

DATE: January 13, 2012

TO: Senator Gen Olson
Representative Pat Garofalo

FROM: Jim Schowalter, Commissioner 

SUBJECT: No Child Left Behind Act

During the 2005 Special Session, language was adopted requiring the Minnesota Department of Education (MDE) to implement the No Child Left Behind Act (NCLB) without interruption (M.S. 127A.095). The statute also required MDE to seek enhanced flexibility through waivers from the federal Department of Education (DOE). If the waivers sought by MDE are not approved by DOE, the Commissioner of Minnesota Management and Budget must certify the amount of federal revenue that would be withheld as a result of the potential state decision to discontinue implementation of the NCLB Act.

The analysis certifying the amount of federal revenue that would be withheld as a result of the potential state decision to discontinue implementation of the NCLB Act is complete and the final report is attached. DOE estimates that NCLB funding in Minnesota will be \$254.5 million in FFY2011/SFY2012. From the district perspective, MDE estimates that nonparticipation in NCLB would have a total fiscal impact of \$246.5 million in SFY 2012 for school districts statewide. In addition, MDE would experience a fiscal impact of approximately \$6.0 million in SFY2012 for statewide NCLB costs related to assessment, school-improvement activities, support for new charter schools, and state level activities as allowed for under the law.

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No Child Left Behind Act
Report to the Legislature

January 2012

*As required by
M.S. 127A.095*

ESTIMATED COSTS OF PREPARING THIS REPORT

This report provides information that Minnesota Management & Budget does not normally collect as part of its business functions. The cost of information reported below is the estimated cost of collecting and organizing the data, determining assumptions, and preparing this report document.

Special funding was not appropriated for the costs of preparing this report.

In accordance with M.S. 3.197, the estimated cost incurred by the Minnesota Management and Budget and the Department of Education in preparing this report is \$1,000.

No Child Left Behind Act Overview

The federal No Child Left Behind Act (NCLB) was signed into law in 2002 and affects every state and public school district in the country. More than 90 percent of America's school districts receive funding for federal educational and supportive services programs covered by the act. The wide range of services support before and after school programs, family literacy, parenting classes, library materials, technology services, educating migrant children, and safe and drug-free schools. Of the nine titles in the act, Titles I and II are the largest programs in terms of both requirements and funding. Title I funds help educators improve teaching and learning for economically disadvantaged students. In addition, Title I funds promote the involvement of parents in becoming partners in their children's education. Title II funds are used to train, retain, and recruit qualified teachers, principals, and paraprofessionals.

The main focus of NCLB is to improve the academic achievement of students in low-performing schools around the country. It strives to have every student achieving at a proficient level, as defined by each state, by the 2013–14 school year.

Additional regulations aimed at strengthening NCLB were announced by the federal Department of Education (DOE) in October 2008. The new regulations stem from lessons learned since the 2002 implementation of NCLB and address accountability and transparency, uniform and disaggregated graduation rates, improved parental notification for Supplemental Education Services, and public school choice.

In September 2011, President Obama announced the opportunity for states to apply for flexibility from specific NCLB mandates on the condition of states actively pursuing education reform. The federal Department of Education will provide flexibility within the existing NCLB law in exchange for a commitment to develop a system focused on college and career ready standards for all students; creating a differentiated accountability system, and adopting reforms to support effective classroom instruction and school leadership.

Implementation of NCLB

Minnesota has participated in NCLB since its inception in SFY2002. According to M.S. 127A.095, the Minnesota Department of Education (MDE) shall continue to implement the federal NCLB Act without interruption while seeking flexibility through waivers from the federal Department of Education (DOE). If the waivers are not attained, MDE must submit a report to the legislature explaining the status of the waivers sought and provide recommendations regarding future participation in the NCLB Act. Furthermore, M.S. 127A.095, subd. 3 states that if the waivers are not obtained the commissioner of Minnesota Management & Budget shall certify to the legislature the amount of revenue that the federal government may withhold as a result of a potential state decision to discontinue implementation of the NCLB Act.

In 2007, MDE sought waivers in eight areas from DOE. Since MDE has yet to receive approval for waivers in all eight areas, this report will certify the amount of NCLB revenue that the federal

government may withhold as a result of a potential state decision to discontinue implementation of the NCLB Act in Minnesota.

