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**MISSISSIPPI ASSOCIATION FOR ASSESSMENT
REFORM (MAAR)
APRIL 20, 2005**

Sneaky! Sneaky!

CHARLESTON, West Virginia (AP) -- Two days after the end of the legislative session, state lawmakers are discovering something few were aware of: They voted to make English the official language of West Virginia.

The language amendment was quietly inserted into a bill addressing the number of members that cities can appoint to boards of parks and recreation. Among mundane details about record-keeping, the amendment adds the provision that "English shall be the official language of the State of West Virginia."

Senate Majority Whip Billy Wayne Bailey successfully offered that change to House Bill 2782 amid a flurry of bills moving back and forth between the House and Senate on Saturday, the last night of the 60-day legislative session.

More:

<http://us.cnn.com/2005/POLITICS/04/12/official.english.ap/index.html>

You know that it could happen here.

Last year, the NEA was a group of terrorists. This year those who oppose NCLB are "un-American." Same attitude, same tactic, different secretary.

CONNECTICUT EDUCATION OFFICIAL DEMANDS FEDERAL APOLOGY

Associated Press -- April 12, 2005

State Education Commissioner Betty Sternberg wants an apology from the federal education secretary who said the state's attitude toward minority students is "un-American."

U.S. Education Secretary Margaret Spellings sharply criticized a planned lawsuit by Connecticut challenging the No Child Left Behind Education law. She made her comments last week on the NewsHour with Jim Lehrer on public TV.

She said she thinks it's un-American to take the attitude that black children in Connecticut in inner cities are not able to compete.

She called it "the soft bigotry of low expectations."

In a letter to Spellings yesterday, Sternberg said standardized test results from the last five years show the state's black and Hispanic students have made faster gains than white students.

A spokeswoman for the U.S. Department of Education says Spellings' comments were taken out of context. She says her point was that all students -- regardless of income, race, disability or where they live -- can learn and deserve the opportunity to learn.

New Orleans school superintendent resigns

NEW ORLEANS --The city's school superintendent announced his resignation Tuesday after more than two stormy years in the post, during which the school system lost millions of dollars, federal officials investigated allegations of corruption and test scores remained among the worst in the state.

The New Orleans school board, feeling pressure from state education officials who want to take over the failing school system, accepted Anthony Amato's resignation, effective June 30.

Amato, who was credited with turning around failing school systems in New York and Connecticut before coming to New Orleans, said his departure was part of a "mutually agreeable separation" and that it was "in the best interest of the children I came to serve."

Last year, the state Legislature passed a law extending the superintendent's authority and limiting the board's in order to try to turn around the school system. Despite the new authority, however, Amato seemed unable to get the system's problems under

control.

State Sen. Karen Carter said at a board meeting Monday that she had assumed the system had a superintendent with "appropriate skill sets, character and good faith."

"Unfortunately, I stand here before you to say I'm not sure that's happened," she added.

Financial problems existed long before Amato's hiring in January 2003. He had been on the job less than three months when a state audit estimated the system's deficit at \$31 million.

Corruption was also rampant. Numerous kickback schemes and fraudulent payroll practices were uncovered by federal investigators, leading to the conviction of one teacher's aide and the indictment of 11 others, including teachers and secretaries.

Amato's success in academics was hard to measure. Results were mixed on the 2004 standardized tests, with some schools improving and others declining. Results from 2005 tests, given in March are not yet available.

The system consistently finishes last in the state's rankings of 66 school systems. In one low point, a would-be valedictorian had the honor snatched away when she couldn't pass the state graduation test.

On Monday, the school board voted to let outside consultants take over management of school finances and borrow \$50 million to get through a cash crunch.

— N.A.
Boston Globe
2005-04-12
<http://tinyurl.com/4r2ty>

Did you catch the part about a private firm taking over?

Climate of cheating hinders education

The No Child Left Behind Act has inspired school districts throughout the country to find ways to raise their assessment test scores. They cheat.

Ironically, the district that has gained national prominence for cheating is the one George W. Bush used as a model in promoting the No Child Left Behind Act and from which he appointed his first secretary of education, Rod Paige. The Houston, Texas, Independent School District leads the state in cheating incidents with 25 of its campuses under investigation. Throughout Texas, 400 of the state's 7,700 schools are under investigation for systematic cheating.

