this is hard, we know it's hard because in 1994 Congress passed most of what is being blamed on No Child Left Behind. We required all states to have standards in their subjects. We required all states to develop assessments. And we failed. We

failed miserably. Why? Because most states decided they just weren't going to do it. And in January of 2001, when the Bush administration took office, exactly 11 states were in compliance with the 1994 act. Why? Because all of them got waivers. Because it was too hard. We don't do it this way. And I bring this up—one, we know it's hard. Two, you need to understand the ground we've been covering over the last decade that got us to where we got to. And today all 50 states, the District of Columbia and Puerto Rico, are all in compliance with the law.

And I guess I want to begin with Dr. Fleeter. I want to get to the essence of the issue. I can take issue—I have taken issue with some of the assumptions used in your report. But there's one big issue here that we keep circling around and not really getting down to the basis of it. But Ohio, apparently by law, regulation, statute or something, decided that proficiency of 75 percent of Ohio's school-age children was the goal. Is that by statute? Is that by regulation.

Dr. FLEETER. I think it's by both. It came from—there's a series of recommendations by the state Board of Education in terms of implementing the accountability system, as far as once the assessments were in place, what are the correct standards.

Chairman BOEHNER. So in your report, as I heard you say, 1.4 billion of the $1.5 billion cost eventually would be attributed to moving the goal from 75 percent proficiency of Ohio's school-age children to 100 percent.

Dr. FLEETER. Yes, that's correct.

Chairman BOEHNER. Now, how many of us think that we ought to throw 25 percent of our kids overboard.

Dr. FLEETER. I'm hoping none.

Chairman BOEHNER. It won't be my kids. It won't be anybody's kids in here. There will be some poor child somewhere in the state who is just never going to get an education. They're going to move from one grade to the next whether they've learned anything or not. They'll get a diploma from high school whether they learned anything or not. And we're going to do what we've been doing for the last 30, 40 years. I guess if you want to call that a mandate, I'm for it.

I have referred to my good friend Ms. McCollum in her opening statement. She sounded like me. She sounded like this rock conservative Republican giving the speech in the Education Committee about 10 years ago, about Federal control of education, mandates. Trust me. I'm dead serious.

Ms. MCCOLLUM. My mother is a Republican, so—

Chairman BOEHNER. I have to tell you, I was one who voted to get rid of the Federal Department of Education, divide it to the states and get it out of the way. I have to tell you all, I'm a happy convert to where we are. Because without Federal intervention, Ohio may have stepped up to the plate because it had an accountability system, but there are a lot of other states that would never have stepped up to the—stepped up to help the kids in their state. And after spending $300 billion over 37 years, it's time, I think, from the Federal Government, that we expect some results for the money that we continue to invest.

Now, Mr. Ross—Dr. Ross, based on my conversations with educators from one end of the country to the other, I can imagine that you're not the—you're not the poster child for superintendents. You probably are. You might be the black sheep in the family. What do you hear from your fellow colleagues in the education business about No Child Left Behind? What do you think the real issue is, I guess is what I'm boiling this down to.

Dr. ROSS. I hear a lot of things from my colleagues across the state. No, I don't represent the superintendents of this state.I speak only for myself. I think I go back to my comments. I think that there's a belief structure among our superintendents, teachers and principals that they really can't get this done. There's not enough belief in themselves that they have the skills and ability to do that. I think that's why that's so important, because I think, as we set these expectations and you talk about the cost differential and the 75 percent in Ohio, I happen to believe just by raising the expectation for kids with the new content standards in Ohio, that the performance is going to go up if we get the kids, teachers, principals, superintendents to believe that. It's a believability issue that they do have the skills and ability to do that. I believe strongly in our teachers and principals being able to accomplish that with our parents and students. I'm amazed when teachers have low expectations for the children and maybe the children themselves.

Chairman BOEHNER. Ms. McCollum.

Ms. MCCOLLUM. Thank you.

Dr. Ross, I listened to the local news this morning. Did you have a shortage in your school district of aides available to help in administering—those who had second language, in administering the tests that started this week.

Dr. ROSS. We have 57 different languages spoken in our school district. I do believe we have them covered to the extent that they're IEPs.

Ms. MCCOLLUM. For the tests being taken today, you have enough interpreters.

Dr. ROSS. That is correct.

Ms. MCCOLLUM. Mr. Tomalis, you talk about the 4.6 billion that's being spent in education. That's for this year.

Mr. TOMALIS. The increase.

Ms. MCCOLLUM. Yeah.

Mr. TOMALIS. Yeah.

Ms. MCCOLLUM. And we're spending $4 billion a month in Iraq. You were making the comment we were spending as much on education as we are in defense.

Mr. TOMALIS. No, I wasn't. I was saying—

Ms. MCCOLLUM. I thought you might want to clear that up for the record.

Mr. TOMALIS. What I said is that we spend in this nation in K-12 education approximately $501 billion a year, which is 125 billion a year more than we spend on defense.

Ms. MCCOLLUM. Well, you might want to check with Secretary Rumsfeld on that.

When you talk about bringing all students up to grade level, we had a hearing last week in Washington in which I kept hearing how flexible this law was. It was so flexible. There weren't going

to be any problems with it. We didn't need to waive anything. It's my understanding from the discussion that took place that the department is now looking at how it assesses those individual students that have extreme special needs.

Mr. TOMALIS. We promulgated new regulations back in December that addressed this issue. Those children I saw actually on the news this morning that there was a report that educators in Ohio are upset that children with the most severely cognitive disabilities are going to have to be tested at grade level. That's not the fact.

Ms. MCCOLLUM. It's not the fact now that it's been changed by the rule.

Mr. TOMALIS. It wasn't the fact with the passage of the law as well.

Ms. MCCOLLUM. There were a lot of people who didn't read it that way. English as a second language. I have the expectation that the child with English as a second language, 1 year there's an intervention in the test and the next year we're fine.

Mr. TOMALIS. What the law allows, ma'am, is that the English as a second language child can be tested in their native tongue for up to 3 years on a group basis. For 3 years it can. On an individual basis for two additional years. So that's 5 years that a child could be tested in its native tongue.