In November 2011, MDE submitted a request for flexibility from the following NCLB mandates:

- 2014 goal of 100 percent proficiency
- Mandatory financial set-asides for School Choice and Supplemental Educational Services
- Sanctions on schools resulting from not making AYP
- Sanctions for districts resulting from not making AYP
- Identification of schools as in need of improvement, corrective action and restructuring
- Identification of districts as in need of improvement or corrective action
- 40 percent poverty threshold for operating a Title I Schoolwide Program
- Limits on financial flexibility for federal funds to rural districts
- Required Highly Qualified Teacher Improvement Plans
- 50 percent limit on transferability of certain federal funds

The approval of Minnesota's flexibility application will likely nullify the eight original waivers required under M.S. 127A.095. Should Minnesota's application be approved, the state should reassess the original waivers requested from the federal government and annual reports generated for the legislature.

Certification of Federal NCLB Revenue

In Minnesota, DOE estimates that NCLB funding will be \$254.5 million in FFY2011/SFY2012, which includes an administrative allowance for statewide NCLB activities. MDE estimates that opting out of NCLB would have a total fiscal impact of \$246.5 million in SFY2012 for school districts statewide. In addition, MDE would experience a fiscal impact of approximately \$6.0 million in SFY2012 for statewide NCLB costs related to assessment, school-improvement activities, support for new charter schools, and state level activities as allowed for under the law.

The state has the option not to participate in one or more titles of NCLB. If the state opted out of NCLB Title I funds, for example, other competitive grant programs that receive their funding through the Title I formula would also lose funding. Specifically, other competitive grant programs that would be affected by state nonparticipation include, Safe and Drug Free Schools, 21st Century Community Learning Centers, the State and Local Technology Grants, and Even Start because the funding for these programs is based on the Title I formula.

Nonparticipation would not impact any programs that receive a formula allocation of federal funds outside of the NCLB formulas, nor would the state lose eligibility to apply for other discretionary funding. For example, state nonparticipation in NCLB does not disqualify it from receiving funds under the Perkins Vocational and Technical Education program or the Adult Education and Family Literacy Act.

In addition to federal funding, nonparticipation in NCLB may require additional state funding to administer carryforward amounts and for test development and other assessment activities. It is assumed that in the event Minnesota opts out of NCLB, carryforward funds identified by districts for competitive grant funds in FFY2011 will not be lost to either districts or MDE. Districts and MDE would continue to be responsible for the administration of the federal program through the period allowed by the Tydings Amendment.¹ If Minnesota opted out in July, 2012, districts could encumber any carryforward available to them until September, 2013 and disburse this funding through December, 2013. While there may be a small amount of administrative carryforward to accomplish administration through that period, state funding may be required to complete the work associated with administering the carryforward funds if remaining NCLB administrative funds were not adequate. Carryforward amounts vary by districts so it is not possible at this time to determine potential state costs related to the administration of NCLB carryforward after Minnesota has discontinued the program.

Assessment funds under NCLB for test development and other assessment activities may also be lost if the state decides to opt out of NCLB. Since these funds support state testing standards as a part of NCLB, additional state funds may be required depending upon the legislature's direction for continued Minnesota standards development and testing. It is uncertain at this time to what extent funds for test development and other assessment activities would be lost if the state decides to opt out of NCLB; therefore, it is not possible at this time to estimate the potential state costs related to assessment.

Following is a list of programs included in No Child Left Behind funding along with a brief statement of purpose.

Title I Grants to LEAs (Local Education Agencies) (CFDA 84.010)

Elementary and Secondary Education Act of 1965, as amended, Title I, Part A.

Title I of the Improving America's Schools Act is the largest of the federal compensatory education programs. Almost every district in the state qualifies for Title I funds and Title I services are in approximately 90% of the state's elementary schools. More than 130,100 public and nonpublic students participate in Title I programs annually. There are several parts to Title I, including, Basic Grants, Concentration Grants, Targeted Assistance, Education Finance Incentive Grants, Accountability Grants, Grants for Neglected or Delinquent Institutions, NCLB grants, and Capital Expenses.