The matter of cheating surfaced when teachers reported incidents. After a new Houston district testing director took charge, he found instances "of a well organized and regimented cheating environment." A teacher reported, "I was instructed in how to cheat and that the expectation was that I would cheat." In one case, teachers were provided with advanced

copies of the test that they assumed to be samples of the previous year's test for use in preparing the students. Teachers throughout the United States have said that administrations have made clear that they expect elevated test scores, no matter what measures are taken to achieve them.

From its inception, teachers were wary about No Child Left Behind because they feared that exactly what happened would happen. A majority supported NCLB because they saw that it had the potential of providing support and resources that could help solve the problems of underachieving students. Assessment testing is important. If done correctly, it provides measures of student strengths, weaknesses and progress that can be used to design programs that meet the real needs of real children.

Instead, assessment testing has become a frantic scramble by school administrations to manipulate numbers so that their districts do not get tabbed as being deficient. Little of the effort generated by NCLB is expended on education. NCLB has become a hindrance to education, not a help.

The public seldom gets genuine news about what is happening in their school districts. As the Columbia Journalism Review reports this month, journalists tend to write what school administrations tell them. Few take the initiative or have the knowledge to see what is actually taking place in the classrooms.

For example, Sharptown High School in Houston reported that it had no dropouts. Assistant Principal Robert Kimball checked out the numbers. For one high school class, 1,000 entered as freshmen, but only 300 remained enrolled by the time the class was in its senior year. State auditors moved in to examine the Houston district and found that 3,000 students had been reported as "moved away" or "transferred." The news media took up the story, tracked down many of the students, and found them in Houston working at fast-food jobs or just hanging out. Rather than actually deal with the growing dropout problem, the district falsified the records about why they left school.

Such cheating has been on the increase from coast to coast. The reason is explained by Rick Casey, a columnist for the Houston Chronicle: "You don't have to be a Solomon to figure out that if you (tell) employees (that) their futures depend on getting children to pencil in the right dots, some of them will do whatever it takes to get their children to pencil in the right dots."

Stories that seldom get reported are instances where education really works. One success was reported at a Chicago school where the teachers determined the curriculum and maintained elaborate narrative report cards that guided their decisions. With a change in administration, they began receiving directives to stop their process of education and concentrate on preparing students to take the standardized tests.

During the past two decades, none of the schemes for improving education have come from the people who do the actual teaching in the classrooms. Instead they come from people who tell the classroom workers what they should be doing, but are not directly engaged in teaching. And so, our kids are taught a curriculum in cheating.

David Newquist, Aberdeen, is an editorial board member for the Society for the Study of Midwestern Literature, active in the Brown County Democrats, and involved in regional history. His column appears occasionally.

— David Newquist
Aberdeen News
2005-04-13

<http://www.aberdeennews.com/mld/aberdeennews/news/11381738.htm>

The New York Times article, National Study Finds Shortcoming in New Law on Education, appears very interesting, given claims of success. Amusing to see Ross Wiener of Ed Trust warning not to generalize from this study when Ed Trust has claimed repeatedly that selected rising state scores proves NCLB is working. The ET claims are based on short-term results from states on their exams (which of course are inflated by teaching to them).

What is also interesting is that despite massive pressure to teach to the test, the scores appear to be rising slowly, and the rate of increase is slowing.

It will be interesting to see what the next NAEP state-level results show.

We will see much trouble in public education by 2014.

Study Finds Shortcoming in New Law on Education

The academic growth that students experience in a given school year has apparently slowed since the passage of No Child Left Behind, the education law that was intended to achieve just the opposite, a new study has found.

In both reading and math, the study determined, test scores have gone up somewhat, as each class of students outdoes its predecessors. But within grades, students have made less academic progress during the school year than they did before No Child Left Behind went into effect in 2002, the researchers said.

That finding casts doubt on whether schools can meet the law's mandate that all students be academically proficient by 2014. In fact, to realize the goal of universal proficiency, the study said, students will have to make as much as three times the progress they are currently making.

The study was conducted by the Northwest Evaluation Association, which develops tests for about 1,500 school districts in 43 states. To complete it, the group drew upon its test data for more than 320,000 students in 23 states, a sample that it calls "broad but not nationally representative," in part because the biggest cities, not being Northwest clients, were not included.

One of the more ominous findings, the researchers said, is that the achievement gap between white and nonwhite students could soon widen. Closing the gap is one of the driving principles of the law, and so far states say they have made strides toward shrinking it.

