

**IMPLEMENTATION OF THE
NO CHILD LEFT BEHIND ACT**

HEARING

BEFORE THE

**COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS
UNITED STATES SENATE**

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

ON

EXAMINING THE IMPLEMENTATION OF THE ELEMENTARY AND SEC-
ONDARY EDUCATION ACT, FOCUSING ON ACCOUNTABILITY FOR RE-
SULTS, PARENT AND STUDENT CHOICE, FLEXIBILITY FOR STATES,
SCHOOL DISTRICTS, AND SCHOOLS, AND PROGRESS TO DATE

APRIL 23, 2002

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IMPLEMENTATION OF THE NO CHILD LEFT BEHIND ACT

TUESDAY, APRIL 23, 2002

U.S. SENATE,
COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,
Washington, DC.

The committee met, pursuant to notice, at 2:45 p.m., in room SD-430, Dirksen Senate Office Building, Hon. Edward M. Kennedy [chairman of the committee] presiding.

Present: Senators Kennedy, Dodd, Jeffords, Wellstone, Murray, Reed, Clinton, Gregg, and Collins.

OPENING STATEMENT OF SENATOR KENNEDY

The CHAIRMAN. The committee will come to order.

I apologize to our witnesses. This vote was initially for 11 o'clock, then 11:30, and finally at 2:30, so I apologize for the late start.

In January, President Bush signed the No Child Left Behind Act that reauthorized the Elementary and Secondary Education Act. The new law is a product of strong bipartisan cooperation and hard work, and I was pleased that our committee members played a lead role in enacting that law.

But no matter what the law says, it will make a difference to students, parents and communities only if it is implemented well. If we are to ensure that no child is left behind, we must unite around three key principles—fairness, public engagement, and increased resources.

First, we must ensure that the law is applied fairly, allowing room for State and local initiatives permitted under the new law. In passing the new law, Congress was clear about its expectations. We demanded tough accountability for results. We want to know whether schools are improving and helping our children do better. We required annual tests of the highest quality that provide the disaggregated data that schools need to know in order to determine what additional help is required for each and every child to succeed. We included new improvements to help train and support teachers so that every child in America is taught by a well-qualified teacher.

However, within those guidelines, States and districts have the flexibility to fund programs that meet those goals, including reading programs, professional development programs, technology programs, or after-school programs, as long as they have been proven to work.

We must uphold this principle as we provide information to States and communities about how to implement the law. For too

long, we have only said that every child can learn to high standards. But we have not always devoted the time, attention, and resources to making that promise a reality for all children.

Second, we must ensure that States, districts, schools, and parents are full partners in the reform effort by engaging them in the process of implementation. Without their support at each stage of the process, this new law will never fully succeed.

We must take local concerns seriously and work to address them. We must provide ample information on how to make this law work, and we must do so soon. We must continue to provide technical assistance now, next year, the year after, to make sure such reforms in the law are implemented and implemented well from the beginning and continuing during the succeeding years.

I hope that we will hear fewer reports of educators who say that parents do not want to be involved in their children's education and parents who say that educators make them feel unwelcome.

Third, we must provide significant increases in the funding to ensure that the law is a success and that truly no child is left behind. We have made a down payment on school reform last year, but we have a continuing and growing obligation to help teachers and students. Even with last year's increase, the funding for the Title I program still leaves behind 6 million needy children. I am deeply concerned that the administration's budget for next year proposes to actually cut funding for public school reform and divert resources to private schools.

The new law requires hard progress each and every year. It demands more of teachers and students to ensure that all children reach high goals to meet the challenges of the 21st century. To meet this challenge, we will need to train more teachers, not the 18,000 fewer as the administration's budget proposes. We will need to provide school districts with more services for limited English-proficient children, not 25,000 fewer as the administration proposes. We will need more after-school learning opportunities for latchkey children, not the 33,000 fewer as the administration proposes. I think we all know that you do not achieve high standards on low budgets.

If we can work together, I am confident we can succeed in giving every child a good education.

We welcome Under Secretary Gene Hickok to our hearing today, the first in a series of oversight hearings that we plan on the new law. We look forward to learning about the Department of Education's progress, and I can say personally that I welcomed the opportunity to spend time recently with Under Secretary Hickok at the Department of Education, raising these issues and some others that we will have a chance to talk about. I appreciated his willingness to listen to some of the points that we raised and take them under consideration.

Senator Gregg.

OPENING STATEMENT OF SENATOR GREGG

Senator GREGG. Thank you, Senator Kennedy.

First, let me thank you for holding this hearing—I think it is a good idea—and I also want to congratulate you for your attentiveness to this bill, which we worked so hard on, and the fact that you

have personally taken the time to not only follow it on the Hill but go down to the Department and make sure everybody is on their toes down there.

There is a lot in this bill, and therefore, it is going to take a lot of us paying attention to it to make sure it is done well. But the priority goal of this bill is very simple—to make sure that children from low-income families have the opportunity to learn and that they not be left behind as, regrettably, they have been, and that Title I become an effective means for accomplishing that.

Some of the issues which I am most interested in obviously involve the empowerment of parents when they find their children in schools which have failed and which continue to fail, and that involves how the Department is going to address things like public school choice and supplemental services, which I think will give parents options which could turn out to be of tremendous benefit to them and certainly to their children.

We also obviously have to address some of the specific issues such as how we test, what types of testing regimes are set up, and make sure that we do not as a Federal Government become overly meddlesome in the States' rights to design their tests, but also recognize that States do have an obligation to have tests which mean something in the sense that they have to be comparable from community to community within their States, so that as we move into local assessment tests, we have a balanced way of comparing them.

And we do, of course, have the question of criterion versus norm-referenced tests, which all of us recognize as an issue that has to be dealt with.

Most important in this whole atmosphere, though, is the need to make sure that we do not create an unfunded mandate here, that the cost of going forward with these tests which we are now requiring of the States will be borne by the Federal Government. There have been, I believe, a number of good studies in this area, and I believe the dollars which the President has put into this account effectively cover that issue in light of those studies, and I believe there have been some studies which have serious defects which may misrepresent that issue, but I do believe that an honest assessment says that the huge amount of money which we have put into this bill for testing and to pay for testing is appropriate and will cover that.

I am also interested in how the Department is going to see the AYP issue. This is going to be a huge question. We do not want to—it was our goal when we put this bill together, and we talked about this at almost interminable length, that we did not want to end up with every school being rated a failure. Rather, we felt that we did want to have this bill focused on those schools which need the most help and those students who can get the most benefit as low-income students. So we have to be careful how we proceed on that course.

On the dollar issue, I know there is some concern about dollars, and it is raised and mentioned on occasion around here. But I do think it is important—I have brought a chart with me, because you cannot function in the Senate without charts—to reflect on what has been accomplished by this administration in the area of funding Title I.

If you look at the Title I increases between the period 1995 and 2001, you will see that there was about a \$2 billion increase over that 7-year period, which was the period of the prior administration. This administration came in with a clear agenda, which was to significantly increase funding for Title I and also significantly increase funding for IDEA. In the 2 years that this administration has addressed this issue, they have made a commitment of over \$2.5 billion toward title I, which is obviously about 25 percent more than was funded over the prior 7 years.

So I do believe that the dollars are being put on the table. It is not as much as some would like, but it is a very significant commitment, and it will accomplish a great deal as it moves through the system and assists low-income children in having a better shot at education and quality education.

So I look forward to hearing from the Department, and again, Mr. Chairman, I thank you for calling this hearing.

The CHAIRMAN. Thank you.

Senator Collins, would you like to say a word?

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. Thank you very much, Mr. Chairman.

I want to thank you for holding this hearing so that we can learn of the Department's progress in implementing the landmark education law on which we all worked so hard last year and which the President signed into law in January.

That had been a truly bipartisan effort with great cooperation between the Senate and the administration, as well as the House, and I hope that that is the approach we can continue as we move toward the implementation process.

I am particularly interested in the provisions of the new law that deal with reading programs and assessments, and I will be asking questions in both areas today.

In addition, I am very proud of having authored the Rural Education Initiative which was included in that law. I am disappointed that the budget does not provide funding for the next fiscal year for that program, and that is something that I will be pursuing as well.

It is very important that we make sure that we are not only focusing on our urban schools but also on the majority of school systems in our country which qualify as rural schools and may well have different needs.

So again, I want to thank our witnesses for being here today, and I look forward to working with you in the implementation of what I believe is a law that will help us achieve the inspiring goal that the President put forth of leaving no child behind.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

I submit for the record statements from Senator Frist and Senator Enzi.

[The prepared statements of Senator Frist and Senator Enzi follow:]

PREPARED STATEMENT OF SENATOR FRIST

I want to thank our witnesses for appearing here today to update us on implementation of the historic education reform bill, "The No Child Left Behind Act." I am pleased with the pace of implementation of ESEA and commend our witnesses and the Department of Education for all their hard work. I look forward to hearing an update on the States' progress, including details about the regulations regarding adequate yearly progress, public school choice and supplemental services.

As President Bush has said, too many children in America are segregated by low expectations, illiteracy, and self-doubt. In a constantly changing world that is demanding increasingly complex skills from its workforce, children are literally being left behind. I believe that the programs and reforms contained in "The No Child Left Behind Act" will help Tennessee schools better prepare our children for the future.

I know the members of the rival party believe increased funding is the answer to all our schools' problems. But, time has shown that money alone is not the answer. Despite spending \$125 billion in Federal education aid for disadvantaged children over the past 25 years, fourth-graders who are African American, Hispanic, or poor, have less than a 50/50 chance of being able to read. President Bush changed the education debate by demanding results and accountability. At the same time, the President has dramatically increased funding for education while requiring reforms.

Let's take a look at the numbers:

- In 2000, Title I funding was \$7.9 billion. President Bush has requested \$11.4 billion for Title I in 2003, a 44 percent increase over 2000 levels.
- In 2000, the Reading program received \$260 million. President Bush has requested \$1.075 billion for Reading First in 2003, a 284 percent increase.
- In 2000, funding for teachers reached \$2 billion. President Bush has requested \$2.9 billion for teachers in 2003, a 45 percent increase.
- In 2000, funding for after school programs was \$453 million, and the President has requested \$1.075 billion for 2003, a 137 percent increase.
- Finally, if President Bush is granted his 2003 budget request for the Department of Education, the Department will receive a 42 percent increase as compared to 2000, moving from \$35.6 billion to \$50.3 billion.

Before we insist on increasing funding beyond these levels, we should allow time for "The No Child Left Behind Act" to be implemented, so that we can find out what works and what does not work. Otherwise, we may continue to fund failure at the expense of our children's future.

Thank you, Mr. Chairman and Senator Gregg for holding this hearing. I look forward to hearing our witnesses' statements.

QUESTIONS FOR UNDER SECRETARY HICKOK AND ASSISTANT SECRETARY NEUMAN

Question 1. The Math and Science Partnership Program (MSPP), which became part of the "No Child Left Behind Act," was originally created at NSF. I understand, however, that NSF was allocated \$160 million for MSPP while the Department of

Education received only \$12.5 million for it. Because of the funding inequity, the Department piggy-backed their funds onto the NSF program for 2002.

Some Senators have requested appropriators to fund MSPP at as high a level as possible in 2003 to fulfill its promise. Many believe the Department of Education should run this program instead of NSF because it has better relationships with schools and understands how to work with them better than NSF. If the MSPP were to receive significantly more funding in 2003, how would the Department work to coordinate efforts with the NSF?

Question 2. Gary Lee, a Superintendent from Jackson County, Tennessee wrote me to express his dismay about the fact Jackson County did not qualify for the Rural and Low-Income School Program. Unfortunately for Jackson County, the most recent poverty data broken down by school districts is from 1997. According to the 1997 data, Jackson County does not qualify, but Jackson County would qualify according to the most recent 1998 data.

I am concerned about this lag in census data. At this rate, the areas that have been hardest hit by the recession of 2001-2 will not receive Federal funding to help combat the effects of that recession until the 2006-7 school year. What can the Department or Congress do to help speed up this process?

PREPARED STATEMENT OF SENATOR ENZI

Thank you, Mr. Chairman, I am pleased to join you in welcoming the Under Secretary of Education, Gene Hickok, and Susan B. Neuman, Assistant Secretary for Elementary and Secondary Education. Secretary Hickok, Assistant Secretary Neuman, I appreciate your willingness to update this committee on the Department of Education's progress as you implement the sweeping reforms included in the No Child Left Behind Act.

As members of this committee are well aware, the No Child Left Behind Act reflects an agenda that President Bush made clear during his first days in office when he invited lawmakers to his ranch in Crawford, Texas to discuss his number one domestic priority, education reform. This legislation ensures that every child in America will receive a quality education by emphasizing accountability, flexibility and local control, funding for programs that work, and expanded parental control. Students' access to technology, high quality teachers, and safe learning environments are also a priority. This legislation also fulfills an important commitment to States like Wyoming that are already heavily invested in improving student achievement by allowing them the flexibility they need to continue to innovate.

In addition to the critical educational supports and services provided by the No Child Left Behind Act, this legislation also provides unprecedented increases in funding for programs that help to educate our Nation's neediest children. In fact, if Congress passes President Bush's fiscal year 2003 budget request, which contains a \$1 billion increase for Title I, that will mean that Title I funding will have increased nearly as much during the first 2 years of the Bush administration as it did during the previous 8 years combined. Mr. Chairman, I would like to request that these documents, compiled by the Department of Education and the Congressional Research Service, detailing the Bush administration's commitment to funding education in Wyoming and across the Nation be included in the record.

I would like to commend the Department of Education for their speed and success during the initial implementation of the No

Child Left Behind Act. They are making great progress. I would also like to congratulate Secretary of Education Rod Paige for his efforts to inform parents and educators about the options that this new legislation makes available by embarking on the 25-city No Child Left Behind Tour Across America. His hard work is providing a great service to educators, parents and children across the Nation.