Minnesota's share of the national appropriation is based on the number of low-income children counted during the 2010 census. MDE adjusts these entitlements to provide the required set-asides for administration, school support teams, low-performing schools, and charter schools.

Specific objectives of the Title I basic grants to local education agencies (LEAs) are:

¹ Most formulaic allocations provide for local spending decisions that allow the allocation to be obligated over a twenty-four month period, and disbursed within a twenty-seven month period (Tydings Amendment).

- ◆ to align Title I evaluation measures with the state student achievement and system performance measures;
- ◆ to identify and serve students who are most at risk of not meeting our state content and performance standards;
- ◆ to increase success in the regular classroom through coordination of supplemental services with classroom instruction and curriculum;
- ◆ to provide for the involvement of parents in the education of their children;
- ◆ to provide intensive and sustained staff development; and
- ◆ to coordinate with state and federal programs to maximize the services available for at-risk students and to increase the number of students receiving services.

School Improvement Grants (CFDA 84.215)

Elementary and Secondary Education Act of 1965; Title V, Part D, as amended.

This program funds projects that will improve the quality of education, assist all students to meet challenging state content standards, and contribute to the achievement of elementary and secondary students.

Even Start Family Literacy Programs (CFDA 84.213)

Elementary and Secondary Education Act of 1965, Title I, Part B, Subpart 3, as amended. 20 U.S.C. 6362.

Even Start is the early childhood and family literacy initiative of the Title I program. The state's allocation for Even Start is determined by the amount of the basic and concentration funds the state receives. Funds are distributed to districts on a competitive basis; grants are awarded for four years.

Specific objectives of the Even Start Family Literacy Programs are:

- ◆ to improve the academic achievement by integrating early childhood education and adult education for parents into a unified program;
- ◆ to create a new range of services through cooperative projects that build on existing community resources; and
- ◆ to assist children and adults from low-income families in breaking the cycle of illiteracy and poverty.

Migrant Education (CFDA 84.011)

Elementary and Secondary Education Act of 1965, Title I, Part C, as amended. 20 U.S.C. 6391 et seq.

The specific purposes of the migrant education program are:

- ◆ to ensure that migratory children are provided with appropriate educational services (including support services) that address their special needs in a coordinated and efficient manner;
- ◆ to ensure that migratory children have the opportunity to meet the same state content and performance standards that all children are expected to meet;
- ◆ to prepare migratory children to make a successful transition to post-secondary education or employment by supporting high-quality educational programs to help them overcome

educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors; and

- ◆ to ensure that migratory children benefit from state and local systemic reform.

Neglected and Delinquent (CFDA 84.013)

Elementary and Secondary Education Act of 1965, Title I, Part D, as amended. 20 U.S.C. 6431 et seq.

The specific purposes of the neglected and delinquent programs include:

- ◆ to provide supplementary instruction to students, ages 5-21, who are neglected and have been placed in a locally operated residential institution for such students;
- ◆ to improve educational services to neglected or delinquent children and youth so that such children and youth have the opportunity to meet the same challenging state content and performance standards that all children will be expected to meet;
- ◆ to provide the targeted population the services needed to make a successful transition from institutionalization to further schooling and employment; and
- ◆ to prevent at-risk youth from dropping out and to provide dropouts and youth returning from institutions with a support system to ensure continued education.

Impact Aid (CFDA 84.041)

Elementary and Secondary Education Act of 1965, Title VIII, as amended.

This program, which is administered directly by the federal government, provides funding based on formula to schools where enrollments or availability of revenue are adversely affected due to reduced tax base due to federal ownership of property, where there are significant number of children who reside on federal or Indian lands and/or children whose parents are employed on federal properties, or where there is a sudden change in enrollment due to federal activities. The formula includes a basic aid, aid for disabled students, and a capital component for qualifying schools. Basic aid is for general fund uses.

Improving Teacher Quality (CFDA 84.367)

Higher Education Act of 1965, Title II, Part A, P.L. 105-244.

This program provides funding to improve student achievement by improving the quality of current and future teaching force by improving the preparation of prospective teachers and enhancing professional development activities; holding institutions of high education accountable for preparing teachers who have the necessary teaching skills and are highly competent in the academic content areas in which the teacher plan to teach, such as mathematics, science, English, foreign language, history, economics, arts, civics government, and geography; including training effective uses of technology in the classroom; and recruit highly qualified individuals, including individuals from other occupations, into the teacher force.