What the department with the secretary announced within the past month is a way of treating these children when they first come in, those who are in the school district for less than a year. One of the safeguards about No Child Left Behind—

Ms. MCCOLLUM. The reason why I'm asking you to bring this up is this is precisely what a lot of us were talking about when the law was implemented. I have my transcript from the amendment that I offered in which I was trying to eliminate for those states like Minnesota that had spent millions and millions of dollars just recently implementing tests, identifying the needs for the students and targeting those needs that we not have enough layer of tests which are unfunded.

And I'll go with my state auditor's numbers, because as far as I know, the Federal Government has not released its report with the total cost of implementing the No Child Left Behind. We knew that there were going to be challenges as this law went forward. And there are challenges as the law is going forward. I don't think the Department of Education, in my opinion, has been very supportive of those of us, whether we're parents, teachers, administrators, elected officials at the state and local level, bringing those to your attention. Somehow or another we are being made to feel by comments directed toward teachers just recently that somehow we are against all children being educated. So I'm glad to hear your tone. I appreciate what you're saying. But I do have some concerns.

I'm just going to put this out and whoever wants to respond can. One of the most important issues as determining how successful a child's going to be in education are their parents. The Chairman just mentioned that. Whether you're poor, whether you're rich, the way your parent is involved in your life makes a difference. So if we have a child that's not succeeding, as the Chairman points out, it's going to be up to the school somehow to all of a sudden develop all that nurturing for that child while they're in the classroom. And

do we honestly talk about the cost of providing summer school, after-school enrichment, one-on-one tutoring, and target the money toward the child and measure how the child's performing, increasing their ability to learn and to meet grade standard. Or are we going to do what we're doing right now, which the Chairman talks about doing, which is not talking and lumping everyone in a group.

So how important is it for our country to really invest in the total education of that child's social capital, education, parents having ability to raise their education level, health care, permanent housing? How important is that? And the superintendent's smiling because you deal with these issues all the time. How important is that? And do we need to address that as well as the other issues we're talking about in the President's law No Child Left Behind, if we're not really going to leave them behind at all.

Dr. ROSS. Again, let me speak just for Reynoldsburg and Dick Ross. We've been focusing on student improvement in Reynoldsburg for quite a few years. It was four or 5 years ago when we were doing our staffing awards in our school district in allocating resources and where they would be most important to go, the building principal who advocated she wanted a social worker more than a classroom teacher because she wanted to deal with some of those issues you talked about. Subsequently to that we've had principals under the system that we do have social workers now in each of our buildings for that purpose.

Part of it is an engagement process for parents also. So I think sometimes in the past, as educators, they'll send them to us and we'll take care of it. We have to engage parents. We have to set up expectations for our parents also about what we need to accomplish. That's why the communication standards and economic indications for our children need to happen at an early age and communication has to occur with the parents. We feel that the movement with some of the help from the social workers identifying problem areas and trying to eliminate those have been beneficial for us as part of our individual unit. It's one of the things we can do.

Mr. TOMALIS. A couple months ago I had the very high honor and privilege of traveling to St. Louis to an elementary school. That school about four or 5 years ago wasn't doing too good. It's in a very poor neighborhood, overwhelming majority of children are African-American or Hispanic. Overwhelmingly they are poverty children, disadvantaged children on free and reduced lunches. They had a grade level in the elementary school with about 15 percent of their children were on grade level.

Within 4 years, that school had 80 percent of its children at grade level. They didn't build a new building. They didn't get a new grant. They didn't increase per pupil expenditures out the wazoo. They did one thing: They changed the principal. They changed the principal. They brought in a principal whose mantra, she told me—very short, petite woman with a lot of energy—was that all children could learn, she believed. And that psyche, that mentality permeated down throughout her faculty.

Now, the children were more difficult to teach. No doubt. Because of the circumstances and their environment that they came from. So they instituted certain things. They reached out to the

community a little bit more. They got the parents more engaged. Which is what the Title I funds and other funding is there to help do as well. But it was the leadership that played the most important role. It wasn't the amount of money they were spending. It was that woman who changed the lives of all the children in that school.

Mr. REBARBER. I think the challenge that the congressman just pointed out is real, that there are special challenges with some students because of the background. And our educational system unfortunately has not on the whole been designed to succeed with those students that have those difficult background. But there are things the educational system can do to succeed with the great majority of those students despite those challenges. I'll just give you a few examples.

The point, the belief that all children can learn is important. Then we have to get to what are specific things we can do differently to improve these kids. I'll give you a couple examples.

One, the reading example I gave before. Using a wide range of reading methods, not just those that are consistently supported by research, means that you're more dependent on parents sitting there with the children, helping them at home with reading, all of those kinds of things that parents can do and many do do, including many minority parents. Many parents don't have the time, their life is less stable, add some of the challenges that you pointed out. So using effective methods that are designed to work without the support or with only a limited amount of support at home is only part of it.

Just another example. Many of these kids require special instruction which doesn't have to be done just for these kids. It can be done in the context of school. On how to behave in school, how to—on all kinds of things. Their life at home is not often sufficiently stable, time for homework. The kind of homework that's often designed in schools requires parents to spend hours helping their kids do their homework assignments. It's not true in the best schools. It's not true by the best teachers. There's a whole range of practices in our school systems today that are designed to leave a very substantial responsibility for the parents. Unfortunately, the situation we have today in our society does not permit that anymore. So the schools have to change the practices to take responsibility for educating all kinds regardless of background. And based on my experience, what I've seen, I'm confident that there are ways it can be. It's not easy. But there are changes that can be made.

Dr. FLEETER. We all would like to respond to your question. It is a good question. It's important. I would like to point out in our study that there's a category under our intervention what we call academic coordination that I think would be most consistent with what you articulated in terms of working to make sure everybody is on the same page of the playbook and they understand that. I think there would be some tradeoffs. I think our costs for those services were $100 billion.

There could be some tradeoffs there if you're doing other things that are beyond that. If you're doing something that's changing the initial conditions that are truly when the kids are at school, then it's going to—it's an extension of that same argument. You can do

more things earlier. You can do more things outside the classroom. It's going to mean what you do inside the school building is going to be less.

Ms. MCCOLLUM. I couldn't do this. You were—

Chairman BOEHNER. In the rest room.

