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Folder Title: 01/08/2002 [H.R. 1] [2]

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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Letter	[Views of the Secretary of Education] - To: Mitchell E. Daniels, Jr. - From: Rod Paige	4	12/21/2001	P5;
002	Letter	[Views of the U.S. Department of the Interior] - To: Mitchell E. Daniels, Jr. - From: [illegible]	1	12/26/2001	P5;

COLLECTION TITLE:

Executive Clerk, Office Of the

SERIES:

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FOLDER TITLE:

01/08/2002 [H.R. 1] [2]

FRC ID:

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RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
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- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
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WHITE HOUSE STAFFING MEMORANDUM

Date: 1-7-02 ACTION / CONCURRENCE / COMMENT DUE BY: 1-7-02 3:00 PMSubject: ENROLLED BILL H.R. 1 - NO CHILD LEFT BEHIND ACT OF 2001

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☒	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☒	☐	JOHNSON	☒	☐
CALIO	☒	☐	LINDSEY	☒	☐
CONNAUGHTON	☒	☐	MIERS	☐	☒
DANIELS	☐	☒	RICE	☐	☒
FLEISCHER	☒	☐	RIDGE	☐	☒
GERSON	☐	☐	ROVE	☒	☐
GONZALES	☒	☐	SPELLINGS	☒	☐
HAGIN	☐	☐	CLERK	☐	☒
HAWKINS	☒	☐	_____	☐	☐

REMARKS:

PLEASE FORWARD YOUR COMMENTS TO THE STAFF SECRETARY, EXTENSION 62702, BY 3:00 PM, AND SEND A COPY TO JIM JUKES, OMB. THANK YOU.

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HAWKINS	☒	☐	_____	☐	☐

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RESPONSE:

Harriet E. Miers
 Assistant to the President
 and Staff Secretary
 Ext. 62702



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D. C. 20503

THE DIRECTOR

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 1 - No Child Left Behind Act of 2001
Sponsors - Rep. Boehner (R) Ohio and 84 cosponsors

Last Day for Action

January 16, 2002 - Wednesday

Purpose

Reauthorizes for six years the Elementary and Secondary Education Act of 1965 (ESEA), and amends the ESEA and other Federal programs by: (1) requiring States, by the 2005-2006 school year, to administer annual reading and math tests for students in grades three through eight; (2) requiring States to take corrective action against and, if necessary, reorganize, schools that fail to demonstrate proficiency of all students; (3) expanding school choice options, including permitting parents to move children in low-performing schools to better public schools; (4) giving States and localities more flexibility to direct Federal resources to unique and pressing educational needs; (5) establishing programs to ensure that children can read by the end of third grade; (6) authorizing funding for teacher quality improvement programs; and (7) consolidating limited English proficiency programs.

Agency Recommendations

Office of Management and Budget

Approval

Department of Education (ED)

Approval

Department of Labor

Approval (Informally)

National Institute for Literacy

Approval (Informally)

Department of Justice

No objection

Department of the Treasury

No objection (Informally)

National Commission on Libraries
and Information Science

No objection (Informally)

Department of the Interior

Defers to ED

Department of Defense

Defers to ED (Informally)

Department of Health and Human Services

Defers to ED (Informally)

Department of Housing and Urban Development

Defers to ED (Informally)

National Science Foundation	Defers to ED (Informally)
Department of Commerce	No comment (Informally)
Department of State	No comment (Informally)
Department of Transportation	No comment (Informally)
Council on Environmental Quality	No comment (Informally)
Environmental Protection Agency	No comment (Informally)
National Endowment for the Arts	No comment (Informally)
Office of Government Ethics	No comment (Informally)
Office of National Drug Control Policy	No comment (Informally)
Office of Personnel Management	No comment (Informally)
Office of Science and Technology Policy	No comment (Informally)

Discussion

H.R. 1 would reauthorize and amend the Elementary and Secondary Education Act of 1965 (ESEA) and other education programs for six years, through FY 2007. The enrolled bill is the product of intensive negotiations, and it conforms substantially with the priorities articulated in the "No Child Left Behind" blueprint that you transmitted to Congress last January. However, there are some differences, such as the enrolled bill's provisions limiting school choice options to public schools and authorizing appropriations that exceed your FY 2002 Budget. Major provisions of H.R. 1 are described below. Other significant provisions are described in an Attachment.

Appropriation Authorizations. H.R. 1 would authorize appropriations totaling \$26.5 billion for ESEA programs in FY 2002. Your FY 2002 Budget requested \$19.1 billion for ESEA programs. The Departments of Labor, Health and Human Services (HHS), Education, and Related Agencies FY 2002 Appropriations Act contains \$22.1 billion for these programs. For FYs 2003-2007, the enrolled bill generally authorizes "such sums" as may be necessary, except that specific amounts are authorized for certain Title I grants.