Math and Science Partnership (CFDA 84.366)

Elementary and Secondary Education Act of 1965, as amended, Title II, Part B.

The purpose of this program is to improve the academic achievement of students in mathematics and science through projects that support partnerships of organizations representing preschool

through higher education. These projects promote strong teaching methods based on scientifically based research and technology.

Education Technology State Grants (Enhancing Education Through Technology) (CFDA 84.318)

Elementary and Secondary Education Act of 1965, as amended, Title II, Part D, Subparts I and 2, as amended.

Provides funding on a formula basis to states to:

- ◆ improve student academic achievement through the use of technology in schools,
- ◆ assist all students in becoming technologically literate by the end of eighth grade, and
- ◆ encourage the effective integration of technology with teacher training and curriculum development to establish research-based instructional methods.

21st Century Community Learning Centers (CFDA 84.287)

Elementary and Secondary Education Act of 1965, as amended, Title IV Part B.

The program funds after school programs to help K-12 students attending low performing schools or schools with concentrations of families in poverty improve their academic achievement. Programs provide academic and cultural enrichment activities, tutoring, art, music, recreation, and other programs that are designed to reinforce academic instruction. Funds are distributed through an open competition.

Innovative Education Program Strategies (CFDA 84.298)

Elementary and Secondary Education Act of 1965, Title V, as amended, 20 U.S.C. 7301-7373.

This program provides funding to assist state and local education agencies in the reform of elementary and secondary education.

Improving Academic Achievement Accountability, Grants for State Assessments (CFDA 84.369)

Elementary and Secondary Education Act of 1965, as amended, Title VI, Part A, Subpart I, Public Law 107-110.

This program supports:

- ◆ the development of the additional state assessments and standards required by Section 1111(b) of the federal ESEA, as amended; or
- ◆ the administration of the assessments required by Section 1111(b) or
- ◆ to carry out other activities related to ensuring that the state's schools and local education agencies are held accountable for results.

Rural and Low-Income Schools Grant (CFDA 84.358)

Elementary and Secondary Education Act of 1965, Title VI, Part B, as amended.

This is a small grant program for small rural school districts with high poverty rates that do not qualify for the Small Rural School Achievement Program. Funds are used for teacher recruitment and retention; teacher professional development; educational technology; parental involvement activities, and activities allowed under the Title 1 program.

English Language Acquisition Grants for Limited English Proficient Students (CFDA 84.365)

Elementary and Secondary Education Act as amended, Title III, Part A, Sections 3101-3129.

This new program consolidates the 13 bilingual and immigrant education programs into a formula grant program and significantly increases flexibility and accountability. Minnesota previously received funds under the Title VII Emergency Immigrant program, while districts applied directly to the U.S. Department of Education for grants under other programs. This program maintains the current focus on assisting school districts in teaching English to limited English proficient students and in helping these students meet the same challenging state standards required of all other students. Some of the funds may be reserved to serve districts significantly impacted by the needs of immigrant students.

Assumptions

1. Minnesota's eligibility for federal programs and funding amounts as a result of Minnesota's participation in NCLB are taken from DOE's state tables and include the programs funded through the NCLB Act of 2001. The report of Minnesota's total allocation and allocation by program is available at the following website and is also provided below. <http://www2.ed.gov/about/overview/budget/statetables/12stbystate.pdf> The version used for this report was posted November 3rd, 2011.
2. Due to differences in fiscal years between DOE and MDE, federal appropriations identified as 2011 fund programs in state fiscal year 2012. Similarly, federal appropriations identified as 2012 fund programs in state fiscal year 2013. District listings of allocations/awards are provided by state fiscal year.
3. It is assumed that in the event Minnesota opts out of NCLB, carryforward funds will not be lost to either districts or MDE.
4. It is assumed that in the event the state determined to opt out of implementation of the NCLB Act, MDE would continue to be responsible for administration of the federal program through the period allowed by the Tydings Amendment. If Minnesota opted out in July, 2012, districts could encumber any carryforward available to them until September, 2013 and disburse through December 2013. While there may be a small amount of administrative carryforward to accomplish administration through that period, state funding may be required to complete the work associated with administering the carryforward funds if remaining NCLB administrative funds were not adequate.
5. Assessment funds under NCLB for test development and other assessment activities may be lost if the state decides to opt out of NCLB. Since these funds support state testing standards supporting NCLB, additional state funds may be required depending upon the legislature's direction for continued Minnesota standards development and testing.
6. Due to carryforward provisions, total allocations and awards identified here will not equal amounts carried on the statewide accounting or budget system or provided in the Governor's Budget as both of these presentations are based on estimated expenditures.
7. On district runs, organizations such as, nonprofits, institutions of higher education, service cooperatives, cities and counties may be included, if the organization is an eligible recipient of the federal funds.