Ms. MCCOLLUM. Yeah. But I wanted to submit to the Committee a letter here from the Ohio Education Association. And a copy of the editorial from one of my local papers in Minnesota which reinforces that we want to amend it, not end it, the Leave No Child Behind.

Chairman BOEHNER. Without objection, the documents will be made part of the record.

The Chair recognizes Mr. Tiberi.

Mr. TIBERI. Thank you, Mr. Chairman.

Just to expand upon something you said earlier. One of the things that I think No Child Left Behind has done is raise the debate in education about what kids can and can't do. And having said it earlier, I'll say it again, living in a family where English wasn't the first language growing up and going into an elementary school at grade 6 where my mom didn't speak very good English because she had only been here for 7 years, and my dad immigrated as well, thank God for them that I'm here today because they pounded into me the importance of a quality education. I was lucky to not only have good parents; I had great teachers.

As some of the audience knows, many teachers that I know were concerned about the proficiency tests. I ran against the father of a proficiency test when I came to Congress. But I understood a little bit about why that happened. I wasn't in the legislature when the proficiency test was passed.

What I did see when I was going to school in Columbus—and I graduated, Mr. Chairman, in a middle class to lower income school, about 40, 45 percent African-American, most remaining white—were that there were kids, both black and white, that were socially promoted, that, quite honestly, couldn't read and write. I was fortunate enough to have parents and some quality teachers who pounded into me the importance of getting ahead. And I sensed some of that in visiting Reynoldsburg.

Dr. Ross, knowing teachers and knowing principals in your school and having been in your school—you touched on earlier the expectation that every child has the ability to learn. How, post No Child Left Behind—we're 2 years into it. How is the debate—and I would argue the debate has actually made public schools better in Ohio, and my sense is that more children are learning. How do you see it affecting the attitude in the Reynoldsburg City Schools.

Dr. ROSS. I think in Reynoldsburg and across the country, state—it's raging there also. But I think one—if I had a suggestion for the Committee on an adjustment of No Child Left Behind, because I think it's the most important component, and a lot of credit goes to the people sitting in the audience, and some of Bill Sanders work, I think that the issue should be instead of looking at comparisons at growth from year to year, grade level to grade level, maybe do that, but in addition target individual students. Seems to me to be what I'm talking about. I think what we have to have is a classroom teacher, a principal that knows Johnny is going to

grow a year, and if they don't grow a year they're going to be intervening quickly. I think the debate's going in Reynoldsburg, but I think the issue is that teachers want kids to succeed. You think that if we can give them the resources and the leadership at the building level to achieve that, once they experience success, it's contagious. We can do this. I think some of that's happened in our district. I think we have some history to show that.

Chairman BOEHNER. If the gentleman would yield.

Mr. TIBERI. I will yield to the Chairman.

Chairman BOEHNER. Clearly allows that type of measurement for adequate yearly progress. It's just that most assessment systems, as they've been set up, find it difficult to track those students to do that measurement. But I know that there's discussion here in Ohio and in other states moving to an assessment system similar to that, which I do think would be a more accurate reflection of how well the school's doing and how well the students are doing.

Dr. ROSS. Mr. Chairman, if I could just comment on that. I think that it is—it needs to be personal between the teacher, the principal, and the child. This is my child in my classroom and I'm going to make sure that he or she learns this and gets back to grade level. When it's made that personal—if it's more nebulous, it's hidden within grade level, I think it's harder for them to do that. I think the teacher will respond.

Mr. REBARBER. I want to enforce the idea that we should look at the gains for individual students and value that. At the same time, I think it's important to note that, first, the No Child Left Behind law moves us in that direction in that many states do not have grade-by-grade testing which is necessary to do that. Many states know it's not required in the law. The bill is subsequently beyond what's in the law and planned to add that kind of value added or other kinds of assessment as their capacity is put in place. I think No Child is moving us forward in some ways on that. I think the only caution I would have on that kind of system is that under that system the common way to judge success is one child made 1 year's worth of progress. And the reality is, for all too many children, they are far behind where they need to be. We cannot give up. We cannot say because you are 2 years behind, you will always stay 2 years behind. There is plenty of evidence quite apart from one-on-one tutoring that there are cost-effective ways to accelerate those students to get them on grade level. If we do it in that direction, I think the targets have to be ambitious enough that we catch up most of these kids.

Mr. TIBERI. Thank you.

Dr. Fleeter, you mentioned pointing out costs on the Driscoll & Fleeter eleven report. Inside joke. Let me point a couple out and get your responses to them.

Your model that you use is based on a study with respect to special education, the concept that it would cost more depending on the child's need. Let me challenge that a little bit in terms of how you can determine what the cost is. On the surface it sounds completely right. I spent a day in one of my school systems talking to special education teachers and administrators and going into the classroom and hearing from them about the massive differences between different types of children.

I'll give you two examples. One child was on a ventilator, laying flat on his back, and will for the rest of his life. Another child was a special education child, and they had just found that one of the problems that she had was going to be corrected because it was a vision problem. And so the cost estimate for the one child wasn't going to go on as long as at least they thought, while the other one will continue to go on. Obviously, you have everything in between. How does your cost model associate true cost.

Dr. FLEETER. The only way that you can deal with issues like that—what you're saying, every kid is different. And so the way we approached that in our report was we looked at the—we got all the data on individual performance in grade four and grade six on reading and math from the Ohio Department of Education, on a student-by-student basis, without any identifiers so that we're not violating any privacy concerns, because we have all the data with the characteristics of these children and their performance. And we broke—the first thing you do is separate the kids who passed into a different pot and the kids who failed. We looked at the kids who did not pass the test and broke them into core tiles. You could break them into decimals or however finally you want to grade it. You could separate them into performance groups. We did it based on core tiles. The table that I referred to was the one that showed if you look at the characteristics of those students by their performance, you see the very clear pattern that—I think for the core tile one, that was the lowest. From the group of failing students, about 90 percent of those kids had—they were either economically disadvantaged or special education or limited English proficient or combination of those. And if you look at the highest performing group of students, it was the students who passed at the advanced level, there were 20 percent of those kids who had any number fit into those categories. From that you learn a couple things. One, just because you're in one of those categories doesn't mean you can't succeed and doesn't mean you can't succeed at a high level.