One of the issues that has been receiving the most attention during the initial implementation stage is the new State-based accountability system that was put in place to ensure that all children are learning. There are some who are questioning whether it is the intent of the No Child Left Behind Act to allow States the option of using local assessment measures as part of their statewide accountability systems. Since one of the major principles of the "No Child Left Behind Act" was increased flexibility for States, I firmly believe it was the intent of this legislation to allow States to develop accountability systems that suit their individual needs. I am pleased that the Department of Education's draft regulations on Title I Standards and Assessments reflect this intent. I was so pleased, in fact, that I, and several other members of this committee, wrote to Secretary Paige expressing our support for these draft regulations. Mr. Chairman, I would like to ask that a copy of that letter to Secretary Paige be included in the hearing record. In short, this letter states that the Federal Government must be willing to allow States to determine the best way to assess children, as long as those assessments are of sufficient quality and meet the rigorous standards that are required by the No Child Left Behind Act. I am aware that the Department of Education plans to hold regional meetings on this issue throughout the month of May and I look forward to hearing what local educators and interested citizens have to say.

Finally, I would like to express my thanks to Wyoming's State Superintendent of Education, Judy Catchpole, and her hard-working staff. Not only is Judy doing a great job of beginning to implement the No Child Left Behind Act, but she also made sure that States across the Nation were well represented during the Title I Standards and Assessments negotiated rulemaking process when she was one of the State officials chosen to participate.

I look forward to continuing to work on the issues surrounding the implementation of this legislation. Thank you Mr. Chairman.

The CHAIRMAN. I also want to recognize Susan Neuman, who is the Assistant Secretary of the Office of Elementary and Secondary Education. She is tasked with leading the day-to-day implementation of ESEA, and her experience as an educator, a parent, and a researcher will help us all. We are glad to welcome her to the committee today.

Mr. Hickok, we look forward to hearing from you.

STATEMENT OF EUGENE W. HICKOK, UNDER SECRETARY, U.S. DEPARTMENT OF EDUCATION, ACCOMPANIED BY SUSAN B. NEUMAN, ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, U.S. DEPARTMENT OF EDUCATION, WASHINGTON, DC

Mr. HICKOK. Thank you, Mr. Chairman. Good afternoon, members of the committee.

I am going to submit my statement for the record rather than read the entire text.

I do want to express my personal appreciation for the chance to be with you today and in the future to talk about implementation of this very, very important and very, very complex and comprehensive new law.

I also want to express again my deep appreciation and that of Secretary Paige and the administration for your leadership, Mr. Chairman, and yours, Senator Gregg, and all of you on this committee and your colleagues in the House.

Secretary Paige has said a number of times, and I would echo the sentiment, that in many ways because of the bipartisan nature of this endeavor, this is neither a Republican nor a Democratic law; it is an American law, it is an American bill, and it is all about what we have in common, trying to do what we can to leave no child behind.

I stated that this is a very complex and difficult piece of legislation, but interestingly, as you all know, it is really built around four basic principles, and I would just reiterate those four principles very briefly.

The first is one that I think is at the heart of this new law, and that is improving accountability for results. As we talk about spending, as we talk about performance, we would like to talk about investing in things that we know work so that we get educational results.

The second principle is more choices and more options for parents and for students. In many ways, our goal here is to leave no child behind, and the focus here is on students, on children, and children who are through no fault of their own enrolled in schools that are not working that need to find relief. This law talks about providing some relief.

The third principle, one that I am very partial to because of my record as a State Chief for 6 years in Pennsylvania, is greater flexibility at the State and local level. I guess I am a federalist when it comes to this issue; I would like to make sure that there are ways—and there are in this law—to create opportunities for some pretty interesting, innovative approaches to education policy at the State level and at the local level through more flexibility.

Finally, the fourth principle, which is written throughout the legislation and will receive more and more focus in the days and weeks and years to come, is education-based education policy and good, solid research.

The record is pretty spotty in education from where I sit on the quality of education research, both at the Federal Department of Education and the State departments around the country, everywhere. One of our goals is to turn that around so that we can provide good, solid evidence of what works so that future administra-

tions and future Congresses, future school boards and State departments, can make better decisions and wiser decisions on educational policy. We think it is very much needed.

I think I will stop with that except to make a few observations. I had my staff do an analysis, what I call a road map or a task list, of this large piece of legislation, and I think there are something like 1,560 discrete tasks that this Department will have to deal with in the coming days and weeks and years to fully implement this law. I hope to be able to come before you sometime in the not too distant future and give you my report card on how far down that punch-list we have come in the period of time allotted to us.

I also want to make sure that I introduce my colleague Susan Neuman. She is the Assistant Secretary for Elementary and Secondary Education. A great majority of the material that this law is all about consumes her day and night, as well as her staff. She is here with me to respond to any questions that you might have.

Thank you very much for the opportunity to be with you, Senator.

[The prepared statement of Mr. Hickok follows:]

PREPARED STATEMENT OF EUGENE W. HICKOK

Mr. Chairman and members of the committee, I appreciate the opportunity to appear before you this afternoon to discuss the department's implementation of the No Child Left Behind Act, the recent reauthorization of the Elementary and Secondary Education Act of 1965. The enactment of No Child Left Behind was a watershed event in the history of Federal support for K-12 education. It gives me great pleasure to discuss its significance and the department's efforts to ensure its successful implementation across this country.

Mr. Chairman, only 3 days after taking office, President Bush unveiled No Child Left Behind as a comprehensive strategy for restructuring Federal elementary and secondary education programs and leading the way toward national reform and renewal in education. Less than a year later, he signed into law this remarkable, bipartisan program for improving the performance of America's elementary and secondary schools while ensuring that no child is trapped in an unsafe or failing school.

I would like to commend the members of this committee for the bipartisan efforts on the legislation. And I would like to give special thanks to you, Mr. Chairman, and to Senator Gregg for the leadership that made the bill possible—leadership and many hours spent in bicameral and bipartisan negotiations.

The new act embodies the key principles and themes that the President emphasized upon taking office. These principles include:

(1) *Increased accountability for results:* The No Child Left Behind Act provides for real performance accountability in the Title I program by requiring statewide accountability systems covering all public schools and students. These systems must be based on challenging State standards in reading and mathematics (and later, science), annual testing for all students in grades 3-8, and annual statewide progress objectives for ensuring that all students reach proficiency in reading and math within 12 years. Schools and school districts that fail to meet these objectives, both for all students and for specific student groups, would be subject to improvement, corrective action, and restructuring aimed at getting them back on track.

(2) *More choices for parents and students:* The new act significantly increases the choices available to students attending low-performing schools. Beginning in the coming school year, they must be given the opportunity to attend another public school that is making "adequate yearly progress" under Title I, and the district must provide transportation to that new school. Public school choice must also be provided for students in persistently dangerous schools. Students attending schools that fail to make adequate yearly progress for 3 years in a row will have the opportunity to receive supplemental academic services, such as after-school tutoring, from providers who can demonstrate success in raising student achievement. The act also enhances the department's support for innovations in public school choice, by creating programs for the support of voluntary public school choice and the financing of charter school facilities .

(3) *Greater flexibility for States, school districts, and schools:* Through a number of mechanisms, the new act greatly expands the flexibility of States, local educational agencies, and schools to use Federal funds in a manner that best reflects State and local needs and priorities. These mechanisms include the “State-Flex” and “Local-Flex” demonstration authorities, which will give up to 7 States and 150 districts the flexibility to consolidate Federal program funds and use them for any authorized purpose, in exchange for committing themselves to improving student achievement and narrowing achievement gaps. The “transferability” authority, another new innovation, will allow all States and most districts to transfer, across program categories, up to half of their formula allocations for certain major programs.

(4) *A focus on what works:* The new law consistently calls for States, school districts, and other grantees to use their ESEA funds to implement programs that reflect scientifically-based research; that is, programs, activities, and strategies that high-quality research shows are truly effective in raising student achievement. The Congress clearly signaled a lack of patience with the faddishness that frequently substitutes for research-based approaches to educating our children. Particularly in the area of reading, where the act created the new Reading First program, the members said that we know what works, we have a solid research base; now it is time to ensure that all our children benefit.

Those are some of the major themes and messages in the No Child Left Behind Act. These key principles are also guiding our implementation of the act; they will be reflected in our regulations, in non-regulatory guidance, and in the instructions we develop for formula and competitive grant applications. As we delve into the details of implementation, we cannot lose sight of the major principles that motivated enactment of the statute.

I will use the remainder of my time to give you a brief overview of the department’s progress in implementing the act.

REGULATIONS AND PROGRAM GUIDANCE

When a piece of legislation like No Child Left Behind is enacted, educators across the country eagerly await information from the department on how the new and revised programs will operate. We provide that information either through regulations or non-regulatory program guidance. Through these documents, we interpret provisions that may be ambiguous in the statute, fill in a few of the blanks, and translate statutory text into plain English.

Our guiding principle in implementing No Child Left Behind is to regulate only when it is absolutely necessary, because non-regulatory guidance tends to provide States and local educational agencies with greater flexibility. Thus, we have been working assiduously on developing guidance for major formula grant programs, such as the Teacher Quality, Educational Technology, and 21st Century Community Learning Centers State grant programs. In developing our guidance packages, we have worked closely with State educational agencies and others who administer the programs. The work on the guidance documents is proceeding rapidly, and we expect to have most of them completed later this spring.

In some cases, we will have to issue formal regulations. In particular, the act calls on the department to develop, through a negotiated rulemaking process, regulations for the standards and assessment requirements under Title I. We carried out this negotiated rulemaking, or “reg-neg” as it is called, during the second and third weeks of March. We assembled a panel of State and local officials, school principals, teachers, parents, and representatives of students and the business community. Our negotiators for the department were Assistant Secretary Susan Neuman and Joseph Johnson, our Title I director. In my opinion, this process was a great success. The negotiators reached consensus on such important issues as the requirement for inclusion of all students in State assessments, the use of “out-of-level” tests in assessing students with disabilities, and the assessments administered to private school children who participate in Title I.

We will now issue, as proposed regulations, the agreements negotiated through that process, along with companion regulations for certain other key Title I issues, such as “adequate yearly progress” and formula allocations to local educational agencies. We will convene five regional meetings during May for discussion of the proposed regulations with educators and members of the public. Once we have received public input, we will complete final regulations; we anticipate completing this process some time this summer.

CONSOLIDATED STATE APPLICATIONS

For each State formula program in ESEA, the Act provides detailed instructions on the information States must provide to the department in their State applica-

tions. However, the act also permits States to submit a consolidated application in place of some or all of the individual program applications, and instructs the Secretary to require, in that consolidated application, only the information absolutely necessary for consideration by the department.

Because submission of a consolidated application can reduce State burden enormously, and because most States are likely to take advantage of this option, we have spent a great deal of time developing instructions for the application. On March 6, we issued proposed instructions, on which we are now taking public comment, and we have convened focus groups of State and local officials to discuss the application. Our goal is to abide by the statutory charge to require the minimum amount of information necessary, while making sure that the department receives the data and documentation essential for ensuring program integrity and accountability. In fact, we believe the consolidated application should include the baseline data that will undergird a new performance-based information system for elementary and secondary programs.

We intend to issue final criteria for the applications in mid-April so that we can obtain the applications in time to make formula grants on schedule at the beginning of July.

PERFORMANCE-BASED DATA MANAGEMENT INITIATIVE

The department's new Performance-Based Data Management Initiative will facilitate smoother implementation of No Child Left Behind by reducing the current collection and reporting burden. The initiative will replace many disconnected information systems currently in use by the department to collect data from States and school districts. When fully implemented, the new system will promote efficient ways to share data across States and districts and provide more accurate and useful data at all levels of the education community. Thus, the new system will allow States and districts to devote more time to their core educational mission and increase the focus on outcomes and accountability for student performance rather than compliance.

NEW FLEXIBILITY INITIATIVES

The new act holds States and school districts accountable for educating all their children to high standards. But more than ever before, it gives them room to use Federal funds to develop and implement their own strategies for improving education. States and local educational agencies will have new opportunities to combine Federal funds, rather than using them within narrow categories, in a manner that reflects local needs and priorities.

The new flexibility provisions include the State and local flexibility demonstrations, or "State-Flex" and "Local-Flex" as we call them. They allow selected States and districts to consolidate their Federal funds and use them for any authorized purpose, in exchange for a commitment to improving student achievement. In addition to those competitive authorities, all States and most districts will be able to take advantage of the "transferability" provisions, which allow the transfer of up to half the money they receive under certain formula programs across those programs or into Title I.

Ever since the legislation passed, we have been working to ensure a swift and successful implementation of these important new authorities. We want all States and school districts to know about these new opportunities to improve their use of Federal dollars. We want to receive as many high-quality applications as possible for the demonstration programs, and we are ready to provide technical assistance to applicants. We have published proposed rules for both "State-Flex" and "Local-Flex" and have taken steps to inform States and districts about the new provisions and to receive their comments on implementation. We anticipate announcing the first Local-Flex districts by the end of this summer, and the State-Flex winners by the end of November. We have already heard from several States that are interested in applying for the State-Flex authority.

NEW PROGRAMS

The No Child Left Behind Act consolidated a number of ESEA programs, but also created some new programs for us to administer. A major focus of our efforts in recent months has been on implementing these programs. For instance, Reading First embodies the President's commitment to ensuring that all children learn to read by the third grade. All States will be eligible to receive formula grants for implementation of programs of scientifically based reading instruction, particularly in schools where high percentages of students are not learning to read. Early Reading First is a companion program that focuses on preparing preschool-aged children to learn

to read once they enter school. At this time, we are moving ahead, on schedule, with implementation of these and the other new programs.

PUBLIC OUTREACH

Implementing No Child Left Behind involves more than just issuing regulations, reviewing applications, and making the grants. It really means bringing the whole country together around the idea that, if we are to continue to flourish as a Nation, no child really can be left behind, that it is time to stop making excuses for educational failure, and time to use the framework provided by this legislation to get on with what we have to do. Toward that end, we have communicated continually with governors, chief State school officers, school superintendents, teachers, parents, and the general public on this act and on the vision that it embodies. On the week of the signing, the secretary convened an historic summit with State superintendents to discuss implementation of the new law. We have held three leadership academies with State officials and one with big-city districts to acquaint them with the Reading First program. We also have held other forums and have more planned for the future. Making No Child Left Behind succeed will require more than the department's effort, it will require everyone's effort, and we intend to use every opportunity to bring the country along with us.