8. On district runs, a district, charter school, or other organization may be listed twice within a competitive grant program as they may receive multiple grants within a year.
9. Many federal programs under the NCLB Act allow for an administrative allowance or set-asides for statewide activities. Also, funding for new charter schools may not be included in district allocations/awards. Funding for those activities is included in the totals by program, and amounts for assessment, administration and statewide activity set-asides are assumed to be the difference between the total appropriations and district allocations or awards. A calculated estimation of the amount currently available for assessment, administration, statewide activity set-asides, and new charter schools, based on federal appropriation amounts and school district allocations/awards is included.

Table 1. NCLB Federal Funding	FFY2010 SFY2011	FFY2011 SFY2012	FFY2012 SFY2013
ESEA Title I Grants to LEAs	130,061,277	158,816,952	161,632,880
Title 1 Rewards			3,374,637
School Turnaround Grants	4,787,344	5,911,410	6,734,366
Striving Readers Formula Grants*	150,000	0	0
Even Start*	535,861	0	0
State Agency Program-Migrant	2,151,830	2,147,414	2,151,830
State Agency Program-Neglected and Delinquent	244,908	248,916	249,414
Subtotal: Education for Disadvantaged	137,931,220	167,124,692	174,143,127
Impact Aid Basic Support	17,218,089	17,759,645	17,784,034
Impact Aid Children with Disabilities	782,520	896,256	898,052
Impact Aid Construction [#]	273,796	308,157	0
Subtotal Impact Aid	18,274,405	18,964,058	18,682,086
Effective Teachers and Leaders	0	0	29,829,639
Improving Teach Quality State Grants [#]	38,554,103	33,144,043	0
Mathematics and Science Partnerships [#]	1,631,149	1,829,425	0
Educational Technology State Grants [*]	841,828	0	0
21 st Century Community Learning Grants [#]	10,891,841	9,836,416	0
State Assessments	6,987,447	6,740,334	6,987,447
Rural and Low-Income Schools Program	117,614	428,353	110,399
Small, Rural School Achievement Program	3,526,781	3,399,752	3,390,482
Indian Education Grants	3,513,236	3,966,541	3,974,490
Language Acquisition State Grants	8,744,729	8,344,163	8,533,319
Homeless Children and Youth Education	577,469	720,651	723,421
Subtotal, All of the Above Programs that constitute NCLB	231,591,822	254,498,428	246,374,410

* Federal Grants discontinued

[#] Minnesota award not yet estimated

Amounts identified by district for Title formulaic programs are the amounts allocated or awarded for the year and do not include carryforward from previous years. In addition, amounts identified by districts for competitive grant funds for FFY 2009 may include carryforward amounts from previous years' allocations. For this reason, actual spending in any given year at both the state and local level may be higher or lower due to these carryforward provisions and local budget decisions, which will cause district level totals not to match federal funding totals.

Table 2. NCLB District Level Totals	FFY2010 SFY2011	FFY2011 SFY2012	FFY2012 SFY2013
Title program grants	170,076,197	207,055,291	185,810,359
NCLB Competitive Grants	29,116,627	12,736,123	0
Impact Aid (Basic Support/Children with Disabilities)	18,274,405	18,964,058	18,682,086
Effective Teachers and Leaders*			29,829,639
Rural and Low Income*	111,733	406,935	104,882
Indian Education Grants*	3,513,236	3,966,541	3,974,490
District NCLB Total	224,618,979	246,528,700	241,791,938
Statewide allowance for administration, school-improvement activities, support for new charter schools, and state level activities as allowed for under the law	5,724,237	6,021,617	4,582,472