The second thing you learn is that, again, it's the marginal cost issue, that it's going to cost. As you go further away from the passing score, you're dealing with kids that have more and more issues. The only way we can do that is on some kind of average basis. We didn't make any attempt to say here's what you need for economic disadvantagement or what you need for special ed. But we put our cost model together in a way that the cost of the intervention programs would apply to all the kids in those core tiles.

Mr. TIBERI. But why not consider every dollar was spent prior to No Child Left Behind, every Federal dollar.

Dr. FLEETER. Because that would be intermingling the total cost issue with the marginal cost issue. I think the point there would be it's—if you're—you look at the dollars then being spent right now, and our view of this is that those dollars, Federal, state or local, that they're contributing to the level of performance that we could look at in 2003. And so if you have that level of performance, then we need to go and raise that level of performance.

Our presumption there, and I think Mr. Rebarber pointed out, that we clearly need additional work to say what is this money being spent on, are there ways that money right now could be spent more productively and you can do better. We made some as-

sumptions to assume that our core tiles students closest to passing, those kids ought to be able to get up to speed without additional resources. As you go further away, we made assumptions that you're going to need to do more for the kids.

Chairman BOEHNER. Mr. Rebarber, quickly. We're going to go to Mr. Rebarber.

Mr. REBARBER. I'll try to be brief. On this issue of the last quarter, the quarter that's not mentioned apparently in the current Ohio statute and regulations, the previous state law, one of the assumptions in the Ohio—initial Ohio study that we questioned is the notion that the great majority of these students need tutoring, tutoring including the reading recovery model, when you have one-on-one or very small one-, two-, three-person student groups, you're going to get an improvement effectiveness almost regardless of whether it's reading recovery, whatever it is, almost regardless of the dollars that are provided.

One of the considerations that I hope this Committee and all educators consider, it's not just what's effective, what's cost effective. There's always a limited pool of dollars, whatever that amount is.

The one-on-one tutoring is for the great majority of that 25 percent. The evidence is that it's probably the least cost effective of a lot of other approaches. Instead of a quarter of our kids, the percent that probably need that, if we had effective practices, teachers knowledgeable about their content, et cetera, it's probably closer to one or 2 percent of all students. There are many groups that have reviewed the evidence on what are effective remediation approaches. Ideally, we'd like to have one tutor or teacher for all children. But the reality is the money isn't there. So even for that bottom quarter, there are highly effective approaches that are not that small and that expensive.

Chairman BOEHNER. Mr. Ryan.

Mr. RYAN. Thank you, Mr. Chairman. I just have one comment quickly on what Mr. Tiberi said about the student with the vision problem. I think that is something that we've overlooked as well. I think it speaks to the fact that education is one component, but also making sure these young students have adequate health care coverage. And having millions of kids without health care is another issue that would help us achieve the standards that we have here.

First, Mr. Rebarber, I know there's a conflict here—I don't know if anyone else noticed—between you and Dr. Fleeter. One of the questions—one of the issues that Dr. Fleeter brought up was the premise—the economic premise that trying to increase the number of outputs would cost money and therefore increasing the number of inputs. With that premise, do you start there as well.

Mr. REBARBER. I think you cannot just make assumptions based on a broad premise of that kind. I think you have to actually look at the real evidence on what it costs to educate kids. I don't think the—in theory, it sounds fine, but if it applies to one or 2 percent rather than 25 percent, you get different results. That principle sounds fine in principle, but the application is very questionable, in my judgment.

Mr. RYAN. So you're saying that we have a 75 percent level; we want to get to 100. You're saying that it will not cost any more per student to educate that bottom 25 percent than it would cost to educate the other 75 percent.

Mr. REBARBER. Actually, what we're saying is that some of the additional expenditures that are funded through No Child Left Behind, the increases beyond previous expenditures, are going to get us improved student achievement if they're spent well. We identified some fairly expensive uses of those funds. It's well known that there is a shortage of math and science teachers at the high school level, special ed. in some areas. We identified the costs included in our assumptions, even though many states aren't going down this path, of completely eliminating the differential compared to the private sector because we know that's a particular challenge. There are some additional expenses, and they funded those specific expenses.

As far as others beyond those new moneys, we just think the most prudent thing to do is to look at what is the most we can accomplish by restructuring and reallocating current expenditures and then see where that gets us. The life of this bill is not through 2014. There's going to be a normal period of review of this legislation like there has been of every other ESEA legislation. We think at this point in time there are many things that states have not yet put in place, not just the schools, but state policy as well to support the schools. And we should see where those get us and then if additional money is additional.

Mr. RYAN. So your opinion in your analysis is that it does cost more money to educate those kids, but the increase in revenues from the Federal Government is enough at this point to satisfy that increase? I'm just trying to clarify.

Mr. REBARBER. I'm trying to be very specific. Our position is that there is substantial improvements, major improvements, not incremental improvements, that can be accomplished with the new funding and with restructuring and reallocating current dollars. They might be spending more in some years and less in others. Our recommendation is that, with those projected increases, we should see how far we can get with the problem reforms and review whether we need more money on that.

Mr. TOMALIS. May I address that for a second? My back-of-the-envelope estimate, which basically says I did it while I came on the plane, is that we spend on average, I believe, about 10 to 15 billion dollars a year on professional development. That's probably very conservative numbers. It's probably much more than that. The question is, will we do better by spending 15 to 20 rather than 10 to 15, or do we look at what we're getting for the 10 to 15 billion.

I think that's one of the issues that I have with the Ohio study, is when you talk about marginal cost, you're under the assumption that that 10 to 15 billion expenditure is perfect. And I take issue with that, that we aren't looking back at what we're doing to make sure that we're doing it right.

The other thing that I think that's often lost in those analyses is that you see around the country is nonfinancial decisions that are made and the impact that they have on the education of a child. I agree that the teacher is the most important actor—outside

the parent, the teacher is the most important actor in this endeavor of education. The farther away you get from that blackboard, the less of an impact that you have. Those of us at the Federal level, I take—I smile a little bit when I hear about this is a one size fits all and how this is not a one size fits all. It could not be a one size fits all piece of legislation when you have 15,000 different school districts in this nation and how that impacts at the local level.