In conclusion, let me say that the department really has been operating on all cylinders since the Congress passed the act in December and the President signed it in January. The late enactment of the bill, and of the fiscal year 2002 appropriation, left us very little time to get all the pieces in place before the coming school year. At this point, I think we are on schedule. We have faced challenges in implementing this very important and complex legislation, and there will be further challenges ahead. But I think we can implement all components successfully and on time, and I welcome your support.

I would be happy to answer any questions you may have.

The CHAIRMAN. Very good. Thank you.

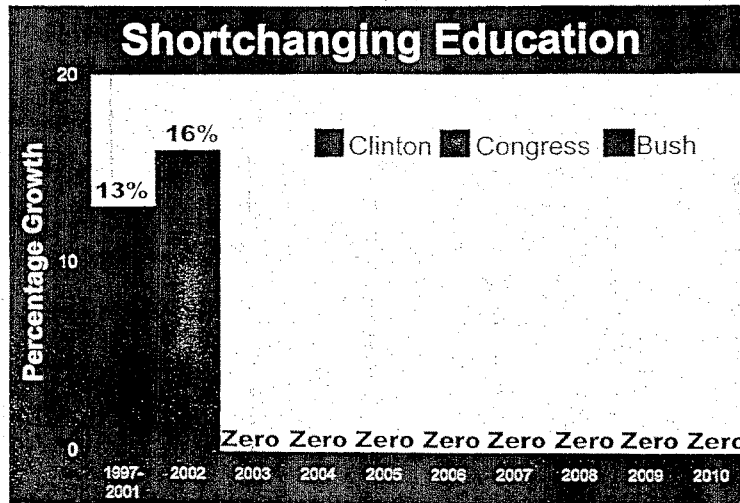
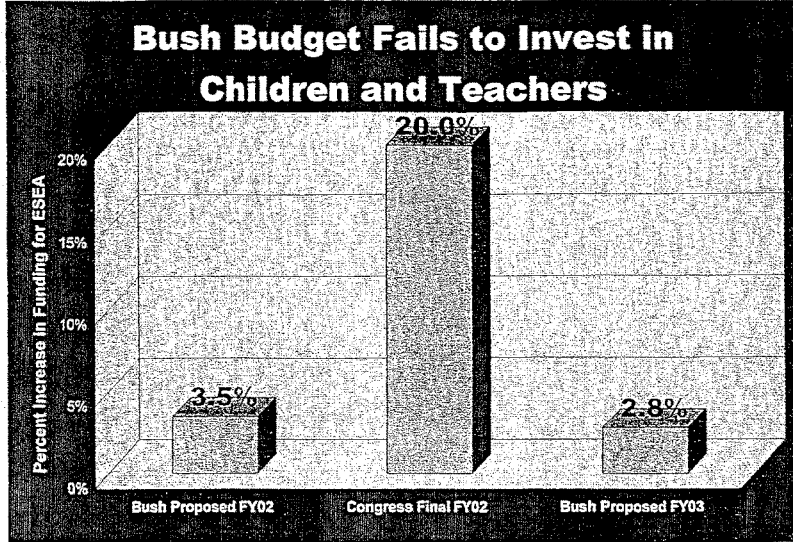
Ms. Neuman, is there anything that you wanted to say?

Ms. NEUMAN. Not at this time, no.

The CHAIRMAN. Thank you.

I will put in the record at the appropriate place, as I am sure you would want me to, the record of funding for ESEA in recent years, as well as the current budget request, just so we are clear.

[Information follows:]



- The Bush administration has proposed the worst education budget in 7 years—a 2.8 percent increase for education that is barely enough to meet the cost of inflation and less than one-fourth of the 13 percent average increase over the last 7 years. (Source: U.S. Dept of Education, Budget Service, *www.ed.gov*. (Budget History)).
- Two months after passage of the “No Child Left Behind Act,” the Bush administration proposed to cut its funding by nearly \$100 million. (Source:U.S. Dept. of Education Fiscal Year 2003 Budget Summary, February 2002).
- The Bush budget shortchanges the promise of a better education for disadvantaged children for next fall under the Title I program by almost \$5 billion and leaves 6 million needy children behind as school reform for other children moves ahead. (Source: U.S. Senate Health, Education, Labor, and Pensions Committee).
- The Bush budget pushes 33,000 latch-key children out of after-school programs nationwide.
- 25,000 limited English proficient children would be cut from Federal bilingual education programs nationwide.
- The Bush education budget freezes funding for most education programs, including the Title II teacher quality and class size reduction program, failing to adjust for inflation and thereby reducing services. It cuts funding for teacher professional development, new teacher mentoring, and teacher recruitment. It cuts funding for class size reduction and school repair. *18,000 fewer teachers nationwide will receive training.* (Source: U.S Dept. of Education Fiscal Year 2003 Budget Summary, February 2002).
- The Bush administration’s FY 2003 budget proposals for student assistance programs are \$1.4 billion below the current services level needed to offset inflation and address enrollment growth. For example, the Bush budget would result in a \$100 cut in the maximum Pell Grant from \$4,000 to \$3,900. In total, the proposed budget would serve 375,000 fewer students compared to current services, according to the Bush administration’s own budget justification documents.
- The President is requesting \$50.3 billion in discretionary appropriations for the Department of Education in fiscal year 2003, an increase of \$1.4 billion or 2.8 percent over the 2002 enacted level. (U.S. Dept. of Education Fiscal Year 2003 Budget Summary).

DEPARTMENT OF EDUCATION

Funds for State Formula-Allocated and Selected Student Aid Programs for Wyoming

	2001 appropriation	2002 appropriation	2003 request	Change from 2002 appro.
ESEA Title 1—Grants to Local Educational Agencies	\$19,569,782	\$23,883,476	\$26,495,658	\$2,612,182
ESEA Title 1—Reading First State Grants	0	2,158,750	2,400,000	241,250
ESEA Title 1—Even Start	1,122,500	1,127,500	910,000	0
ESEA Title 1—Migrant	266,080	276,490	276,490	0
ESEA Title 1—Neglected and Delinquent	408,145	429,548	429,548	0
ESEA Title 1—Comprehensive School Reform	465,706	509,153	525,234	16,081
ESEA Title 1—Capital Expenses for Private School Children	2,879	0	0	0
Subtotal, Education for the Disadvantaged	21,835,092	28,384,917	31,036,930	2,652,013
Impact Aid—Basic Support Payments	8,220,403	6,360,038	6,436,488	76,450
Impact Aid—Payments for Children with Disabilities	406,750	407,945	407,945	0
Impact Aid—Construction	71,617	153,740	153,740	0
Impact Aid—Payments for Federal Property	0	0	0	0
Subtotal, Impact Aid	8,698,770	6,921,723	6,998,173	76,450
Improving Teacher Quality State Grants	0	13,567,163	13,567,163	0
Class Size Reduction	7,605,781	0	0	0
Eisenhower Professional Development State Grants	2,398,869	0	0	0
Safe and Drug—Free Schools and Communities State Grants	2,142,933	2,307,865	2,307,865	0
State Grants for Community Service for Expelled or Suspended Students	0	250,000	0	(250,000)
21st Century Community Learning Centers	10	1,522,706	2,787,808	1,265,102
Educational Technology State Grants	2,250,000	3,078,446	3,239,552	161,106
State Grants for Innovative Programs	1,911,525	1,911,525	1,911,525	0

DEPARTMENT OF EDUCATION—Continued
Funds for State Formula-Allocated and Selected
Student Aid Programs for Wyoming

	2001 appropriation	2002 appropriation	2003 request	Change from 2002 appro.
Fund for the Improvement of Education—Comprehensive School Reform	90,717	136,075	0	(136,075)
State Assessments and Enhanced Assessment Instruments	0	3,389,341	3,407,669	18,328
Education for Homeless Children and Youth	100,000	150,000	150,000	0
Rural and Low-income Schools Program	0	14,167	0	(14,167)
School Renovation Grants	5,483,750	0	0	0
Indian Education—Grants to Local Educational Agencies	498,555	523,857	523,857	0
Language Acquisition State Grants	0	500,000	500,000	0
Immigrant Education	0	0	0	0
Special Education—Grants to States	13,896,695	16,711,120	19,181,491	2,470,371
Special Education—Preschool Grants	1,090,450	1,090,450	1,090,450	0
Special Education—Grants for Infants and Families	1,878,520	2,043,288	2,141,694	98,406
Subtotal, Special Education	16,865,665	19,844,858	22,413,635	2,568,777
Vocational Rehabilitation State Grants	6,506,430	8,184,617	8,631,737	447,120
Client Assistance State Grants	118,241	120,724	120,724	0
Protection and Advocacy of Individual Rights	138,633	147,782	147,782	0
Supported Employment State Grants	300,000	300,000	0	(300,000)
Independent Living State Grants	297,581	297,581	297,581	0
Services for Older Blind Individuals	225,000	225,000	225,000	0
Protection and Advocacy for Assistive Technology	50,000	50,000	50,000	0
Subtotal, Rehabilitation Services and Disability Research	7,635,885	9,325,704	9,472,824	147,120
Vocational Education State Grants	4,214,921	4,214,921	4,214,921	0
Vocational Education—Tech-Prep Education State Grants	280,263	285,551	285,551	0
Adult Education State Grants	761,550	801,046	801,046	0
English Literacy and Civics Education State Grants ...	60,000	60,000	60,000	0
State Grants for Incarcerated Youth Offenders	32,305	32,305	0	(32,305)
Subtotal, Vocational and Adult Education	5,349,039	5,393,823	5,361,518	(32,305)
Federal Pell Grants	18,100,000	19,700,000	19,900,000	200,000
Federal Supplemental Educational Opportunity Grants	888,235	931,940	931,940	0
Federal Work-Study	1,253,418	1,253,418	1,253,418	0
Federal Perkins Loans—Capital Contributions	220,784	220,784	220,784	0
Leveraging Educational Assistance Partnership	92,195	112,433	0	(112,433)
Byrd Honors Scholarships	75,000	73,500	73,500	0
Total	103,496,213	119,514,245	126,058,161	6,543,916

¹ Prior to fiscal year 2002, funds for 21st Century Community Learning Centers were not allocated by formula.

TABLE 2.—ESTIMATED ESEA TITLE 1-A GRANTS FOR FY02 UNDER THE
CONFERENCE VERSIONS OF H.R. 1 AND H.R. 3061

State	Actual FY01 grant	Estimated FY02 grant	Percentage change
ALABAMA	\$133,799,574	\$155,525,000	16.2
ALASKA	23,064,148	29,717,000	28.8
ARIZONA	137,445,740	172,601,000	25.6
ARKANSAS	83,257,615	96,973,000	16.5
CALIFORNIA	1,155,139,183	1,453,077,000	25.8
COLORADO	78,562,595	96,829,000	23.3
CONNECTICUT	83,812,994	105,341,000	25.7
DELAWARE	22,220,748	28,466,000	28.1
DISTRICT OF COLUMBIA	26,602,647	34,401,000	29.3
FLORIDA	400,839,734	510,406,000	27.3
GEORGIA	250,866,383	312,310,000	24.5
HAWAII	25,773,215	33,063,000	28.3

TABLE 2.—ESTIMATED ESEA TITLE 1-A GRANTS FOR FY02 UNDER THE CONFERENCE VERSIONS OF H.R. 1 AND H.R. 3061—Continued

State	Actual FY01 grant	Estimated FY02 grant	Percentage change
IDAHO	26,557,496	32,842,000	23.7
ILLINOIS	357,248,214	436,625,000	22.2
INDIANA	128,797,584	156,748,000	21.7
IOWA	55,102,714	61,726,000	12.0
KANSAS	61,259,673	74,001,000	20.8
KENTUCKY	130,624,753	151,163,000	15.7
LOUISIANA	191,576,000	211,209,000	10.2
MAINE	32,488,539	38,000,000	17.0
MARYLAND	124,098,482	155,623,000	25.4
MASSACHUSETTS	180,987,023	220,690,000	21.9
MICHIGAN	349,305,563	412,216,000	18.0
MINNESOTA	95,313,310	114,813,000	20.5
MISSISSIPPI	124,800,491	130,451,000	4.5
MISSOURI	140,578,687	161,788,000	15.1
MONTANA	28,242,684	34,558,000	22.4
NEBRASKA	32,935,512	37,187,000	12.9
NEVADA	32,381,713	41,353,000	27.7
NEW HAMPSHIRE	21,390,479	27,775,000	29.8
NEW JERSEY	209,372,261	256,952,000	22.7
NEW MEXICO	68,503,891	81,979,000	19.7
NEW YORK	822,655,074	1,028,355,000	25.0
NORTH CAROLINA	172,306,751	212,222,000	23.2
NORTH DAKOTA	21,081,381	27,275,000	29.4
OHIO	303,990,460	336,773,000	10.8
OKLAHOMA	101,343,518	121,007,000	19.4
OREGON	76,714,311	94,008,000	22.5
PENNSYLVANIA	346,293,427	402,563,000	16.2
PUERTO RICO	267,301,458	332,720,000	24.5
RHODE ISLAND	27,057,169	34,347,000	26.9
SOUTH CAROLINA	112,033,252	137,465,000	22.7
SOUTH DAKOTA	21,251,082	28,184,000	32.6
TENNESSEE	137,350,755	152,087,000	10.7
TEXAS	692,898,811	831,593,000	20.0
UTAH	37,418,349	43,673,000	16.7
VERMONT	18,015,861	23,015,000	27.7
VIRGINIA	138,409,145	170,359,000	23.1
WASHINGTON	118,080,391	143,754,000	21.7
WEST VIRGINIA	73,751,173	81,118,000	10.0
WISCONSIN	129,069,834	152,878,000	18.4
WYOMING	19,058,944	24,255,000	27.3
TOTAL	8,449,030,790	10,244,062,000	21.2

ESTIMATED ESEA TITLE 1-A GRANTS TO LEAs FOR FY2002 UNDER PUBLIC LAWS 107-110 AND 107-116

Note: Most of the data on which these calculations are based will be revised before actual grants are made. In addition, neither the FY2001 grants nor the FY2002 estimates are adjusted for authorized deductions for State administration or program improvement, or for possible transfers of funds to charter schools or special purpose LEAs, or possible reallocation among LEAs serving localities with total population below 20,000 persons.