**District vs. Admin data not available*

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APPENDIX A. Original MDE Waiver Requests to the U.S. Department of Education

- 1. Participate in the growth model pilot program:** The Minnesota Department of education (MDE) has submitted a growth model to the U.S. Department of Education. In January 2009, the Minnesota Department of Education received approval for the growth model defined below:

AYP Growth Component Adjustment:

For cells that fall below the proficiency target, a computation is made to determine if individual students in the cell showed growth from one year to the next. An AYP Growth Score is assigned to each cell and compared to an AYP Growth Target (based on the same statewide starting points for proficiency). The AYP Growth Target does not include an adjustment for a confidence interval. If the AYP Growth Score meets or exceeds the AYP Growth Target, the AYP Mark for the cell is set to 'A' – above target.

- 2. Exclude from sanctions schools that have not made adequate yearly progress due solely to a subgroup of students with disabilities not testing at a proficient level:** Minnesota has historically emphasized the inclusion of special education populations in its testing. Prior to the passage of NCLB, Minnesota developed an alternate assessment for special education students based on requirements in Individuals with Disabilities Education Act (IDEA of 1997). During a review of Minnesota assessment system, the secretary informed the department that the current alternate assessment did not meet the technical aspects required of all statewide assessments used for accountability. Consequently, the Minnesota Test of Academic Skills (MTAS) was developed for students with significant cognitive disabilities. This test is based on alternate achievement standards and has met all the technical aspects of statewide assessments used for accountability. The secretary proposed further regulations on December 15, 2005. These regulations provide for the potential use of a new modified alternate assessment for special education students who are not able to access the general education assessment but are not significantly cognitively disabled.

In October 2007, Minnesota was awarded a competitive General Supervision Enhancement grant from the U.S. Department of Education. This grant is part of a consortium with the states of Ohio and Oregon and the American Institute for Research in Washington, D.C. The one million dollar competitive award is for the development of the modified assessment for implementation in 2010-11.

In addition, Minnesota also received flexibility to implement the mathematical adjustment for schools that did not meet AYP solely because the Students With Disabilities subgroup did not meet their proficiency targets in reading and/or math. The mathematical adjustment increases the proportion proficient by a statewide calculated amount and then is added to the actual proportion of proficient to determine if the target has been met. This flexibility was granted as a short term bridge until the modified assessment can be implemented.

3. Identify a school as not making adequate yearly progress only after the school has missed the adequate yearly progress targets in the same subgroup for two consecutive years: The U.S. Department of Education does not offer waivers for the same subgroup not making AYP two consecutive years. However, Minnesota does take advantage of the uniform averaging provision which allows multi-year averaging over two and three years. If a school does not meet its target in the current year for any of the subgroups, data will be averaged across two years to determine AYP status; if the school still does not make AYP, data will be averaged across three years to see if the school meets the target. Essentially, the school has to miss its targets over two and three years because of averaging to be identified as not meeting the target. The commissioner believes that the ability to average over multiple years gives schools a great deal of flexibility.

4. Determine when to hold schools accountable for including a student with limited English proficiency in adequate yearly progress calculation; Since the passage of NCLB, the U.S. Department of Education has issued guidance letters or regulations that give states greater flexibility. The most recent example of this flexibility is the Secretary's September 13, 2006 Final Regulations. These regulations allow states to exempt "recently arrived ELL students" from one administration of the state's reading/language arts assessment. A recently arrived student is a student who has attended schools in the U.S. for less than 12 months. The new regulations further allow states to exclude the scores of recently arrived ELL student on the reading/language arts assessment (if taken) in decisions regarding proficiency in the calculation of AYP, even if the student was enrolled for a full academic years. These students however can be counted as participants toward meeting the 95 percent participation requirement for AYP. In addition, these regulations do not require states to include the scores of recently arrived ELL students on the mathematics assessment in AYP decisions.

Minnesota has been allowed to include "former ELL" students within the AYP LEP subgroup for up to two years after they no longer meet the state's definition for limited English proficiency. This option gives schools credit for the good work they have done helping ELL students attain proficiency. This flexibility is also included in the new regulations.