Approximately half of ESEA funding supports programs in Title I of the Act, which authorizes grants to States and school districts to benefit disadvantaged children and help improve instruction in high-poverty schools. The ESEA also authorizes programs for professional development of educators, educational technology, reading and literacy services, bilingual education, drug and violence prevention, education of Indian children, rural and migratory education, neglected or delinquent children, and impact aid (compensation to school districts for costs associated with educating children from families living or working on Federal property, such as military bases and Indian lands).

Title I Grants. H.R. 1 would authorize appropriations of \$13.5 billion in FY 2002 and a total of \$102.8 billion for FYs 2003-2007 for ESEA Title I basic programs operated by local school districts. It also would authorize appropriations of \$500 million in FY 2003 and "such sums" in each of FYs 2003-2007 for formula grants to States for a new Assistance for Local

School Improvement grant program. States would make subgrants to help local school districts comply with the school improvement activities required by the enrolled bill to assist low-performing schools. The Labor, HHS, Education FY 2002 Appropriations Act contains \$10.35 billion for Title I basic programs and \$235 million for the new school improvement grants.

Student Testing. The ESEA currently requires reading and math assessments once within each of three grade spans (3-5, 6-9, and 10-12). H.R. 1 would maintain this requirement through the 2004-2005 school year, after which time States would be required to implement annual reading and math tests for students in grades 3 through 8. The enrolled bill also would require science assessments in the three grade spans beginning in the 2007-2008 school year. H.R. 1 would authorize appropriations of \$490 million in FY 2002 and "such sums" for each of FYs 2003-2007 to help States design these assessment tests. States could delay implementation of the new tests if Congress does not annually appropriate amounts specified in H.R. 1. (The FY 2002 appropriation exceeds the specified level.)

The enrolled bill would further require all States, as a condition of receiving Title I funds, to participate in the National Assessment of Educational Progress (NAEP), an independent test in reading and math that is currently administered biennially to a small sample of 4th and 8th graders in forty States that currently participate on a voluntary basis. This test would be used as a benchmark to measure State programs and standards. Federally sponsored national testing, Federally controlled curricula, and mandatory national teacher certification would be specifically prohibited by the enrolled bill.

School Improvement and Corrective Action for Low-Performing Schools. The enrolled bill would establish a system of rewards and sanctions to hold schools and local school districts accountable for increasing student achievement. States and schools would be required to make "adequate yearly progress" (AYP) towards achieving the goal of all students being proficient in reading and math within 12 years after the 2001-2002 school year. AYP must be made by the State, school district, school, and by disaggregated groups, including economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency. States would set AYP goals, intermediate goals for achieving 100 percent proficiency, and the standard for 100 percent proficiency. The intermediate goals must be increased in equal increments at least once every three years. The enrolled bill would require that specific amounts of administrative funds be withheld from States that fail to meet requisite deadlines for implementing standards and a system for measuring AYP.

Schools exceeding AYP goals for two consecutive years could receive additional funds from the State (including funds for individual teacher awards). However, if the school fails to meet these goals, parents would receive new options for their children's education. Specifically, if a school fails to make AYP for two consecutive years, a district would be required to offer students in the school the opportunity to transfer to another public school within the same district (unless public school choice is prohibited by State law). School districts would be required to pay the cost of transporting students to other public schools and to provide technical assistance to

help failing schools improve. Failure by schools to make AYP for three consecutive years would require districts to provide low-achieving disadvantaged students within the school supplemental instructional services (e.g., tutoring, after-school classes, and summer classes) from a provider chosen by the parents, including services provided by private or faith-based organizations. If a school fails to make AYP for four consecutive years, the district would be required to take corrective action to improve the school, including replacing staff or implementing new curricula. Finally, if a school fails to make AYP for five consecutive years, the local district would be required to restructure the school, including through a State takeover or converting the school to a charter school.

While a school is undergoing corrective action or being restructured, districts must continue to offer public school choice and provide supplemental services. Once a school makes AYP for two consecutive years, it would no longer be required to take remedial actions.

Other Parental Options. H.R. 1 would authorize competitive grant awards of up to five years for States, local school districts, or public or private sector partnerships to establish or expand programs that provide students and parents with greater voluntary public school choice. To enable parents to make informed choices, the enrolled bill would require that parents receive data, through annual report cards, about the quality of their children's schools, teacher qualifications, and their children's progress in key subjects.