The primary purpose of these estimates is to compare the relative impact of alternative formulas and funding levels; they are not intended to predict specific amounts which LEAs will ultimately receive.

TABLE 3.—ESTIMATES PREPARED BY CRS, JANUARY 24, 2002

State	LEA code	LEA name	Actual FY 2001 grant	Estimated FY 2002 grant	LEA poverty rate
WI	17040	WISCONSIN DELLS	\$151,000	\$180,000	10.9
WI	17070	WISCONSIN RAPIDS	688,000	813,000	11.8
WI	17100	WITTENBERG-BIRNAMWOOD	180,000	214,000	13.2
WI	17130	WONEWOC-UNION CENTER	55,000	65,000	10.9
WI	17160	WOODRUFF J1	54,000	64,000	11.6
WI	17190	WRIGHTSTOWN COMMUNITY	63,000	75,000	6.6
WI	17220	YORKVILLE J2	8,000	8,000	2.1
WI	81003	BALANCE OF COUNTY	0	0	0
WI	81007	BALANCE OF COUNTY	0	0	0
WI	81079	BALANCE OF COUNTY	0	0	50.0
WI	81139	BALANCE OF COUNTY	0	0	0
WI	99998	UNDISTRIBUTED	0	0	0
WI	99999	PART D SUBPART 2	1,233,000	1,606,000	100.0
WY	730	ALBANY COUNTY SCHOOL DISTRICT 01	911,000	1,101,000	15.8
WY	960	FREMONT COUNTY SCHOOL DISTRICT 38	376,000	512,000	46.9
WY	1030	CARBON COUNTY SCHOOL DISTRICT 01	430,000	541,000	15.8
WY	1090	BIG HORN COUNTY SCHOOL DISTRICT 04	126,000	136,000	16.0
WY	1260	SUBLETTE COUNTY SCHOOL DISTRICT 09	99,000	129,000	13.7
WY	1420	BIG HORN COUNTY SCHOOL DISTRICT 01	203,000	254,000	21.6
WY	1460	BIG HORN COUNTY SCHOOL DISTRICT 02	178,000	179,000	12.3
WY	1470	CAMPBELL COUNTY SCHOOL DISTRICT 01	839,000	1,009,000	8.2
WY	1700	CARBON COUNTY SCHOOL DISTRICT 02	169,000	221,000	14.6
WY	1980	LARAMIE COUNTY SCHOOL DISTRICT 01	2,389,000	3,135,000	13.7
WY	2070	PARK COUNTY SCHOOL DISTRICT 06	512,000	643,000	15.6
WY	2140	CONVERSE COUNTY SCHOOL DISTRICT 01	303,000	377,000	12.4
WY	2150	CONVERSE COUNTY SCHOOL DISTRICT 02	241,000	300,000	19.0
WY	2370	CROOK COUNTY SCHOOL DISTRICT 01	153,000	200,000	11.1
WY	2670	FREMONT COUNTY SCHOOL DISTRICT 02	84,000	104,000	20.3
WY	2760	UINTA COUNTY SCHOOL DISTRICT 01	662,000	715,000	12.2
WY	2820	FREMONT COUNTY SCHOOL DISTRICT 21	338,000	430,000	39.8
WY	2830	FREMONT COUNTY SCHOOL DISTRICT 06	119,000	148,000	19.8
WY	2870	FREMONT COUNTY SCHOOL DISTRICT 01	402,000	503,000	15.2
WY	2990	GOSHEN COUNTY SCHOOL DISTRICT 01	832,000	920,000	20.4
WY	3170	BIG HORN COUNTY SCHOOL DISTRICT 03	82,000	88,000	11.5
WY	3180	PLATTE COUNTY SCHOOL DISTRICT 02	78,000	75,000	9.3
WY	3310	HOT SPRINGS COUNTY SCHOOL DISTRICT 0	181,000	228,000	16.2
WY	3770	JOHNSON COUNTY SCHOOL DISTRICT 01	257,000	321,000	16.3
WY	4030	LINCOLN COUNTY SCHOOL DISTRICT 01	113,000	96,000	3.1
WY	4060	LINCOLN COUNTY SCHOOL DISTRICT 02	359,000	470,000	14.0
WY	4120	LARAMIE COUNTY SCHOOL DISTRICT 02	107,000	141,000	13.6
WY	4230	NIBRARA COUNTY SCHOOL DISTRICT 01	134,000	166,000	20.1
WY	4260	UINTA COUNTY SCHOOL DISTRICT 06	94,000	123,000	7.6
WY	4380	PARK COUNTY SCHOOL DISTRICT 16	54,000	68,000	20.3
WY	4450	FREMONT COUNTY SCHOOL DISTRICT 14	422,000	503,000	33.0
WY	4500	UINTA COUNTY SCHOOL DISTRICT 04	111,000	145,000	10.5
WY	4510	NATRONA COUNTY SCHOOL DISTRICT 01	2,799,000	3,571,000	16.0
WY	4830	WESTON COUNTY SCHOOL DISTRICT 01	182,000	193,000	12.9
WY	4860	SUBLETTE COUNTY SCHOOL DISTRICT 01	74,000	97,000	11.3
WY	5090	PLATTE COUNTY SCHOOL DISTRICT 01	351,000	421,000	17.1
WY	5160	PARK COUNTY SCHOOL DISTRICT 01	319,000	417,000	14.9
WY	5220	FREMONT COUNTY SCHOOL DISTRICT 25	1,059,000	1,324,000	22.1
WY	5302	SWEETWATER COUNTY SCHOOL DISTRICT 01	714,000	888,000	9.6
WY	5680	SHERIDAN COUNTY SCHOOL DISTRICT 03	19,000	24,000	18.7
WY	5690	SHERIDAN COUNTY SCHOOL DISTRICT 01	219,000	275,000	21.1
WY	5695	SHERIDAN COUNTY SCHOOL DISTRICT 02	732,000	909,000	14.4
WY	5700	FREMONT COUNTY SCHOOL DISTRICT 24	81,000	100,000	19.0
WY	5762	SWEETWATER COUNTY SCHOOL DISTRICT 02	366,000	478,000	8.9
WY	5820	WASHAKIE COUNTY SCHOOL DISTRICT 02	54,000	76,000	33.3
WY	5830	TETON COUNTY SCHOOL DISTRICT 01	185,000	241,000	7.9
WY	6090	WESTON COUNTY SCHOOL DISTRICT 07	36,000	47,000	10.0
WY	6240	WASHAKIE COUNTY SCHOOL DISTRICT 01	210,000	271,000	10.9
WY	81029	BALANCE OF COUNTY	0	0	0
WY	81039	BALANCE OF COUNTY	0	0	0

TABLE 3.—ESTIMATES PREPARED BY CRS, JANUARY 24, 2002—Continued

State	LEA code	LEA name	Actual FY 2001 grant	Estimated FY 2002 grant	LEA poverty rate
WY	99998	UNDISTRIBUTED	0	0	0
WY	99999	PART D SUBPART 2	300,000	550,000	100.0

United States Senate

WASHINGTON, DC 20510

April 11, 2002

The Honorable Rod Paige
Secretary, U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary Paige:

We are writing to express our support for the draft regulations for Title I Standards and Assessments under the No Child Left Behind Act. We are pleased with the initial draft and believe it accurately reflects the intent of the legislation. As you work to finalize the regulations and guidance, we encourage you to maintain policies that support a range of options for fulfilling the new statewide assessment system requirements. Specifically, we favor preserving the requirements of §200.3(b) that provide an option for states to combine state and local measures within their assessment system, and we believe that option is intended by the new law.

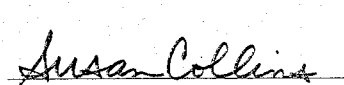
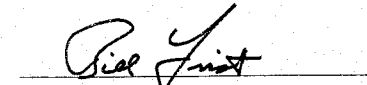
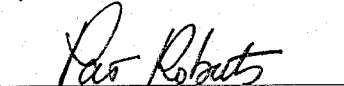
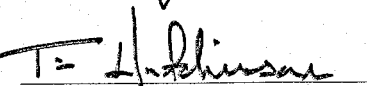
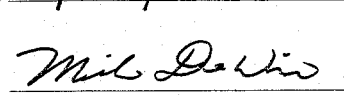
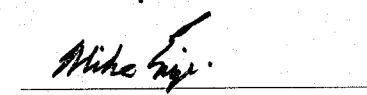
During our bipartisan negotiations of the No Child Left Behind Act, it was our expectation that states will be afforded the option to create a statewide system that relies on both local and state assessments, so long as the system meets all of the other requirements of the Act. There is no stipulation in the Act that indicates a "state assessment system" should be interpreted to exclusively mean a single statewide test. Using the two terms interchangeably would be a misreading of the intent and specifications of the legislation. Implicit in the concept of a statewide assessment system is the understanding that the system may aggregate data from coordinated local assessments to determine whether the State has made adequate yearly progress.

The draft regulations successfully detail requirements that would allow for a state to use local assessments without reducing the quality of data produced. A State that includes local measures in the assessment of its content standards is required to establish technical criteria to ensure that each local assessment be valid, reliable, and of high technical quality. The state must also demonstrate that all local assessment systems are equivalent to one another and to state assessments, where they exist, in their content coverage, difficulty, and quality. Additionally, the assessments must have comparable validity and reliability across disaggregated groups of students. Finally, the assessment systems must provide unbiased, rational, and consistent determinations of the annual progress of students, schools and LEAs within the State.

With such protections in place, we are confident that a state assessment system using both local and statewide assessment measures can meet the intent of the No Child Left Behind Act. We fully expect that several states will be able to meet these requirements and utilize the local assessment option.

We thank you for your efforts to produce regulations that accurately reflect the intent of the No Child Left Behind Act, and we look forward to continued work with you on the implementation of this important law.

Sincerely,

The CHAIRMAN. We will have 7-minute rounds, and I will ask staff to keep track of the time.

The areas I want to cover, Mr. Hickok, are the ones that we talked about at the Department. Initially, we want to ask about the process of implementation and which States you think will be ready to implement the new law, with approved plans, by this school year, which ones will be late, and what else you are able to tell us. Then, we want to get into the Reading First program a little bit, and also how Federal funds are supplementing other funds and not supplanting them. We find out that my own State is cutting \$340 million in its education budget. It appears that that is happening in other States. We want to get into how we can make sure that some of these extremely important provisions are going to be implemented.

I am going to also ask you a little bit about how the administration justifies putting \$4 billion into private school vouchers which will not have anything to do with providing a well-trained teacher, nothing to do with adequate yearly progress, nothing to do with after-school programs, nothing to do with smaller class size. And please explain how an administration and a President that have been so strong on accountability can justify adding almost \$4 billion for private schools that are exempt from all accountability requirements.

Then, finally, I do not know if you had a chance to look through the very excellent program that was done the other night on "60 Minutes" on education in the military, where it turns out that in the military, they have 100,000 students, 200 public schools, and 64 percent of the children in poverty. They have seen the significant achievement gap between races close, and they were asked about whether this could be replicated or duplicated in other parts of the country. The report said: Just try reproducing in the inner city the small schools that they have on base or the big budgets. Per-pupil spending here is 15 percent above the national average. One thing that could be duplicated in every community in the country is the parent involvement.

They talk about three items—small schools, resources, and parent involvement—and they have been able to have a dramatic impact in terms of improving quality and achievement. As we are looking over what really works, if you have not had a chance to see it, it might be something that you will want to take a look at as we are looking forward.

So, first of all, could you tell us—and I have just used half of my time—a little bit about where we are in the States in implementing the various programs? You had some deadlines—I guess the deadline was the middle of April—is that right—for the States?

Mr. HICKOK. It was April 8, I believe.

Ms. NEUMAN. April 8.

The CHAIRMAN. What can you tell us about where we are in the States, and if you could then tell us which ones you think will be able to handle it by the fall, which ones will be in, out, and how you plan to deal with it.

Mr. HICKOK. I would be glad to. Let me ask Susan to respond to the April 8 deadline, because we were very pleased with where we ended up on that date.

The CHAIRMAN. Okay.

Mr. HICKOK. Susan?

Ms. NEUMAN. First, to give you a “state of the States,” more or less, one of the first things we had to do was ensure that the 1994 law was in fact complied with, and in fact, that required that States have an agreement. This does not ensure full compliance with exactly what was asked in 1994; rather, it really focused on whether they had a plan and a time line that ensured that they would comply. And they did—all States had that by April 8.

So by April 8, we had 19 States in full approval, other States in time line waivers of one or two years, and five States in compliance agreements.

If I could just add one more thing, for those States that we had compliance agreements with, it would not be enough for them merely to comply with a 1994 law, because in fact what would happen is that would ensure that they would be late for the 2005–2006 three through eight testing. So what we asked these States, for those who were going into compliance, was that they would segue the old law with the new law so that their time line actually shows compliance with 2005–2006.

The CHAIRMAN. Well, I am interested in where we are going now with the new law.

Mr. HICKOK. That is what I wanted to comment on. I think the other important part of this story is that we have tried to be very proactive with the States. Secretary Paige convened a meeting with the State Chiefs—and I think we had over 30 attend—2 days after the bill was signed at Mount Vernon. The goal here was to send a couple of messages—one, we want to be, as you mentioned in your opening statement, full partners with the States and the locals on getting this done; second, that we are serious about getting it done, so that this time a couple of years from now, we are not talking about a lot of time line waivers as we are now with 1994; and third, that we want to help them get this done. We are moving from a compliance model to a technical assistance model, so that one way we are going to work with individual States is to see where they are and what they need to do to get in compliance with this new law and what we can do to help them get there.