But minority students with the same test scores as their white counterparts at the beginning of the school year ended up falling behind by the end of it, the study found. Both groups made academic progress, but the minority students did not make as much, it concluded, an outcome suggesting that the gaps in achievement will worsen.

"Right now it's kind of a hidden effect that we would expect to see expressed in the next couple of years," said Gage Kingsbury, Northwest's director of research. "At that point, I think people will be disappointed with what N.C.L.B. has done."

The findings diverge from those of other recent studies, including a survey last month by the Center on Education Policy, a research group. It found that a significant majority of state education officials reported widespread academic progress and a narrowing of the achievement gap.

"This new study should give everybody pause before they run off and say, 'We're marching to victory,'" said Jack Jennings, the center's president. "Maybe we're not."

Kerri Briggs, a senior policy analyst at the Education Department, said the Northwest study had both encouraging and worrisome aspects, but added that she would have to examine it more closely before passing judgment.

Some critics speculated that because the study lacked data from big cities, which have large populations of minority students and have posted significant gains on test scores in recent years, it might have overstated or mischaracterized what was happening with the achievement gap.

"It's hard to know how much you can extrapolate from this study," said Ross Wiener, policy director for the Education Trust, which released its own report in January showing mixed results on student performance and achievement gaps. "I don't think you want to make generalizations about what's going on nationwide."

Still, the Northwest study tracked student performance at a level that others did not, a factor that may help explain why some of its findings appear unorthodox. Rather than relying on test scores at just one point in the year, the Northwest study looked at how students fared in the fall and then again in the spring, in an effort to see how much they had learned during the year.

With this approach, Northwest found that test scores on its exams did, in fact, go up from one year to the next under No Child Left Behind, typically by less than a point. The reason successive classes appear to do a little better than those before them may stem from the fact that younger students have grown up during a time of more regular testing than their immediate predecessors, the researchers said, and are therefore higher achievers.

But rising test scores tend to mask how much progress individual students make as they travel through school, the researchers found. Since No Child Left Behind, that individual growth has slowed, possibly because teachers feel compelled to spend the bulk of their time making sure students who are near proficiency make it over the hurdle.

The practice may leave teachers with less time to focus on students who are either far below or far above the proficiency mark, the researchers said, making it less likely for the whole class to move forward as rapidly as before No Child Left Behind set the agenda.

— Greg Winter
New York Times
2005-04-13

<http://query.nytimes.com/mem/tnt.html?emc=tnt&tntget=2005/04/13/national/13child.html&tntemail0>

SHOCKING NEWS FOR THE TESTOCRATS!

Physical, Environmental and Socio-demographic Influences on Elementary Students:

A significant body of research exists showing that children growing up in high-poverty environments face significant challenges as they enter school. A recent report by the Educational Testing Service analyzed 14 school and societal influences associated with student achievement. The data suggest that academic interventions, though important, have a much greater effect if the broader social issues creating the need for such interventions are also addressed.

That, my friends, was the original theory behind HeadStart. Now, they seem to be worried about impressing the Feds with how many letters of the alphabet their children can identify. If they had any backbone at all, they would stick to their guns.

The article can be found in the ASCD ResearchBrief:

<http://www.ascd.org/portal/site/ascd/menuitem.6a9dfddd720040bf989ad324d3108a0c/>

Özmert, E. N., Yurdakök, K., Soysal, S., Kulak-Kayıkçı, M. E., Belgin, E., Özmert, E., Laleli, Y., & Saraçbasi, O. (2005). Relationship between physical, environmental, and sociodemographic factors and school performance in primary school children. *Journal of Tropical Pediatrics* 51(1), 25-32.

The state school board in Connecticut published a document clearly showing that the NCLB costs caused a \$41,000,000 deficit in the state's education budget.

Published: April 13, 2005
From Education Week
Connecticut Pledges First State Legal Challenge to NCLB Law
By Jeff Archer

The backlash against the No Child Left Behind Act was raised to a new level last week when Connecticut's attorney general announced that his state plans to sue the U.S. Department of Education over the testing mandates in the sweeping federal law.

In announcing his intentions, Attorney General Richard Blumenthal said he was inviting other states to join the legal challenge, which he said would argue that the law violates federal statute by forcing states to use their own money to carry out its testing requirements.