I'll give you one example. Prior to my job in the Federal Government, I was in the superintendent of Philadelphia's office one time. Philadelphia is not known to be a star as far as academic achievement was concerned. We had a conversation about staffing and getting quality teachers in the classroom. A decision that was made in Philadelphia between the school board of Philadelphia and the Philadelphia teachers union, and it's very common in many urban districts, says, in essence, that as teachers become more and more senior, they get to choose the schools at which they teach in. That in and of itself is a decision collectively made at the local level between those two entities.

What does that do? Human nature is such that as I become more of a senior teacher, I tend to go to areas that are less difficult for me, my environment is much less difficult for me, except the blessed soles that stick it out in those tough schools. But what happens is that those children who are the most in need of the most experienced teachers in those circumstances get the green teachers and the rookie teachers. Now, that wasn't figured into the Ohio study about some of these decisions that are made at the local level that do not impact a dollar at all. But what would happen if you had an agreement in place that said the need that is the greatest, our most experienced teachers will go. What would that do about changing the educational foundation? These are some of the conversations as we continue. I talked before, 10 years from now we'll probably be spending a trillion dollars a year on K-12 education. As we go forward, we have to look at more than financial issues.

Mr. RYAN. I understand your point, but at the same time, you can take a situation like that and say you're going to have to pay that senior teacher more to go back into a more difficult—

Mr. TOMALIS. The teacher would have earned the same under the contract whether they're at the more difficult school or easier school.

Mr. RYAN. I don't think you can say that, though. I don't think, sitting here, we can say that if we change that particular aspect of the system that you're talking about—and yes, it may save us more, but it may cost us more money to do that.

Mr. TOMALIS. I agree. I think No Child Left Behind represents certain circumstances where you do give more pay to teachers in higher demand areas. You give merit pay or differential pay. Unfortunately—and this is another problem I have, is that they don't look at that solution as a viable solution.

Dr. FLEETER. I just want to say I agree with the point that Mr. Tomalis made about distribution of the teachers. I want to point out that we've done—for the last 2 years, we've done a study for the Ohio Department of Education and the State Board of Education that looked at the teacher conditions of teacher supply and demand. One of the things that we found is that the turnover and

attrition rate in teachers is different across different types of districts. It's most pronounced in the urban and rural poor districts. There's—part of the aspect of what Mr. Tomalis said is that you have fewer experienced teachers in the places where you need them most. So I think that—I agree completely that there are ways to realign that, but I don't think it would be costly to do that because we need to come up with a way to get the teachers staying in places that we need them. So within the district there is an allocation issue that occurs, but there's another allocation issue that's occurring across different districts.

Mr. RYAN. If we can get to 100 percent without spending a dime more, we're all for it. I think we're all realistic in the fact that we say we have to make these investments.

Dr. Fleeter, one of the criticisms for your report, which I thank you for doing, just because being the first guy to stick your head out of the fox hole is a dangerous proposition to begin with.

Dr. FLEETER. More dangerous than I thought.

Mr. RYAN. I appreciate your courage. One of the criticisms was the fact that in your analysis you did not—I guess cheap is not a good word, but find the most efficient way to intervene, the most cost-effective intervention. And your critics say that you didn't look at all the different options. Can you explain to us, one, is why you didn't do that, and two, is do you feel that the techniques like the one-on-one tutoring are in a normal range that other means of intervention would cost about the same.

Dr. FLEETER. Two different questions there. I think the first one, in terms of the cost effectiveness, that's partly related to the issue of can we do more with the dollars that we have right now. I agree that one of the things we need to do is get a much better understanding of what's going on currently and are there things that can be changed and we don't know that at this point. From what we did in terms of putting together our cost model—we say this a number of times in our paper, that our model with the interventions is a model to determine the cost and determine at the statewide level and we based it on consultation with the Ohio Department of Education and practitioners. Just to give an example in Columbus that they do—we come in and ask a district like Columbus which is a larger district, which has lots of issues in terms of student achievement, what is it that you're doing, what is it that you're doing that's working. They're doing a variety of these programs. They've got after-school tutoring. They've got the one-on-one intervention. They've got the summer school option. They do evaluations of every one of these studies so they can document and understand what's working. I was impressed to see the knowledge and understanding of the practices that it has. The problem is that they don't have the funding in order to do this for all the kids that need it.

Just to give you an example. We live in Columbus. My two kids go to a Columbus public school. In their reading recovery one-on-one intervention, they can do four kids in each grade. It works. But their need would be to do much more than that as well. I think, again, if someone can document to me that what we have here is that we've put more cost into something that's less cost effective in something else, I would welcome to see that documentation. I'm not

convinced to the extent that Mr. Rebarber is that we have that yet. If we've done something to overestimate it, then we're in better shape than I think. The main idea—we came up with a reasonable cost model that has those range of options.

Chairman BOEHNER. Rarely will you ever see a congressional hearing where the Chairman's being as lenient as I have been today with all of my colleagues and our witnesses. Are there any follow-up questions.

Mr. TIBERI. Chairman, thank you for your indulgence. Just to continue along the line of what Representative Ryan talked about. I appreciate the Chairman's willingness to give me a little leeway here. On this cost issue on the analysis, let me just pull one thing out of the report, following up on his questioning. You make the assumption under professional development that every instance of professional development a teacher's going to have to improve him or herself is going to cause the cost to the local school district of a qualified substitute. Why make that assumption? Why can't a teacher if it's permitted under the bargaining agreement or negotiate with the school allow the teacher to do professional development on an in-service day or weekend or after school? Why make the assumption it's going to be during school hours.

Dr. FLEETER. That's a good question. I think part of that—when I focus grouped with the treasurers, that one was one of the issues that they articulated. One of the—obvious to me to say why can't you do some stuff over the summer when you have teachers who have time on their hands to do that, and they pointed out an issue—there's a timing issue of when the funds need to be allocated and when they can be spent. As far as when you can do this, there are in-service days that are in the system right now, and I think what you're talking about is sort of we look at that as an opportunity cost issue. If you're going to add in-service days, it's going to be at the expense of saying, OK, there's going to be less classroom time than there is right now. We look at that and I say that's a wash to do it that way. You're going to have five in-service days. The kids aren't there. That's five less days they're in the classroom getting education. We can do this on the weekend. That would be the one area we can do that.