The Secretary has sent individual letters to every State Chief about issues they need to be aware of. We have had meetings with the Governors’ education policy advisors. We continue meetings as we speak with various State and local officials. The chiefs of the major school districts in the Nation got together for a meeting. So we are being very proactive in a lot of different ways.

I should also mention, because you mentioned parents, that Secretary Paige unveiled, a couple of weeks ago in New Mexico and Atlanta, and last week in Las Vegas, on a 25-city tour what we call a tool kit for parents to understand better this new law.

A lot of our challenge is to make sure that everyone in America realizes this is everybody’s business. Certainly it is primarily the concern of educators, but it is also very much the concern of parents, taxpayers, and employers. So we want to reach out to those constituents in a much broader way.

The CHAIRMAN. My time is just about up. I have two reactions. One, if you could comment on the parents’ lawsuit on the Title I

negotiated rulemaking process claiming your failure to include an equitable number of parents in the process. As I mentioned to the Secretary, the most important thing we want to avoid is demonstrations against the law; the last thing we want is to exclude parents from being involved or have them feel that they are not involved. So this is something that obviously has to be worked through, and I would be interested in what you are doing on that.

Then, finally, because my time is up, on the reading program, as you know, the law is clear that programs the Reading First funds can support are a wide variety of programs—they are not limited to programs that focus on classroom-based instruction; they can also be used for small group instruction and individual tutoring programs that may not benefit the whole class as long as they are research-based strategies. Your guidance emphasizes that classroom-based instruction is the focus of Reading First, so I want to be clear that States that want to also fund small group and individual tutoring programs will not be prohibited from doing so.

Mr. HICKOK. Let me comment on the suit, and I will ask Susan to comment on Reading First.

The CHAIRMAN. Okay, thank you.

Mr. HICKOK. The suit is before the court. The plaintiffs sought a temporary restraining order before negotiated rulemaking started, and the court did not grant that.

Our position is that while the negotiated rulemaking process outlines certain organizations or certain sectors that need to be at the table—and parents are among them—we took the position that—two things—one, we wanted to make sure that people engaged in the daily delivery of education, including parents, at the table—not just representatives of organizations here in the Capital City, although there were some of those there at the table as well. Second, a lot of folks really wear a couple of different hats. They might be experts on teaching or curriculum, but they are also parents. So we felt it was a rather false kind of structure to say that only two parents are at the table because “two are there to represent parents.”

The CHAIRMAN. Two out of the 19. I guess the category is 19, and two out of the 19 are parents; the others, as I understand, are representatives of different groups, which are not parents.

Ms. NEUMAN. Many were parents as well.

Mr. HICKOK. But I guess our point is that although many at the table are parents as well as other education-related occupations, so we felt that they bring many non-parent hats to the table. That is my point.

On Reading First, I will let Susan comment.

Ms. NEUMAN. Just one other anecdote which is I think indicative of the negotiated rulemaking process. One of the parents, after the whole process was over, came up and testified before the group and said that in the beginning, she felt like she might not have a great deal to contribute, but at the end, she felt that her voice had been heard and that people were very responsive to the parent comments.

So that Under Secretary Hickok’s point about wearing multiple hats was very clear throughout the whole process.

In terms of Reading First, Reading First is really designed to improve reading instruction, moving it from an art to a science. What

we are saying is that this is the most major reform we have seen in the history of our country, really focusing on what are the scientific principles of reading, what do we know, and then beginning to place what we know in classroom instruction.

We know that the benefits of scientific-based instruction will help all children learn to read, but especially those children who have had very little opportunity.

There was a famous study done by Dick Ellington who talked about the children who are struggling readers. Very often, they are the children who are taken to different places. They are pulled out for one thing, they are pulled out for another thing, and they end up having less instruction than any classroom-based instruction because they are so often pulled in various places.

So what we are saying about Reading First is that the primary venue of instruction is the classroom, because we know that that classroom is so critically important.

What we are saying also is that at times, teachers will need to provide supplemental instruction. That means that at times, they will have opportunities for supplemental instruction with small groups in various places perhaps outside the classroom. But the primary venue is the classroom, because that is where the rigor, the intensity, the quality of instruction really allows all children to succeed.

The CHAIRMAN. Just to read the language, and then I will yield, it says, "The conference intends that State educational agencies and local educational agencies are to be able to select from a wide variety of quality programs and interventions to fund under Reading First and Early Reading First, including small group and one-to-one tutoring, as long as those programs are based in research meeting the criteria and the definition of scientifically-based reading research."

So this is what was agreed to in the conference, and I think small groups and one-to-one tutoring, as I understand, were included in the conference as long as they were based upon scientifically-based research.

Ms. NEUMAN. And that really means that they have to focus on the five components, that we agree completely on the five components of what we know is high-quality reading instruction—phonemic awareness, phonics, fluency, vocabulary and comprehensive.

Very often, the one-to-one, if they are provided extra instruction, they have to have the full components of what we know is quality instruction, scientifically-based.

The CHAIRMAN. Senator Gregg.

Senator GREGG. Just following up on that, I think that was the Senator's point by reading the language of the report. For example, programs like Reading Recovery, which is a program that is very popular in a lot of New England schools, I presume would come under this reading agenda.

But on another issue, what are the top five concerns that you are hearing from the State administrators and from the local, hands-on deliverers of education about the way this bill will be administered?

Mr. HICKOK. I think they are probably the ones that many of you have heard. One is the adequate yearly progress issue, which the

law is pretty definitive about. Another one is capacity, the ability to manage the amount of information adequately that they will get in testing.

I have to tell you that one thing I have really learned on this job compared to my job in Pennsylvania is that a lot of States have not done a lot of capacity-building in terms of being able to collect lots of information on student achievement and then to use that information. I am stunned at how many places test kids but never use the results to improve student performance or curriculum or testing—which is what testing is all about, obviously. So that is a big concern, I think.

I think there is a general level of anxiety out there about how a State moves from where it is to full compliance on the testing accountability system. Frankly, we have not heard a lot of negatives on the accountability system; it is more about how we are going to get there and concern about implementation on their part.

I would say those are the primary issues, and we share those concerns. That is one reason why we are talking about trying to do the partnerships.

The other one is—and it really has not been an issue that has been discussed a lot yet, at least in the field, although I am eager to make sure it is discussed—making sure that those provisions for public school choice and supplemental educational services that need to kick in this fall are going to kick in. They are going to need some real guidance and support on how to go about doing that business.

But I would say that is mostly it.

Susan, do you have anything else?

Ms. NEUMAN. No.

Senator GREGG. What is the number of schools that you think are going to kick in this fall as unfortunately having met the failing level that will make public school choice and supplemental services available?

Mr. HICKOK. We should have a more definitive answer to that sometime at the end of May. I should explain the process and how it has changed. Right now and in the previous years, the Department receives from the States a list of the number of schools that are failing to make adequate yearly progress as identified by the State and as AYP is defined by the State. That number varies. I have seen figures from 6,000 to 8,000. It depends on the school year.

Now they have to tell us not just how many schools but which schools, and that is what they are busy doing right now. So I cannot really answer that question yet, but we think it will be somewhere around 3,000 to 5,000; that is based upon current numbers that we have.

Senator GREGG. So, 3,000 to 5,000 schools where you will immediately, theoretically, have available public school choice or supplemental services as an option to the parents. How do you see that actually being instituted?

Mr. HICKOK. Well, I think one of the first challenges we have is to make sure that parents know that this is an option that should be available. Secretary Paige in one of his first correspondences with the State Chiefs talked about making sure they are ready at

the State and local level to identify the schools and to put together a process for public school choices and for supplemental services.

We are thinking about convening a pretty large meeting of folks from States and from supplemental service providers to talk about putting structures in place. We know that some States are busy preparing. We have prepared some preliminary guidance—we are not ready to send it out yet—so we are eager to help them get there.

But our challenge right now is to make sure that parents know what should be available, and then to talk to districts and States about how they should go about doing this. But we do not anticipate, nor do we think we should, at the Federal level getting down directly into implementing or telling them how to implement choice in supplemental services, but making sure that it is there.

Senator GREGG. One presumes that it is going to be virtually impossible to assume that even a high percentage of those 3,000 to 5,000 schools are going to have in place options which will have been screened by the local education community as available and effective for supplemental services or maybe even options in the public school choice area. Isn't it likely that we are going to have a fair amount of disorientation here for a little while?

Mr. HICKOK. I think there are those who would like to make the argument that the choice provisions, at least in some places, are a false hope, either because enrollment is above capacity so there are no empty seats for them in some places, or because in some districts, the number of schools falling into this needing improvement category is so large, frankly—I think of some of the districts from my home State of Pennsylvania, for example—that the ability to move to a school that is not in need of improvement is somewhat cut short.

I guess one of my responses to that is that if you inform parents that their children should have the option of attending a school that works, and then tell them “but in reality, you do not have that option,” I think you will see a level of interest at the local level in charter school and in making that choice available that we have never seen before. And I think that is important.

On supplemental services, I have heard quite a bit from a variety of sectors of interest in getting ready to provide supplemental services. I have encouraged folks in higher education, for example—a lot of our major cities have lots of institutions of postsecondary and higher education. They might be very appropriate providers of supplemental services. We know of places like Sylvan and Huntington who are talking.

So I tend to think the supplemental services aspect of this might become more available quicker because there is sort of a market there, if you will.

On public school choice, I think we are going to have to make sure that that choice becomes available.

Senator GREGG. I think we sort of presumed that when we did the bill, actually, or at least I did. And I think what you are saying is that the marketplace is going to respond, and I think it will, and I hope we are both right.

Thank you.

The CHAIRMAN. Senator Dodd.

Senator DODD. Thank you, Mr. Chairman, and thank you for conducting this oversight hearing.

I thank both of our witnesses for being here today.

I said last year when we began the process of dealing with the Elementary and Secondary Education Act that I saw a welcome change of heart. I remember only a few years ago at a summit when Republicans were talking about eliminating the Department of Education. We have come a long way from those days, and that is heartening. I commend the President for taking such a strong interest in the subject matter from the very beginning of his administration. He certainly has made this an important issue.

I want to raise in my remarks a general question and then a couple of very specific ones on the draft regulations. One is the obvious one that has been raised by others already, and that is a rather paltry commitment financially to elementary and secondary education, particularly under this particular proposal where we see freezes or cuts in a number of areas that many of us worked on in a bipartisan fashion—hiring and training quality teachers, after-school programs, bilingual programs, Safe and Drug-Free Schools, which Senator DeWine and I worked on for years, serving only about 40 percent of low-income children under Title I, and less than half the increase the Senate proposes for special education, just to mention a few.

Some have argued that we are actually looking at a 2 percent reduction in elementary and secondary education. The President said that “Washington should be giving help to our schools, not giving orders.” Yet in this bill, there are some orders. The mandatory testing is not a request—it is an order—and the question is whether schools and localities, with the tremendous pressures they are under financially, are going to meet these obligations with the lack of resources that is proposed in the budget.

Now, the two specific questions have to do, one, with the civil rights provisions in the bill. We worked very, very hard, as I am sure both of you know, to allow certain community-based organizations to participate in some of the programs, and we also included the critical civil rights protections in the law to protect the rights of students, employees, and others. Yet the draft guidance that the Department has issued concerning after-school programs makes virtually no reference to these critical protections. We have not seen the guidance on supplemental services. So my question is why the department did not include the civil rights in its draft guidance and whether you intend to do so, as I certainly hope you would. In fact, I would note that the draft after-school guidance states that “The Secretary cannot waive civil rights provisions,” but nowhere describes what those protections are.

I see you nodding your head affirmatively, so I presume that is going to get back in here somewhere.

Ms. NEUMAN. Exactly.

Senator DODD. Is that correct?

Ms. NEUMAN. Yes. In fact, we are working on it now. It is in the last process. You should see that rather soon.

Senator DODD. That is good. I am glad to hear that.

My second question deals with professional development for early childhood educators—also something I worked to include in the leg-

isolation—to help prepare children to be ready for school. I have cited the statistics—78 percent of all women with school-age children are in the work force; 65 percent of women with children under the age of 6 are in the work force; and 50 percent of women with infant children are in the work force.

So the issue of working with these children where they are before they begin school is critical. Kindergarten teachers tell us today a staggering number of children come into the system not ready to learn. There does not seem to be any willingness to talk about the child care, the quality of child care, where so many of these children are. We are only serving a small percentage of eligible children under the Child Care Development Block Grant—even though the social, emotional, cognitive, and physical skills that make it possible for children to be ready to learn, or ready to read or achieve early literacy, are so critical.

My question is whether the Department intends to limit this program to a pre-reading program as suggested in the budget or administer it in keeping with the broader policy proposals that we included in our statutory language.

Let me engage you on the larger issue here—no one seems to want to talk about child care, and yet that is where most of these kids are before they start school. Head Start serves 900,000 kids, but that is not a huge program. There are 14 million kids under the age of 6 in child care—14 million—every day.

Ms. NEUMAN. I know those numbers well. As a researcher in early childhood, a teacher in reading and early childhood, I very much understand and appreciate your point.

I think we are doing a great deal in this area, and to answer your first point, I think that when we talk about early childhood professional development, we are talking about the whole child and that we cannot divorce the social, emotional, and cognitive development. But so very often, we have overestimated or thought about child care provider and not child care teachers.

One of the things that we need to recognize is that these people are teachers of our children, and our children are not coming to school well-prepared. So one of the things that we are trying to do in early childhood professional development as well as Early Reading First is bring these areas together—and not dichotomizing the field, where we are talking about social/emotional, and now we are talking about cognitive—but really encouraging professional development that focuses on the whole child and what that child needs to have in order to go to school.

So we are looking at the early childhood professional development in a much more broad way.

Senator DODD. Again, I come back to the budget issue—you freeze the Child Care Development Block Grant program, and yet we now know that with welfare reform, we are going to be moving to larger work requirements. My fear is that we will still continue to serve the welfare recipient, but the working poor who are trying to stay out of welfare, hanging barely by their fingernails, are going to be excluded because we do not have the resources to provide the accessible, affordable, and quality child care that is essential to do exactly what you have just described doing.