“I’m not making a judgment about educational policy, whether testing is a good thing or a bad thing,” he said in an interview last week. “The point is that the federal government is mandating it, and it’s doing so without funding it.”

The legal threat is one of the boldest in a growing number of challenges to the Bush administration’s hallmark education law. Last month, Utah lawmakers took up—and then delayed—a bill to have the state’s education requirements take precedence over those in the federal law. ("Utah Legislators Delay Action on NCLB Bill." March 9, 2005.)

In addition, a handful of local districts have filed their own lawsuits challenging the No Child Left Behind Act, a 3-year-old revision of the Elementary and Secondary Education Act.

The National Education Association has been encouraging states to take legal action against the law, but so far none has.

Jack Jennings, the president of the Washington-based Center on Education Policy, said a lawsuit by Connecticut would mark a significant escalation in the national debate over the law’s mandates.

“This is the first time that you have a state filing suit against the federal [law], and that’s a serious matter,” he said. “It’s not just a disgruntled school district, or a few parents. It’s the state of Connecticut saying that the federal government overstepped its bounds.”

Request Denied

The move to file a lawsuit follows a March report by the Connecticut Department of Education that claims the state would have to spend \$8 million of its own money by 2008 to carry out the testing requirements of the No Child Left Behind Act. The law mandates annual testing in reading and mathematics in grades 3-8, and once during high school. Connecticut assesses student performance in grades 4, 6, 8, and 10.

Mr. Blumenthal said that requiring a state to shoulder such a financial burden goes against a provision in the No Child Left Behind law that says federal officials cannot “mandate a state ... to spend any funds or incur any costs not paid for under this act.” A similar argument was made last spring by Wisconsin’s attorney general in a written analysis of the federal law. ("Wis. Review Invites ‘No Child’ Lawsuit." May 26, 2004.)

“As we thought about the potential claims, and provisions in the statute, what became crystal clear was that Congress sought to prevent exactly this kind of practice,” Mr. Blumenthal said.

In February, the U.S. Department of Education denied a request by Connecticut officials for a waiver to allow the state to continue with its current testing regime. In a letter explaining her decision, U.S. Secretary of Education Margaret Spellings said that testing in more grades was needed to better identify students’ needs.

Betty J. Sternberg, the Connecticut commissioner of education, said last week that the money for additional state assessments would be better spent on other improvement strategies, such as preschool programs. Also last week, she released a second analysis contending that, along with the added state costs, local districts would have to spend millions to meet the demands of the federal law.

“The real question is, will doing more statewide accountability testing really address the achievement-gap issue?” Ms. Sternberg said in an interview. “Or are there proven programs that we know we should provide to make the gap smaller?”

Although Secretary Spellings announced new flexibility in meeting the demands of the No Child Left Behind Act last week, she made clear that the requirement to test students in grades 3 through 8 and once in high school would continue. ("States to Get New Options on NCLB Law." this issue.)

Achievement Gap Cited

Officials with the federal Education Department said the state's intention to begin legal action was "disappointing."

Agency spokeswoman DJ Nordquist said in a statement that Connecticut's estimates of the costs of the No Child Left Behind law were "flawed," and that Connecticut's students "are suffering from one of the largest achievement gaps in the nation."

"Instead of addressing the issue at hand, the state has chosen to attack a law that is designed to assist the students most in need," she said, adding that Connecticut has received more than \$750 million in federal funding under the legislation since President Bush signed it into law in January 2002.

Ross Wiener, a principal partner at the Washington-based Education Trust, agreed that the additional testing called for in the NCLB law would help the state better pinpoint its weaknesses. He noted that while Connecticut students overall are among the top-performing in the country, the state's minority students and those living in poverty score far below the state averages.

"Poor students and students of color are underperforming in Connecticut public schools," said Mr. Wiener, whose research and advocacy group supports the No Child Left Behind Act. "And the leadership there needs to respond to those performance issues in more constructive ways."

Asked when he planned to file the lawsuit, Attorney General Blumenthal said April 6 that the filing was "imminent." The main consideration, he added, is how long to wait to allow other parties to join. "We have tried every other avenue of relief," Mr. Blumenthal said. "We are left with no recourse except for the courts."

Vol. 24, Issue 31, Page 38

Utah bucks feds on schools

No Child: Lawmakers defy Bush mandate and pass HB1001; they disdain possible funds loss

By Ronnie Lynn
The Salt Lake Tribune

Saying they don't take kindly to federal threats, Utah legislators defied President Bush on Tuesday and approved a measure that challenges his No Child Left Behind education initiative - despite warnings it could cost the state \$76 million.