Mr. TIBERI. You would agree that there's a cost associated with your assumption that may not be there.

Dr. FLEETER. It would be to the extent that there could be some ways you could add some of that. I will note one criticism on the professional development that we underestimated the amount that you needed by half.

Mr. TIBERI. Thank you.

Chairman BOEHNER. Mr. Ryan. Anything.

Mr. RYAN. One or two quick ones.

Chairman BOEHNER. Oh, I heard that quick ones. All right.

Mr. RYAN. Thank you, Mr. Chairman. I do appreciate it, but I think this is a great discussion that we're having here.

One comment that I'd like to make, Mr. Tomalis talked about the principal in St. Louis got her students to 80 percent. I would argue that and be in full support. And we all know the value of great teachers and great principals to get a school to a certain level.

What I think we can't forget is she got them to 80 percent. We need to get them to 100 percent.

Mr. TOMALIS. She's not quitting.

Mr. RYAN. I'm sure she's not quitting. I think she would probably say as well at some point, to get from 80 to 100, she's going to need more resources to do that.

One question that I heard a lot about this $6 billion and unspent education funds. And for those of us who are new to this Committee, can you explain to us—because I know states have 27 months in which to spend the money, and I'm hearing a lot of different angles to this. Is that money—is that $6 billion already committed to programs we have in place now? Because the spin that—I'm understanding that that's new money, but my understanding is it's already committed money.

Mr. TOMALIS. Annually the Congress appropriates dollars in its various programs to the states, not just education but across the board, and saying to those states here's your pot of money this year to spend. When states have an obligation—I mean states in the generic sense, not the department or any one entity. When they have an obligation against that, they draw the money down against that obligation. They take the money. Usually it comes in the form of salaries. Most Title I moneys are in the form of salaries or expenses. They don't draw it down until they have that obligation. What the $6 billion says is that there are no obligations against that dollar at that time. So Congress appropriated the money in years past and they haven't had an obligation up against that money at that time. That's what it simply means. This year we appropriated—or you appropriated an additional 12, 13 billion dollars, and so then they're going to draw down that money. Once they're done drawing down that money—that money goes back to the year 2000 that's been sitting in the Federal treasury waiting to be drawn down.

Mr. RYAN. Can that money be drawn down for the new mandates that have been imposed.

Mr. TOMALIS. It's part of Title I. It goes to pay for the implementation of ESEA and other programs. There's also IDEA money that is sitting there waiting to be drawn down as well.

Chairman BOEHNER. And Title I funds and funds for—the fund that was created to help schools in need of improvement, that money has been sitting there as well.

Mr. TOMALIS. And it's not to say that the money isn't necessary. The money is necessary. The question is, how quickly do they need to get the money. You're now going to go back and you're debating another 12, 13 billion dollars. What we've seen, interestingly, when we raised this issue as the amount of money that's in the Federal treasury, the acceleration of the draw-down has been tremendous. That you've seen when it wasn't part of the public discussion this money was sitting there. When it became part of the public discussion, draw-down has accelerated quite a bit.

Mr. RYAN. Help me out here. So that money in—did you say 2000, 2002.

Mr. TOMALIS. Between 2000—I believe it's 2000, 2001. I'll verify that. Through last year. It's not current year money. We have the additional 12 or so this year to spend as well.

Mr. RYAN. One final question to Dr. Ross. I feel like I left you out. You didn't seem too disappointed. Some of the findings that were talked about today, especially by Mr. Rebarber, that additional Federal funding is not needed to improve student achievement. I know you talked a lot about attitude and focus within the school district. In your own experience with your own school district, do you have enough money.

Dr. ROSS. One of the things I spoke about in my comments was I think superintendents, boards of education need to look at the resources they have available to them and we need to be measuring the activities that we're using and spending those funds on. I think that would be the first thing we do before we should be asking for more additional money. I think we can effectively use our resources more effectively than we have in the past if we base it on analysis. But that all happening, I think you make the decision, if we're effectively using our resources, yes. But I don't think we've done the first yet.

Chairman BOEHNER. Let me thank my colleagues for coming today and thank our witnesses for their excellent testimony. I think we shed quite a bit of light on No Child Left Behind.

I think there's one point that I'd like to make. And that is that I don't know if we know how to educate all of our children. We don't know how we're going to accomplish this goal. I think it's rather difficult to describe or try to ascribe a number to how much it's going to cost. But I've often said the most important thing about No Child Left Behind is that it's going to cause a debate in every community in America. That debate has been underway. It is underway. And it's a debate that our citizens need to have about whether we're going to educate all of our kids, how are we going to do it, and how much is it going to cost. This is an important conversation as we get a foothold into the 21st century that will have a tremendous impact on the society of tomorrow. So thank you all for coming.

This hearing is adjourned.

[Whereupon, at 12:10 p.m., the Committee was adjourned.]

[Additional material submitted for the record follows:]

OEA, NEA, Leave Facts Behind in Attacks on Bipartisan Education Reform, Fact Sheet Submitted for the Record

OEA, NEA Leave Facts Behind in Attacks on Bipartisan Education Reform

March 8, 2004

The National Education Association (NEA) and its affiliate, the Ohio Education Association (OEA), do not support the goals of the bipartisan No Child Left Behind law (NCLB) and do not believe in high standards for our schools. Instead of helping teachers and school officials work to meet high standards, these lobbying groups are pouring money and energy into trying to dismantle bipartisan education reform.

Here are some of the facts the NEA, OEA and other opponents of education reform will leave behind this week as they launch attacks on Ohio's plan to implement the No Child Left Behind Act:

NCLB is neither "unfunded" nor a "mandate." States are receiving a massive increase in federal education aid under NCLB, money they are under no obligation to accept. NCLB simply says that if you're going to take the money, you're going to be expected to show you're using it to improve education for all children -- not just 75 percent of them, as was the case in Ohio prior to NCLB.