Ms. NEUMAN. I wish it were our program, but it is HHS. So the whole child care provider issue is not our issue.

Senator DODD. But we are talking about the budget. My point is you are talking about that same child. It may be a different agency of Government, but it is the same kid; and the fact that you have two agencies dealing with the same child does not minimize the problem—if you are cutting the resources at one level and freezing them at another and talking about expanding the requirements, it does not work. That is my point.

Mr. HICKOK. If I could just make one brief follow-up, I mentioned in my earlier comments how the research in education is pretty spotty. What is really disappointing is that we do know—and this lady is one of the chief architects—what works in terms of early childhood cognitive development. And what we do not do in this country is a very good job of making sure we do what works.

So one of our goals, whether it is with child care or Head Start or Early Reading or whatever, is to make sure we do what works. It is one thing to not know the answer to some of these problems—and there are a lot of answers that we do not have—but on education and reading, we do.

Senator DODD. We do. And my point simply is that we intended to have a broad application of those concepts in here as we talked about the training and development of teachers to work in the early childhood development phase, the critical phase, and that is the issue I wanted to raise with you as well as the issue of your budgetary commitments.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

Mr. Hickok, Ms. Neuman, I want to start by thanking you for your hard work. I know it is a monumental task that you have undertaken, and I am impressed with how quickly the Department is moving to implement the new law. That is heartening to all of us who worked so hard on it last year, particularly our chairman and our ranking Republican member, and I am very pleased to see the progress that you have made.

As I mentioned in my opening statement, I am particularly concerned about the reading programs and worked very hard on the Reading First and Early Reading First programs. I have long been convinced that the best way for us to achieve the goal of leaving no child behind is to teach every child to read.

Maine has had tremendous success with its reading emphasis, and indeed, our third and fourth graders rank among the top in the Nation on reading scores. One reason is because in addition to the emphasis on reading and using research-based methods, we have very successfully incorporated the Reading Recovery program that Senator Gregg referred to in his statement.

Therefore, I share the concerns mentioned by Senator Kennedy and by Senator Gregg that some of the guidelines in the reading program appear to not allow for funding of Reading Recovery, and indeed there are references to classroom-only or small group throughout the guidelines.

Will the guidelines be able to either be revised to make it clear that successful programs like Reading Recovery and other one-to-one tutoring could be funded with Reading First dollars?

Ms. NEUMAN. It surely can be funded by Reading First dollars. Reading Recover—and I am very familiar with the program as well as all the research attached to it—has never described itself as a classroom-based or a program other than that for early intervention and acceleration of reading for those children who are struggling readers.

Therefore, what we are saying with Reading First is not to preclude Reading Recovery at all, but to suggest its rightful place in reading reform. What we know is that reading instruction really needs a strong classroom-based, comprehensive-based, a coherent skill-based instruction that really encourages all five of the key elements, essential elements, of instruction.

Reading Recovery has a place at the table, but it cannot be the only thing, because it is not a comprehensive program.

Senator COLLINS. I agree that it should not be the only emphasis, but you cannot argue with the success that States like Maine have had where our scores nationally, year after year, top the Nation, and the reading specialists that I talk to in Maine, plus our State department of education, say that Reading Recovery is very much an essential part of that success.

I just want to make sure that the Department is taking a broad approach, because our goal here is to teach children to read and to read well and to intervene early so that we are teaching children to read while that window of literacy is still open and before it slams shut after the third grade and makes it so much more difficult.

Ms. NEUMAN. As I said, we are not precluding, and one of the wonderful things about Maine is that they have been on the top of the NAEP list for a long, long time, even before Reading Recovery was in this country. So you have a history of reading success in Maine that I am sure will continue.

Mr. HICKOK. Another point is that we want to make sure that we complement the kind of remediation that Reading Recovery is all about, dealing with students who are falling behind. What we want to do is emphasize in a more proactive sense what we need to do as a Nation so that fewer students begin to fall by the wayside and need Reading Recovery. That is not to say that Reading Recovery has not worked. It is a different kind of program. I think we want to have a balance there somehow.

Senator COLLINS. Well, again, I guess I would say that States that are successfully teaching their children to read are States that we should learn from and look at what is being successfully used.

Let me move on quickly to another issue. I am very pleased to see the proposed regulations on the assessment issue which has been very important to my State. Again, Maine has led the Nation in developing a standards-based assessment system that does stress high standards for all students and accountability, and we have a mixture of Statewide tests in some years, supplemented by local assessments in other years to measure students' progress. But always the emphasis is on high standards, measurement, accountability—exactly the themes that undermine this legislation.

Therefore, I know that you have conflicting letters from members of this committee on this issue, and I want to emphasize my belief that you are doing the right things by not mandating a single Statewide assessment test but rather, allowing States to have the flexibility, and that again, the important point is making sure that our children are learning, that there are concrete, good, solid measurements, and that we hold schools and everybody in the system accountable.

Mr. HICKOK. Just by way of reaction, I think most States—as I said, I was in Pennsylvania for 6 years—most States have a system of accountability. The challenge of No Child Left Behind is for every State to have a more rational, systemic approach to accountability.

I think the goal for all of this is the same. Some States will get there differently, but the goal here is to have State standards and a testing system that somehow measures student knowledge based on those standards. And how individual States get there will be different, and our job will be to talk to those States and listen to those States and see if they are ending up where they need to end up.

Senator COLLINS. Ms. Neuman.

Ms. NEUMAN. I was just going to add—but the bar will be high, in response to Senator Kennedy and a number of other people who wrote a note. The bar will be high. In other words, those States that choose—we have about five States right now who have chosen to do local State assessments. And I agree with you so importantly that the goal is to have a high-quality system with high content standards, high-quality content standards, and an assessment. But the bar will be high in that the local assessments will have to provide evidence that they are the highest-quality equivalent to the State assessment as well. For those States who can do that, we believe that the content, rigor, and quality will be the same.

Senator COLLINS. Thank you very much.

The CHAIRMAN. We will come back to that.

Senator COLLINS. You cannot; I have to leave. [Laughter.]

The CHAIRMAN. Senator Jeffords.

Senator JEFFORDS. Thank you.

I want to move you back in history a little bit. I was around in 1983 when President Reagan was President, and he had Terry Bell as his Secretary of Education. At that time, he released a report entitled “A Nation at Risk.” I remember that very well, because I worked with him and worked with him beyond that.

I am disturbed when I look at the present situation and all the problems. Since that time we have done nothing in this Nation to improve the percentage of the costs that our local governments bear for providing education—in fact, it is even worse now than it was back then. And as I look through some of the things that we have been talking about, it would take about \$55 billion to really give us the child care with the appropriate educational help, about \$25 billion to lengthen our school days and school year; and it would take another large amount of money to be able to reach all the standards that we are applying—and there are no funds there.

So I just wonder if we are going to walk into a situation where—and I praised the President when I first met with him and I praise him now for getting the testing in that will show us where we real-

ly are—but the question is where are the resources going to come from, and I have seen nothing out of the administration that is going to provide anything close to the funding that is necessary in that respect.

I would just ask you if you feel that we are not just setting ourselves up for a huge failure? I look at Vermont and the number of schools that we could have. In our little State, we have 300 schools, but it looks to me like 100 of those may be on the failing side, and we do not have any resources to change that.

I would also point back historically that the only time we have really helped our schools was back in 1948, when we provided about 11 percent of the total Federal budget for education; now we are down to a paltry amount of 1.5 percent of our Federal budget goes toward education.

In all of our competitor nations, the amount of money that they furnish to their local schools reaches about 30 percent of the cost of those schools; we reach about 7 percent of the cost of the schools at the Federal level.

I just want to strongly insist that we are going to have a disaster on our hands if we do not have methodology to provide the financing that is necessary. I am going to try my best to get that financing, but I have seen no willingness in the administration to recognize the serious problems that are there and no ideas on how the resources are going to be there to take care of these kids when the schools are failing.

Mr. HICKOK. May I respond?

Senator JEFFORDS. Yes.

Mr. HICKOK. I remember the Nation at Risk report very well, and I look back on that report and the time since then in terms of dollars, Federal, State and local—but you are right, primarily State and local—and I guess I read it as telling me that we have spent a lot of money on education. It is clearly a very high priority at the State and local level. Yet we are still in many ways a Nation at risk, so much so that this committee and this Congress got together with this President and passed No Child Left Behind as a sort of high priority.

So to me, the issue, in addition to resources, which will always be a major issue, is the wisdom with which we spend those resources. And I have to say, having sat in a State Chief's chair in Pennsylvania for 6 years, that I am convinced that the schools in that State over that 6-year period could do a much better job of spending the resources they get. Certainly they could use more resources, and I think we can debate and obviously will debate the adequacy of the resources. But I think that what we really want to talk about is what are those dollars doing in terms of results for kids. And we are beginning to do that in this country. We are beginning to do that in every State with accountability systems. We are beginning to do that at the Federal level with No Child Left Behind.

But that is a relatively new conversation in education, and I am glad it is here. I welcome it. It will be very difficult. I would make the argument, Senator, that with a strong accountability system, it will be easier to recognize where the needs are in education, because we will have a bottom line. We will know where students are

not succeeding. We will know where subpopulations are not succeeding, and that will make it easier to make the case for more resources, because then we can really focus where the need is. Up until now, that has not been the case.

Senator JEFFORDS. We know where the needs are. The Glenn report that came out was terribly disturbed at the fact that we do not have the resources already in the schools for the mathematics which is necessary. I think the title, "Before it is Too Late," I think says it all. How are we going to do it without more resources?

I just anguish at the thought of all the results of the testing, which is great—we will know how bad we are—but unless there is a real look and some plan for how we are going to make those resources available, I think we are going to have an ungodly disaster on our hands next fall.

Ms. NEUMAN. I would beg to disagree. One of the things that we say about No Child Left Behind is that there is a theory of action here. As Under Secretary Hickok said, one of the things that we are going to find through this accountability is we are going to disaggregate the data, and we are going to see where we really area. That is the first point.

But what we have is Reading First, and Reading First is part of the solution. We have never tackled reading instruction in our country as dramatically as we are about to. Further, we have \$100 million more going into the 2003 budget.

So when we begin to put in scientifically-based practice—I mean, we have done a lot of research in the field of reading; as a reading researcher, I can tell you that we have done many, many hears of research—and we have never put it in the classroom. We have never used it effectively.

Senator JEFFORDS. No; because we do not have the money.

Ms. NEUMAN. Now we have the resources to do that and to target—

Senator JEFFORDS. We do?

Ms. NEUMAN. Yes, and to target professional development, to really train our teachers who have not been trained adequately to really teach reading to our young children.

Senator JEFFORDS. Where are the resources?

Ms. NEUMAN. Reading First. More than three times the amount of the Reading Excellence Act; a more comprehensive, more targeted sources of funding.

Senator JEFFORDS. How much money is that in millions of dollars or billions of dollars?

Ms. NEUMAN. It is enough to get the job done.

The CHAIRMAN. It is a billion dollars, and the Early Reading Program is \$75 million.

Senator JEFFORDS. There is nowhere near enough resources for all of this. I hate to go longer on this, but I just get so disturbed, Mr. Chairman, when I look back at those times and the warnings we had, and we have not made a change since then in the resources, and every other nation in this world does it, and we do not, and we wonder why we are last in the world in math and science—that is why.

The CHAIRMAN. We will keep the record open. We have had great attendance today, with a lot of different things going on. One thing

I think, from the quality of the conversations, is that we should try to do this about every 6 or 7 weeks—isn't this enjoyable for you?

Ms. NEUMAN. I hope you are kidding.

Mr. HICKOK. We will be here, Senator.

The CHAIRMAN. There is a real desire here to stay on top of this law. We know that you have a lot of things to do, but this is enormously important, and we will try to organize it and let you know—

Senator GREGG. Is that during the school year, every 6 or 7 weeks?

The CHAIRMAN. We will let you know the areas that we are interested in so we focus the subsequent hearings. We will ask the committee to focus, too—and this obviously will not restrict them—but to give you an idea of the topics of interest. We do want to try to monitor this.

Senator Murray.

Senator MURRAY. Thank you, Mr. Chairman.

Let me just thank Senator Jeffords for his remarks. I think they get to the guts of the frustration that many of us have. When we worked hard to pass the ESEA bill last year, there were two sides to it—one was higher standards and accountability, and I think we all agreed on that and moved it forward and worked hard on that; but the other side was that we were going to provide the resources for districts to make it work. With all due respect, just having a reading program in place, without understanding that you cannot put a child in a classroom with 35 kids, implement any kind of reading program and expect a 6-year-old, who may come from a variety of different backgrounds, to learn to read is not enough. It takes smaller class size. We know that. All good tests show that. We know that you need a teacher who is trained, and putting some emphasis on that is critical. But we are going to be testing these kids and saying they are failing without providing the resources to address this. I am very frustrated with the President's budget and its lack of money and resources.

How much of the Federal budget did you say goes to education, Senator Jeffords?

Senator JEFFORDS. To primary and secondary, 1.5 percent.

Senator MURRAY. One-point-five percent. That is really the crux of the problem.

Besides all of that, let me focus it even more for you. I want to talk about a school district in my State, the Klickitat school district. It is a K-12 school district with 178 students. It is like a lot of rural school districts around the country. It has severe teacher shortages. It has extremely high transportation costs, because it is a large district, and they have to transport the kids across long distances. They do not have advanced classes. They only have 178 students in the district. They receive hardly any Federal grant money because they are too small to effectively use funding.

In our ESEA bill, we included a rural schools program to provide some additional funding and flexibility for districts like this. They are going to have to meet the accountability standards just like every other district. They are going to need certified teachers when standards ratchet up next year, without any additional funds since the administration zeroed that out.

I want to know how rural districts like Klickitat school district are going to be able to meet the requirements if we have not provided the funds they need to make that happen.

Mr. HICKOK. One of my responses is that the law does provide for a variety of different approaches to flexibility. I think it is the first time, as a matter of fact, that the Federal law provides for opportunities for flexibility designed at the local level, the school district level.