House Bill 1001 cleared the House 66-7 and the Senate 25-3, just a day after a letter from U.S. Education Secretary Margaret Spellings noted the potential loss of \$55 million in federal funding for disadvantaged

students, \$19 million for teacher training and \$2 million for parental-choice programs.

All of the opposing votes came from Democrats.

Gov. Jon Huntsman Jr. probably will sign the bill this week, possibly today, education deputy Tim Bridgewater said.

"I am so relieved because this has been a serious issue for Utah," said HB1001 sponsoring Rep. Margaret Dayton, R-Orem. "We now have the option to focus on our own priorities."

For many GOP lawmakers, Spellings' letter reinforced their resentment of what they maintain is federal intrusion into the state's responsibility for education.

"I'd just as soon they take the stinking money and go back to Washington with it," said Rep. Steve Mascaró, R-West Jordan. "Let us resolve our education problems by ourselves. I will not be threatened by Washington over \$76 million."

Spellings wrote that Dayton's bill itself doesn't jeopardize the money, but it may encourage Utah to defy No Child Left Behind provisions. Noncompliance would be costly, she warned.

HB1001 directs state school leaders to put Utah's education priorities ahead of NCLB mandates and authorizes them to ignore provisions that conflict with state priorities or cost state dollars.

NCLB requires schools to show annual test-score gains for all students, regardless of ethnicity, native language, disability or family income.

State school leaders and policy-makers want to use Utah's accountability system - called the Utah Performance Assessment System for Students (U-PASS) - to measure school quality.

Sen. Karen Hale, D-Salt Lake City, questioned whether lawmakers' priorities are in the best interest of students.

During the general session, the Legislature rejected the state Office of Education's request for \$6 million to pay for tutoring of students who risk not getting a diploma because they failed the high school exit exam.

"That's part of our U-PASS system," said Hale, who ended up voting for Dayton's bill. "And yet we didn't prioritize it. We didn't fund that. So I'm really concerned that we are saying things are important and we have a great system, but we're not willing to fund it."

Bridgewater and other officials have spent the past few months negotiating with the feds for more flexibility under NCLB, namely to use U-PASS as Utah's accountability system.

HB1001's passage shouldn't threaten those discussions, Bridgewater said.

"We expect negotiations to continue," he said. "HB1001 has been helpful in getting the attention of the federal government. Now, it's about making sure states determine how they want to handle their own education systems."

That philosophy dominated floor debate, which lasted 90 minutes in the House.

House Majority Leader Jeff Alexander, R-Provo, said the bill cleans up a mess created when Congress passed NCLB in 2001. "I'm disappointed with our congressional delegation," he said. "Why did they pass it, and why don't they fix it? You start doing your work so we don't have to do it for you."

Lawmakers shot down proposals by Rep. Duane Bourdeaux, D-Salt Lake City, to add language that would ensure Utah tracks, reports and addresses the achievement gap.

Minority groups have stepped up their demands that the state do more to improve the academic performance of minority and disadvantaged students. They fear Utah's anti-NCLB sentiment could hinder that effort.

The House soundly defeated Bourdeaux's amendments, with many representatives calling them unnecessary.

rlynn@sltrib.com

Tribune reporter Rebecca Walsh contributed to this story.

Connecticut has a deficit of \$41 Million directly attributable to the cost of cooperating with the testing requirements of the law. The question, however, is even if the Feds fully funded the law; would we want a law worded in this way affecting our children?

NO CHILD LEFT BEHIND LAW SETS OFF REVOLT

Stateline.org -- April 20, 2005

by Kavan Peterson

The first salvos of a long-threatened attack on President Bush's signature education law now have been launched in what amounts to a grassroots rebellion against the No Child Left Behind Act.

Simmering frustrations from state and local officials over the 2002 law's costs, testing requirements and penalties have erupted into open conflict with the Utah Legislature voting April 19 to challenge obedience to the federal law and the nation's largest teachers' union filing suit against the act in federal court April 20. The state of Connecticut is preparing a separate lawsuit seeking full funding of NCLB's provisions.