The NEA and its affiliates oppose high standards & accountability. When the NEA and OEA say they want to "fix" No Child Left Behind, what they really mean is they want lower standards. Allies of the NEA have introduced legislation in Congress that would gut the accountability provisions of the bipartisan NCLB law, making it easier for lobbyists and unions to dodge responsibility for improving teacher quality and providing a quality education to disadvantaged children, including children with disabilities. The U.S. Department of Education has announced rules in recent months giving states and schools significant flexibility in meeting NCLB's requirements on testing children with disabilities and Limited English proficient (LEP) students. (For more, visit http://www.ed.gov/news/pressreleases/2004/03/03022004.html and http://www.ed.gov/news/pressreleases/2004/02/02192004.html.)

NEA claims about NCLB funding have been challenged by major news organizations. Major media outlets, including the *Los Angeles Times*, have blown the whistle on the NEA for making false claims about the authorized funding levels in the NCLB law. On January 28, 2004, after initially accepting the NEA's inaccurate claim that the NCLB Act "authorized $32 billion in funding for 2004," the *Times* ran a correction rejecting the NEA assertion and noting that the law does not authorize or promise a specific amount in funding for 2004. In 2003, the *New York Times* was forced to print a similar correction after initially accepting reform opponents' false claims about NCLB's funding levels. The NEA also regularly mischaracterizes the authorized spending levels that were included in NCLB as "promises," when in fact those authorization levels are, by definition, spending caps. They do not constitute a "promise" on the part of Congress to appropriate those authorized amounts, particularly at a time when states are sitting on billions in unspent federal education funds. What President Bush and Congress "promised" in NCLB was that federal education spending would increase dramatically and be tied for the first time ever to accountability for results – and that is exactly what has happened.

Experts have labeled the OEA's funding estimates "snake oil." The NEA falsely claims the Ohio Department of Education has estimated significant additional funding is needed in Ohio to implement NCLB. While it is true the state paid a private consulting firm to do a hasty analysis of the law's costs last year, Superintendent Susan Zelman has not embraced the findings of the report and the study has been roundly criticized by a number of experts. Dr. Chester Finn of the Thomas B. Fordham Foundation called the NEA-backed report "snake oil" and described its assumptions as "ridiculous." (http://www.edexcellence.net/foundation/gadfly/issue.cfm?id=134#1661)

Senator John Kerry's own state of Massachusetts has analyzed NCLB's costs and found the law is adequately funded -- and possibly overfunded in some states. A report published in the February 2004 edition of the policy journal *Education Next* by two Massachusetts state officials (state board of education chairman James Peyser and chief economist Robert Costrell) concluded the federal government "overshot the target" in terms of funding the law, providing more money than some states need to make it work. (http://www.educationnext.org/20042/22.html)

States design their testing systems under NCLB – not the federal government. While the NEA and OEA describe the law as "rigid" and "one size fits all," the truth is that states design their accountability systems under NCLB, and are given wide flexibility to design systems that suit the unique needs of their students and communities. Only a handful of states have even applied for participation in NCLB's State Flex initiative, which allows states to make additional decisions without federal approval. Only one school district in the nation to date -- the Seattle Public School system -- has taken advantage of the NCLB "Local Flex" initiative, which provides additional flexibility to a limited number of qualified local school districts.

Ohio has received a massive increase in federal funding under NCLB. Congress has appropriated $1.9 billion since NCLB became law to implement NCLB in Ohio. For fiscal year 2004, the $666 million provided to Ohio for NCLB programs reflects an increase of $206 million, or 45 percent, over what Ohio was receiving prior to NCLB. NCLB also triggered a massive increase in federal special education (Individuals with Disabilities Education Act) aid to states, with Ohio receiving $373 million for 2004. This money also assists states in meeting NCLB's objectives. (Students with disabilities are included in NCLB's accountability systems.)

Congress is increasing education spending more quickly than states can spend the money. As of February 2004, states were collectively sitting on more than $4.5 billion in unspent federal education funds from FY 2000-2002, including millions in unspent Title I and special education dollars that have been available for states to use since before President Bush was in office. Billions of unspent education funds earmarked for states – some dating back to the Clinton administration – have been sitting unused even as reform opponents have complained of "unfunded mandates." In fact, according to the Associated Press, states collectively returned $124 million in unspent federal education funds to the Treasury last year (Nancy Zuckerbrod, "States return millions to feds instead of spending it on schools," Associated Press, January 9, 2004). Collectively, as of February 2004, states were sitting on more than $1.6 billion in unspent Title I funds and $1.4 billion in unspent special education (IDEA) funds.

For further information, please contact the U.S. House Committee on Education & the Workforce majority staff at 202/225-4527, visit http://edworkforce.house.gov/issues/108th/education/nclb/nclb.htm, or e-mail Josh.Holly@mail.house.gov.

Letter from Gary L. Allen, President, Ohio Education Association, Submitted for the Record

OEA
OHIO EDUCATION ASSOCIATION

Gary L. Allen, President
Patricia Frost-Brooks, Vice President
William Leibensperger, Secretary-Treasurer
Dennis M. Reardon, Executive Director

The OEA will lead the way for continuous improvement of public education while advocating for members and the learners they serve.

March 8, 2004

The Honorable John Boehner, Chairman
House Education and Workforce Committee
U. S. House of Representatives
Washington, D.C. 20515

Dear Chairman Boehner:

On behalf of the 131,000 members of the Ohio Education Association (OEA), thank you for providing me with the opportunity to provide written testimony to the committee.

The OEA and the National Education Association (NEA) applaud the goals of the Reauthorization of the Elementary and Secondary Education Act (ESEA), the so called No Child Left Behind Act (NCLB). We particularly applaud the goals that seek to: improve student learning, provide highly qualified teachers in every class room, provide intervention services to students who need it and enhanced professional development of school employees. We are however concerned that adequate resources have not been provided to carry out the law and that without funding and policy changes our schools are set up for failure.

The numbers clearly demonstrate that Congress has failed to fund ESEA at the authorized levels. Although Congress authorized $26.4 billion to carryout the goals of ESEA, in FY 02, only $22.1 was appropriated. The appropriations continued to fall short of the authorized levels in FY 03 and 04 and indications are that the appropriation will fall short of authorized levels in FY 05 as well. The federal government is demanding significantly more from public schools and we are up to the challenge but we need to be adequately equipped to accomplish the goals as outlined in ESEA.