So I tend to think in terms of opportunities in these laws that are not necessarily defined by the certain title.

Senator MURRAY. But when we did the ESEA bill, we did a rural schools portion, because we recognized what we were putting on top of these very small school districts challenges that are beyond what they can deal with at the local level—but the President's budget zero-funded it.

Mr. HICKOK. I think this budget—and I am talking about the larger portion of the budget, not just the rural schools—is a budget that reflects two things. It is war time, and this is a responsible approach to funding education.

Senator MURRAY. I will tell you that it is war time in our classrooms. My State, like Senator Wellstone's and like a lot of other States, is in a severe budget crisis right now. Washington State cut \$1.5 billion out of a \$20 billion budget. They are not going to have increased funds for schools, but they are receiving a Federal requirement right now to have a lot more accountability and testing, to live up to standards. Their class sizes are going to be increased. I know that Senator Wellstone's State is laying off teachers; I assume many other States are as well.

There is a crisis in our schools—there is a war-time crisis, you bet—but it is because kids are being asked to do an awful lot without the resources behind it. That is our responsibility. We are failing these kids.

Mr. HICKOK. Well, you mentioned the testing. As you know, the budget calls for money to develop a test and—

Senator JEFFORDS. Only after we made you do it.

Mr. HICKOK. The budget does include money to develop the test.

I guess I cannot comment about that particular district, obviously, and I will be glad to look at it, but I know it is an illustration of a larger concern, and that is rural schools.

Senator MURRAY. I appreciate that you are trying to do the right thing, but I think it is unfair to say to our kids in our classrooms that we are in a war time situation, and therefore, we are not going to provide you the resources that you need to be a competent adult. We are going to require you to take tests. We are going to require you to live up to accountability, but we are not going to be there to help you do that.

Mr. HICKOK. And I would argue that it is unfair to tell the taxpayers of this great Nation—State and local taxpayers who have always shouldered more of the burden on this than Federal tax dollars—it is unfair to tell them that we should expect more money from you to continue to do what has not worked. We have now asked for record increases in the last couple of years. This money is just beginning to move toward the school districts. Let us see what kind of impact it begins to have.

I just think that we as a Nation—you are exactly right, the Federal contribution has never been that large; it is larger now than in the past—but that is not a reflection of how much this Nation spends on education.

Ms. NEUMAN. I would just like to add one other point. I think it is a classic example of what I think is so important to us. You have a wonderful Reading Excellence Act director. Her name is Jo Robinson. And you also have a wonderful Chief State School Officer who has done some incredible things in accountability.

My point is that Jo Robinson is the kind of woman who has made a program work. She has begun to be more influential in scientifically-based reading instruction in your State, and she has done it sometimes at tremendous effort when there has not been a great deal of funding for REA, yet she did it, and she did it because she approached the Reading Excellence Act intelligently, she used the funds appropriately, and she is getting results.

Senator MURRAY. I will not quibble with you about her skills, but I will tell you this. I have been in a classroom. I have taught. I know what happens when you have 26 kids in a classroom. I have been there. I have specifically been in that situation many times, not just once, but I will give you one example.

I had 26 kids in my classroom. We were talking about the letter “A.” Each child was supposed to tell us something that started with the letter “A.” I turned to the first child, and he said to me: “My dad did not come home last night.”

Now, you tell me how I deal with that child and the difficult situation he is in, with 25 other kids who are squirrely at best, and I have to do a test the next week on reading.

We have to put the resources there to reduce the class size so the teacher has the ability to deal with situations that none of us can imagine. We have to make sure that that teacher has training, not just in reading—and reading is important—but in all the other skills that are so difficult. We need them to be in classrooms where the roofs are not leaking, and kids are not required to go outside to another building because there is no water or no facilities in the building, as in districts that we have across our States.

So I really appreciate and applaud the reading program; I think it is absolutely essential. I will tell you that. But if we have just rhetoric here about how great we are doing, and we do not provide the dollars that are needed in our districts, we are going to have a failure on our hands.

Thank you, Madam Chairman.

Senator CLINTON. [presiding]. Senator Wellstone?

Senator WELLSTONE. Thank you, Madam Chairman.

I appreciate you being here.

First of all, I agree with my colleagues here. Part of what we have done is we have a Federal mandate that you are going to test every child in grades 3 through 8, but we do not have a Federal mandate that every child is going to have the same opportunity to do well. And our schools and our teachers down at the local level are saying, first of all, where are the resources to make sure these children can do well, and then—and I like the idea of disaggregating; I think that is very important—and then, after we

know which children are not doing as well, where is the additional help—where are the resources?

I have to tell you, Mr. Hickok, you mentioned the taxpayers—I guarantee you that people in Minnesota want more Federal funding for education. We are seeing in some school districts as many as 20 percent of the teachers cut. My daughter’s Spanish class is now up to 50 students, and that is supposed to be a “conversation” class. My son teaches in an inner city school in Saint Paul, and they are going without the resources. Minnesota wanted that bill that we passed in the Senate that said that we were going to take special ed, and on a glidepath, we were going to fund it for 6 years. That would be \$2 billion more over 10 years for my State. Now the administration and the House Republican leadership came in and blocked it.

In Minnesota any day of the year, people would say we want the Federal Government to live up to its commitment, and if you ask people whether they want to have all these Robin-Hood-in-reverse tax cuts for the top one percent wealthiest Americans, or if you want to take some of what was going to be there and put it instead into education so our kids can all have the same chance, I am prepared to stake my reputation and I guess my career here in the Senate on the proposition that people would say give us some more resources for our schools and our kids. But, under the President’s budget the money is just not there.

I have been in a school in Minnesota every 2 weeks, and I have found few teachers who subtract from children; most of them add. But they do not need tests to tell them which kids are not doing well. What are we talking about here? We know which kids come to kindergarten not prepared. We know which kids come to school hungry. We know which kids come to school where English is a second language. We know which kids are on free and reduced school lunch. We know which kids never had the educational stimulation before kindergarten, and we know which kids move two and three times a year because there is lack of affordable housing.

We already know which kids do not do well. Our question is whatever happened to “leave no child behind”? That is the mission statement of the Children’s Defense Fund. You have given us a tin cup budget. That is a charade. You do not achieve the goal of leaving no child behind on a tin cup budget, and that is what we have. It is symbolic politics with children’s lives. That is what the President’s budget is.

Now that I have gotten that off my chest, a question. Members of the Red Lake Tribe in Minnesota talk about ESEA, and one of the things they are worried about is Title VII, where there is a 5 percent cap on administrative costs for the local education agencies. But tribes around the country are frustrated because this is the only place in the bill where there is a cap on the LEA. What they are saying is that some of the actual delivery of services might be considered administration.

So my question is whether you would be willing to work with the tribes in developing these regulations so that we can make sure that the administrative caps do not actually end up harming the tribes’ ability to provide education.

Mr. HICKOK. Yes. I looked at that before I came over, and most definitely, most definitely. These are some of the children who are most necessarily needing these services, so yes, we will be able to look at that.

Senator WELLSTONE. Would you be willing to work with people in Indian country? There is a whole set of rules and regulations here that are critically important. I think that what they want to do is have a chance to sit down at the table with you.

Mr. HICKOK. Yes, yes.

Senator WELLSTONE. I much appreciate that.

On test quality funding—am I out of time.

Senator CLINTON. No. Go ahead.

Senator WELLSTONE. Okay. The whole question of making sure we do testing the right way was something that I wanted to focus on a lot in the education bill. I have three questions that go together. Do you agree that test quality is something that we have to continue to work on and improve and that we need more valid and reliable tests? Will you ensure that States provide evidence of test quality, and will your Department enforce that important requirement? We added this requirement because we wanted to make sure, you will remember, that States did not just take off the shelf standardized tests. We said, look, tests have to be related to curriculum, they have to be high-quality. So, given the importance of test quality, why did the administration propose to cut the funding available for the Test Quality Enhancement grants by \$10 million? We had some money in there that would basically enable States to do their own work and come up with models for improvement, and my understanding is that that was cut by \$10 million. I am just asking why; it is sort of a one-two-three question.

Mr. HICKOK. Overall on the test quality issue and accountability issue, as Dr. Neuman said, the bar is going to be very high especially on the test quality. There are experts on this that we call psychometricians. They know far more about these issues than I ever will, thankfully, but their job, working with us, will be to look at the degree to which these tests relate to standards in the State and have validity and high quality. That is a very important concept for us. It is the heart of the accountability system. So the bar will be very, very high. And that is not meant to send the message that you cannot get there; it is meant to send the message that all of us take this responsibility seriously.

Senator WELLSTONE. Ms. Neuman, did you have something to add?

Ms. NEUMAN. As you know, the negotiated rulemaking focused on criteria reference tests and norm reference augmented. We will have a process similar to what we have already had in the Department of Education, and that is to subject all evidence to a very stringent peer review process that really focuses on alignment issues which we have not talked about today—alignment is critical because it really focuses on whether we begin to test what we teach—and valid and reliable among those things. That process will continue, and in the new regulations what we will see are actually three options. States will be able to have criteria reference, criteria reference and norm reference augmented, or if they do it

in the same year, criteria reference and norm reference in the same year.

Senator WELLSTONE. Can I interrupt you, because I only have about one minute left.

Ms. NEUMAN. Sure.

Senator WELLSTONE. So the point is we do not want a focus on just a single standardized test, and we do not want teachers to teach to the test. We want it to be related to curriculum, and we want to use the best judgment of people in the professional testing field to make sure that they are high quality.

Well, I want to tell you that I think that is really important, and I think that if the accountability piece is done the right way, it works, but if it is not, it is going to invite a lot of backlash.

Then, my final point—and I am sorry to sort of speak at you—I again want to say in a quiet way, please remember, though—and I know you know this—that the test is no substitute for a good teacher.

Ms. NEUMAN. Oh, I agree.

Senator WELLSTONE. [continuing]. And it takes a large investment to have good teachers and maintain good teachers. A lot of our problem is not just recruitment, but retention. The test is no substitute for smaller class size, and it is no substitute for good technology, and it is no substitute for good pre-kindergarten programs, and it is no substitute for good after-school programs, and it is no substitute for getting more help to these kids when they fall behind, when we find out that they are behind in reading or math. That is where our schools are strapped for resources. That is where we should have done better, starting with special ed, then moving on to other programs. I really believe that. I know you want the accountability; I just think you have got to also have the——

Ms. NEUMAN. Right.

Senator WELLSTONE. [continuing]. The opportunity should go with the accountability is what I am saying.

Ms. NEUMAN. A little point, and that is that professional development is throughout this bill, and I know you well know that, but in early childhood, in reading, and Title II has professional development, and smaller class size is an option within that. We have professional development in Title I.

So I think we all agree that helping our teachers really begin to teach our children well is critical.

Senator WELLSTONE. Thank you.

Mr. HICKOK. Could I just say something?

Senator CLINTON. Certainly.

Mr. HICKOK. You mentioned special education a couple of times and——

Senator WELLSTONE. And I mentioned Title I, too, if you want to comment on that.

Mr. HICKOK. [continuing]. On special education, as you know, that is going to be up for reauthorization. And I guess I can think of no tougher or more important issue, frankly, for Congress to work on than looking at IDEA and making sure that its promise can be fulfilled.

It is a very tough issue. It is full of litigation, it is full of emotion, it is full of money. It is one of those issues that every district really grapples with, and every State does, and I know that Members of Congress and the administration do.

But I think one of our challenges is how to make sure that the “E” in IDEA is taking place. So as reauthorization begins, the President has appointed a commission to look at excellence in special education. Their ideas will come to the table. We will have some ideas. I cannot say I welcome the conversation, because it is going to be difficult, but it is a very important one—and I think money will be a part of it as well, obviously. But IDEA is so much a challenge—a human challenge—that I think we will get a chance, working together, to talk about how to make sure it is doing what it should do, and it is a combination of policies and dollars.

Senator CLINTON. I want to thank Secretaries Neuman and Hickok for being here. I was delighted by our chairman’s statement that we will do this on a regular basis, because I think all of us are deeply concerned about how we implement the changes that were made last year. So I greatly appreciate your both being here. I look forward to the continuing dialogue that I think is necessary to ensure that we do what we intended to do.

I have a number of questions. Secretary Neuman, to go back to Senator Collins’ point, I listened carefully to your answer and I just have to confess that I did not understand it with respect to Reading Recovery. Is Reading Recovery going to be defined as one of the number of programs that schools may support?

Ms. NEUMAN. We do not define anything. One of the—

Senator CLINTON. Well, let me just reference the Title I Monitor of March 2002 where, according to that report, the Department actively did promote certain reading programs at the Reading Leadership Academies and discouraged the use of others.

Taking that information and combining it with Department regulations that are restricting funds to classroom-use-only programs, to my reading—and I may not read as well as I should; maybe I need some intensive help—but to my reading, that seems to exclude Reading Recovery and other effective intensive programs.

Am I reading that wrong?

Ms. NEUMAN. Yes.

Senator CLINTON. Okay. So tell me—I want to go on the record on this, because I want to be able to tell all of my districts in New York, particularly where we use the Reading Recovery program operated by the New York University, which has been extremely successful, that Federal funds can be used in New York for Reading Recovery under the Reading Excellence Act. Is that correct?

Ms. NEUMAN. Let me be very clear about this.

Senator CLINTON. And I want you to be very clear.

Ms. NEUMAN. First, I want to say that the Title I Monitor wrote a clarification of that particular column, and that was put on the web for anybody in New York or other places to read.

Secondly, we do not have a list or a suggested list of programs. What every State is now doing is a couple of weeks ago, we sent out the Reading First application which signifies the most major reform in reading that we have ever had in our history.

In that application, there was also guidance on how someone might fill out that application. Nowhere have we ever listed a program—we would not list Reading Recovery, we would not list other programs.

The onus is on the State. The State has to write a proposal that focuses on the scientific basis of reading and the five component parts of reading—phonemic awareness, phonics, fluency, vocabulary, and comprehension. It has to describe how it focuses on a comprehensive, coherent, skill-based instruction—

Senator CLINTON. I understand that.