Recent efforts by Bush education officials to head off a backlash failed to stop this week's challenges to the law, which Congress passed with bipartisan support to close education gaps between rich and poor, white and minority students. The backlash carries political weight particularly because it is being led by Republican-dominated states such as Utah, which gave Bush his largest margin of victory in November, and Texas, the president's home state.

The lawsuit filed by the National Education Association (NEA) and a handful of local school districts seeks for the first time to force the U.S. Department of Education to fully fund the law's mandates, which require states to test public school children in grades 3 through 8 annually. The groups also asked the court to prevent the federal government from denying federal education funds to states that refuse to spend their own money to comply with the law.

"The law requires Washington to pay for it, and the fact is that Washington is not keeping that promise," said NEA President Reg Weaver at a press conference in Washington, D.C. "As a result, our parents' tax dollars are getting steered away from the classroom and going towards boosting the profits of testing companies, instead of going towards their children's education."

Connecticut officials are threatening to file a similar lawsuit. In Texas, the education commissioner unilaterally has decided to ignore NCLB rules on testing students with learning disabilities, placing the state in direct violation of the federal law.

The most significant rebuke yet came from Utah, where the GOP-dominated Legislature, after more than a year of debate, adopted legislation that calls for the state's own testing requirements to take precedence over federal testing mandates.

The Utah Legislature postponed adopting the bill earlier this year at the request of Republican Gov. John Huntsman Jr. to allow time to negotiate a deal with federal officials. No deal materialized, and the Legislature passed the bill despite a warning from U.S. Education

Secretary Margaret Spellings that Utah may lose up to \$76 million in federal education aid if it flouts the NCLB law. Huntsman has said he would sign the legislation.

Utah does not automatically face sanctions for passing the legislation, federal officials said. But the bill authorizes Utah schools to ignore NCLB provisions that conflict with state education policies or that cost state dollars, and doing so could cost the state federal education aid.

"Pressure has been building at the state and local level for two to three years without any outlet," said Jack Jennings, executive director of the nonpartisan Center on Education Policy in Washington, which has done extensive studies on NCLB. "National leaders in Congress and the White House have not wanted to consider any amendments to the law, so (local and state officials) are looking for ways to relieve the pressure in the courts or by openly defying the law."

This week's actions come on the heels of an announcement by Spellings that federal education officials intend to be more flexible in addressing states' NCLB concerns. The announcement included specific changes to ease the rules on the numbers of learning-disabled students who must pass standardized reading and math tests.

Yet Spellings' overtures failed to diffuse tensions with state and local officials who are expecting a sharp increase in the number of schools failing to meet NCLB standards, said Jennings. Requirements of the federal law, which expects all students, regardless of ethnicity, poverty or disability, to be proficient in reading and math by 2014, soon will become even tougher. States are required to raise the bar for passing NCLB assessment tests next year and to expand testing to all students in grades 3 to 8. If a single group of students doesn't hit the mark, a whole school fails to pass federal muster on public reports.

Put those requirements together and a lot more schools will be in trouble, Jennings said.

"The two key problems are that school districts believe many aspects of the rules are too rigid and they don't have the resources or capacity to deal with all the schools that are going to be identified as needing assistance," Jennings said.

Connecticut and other states have attempted to put a price tag on complying with NCLB. Connecticut Attorney General Richard Blumenthal said he plans to argue in court that NCLB testing requirements will cost state taxpayers an additional \$8 million annually. Cost studies by Ohio and Texas estimated that the price to state taxpayers could run as high

as \$1.5 billion and \$1.2 billion, respectively, each year.

NEA, the teacher's union, contends that since the law's enactment in 2002, there has been a \$27 billion shortfall in what Congress should have provided to meet the law's regulations. Included in the NEA's lawsuit, which was filed in federal court in Michigan, are local school districts in Michigan, Texas and Vermont.

The suit argues that local schools have been forced to divert time and resources from other classes to meet the demands of NCLB testing requirements in reading and math.

"The school district has to pay for this law, and it is taking away from my child's classroom subjects like music, art, foreign languages, social studies, and sports," said Jose Zuniga, a plaintiff in the case whose two children attend school in the Laredo, Texas, Independent School District. "Those activities are being replaced with high-stakes, high-stress tests that don't help my child learn."

The groups contend that the federal government is violating provisions within the law that they say excuse states from paying for extra NCLB costs. A single paragraph - Section 9527A - in the 1,100-page law is at the center of the argument:

"Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local education agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act."