Minnesota also has The Mathematics Test for English Language Learners (MTELL) which is a computer-delivered mathematics test in grades 3-8 and 11 with simplified English that reduces the confounding effects of language on mathematics performance. ELL students may listen to test items as well as read them. Pictures and diagrams help students understand the language in the test items. The MTELL assesses the same grade level academic standards as the MCA-IIs.

5. Allow a district not making adequate yearly progress to offer supplemental educational services as an option before offering school choice: In July 2009, the Secretary of Education issued guidance that allowed State Education Agencies to request waivers for Title I regulations that were enacted in October 2008. The ability to request such a waiver was included in the guidance. Through a review and comments period as well as input received from Title I district directors at the Title I Statewide Conference districts did not express an

interest in having this waiver request included in the document that was sent to the U.S. Secretary of Education in December 2009. Therefore, this waiver was not requested.

Recommendation: Due to the fact that district administrators did not express an interest in this opportunity, the commissioner did not include this waiver in the request submitted to the U.S. Secretary of Education in December 2009.

6. Allow a district not making adequate yearly progress to also be the supplemental educational services provider: In July 2009, the Secretary of Education issued guidance that allowed State Education Agencies to request waivers for Title I regulations that were enacted in October 2008. The ability to allow districts not making adequate yearly progress to be allowed to provide supplemental educational services was included in this guidance. Districts administrators expressed an interest in this waiver and a letter to the U.S. Secretary of Education outlining the request was posted to the Minnesota Department of Education's website for a period of one month. The posting of the letters fulfilled the period of review and comment required before the Commissioner could submit the request to the Secretary of Education. This waiver request was submitted to the Secretary of Education in December 2009. The Commissioner is waiting for a response.

Recommendation: In December 2009, the commissioner submitted a letter to the U.S. Secretary of Education requesting that districts not making adequate yearly progress be allowed to provide supplemental educational services.

7. Allow the state to maintain a subgroup size to 40 for the purposes of calculating adequate yearly progress for subgroups of students with limited English proficiency and subgroups of students with disabilities: Beginning in 2002-03, Minnesota original accountability plan had a subgroup size of 40 for students with disabilities. In 2005, Minnesota requested, and was granted, the flexibility to use a minimum group size of 40 for the limited English proficient subgroup. In 2007, Minnesota was required by USDE to reestablish a uniform call size of 20. Beginning with the 2007 AYP calculation, Minnesota uses a uniform group size for all student groups as required by NCLB.

8. Create flexibility to enable the state to define and identify highly qualified teachers: In response to NCLB, Minnesota created the Minnesota State Plan for Highly Qualified (HQ) teachers in 2004. Minnesota did not request flexibility because it was determined at the time the plan was drafted that current policies and rules met the HQ definitions. Minnesota had recognized core areas required demonstration of content knowledge as evidenced by the current licensure rules. In order to apply for a teaching license Minnesota candidates must hold a bachelor's degree, have earned an academic major in the licensure field, and must pass appropriate state licensure tests. Minnesota revised the Plan in 2006 to reflect flexibility the federal guidelines gave to rural districts and teachers new to special education. Minnesota has an approved high objective and uniform state system of evaluation (HOUSSE) for existing teachers licensed prior to 2001 under the old licensure rules. This provides flexibility for these teachers to meet HQ requirements using a point process based on work experience, academic preparation

and other approved indicators. A teacher must reach 100 points using the HOUSSSE application. Currently, 98 percent of Minnesota teachers meet the highly qualified requirements under No Child Left Behind.

APPENDIX B. MDE Flexibility Request to the U.S. Department of Education

<http://www2.ed.gov/policy/eseaflex/mn.pdf>

Minnesota's ESEA Flexibility Request will cause the following No Child Left Behind (NCLB) provisions to be waived:

- 2014 goal of 100 percent proficiency
- Sanctions on schools resulting from not making AYP
- Mandatory financial set-asides for School Choice and Supplemental Educational Services
- Sanctions for districts resulting from not making AYP
- Identification of schools as in need of improvement, corrective action and restructuring
- Identification of districts as in need of improvement or corrective action
- Sanctions on districts resulting from not making AYP
- 40 percent poverty threshold for operating a Title I Schoolwide Program
- Limits on financial flexibility for federal funds to rural districts
- Required Highly Qualified Teacher Improvement Plans
- 50 percent limit on transferability of certain federal funds

In order to have these provisions waived, Minnesota's application had to meet four principles:

- College- and career-ready academic standards
- State-developed system of differentiated recognition, accountability, and support
- Supporting effective instruction and leadership
- Reducing unnecessary administrative burdens

Minnesota was well-positioned in three of these four principles to the extent that the application only had to describe what we're already doing in the area of standards, teacher and principal evaluation, and streamlining of reporting. The accountability system was the principle for which Minnesota had to do the most work.