U. S. Secretary of Education Rod Paige has been critical of many organizations, particularly the NEA, for seeking changes to ESEA. The 2.7 million members of the NEA are speaking from their experience on the front lines of public education when they point out their concerns and criticisms. *Despite our members' varying political views, they are consistent in their professional views regarding this law: there are positive provisions as well as flawed provisions in the law.*

Those millions of education employees who are on the front line of educating our nation's children have legitimate concerns about the implementation of a well intentioned but flawed bill. The 131,000 members of the OEA, like education employees across this nation, are seeking changes to improve the law, not to repeal it

Many educators believe that one critical flaw in NCLB is that it takes a one size fits all approach to educating students. Educators know that children learn at different paces. A cookie cutter approach as entailed in the law ignores the diversity of children and their skills and abilities.

There are other provisions for which the OEA and the NEA advocate change. If one actually reads the NEA plan for change you will see that our goal is not to obstruct the goals of the law, as we have been accused, but rather to strengthen the law so that it is workable. Our advocacy on several points so far has paid off as the USDOE has provided more flexibility to the states regarding progress indicators and assessing ESL students. These changes demonstrate that the education community can come together and reach rational decisions to make improvements to our system.

As citizens of our democracy, the members of the NEA and OEA have the right express their views and opinions and the right to try to shape public policy. The suppression of our rights to do so would be nothing short of tyranny and oppression. We will not be deterred by criticism and charges of terrorism or obstructionism as we seek to amend this law.

Some proponents of the bill, including Secretary Paige have stated that the bill is fully funded. This position is at best *uninformed* given the fact that the USDOE has yet to complete a study of the cost of implementation. Despite the Ohio study and studies in other states on aspects of the law which consistently indicate the need for additional funding over what is currently allocated by the federal government, it is distressing that these studies are dismissed as if they are fiction. There are legitimate concerns and quantifiable short falls in funding to implement this bill.

The disagreement regarding the cost figures as reported by the Driscoll and Fleeter study means little to the members of the OEA and other education employees who are experiencing program cuts, staff lay offs, and cuts in established intervention programs for the students who will qualify for assistance under ESEA. Ohio school districts are facing deficits and are making cuts where they can, but are expected to raise the bar with fewer resources. The fiscal state in some districts is dire. Just last week over 217 school districts in Ohio had levies on the ballot. More than 54% of the levies failed, and in some of the districts where the levies passed, there will still be program and staff cuts.

As you are well aware, many states are questioning their ability to carry out the law. In fact there are legislative initiatives in 23 states aimed act correcting funding and other flaws in the bill.

I urge this committee to be open to a fair and necessary look at improving this law. Those of us who have spent any time around the legislative process know and understand that good legislation evolves over time and that it is rarely right the first time. I ask that this committee to exercise diligence to fix and fund ESEA at the authorized levels so that No Child Left Behind becomes more than a slogan and goal, but rather a statement of fact.

Sincerely,

Gary L. Allen

Gary L. Allen
President

K-12 Rules/Leave Parts of NCLB Behind, Editorial Submitted for the Record by Rep. Betty McCollum

startribune.com

Editorial: K-12 rules/Leave parts of NCLB behind

Published 03/08/2004

Great goals. Poor provisions to get there.

That is the widely held, on-target, growing consensus about federal No Child Left Behind (NCLB) rules for public schools. Though the new law is nearly two years old, its true impact has just begun to sink in; one cycle of testing and labeling during the past year has rightly raised hackles about some of the federal rules.

The law needs change, not elimination. Though some NCLB details are way off base, there is also nearly universal agreement about the importance of its intent -- to ensure that all children have a shot at a good education. That is why a "mend, don't end" approach is in order here, though major adjustments must be made.

A recent Minnesota legislative auditor's study on the impact of NCLB in this state confirms the need for substantial modifications. The auditor found the new rules to be "costly, unrealistic and punitive," noting that state schools will have to spend millions more (beyond federal funding) on additional tests, tutoring, transportation and teacher quality adjustments.

The report also projects that more than 80 percent of Minnesota elementary schools will not make the adequate yearly progress required under the law within the next decade, automatically mandating them to spend more on correction measures during a time when they are already slashing budgets.

Several local lawmakers are so incensed about No Child Left Behind that they introduced a bill to have Minnesota reject complying with the law. Both Utah and Virginia passed similar legislation last month, and others are considering following suit.

Yet despite its criticisms, the auditor's office concluded that state and federal leaders should work to change the law. It makes no comment about opting out, but says that Minnesota stands to lose more than $200 million in federal Title 1 funds if it ignores the law. Currently, it is unclear whether money saved by rejecting NCLB would offset such revenue losses.

Though NCLB's intent and direction are sound, things went awry when details were developed. Expecting special-education and new English language learners to perform and progress at the same level as other students, for example, makes no sense.

Another major flaw in the law causes schools to land on the failure list if just one subgroup in one grade misses one of a dozen requirements. At some local schools, the absence of a handful of students on exam day put those schools out of compliance.

Important questions are also being raised about what the tests measure. Any modification of the law should include value-added assessments that give credit for progress with the same students, in addition to comparing one year's crop of eighth-graders to another year's.

NCLB also merits scrutiny as yet another seriously underfunded federal mandate. Though it is true that federal K-12 spending has climbed some $8 billion during the Bush administration, state and local governments still foot more than 90 percent of the $480 billion tab. Federal support (much of it with strings attached) represents only a 2 percent increase. That amount has been largely offset by recent state and local education cuts and the fact that districts must make up for ongoing federal underfunding of special education. When it comes to K-12, the federal government clearly must put more of its money where its mouth is.

In response to complaints, the U.S. Department of Education recently relaxed some regulations about how soon non-English speakers must pass tests. That suggests the wisdom of continuing public pressure and insisting upon other adjustments.

Although No Child Left Behind is getting the strong criticism it deserves, the law's overall purpose is worth preserving. That is why Minnesotans should press for change now and hold politicians to those changes during the coming campaign season.

© Copyright 2004 Star Tribune. All rights reserved.

○