"Clearly this provision in NCLB holds the federal government accountable to provide enough funds to do the things required in the federal law," said David Schreve, a senior education lobbyist for the National Conference of State Legislatures, a bipartisan organization of state lawmakers.

Federal education officials counter that states have received more than enough funds, noting that Connecticut has received more than \$750 million to implement NCLB. They point to two reports by the General Accounting Office, the investigative arm of Congress, that concluded NCLB is not an unfunded mandate.

"The facts are what they are," said Education Department spokesperson Susan Aspey. Ultimately, closing the achievement gap in public education "is a state and local responsibility, and it continues to be under No

Child Left Behind," she said.

Send your comments on this story to letters@stateline.org <<mailto:letters@stateline.org>>. Selected reader feedback will be posted in the Letters to the editor section

NEA, SCHOOL DISTRICTS FIGHT ON CHILD LAW

Associated Press -- April 20, 2005
by Ben Feller

Washington - The nation's largest teachers union and school districts in three states are launching a legal fight over No Child Left Behind, aiming to free schools from complying with any part of the education law not paid for by the federal government.

The lawsuit, expected to be filed Wednesday in the U.S. District Court for eastern Michigan, is the most sweeping challenge to President Bush's signature education policy. The outcome would apply only to the districts involved but could have implications for all schools nationwide.

Leading the fight is the National Education Association, a union of 2.7 million members that represents many public educators and is financing the lawsuit. The other plaintiffs are nine school districts in Michigan, Texas and Vermont, plus 10 NEA chapters in those three states and Connecticut, Illinois, Indiana, New Hampshire, Ohio, Pennsylvania and Utah.

Education Secretary Margaret Spellings, as the chief officer of the agency that enforces the law, is the only defendant. The suit centers on a question that has overshadowed the law since Bush signed it in 2002: whether the president and Congress have provided enough money.

The challenge is built upon one paragraph in the law that says no state or school district can be forced to spend its money on expenses the federal government has not covered.

"What it means is just what it says — that you don't have to do anything this law requires unless you receive federal funds to do it," said NEA general counsel Bob Chanin.

"We want the Department of Education to simply do what Congress told it to do. There's a promise in that law, it's unambiguous, and it's not being complied with."

The plaintiffs want a judge to order that states and schools don't have to spend their own money to pay for the law's expenses — and order the Education Department not to try to yank federal money from a state or school that refuses to comply based on those grounds.

Spending on No Child Left Behind programs has increased 40 percent since Bush took office, from \$17.4 billion to \$24.4 billion, federal figures show. The Bush administration has repeatedly said schools have enough money to make the law work.

Yet the suit accuses the government of shortchanging schools by at least \$27 billion, the difference between the amount Congress authorized and what it has spent. The shortfall is even larger, the suit says, if the figures include all promised funding for poor children.

The suit, citing a series of cost studies, outlines billions of dollars in expenses to meet the law's mandates. They include the costs of adding yearly testing, getting all children up to grade level in reading and math, and ensuring teachers are highly qualified.

To cover those costs, the suit says, states have shifted money away from such other priorities as foreign languages, art and smaller classes. The money gap has hurt schools' ability to meet progress goals, which in turn has damaged their reputations, the suit says.

Plaintiffs include the Pontiac School District in Michigan, the Laredo Independent School District in Laredo, Texas; the Rutland Northeast Supervisory Union in Brandon, Vt.; and six of the school districts that are part of Rutland Northeast in south central Vermont.

The NEA promised to bring the suit almost two years ago and began recruiting states to be plaintiffs. But the union found no takers — in part because states had no firm cost estimates, and in part because states were wary of the political fallout of suing the federal government.

More than a dozen states, however, are considering anti-No Child Left Behind legislation this year. On Tuesday, the Utah Legislature passed a measure giving state education standards priority over federal ones imposed by No Child Left Behind.

The school districts involved in the lawsuit give the NEA the diversity it wanted, from rural Vermont students to limited-English learners in Laredo to poor students in Pontiac. In the suit, Spellings is accused of violating both the education law and the spending clause of the U.S. Constitution.

The NEA and the Bush administration have had a testy relationship.

When the union first promised the lawsuit, then-Education Secretary Rod Paige accused the NEA of putting together a "coalition of the whining." He later referred to the NEA as a "terrorist organization" for the way it opposed the law, a comment for which he later apologized