The application describes a new accountability system for the state. At the core of the new system is the use of multiple measurements for accountability. Unlike AYP, which is mostly centered around proficiency, Minnesota's proposed Multiple Measurements Rating (MMR) uses four ratings, weighted equally, to measure school performance:

- **Proficiency**- Schools earn points in the MMR by meeting AYP proficiency goals in individual student subgroups. The percentage of subgroups that make AYP determines the percentage of points a school receives.

- **Growth**- Students are measured by their performance on the MCAs relative to their performance in the most recent year they took the test. Schools get a growth score based on the average growth of all students in the school.
- **Achievement gap reduction**- This measurement answers the question, “Is the growth of my lower-performing students such that it is reducing the achievement gap?” Schools are measured based on how the growth of their students from the seven lower-performing subgroups (Black, Hispanic, Asian, American Indian, English Learners, students in poverty, and special education students) compares to the statewide average growth of higher-performing subgroups. Schools earn MMR points based on their ability to reduce the achievement gap.
- **Graduation rate**- Schools earn points based on their statewide percentile ranking for four-year, on-time graduation rates.

Using these four measurements, schools earn up to 100 points. MDE then looks at the percentage of possible points that each school earned to generate an MMR.

Using the results of the MMR, schools can fall into three groups:

- **Reward Schools**- These schools are the top 15 percent of Title I schools in the MMR. They represent the highest-performing schools on the four measurements. Currently, the reward for these schools mainly comes through public recognition. These schools are identified annually.
- **Focus Schools**- Using just the proficiency and achievement gap reduction measurements from the MMR, each school receives a Focus Rating that measures their contribution to the state’s achievement gap. The 10 percent of Title I schools with the lowest Focus Ratings are identified as Focus Schools, and must work with MDE and their district to implement serious interventions aimed at improving the performance of the school’s lowest-performing subgroups. Essentially, Focus Schools are designed to attack the achievement gap head on. These schools are identified every three years.
- **Priority Schools**- These are the 5 percent most persistently low-performing Title I schools. Just less than half of these schools are identified through their participation in the School Improvement Grant (SIG) program. The remaining schools in this group are the Title I schools with the lowest percentages in the MMR. These schools will implement turnaround plans to drastically change the way the school operates.

To encourage continuous improvement in all schools, MDE has proposed the creation of two additional groups. Title I schools in the 25 percent of schools directly behind the Reward School cutoff may apply to be Celebration Schools. These schools can show both quantitative and qualitative results in making their case. MDE will select a total equal to 10 percent of Title I schools so that when combined with the Reward Schools, we are recognizing the top 25 percent of Title I schools. On the other end of the spectrum, the bottom 25 percent of Title I schools will be identified as Continuous Improvement schools if they are not already Priority or Focus

Schools. These schools will work with their districts to create improvement plans. MDE will audit a percentage of these schools' plans to ensure fidelity.

Finally, in order to ensure that all schools are being held accountable, MDE will annually publish two measurements so that the parents, teachers and the public as a whole can see how every school is performing. First, MDE will continue to report AYP results but with new targets and no sanctions for not making AYP. The new targets will reduce the achievement gap by half within six years. Starting in 2012, every subgroup will have a different proficiency target based on the subgroup's statewide average in 2011. From there, the targets of lower-performing groups will rise more quickly so that the non-proficiency of every subgroup will be cut in half. This has the effect of cutting the difference between the highest- and lowest-performing groups in half in the six-year period.

MDE will also report the MMR of every school in the state through a Multiple Measurements Chart. The Chart will show the results in each of the four categories and schools' total percentage of points earned. Using the MDE website, parents can compare the performance of schools in every category and in the total percentage of points earned.