Ms. NEUMAN. [continuing]. Once it does that—

Senator CLINTON. I understand that, Secretary Neuman. But if you are putting the emphasis on classroom-based programs, that sends a very clear signal to whomever fills out that application at the State level that a program like Reading Recovery, which is an intensive one-on-one program, may not be appropriate. Isn't that an understandable reading of what you are telling the districts and the States?

Ms. NEUMAN. No. No, it is not.

Senator CLINTON. Well, then, I think you had better clarify it, because clearly, it is not only my concern. We have heard this on both sides of the podium today, that our districts are telling Senator Collins, and they are telling me, that based on everything they are getting from the Reading Leadership Academies and from the directives coming out of the Department, Federal dollars are not going to be welcomed in the use of non-classroom-based reading programs.

Ms. NEUMAN. What the guidance and application says is that it focuses primarily on classroom-based with supplemental opportunities throughout the program. So in other words, what a State would have to do is, in their application, focus on how they provide comprehensive reading instruction, how they may provide supplemental instruction when needed, but with high-quality reading instruction, our hope is that supplemental instruction will not be as needed as it has in the past, because the quality in the classroom is better than ever before.

Senator CLINTON. Well, I understand that that is the hope that we all hold, but there is a long way to go before that reality can be achieved. When I think about a district like New York City or Buffalo, where we are not only having teachers laid off, where we have huge numbers of uncertified teachers, where we do not have the quality of instruction that clearly we need, we have a lot of work ahead of us.

I was just handed the State application for Reading First—I assume this has not been clarified—and it reads: "The Reading First program focuses on putting proven methods of early reading instruction in classrooms."

So clearly, it is a focus on classroom-based instruction, but if you are running a school district where you have large numbers of uncertified teachers, where 30 percent of the teachers leave in the first year or two, where you have even a higher percentage in high-poverty areas, and you are saying to yourself, I am going to try to do what I know works, and we know that Reading Recovery works even though it is more expensive, and let us at least focus on those

kids, because we have highly-trained teachers we can use for this intensive program while we try to create a teacher pool that can perhaps have classroom-based instruction, are you going to permit that?

Ms. NEUMAN. We are going to look at a State application, and the State application will focus on—

Senator CLINTON. So in other words, you are not saying yes, and you are not saying no.

Ms. NEUMAN. [continuing]. I am saying that the expert panel—this is not for me to decide—but every proposal will be examined by an expert panel who will look for whether instruction is provided and the comprehensive nature of that proposal. Supplemental instruction is possible, and it says it very clearly in that.

But the focus here in Reading First—I can remember as a reading specialist, I was in one school in Philadelphia where there were 300 kids who needed supplemental instruction in remedial reading, there were 12 children who got remedial reading instruction in that school, and there were over 280 children waiting for instruction.

With Reading First, what we are focusing on is quality instruction for all of our children and supplemental instruction for those who need it.

Senator CLINTON. Well, Secretary, I would just suggest that in districts like the one I represent, nearly every child needs it. It is not supplemental. It is essential. And I would hate to think that I had voted for a bill that would result in my districts who are using Reading Recover in a good partnership with universities and actually making a difference in the lives of some children being told: No—we are going to ask you to go to classroom-based even though you may not have certified teachers, even though you may not have the means to go to classroom-based, and therefore, you are going to lose these kids who could obtain grade-level achievements in reading through Reading Recovery.

I would just ask you very seriously to please take another look at this. This is obviously a concern not only in Maine, where they do extremely well already, but in New York, where we have some children who are going to be left behind.

Let me ask also, are you planning to conduct a negotiated rule-making process around the definition of scientifically-based research?

Ms. NEUMAN. No.

Senator CLINTON. No. Okay. I think it is going to be interesting, then, to see what your expert panels determine are the allowable programs that are going to be funded.

Ms. NEUMAN. No programs are listed in the application.

Senator CLINTON. But classroom-based is the criterion.

Ms. NEUMAN. Classroom-based in terms of the five essential components. For example, any program—some people may name it, some people will not—but if will have to indicate five essential components of good reading instruction.

Senator CLINTON. And does Reading Recovery meet that, except for the classroom-based aspect?

Ms. NEUMAN. I would leave that to the expert panel to make a decision, and those expert panels will be examining the comprehensive nature of that instruction.

Senator CLINTON. One of the issues that I am also confused about is the alignment of the tests with State standards. It was our intention, those of us who went along with the increase in testing, to ensure that every State had a coherent testing system that allowed for comparisons between school districts. Yet, in the regulations, it appears that the Department is allowing States to use local assessments in every year if they choose. That then creates yet again a patchwork which will make it very difficult if not impossible to compare student performance across districts, and in addition, with the NAEP scores not being available at the district level, this is not going to be a very useful check on State and local assessments.

I listened as you said that we can use criterion reference, norm reference, but if you use local assessments, how are you going to develop the kinds of comparisons that many of us thought were really at the heart of the testing program, Secretary Hickok?

Mr. HICKOK. The issue really is whether it would create a patchwork assessment system.

Senator CLINTON. Well, now, stay with me on this, because you know, I am not a—what did you say?

Mr. HICKOK. Psychometrician.

Senator CLINTON. [continuing]. Yes, a psychometrician.

Mr. HICKOK. Neither am I.

Senator CLINTON. So it is kind of like the blind leading the blind here, I guess.

But if each local school district has the ability now to use local assessments, and after leaving no child behind, it has the ability to use local assessments, what have we gained?

Mr. HICKOK. Well, first of all, if it were that simple, if it were simply the status quo with local assessments, we would have gained nothing. But the whole thrust of the negotiated rulemaking proposed regulations is to say this to the local assessment State: If you choose to try to do this under No Child Left Behind, you are going to have to make the kinds of adjustments to your system that reflect test validity on State standards so that you do not create—even though it has the appearance—you do not create a patchwork system.

The psychometricians tell us that that is possible but very, very difficult, so any State that chooses to go that route will have to make a pretty tough case that they are not merely creating a patchwork system of assessment, because we do not think that that is what the letter or the spirit of the law is all about.

Senator CLINTON. Well, I have to confess that I do not know why we are going down this road to start with. It seems to me that the whole idea was to have some coherent testing system that allowed comparisons. And if you know, going into it, that it is very difficult, but some people are going to try to do it, and then we have to set up a process for holding them accountable and determining whether or not they have done it, we are just kicking this can down the road. I do not see the point behind that.

Mr. HICKOK. I think in part it is because we recognize that if you have 50 States and additional Territories, each of which might do things differently and have done things differently, have reached a different level of standards and assessment and accountability in

their State, and rather than say to all 50 States “It is our way or the highway; we have all the answers on this,” we are saying this is what we are looking for, this is the goal we have in mind, which I think we have all agreed up, and if you can reach this goal using your strategy, make your case.

We think it is going to be much tougher to do it on a local assessment basis, but we are not going to say that we have the corner of wisdom on this. We will wait and see if they can make the case, but it is going to be tough to do.

Senator CLINTON. Well, I thought the whole idea of Statewide assessments was one of the fundamental assumptions underlying the accountability system that we were adopting, and I am just surprised to learn that we are going to start down this road where we basically permit local districts to first of all have some kind of a dispute process with the State to argue that they can keep their own local assessment systems, and then we are going to decide whether or not that works. I just think we have created a bureaucratic and regulatory morass.

But I have made my views known earlier in a letter that I signed along with some of my colleagues to Secretary Paige, and I am very, very concerned that this really does run counter to what we had originally determined was the big step that all of us were willing to take, which was to move toward Statewide assessments, and I will certainly look forward to our continuing dialogue about what this means and how we are going to achieve the original idea.

I am also concerned, looking at some of the cuts that the President’s budget is making, with some of the specifics concerning leadership in our schools. Title II authorized a School Leadership Program that was designed to help high-need districts recruit and retain principals, which is a major problem throughout the country.

Again, just speaking for New York, 40 percent of our principals are expected to retire in the next decade, and in New York City, 165 of our 1,000 principals were not certified when the schools opened. Part of the reason that I championed this idea was to try to get some Federal dollars behind the idea that we needed to support strong school leadership. We funded that at \$10 million in fiscal year 2002, and my first question is when can we expect to see States and districts receiving that program; but then, my second question is that it is zeroed out in fiscal year 2003, and I was wondering about the rationale behind that.

Mr. HICKOK. I will let Susan answer the question about when you will receive funds.

Ms. NEUMAN. Actually, we are working on the application package right now for the principalships, so that should be available shortly.

I think that one of the key issues—strong principalship is, as you know, incredibly important, and instructional leadership is also incredibly important—I think that that particular program can be melded and integrated with much of the Title II professional development, creating instructional leaders. So I think that was the consideration.

I would like, however, to go back before we go on too far to talk about the patchwork, because I do not see it as a patchwork at all in terms of testing. One of the things that we know is that very

few States are taking that option of local/State assessments. Five States are currently doing that. As they change to a Statewide system which goes 3 through 8, it is highly questionable how many States will continue to do that.

If Senator Collins were still here, she would probably indicate that what has happened in the past is that the State has used local assessments and has then calibrated those assessments against the State assessment, providing a mechanism so that we really can see one system.

As Under Secretary Hickok talked about, it is really incredibly important to focus on all of the assessments aligned to the content standards, so that was the strategy that allows them to use the local assessment yet calibrate it against the State assessment mechanism.

So we do not see it as a patchwork as much as an option.

Senator CLINTON. Well, if the five States that are using those local assessments do not reach the high bar of calibration, will you approve their plans?

Ms. NEUMAN. What we decided in the negotiated rulemaking—which again is still in the process, since we are about to do regional meetings—is that they would have to have a statistical measure to show equivalence, so that the local assessment in terms of quality, rigor and depth would be of the same quality as the State assessment, and they would have to show it not in face validity issues or content validity but would actually have to show statistically that they were similar. This will avoid one testing being different from another.

Senator CLINTON. Over what period of time will they have to show that?

Ms. NEUMAN. They would have to have current validity. In other words, it is—

Senator CLINTON. And if they fail to do that, you do not approve their plans?

Ms. NEUMAN. Yes, exactly.

Mr. HICKOK. And that is another reason why, as I mentioned earlier, Senator, it is so important that we start—and we are starting—to work with States now. We do not want to just tell States, “This is what you have to do. Come back in 3 or 4 years and let us know if you did it,” and then say, “No, you did not do it.”

Some States are going to have a much tougher time, so our goal is to work with States so that if they are encountering the kinds of challenges we are talking about right here, we can let them know quickly so they can move in the right direction. It is very important.

Senator CLINTON. I agree with that. Obviously, that is the whole idea behind what we did.

Finally, I have a particular interest in a provision in the bill about the Healthy Schools provision which concerns some of the issues that we are now exploring and learning more about, which involve the impact of dilapidated public school buildings on the health of our children.

We also had a big article today in The Washington Post, I believe, an investigate article about schools being built on or near toxic waste sites, children getting sick because of their attendance

in school buildings and on school property, soccer fields and the like. It is a particular concern of mine because we have a number of such issues raised in New York. I recently sent a letter to Secretary Paige asking that he use his discretionary authority to provide funding for this program, which is to conduct a study to explore the health and learning impacts of sick and dilapidated public school buildings on children.

Does the Department intend to fund the Healthy and High Performance Schools Program, Secretary Hickok?

Mr. HICKOK. I will have to get back to you on his response to your letter; I do not know if he has responded yet.

Senator CLINTON. Not yet.

Mr. HICKOK. But certainly we share everyone's concern about the healthy conditions of schools. I mean, that is a pretty basic issue. And if there is a way that we can contribute some kind of analysis as you suggest, we would be glad to do it.

I think we have to look at all of these issues relating to things such as school renovation, construction, et cetera, with a couple of very big questions in mind, not the least of which is should there be a Federal role here, and how large a Federal role should it be.

So my short answer to your question, although it is not that short, is that I think the jury is still out on where we should be on that issue.

Senator CLINTON. Well, I would hope that you would at least fund the study, because it is very difficult to make decisions at the local or State level without good information.

Mr. HICKOK. I agree with that, certainly.

Senator CLINTON. This would help us to determine what we might need to do. And of course, the reasoning behind the Senate's passage of its version of the education bill that would have provided for full funding of special education was to free up State and local dollars for some of the goals like lower class size and construction and modernization needs that we have. With the administration's decision to cut both of those programs and to take the Federal role out of both construction and modernization as well as adding teachers to the classroom, it is very difficult to ask many districts, particularly those that are hard-pressed and do not have a very big property base on which to tax to begin with, to deal with some of these concerns.

So if there is not going to be a Federal role, then, at least, the Federal role that was accepted 25-plus years ago to fully fund special education ought to be addressed and dealt with in order to properly align the Federal, State and local financial burden so that we can have a better way of making some of these tough decisions. It would be easier for districts to deal with some of their classroom size issues and construction issues if they did not have the fastest-growing part of their budget being the special education budget.

Mr. HICKOK. Well, certainly, I made my comments known about special education. I think it is a combination of resources and policy that needs to be studied very carefully.

Senator CLINTON. I do not think you will get any argument from any of us, but a promise or at least a goal was set all those years ago, and the Senate in a bipartisan way voted to finally meet that goal, and unfortunately, we were not successful in keeping it in the

conference. But it would certainly go a very long way toward fulfilling the stated purpose of leaving no child behind if this administration would support fully funding special education.

As we go through the process of reauthorization, it is going to be very difficult to make some of the tough decisions we need to make in the absence of a commitment to fully fund special education, and I would hope that the administration would work with us toward that end.

Mr. HICKOK. Well, we are certainly going to work with you and with the members of the committee on special education generally and on implementation of this law, so we look forward to those conversations.

Senator CLINTON. Thank you very much for coming. We look forward to seeing you again, and I hope that members and staff remember that Senator Kennedy said we would leave the record open. We will leave it open for 5 days for additional statements and questions.

Thank you very much. We are adjourned.

[Whereupon, at 4:30 p.m., the committee was adjourned.]