The bill would permit transfer of students from low-performing schools to charter schools. Charter schools can be publicly or privately run enterprises operating within public school systems, which are generally exempt from regulatory requirements to help them develop innovative approaches to education. H.R. 1 also would authorize appropriations of \$300 million in FY 2002 and "such sums" in each of FYs 2003-2007 for charter schools. In FY 2002, the first \$200 million would be authorized for grants to charter schools and the remainder would be for a new program of competitive 5-year grants to States to assist charter schools with facility costs. The FY 2002 Labor, HHS, Education Appropriations Act provides \$200 million for charter schools and no funds for the facilities program. In addition, a student who is the victim of a crime, or who attends a public school designated by the State as unsafe, would be permitted to transfer to a safe public school or charter school.

Flexibility for States and Local School Districts. H.R. 1 would provide greater flexibility to States and local school districts in deciding how to use Federal funds to address their unique needs and priorities. States would be authorized, after notifying the Secretary, to transfer up to 50 percent of "State activity funds" (Federal funds reserved for use at the State level for purposes other than administration) they receive under certain programs (e.g., teacher training, technology education, etc.) among those programs, as well as into the State's Title I allotment. The requirements of the program to which the funds are transferred would apply to those funds. Local school districts would be afforded similar flexibility to decide how to distribute certain program funds without State approval. Districts could distribute up to 50 percent (30 percent for districts identified for improvement, with some limitations) of the Federal funds allocated for

local use under certain programs (e.g., teacher training, technology education, etc.) among those programs, as well as into the district's allocation under Title I.

H.R. 1 would provide additional flexibility by authorizing new State and local demonstration projects. Up to seven States could participate in a demonstration program that would give them the flexibility to combine State activity and administrative funds from certain Title I programs and other programs, including teacher training and technology education, and use the funds for any educational purpose authorized under the ESEA. As part of the demonstration program, States would be required to enter into 4-10 performance agreements with local school districts (at least half of which must be high-poverty districts) to align the local district's use of funds with the State's use of the funds it combined under the demonstration program. In addition, up to 80 local school districts in other States could participate in a demonstration programs directly with the Secretary where the districts could consolidate and use formula grant funds made available to the district under certain programs, for any educational purpose authorized under the ESEA. Certain Federal requirements would be waived for States and districts participating in the demonstration programs in exchange for their agreement to improve student achievement and meet AYP.

Reading First Literacy Initiatives. H.R. 1 adopts your Reading First and Early Reading First initiatives. The enrolled bill would authorize appropriations of \$900 million in FY 2002 (the same funding level included in the FY 2002 Labor, HHS, Education Appropriations Act) and "such sums" for each of FYs 2003-2007 for the Reading First program. The FY 2002 program level is three times the amount appropriated for FY 2001. Under this program, grants are provided to States and local school districts to implement scientifically-based reading programs from kindergarten through second grade, with the goal of ensuring that every student reads by the third grade.

H.R. 1 also would authorize appropriations of \$75 million in FY 2002 (the same funding level included in the FY 2002 Labor, HHS, Education Appropriations Act) and "such sums" in each of FYs 2003-2007 for the new Early Reading First initiative. This program is designed to provide the early identification and early reading interventions necessary to prevent reading failure and otherwise enhance reading readiness for children in high poverty areas. Support to States for this program would be directed to preschool programs, including Head Start centers.

Improving Teacher Quality. The enrolled bill would authorize appropriations totaling \$3.18 billion in FY 2002 and "such sums" in each of FYs 2003-2007, \$1 billion over the level in the FY 2002 Labor, HHS, Education Appropriations Act, for grants to States for professional development, recruitment, and retention activities to improve teacher quality. Each school receiving Title I funds would be required to ensure that all teachers hired and teaching in a program supported with those funds are "highly qualified" (e.g., State-certified, holding at least a bachelor's degree, and, for new teachers, passing a rigorous State test on subject knowledge and teaching skills). States must submit plans to ensure that all public school teachers of core academic subjects are "highly qualified" by the end of the 2005-2006 school year.

The enrolled bill would consolidate the Eisenhower Professional Development program (grants to States, local school districts, and institutions of higher education to improve teacher performance) and the Class-Size Reduction program (grants to States to reduce class sizes in the primary grades) into a single new Teacher Quality program. The new program would give local school districts flexibility to decide how to allocate resources to put more highly qualified teachers in every classroom. These resources could be used for professional development, recruitment, and hiring of teachers.

The bill also would authorize grants to partnerships among States, local institutions, and institutions of higher education to improve math and science teacher education, with the goal of improving student performance in those subjects. Grants could be used for activities such as summer workshops for teachers or teacher recruitment programs. H.R. 1 would authorize appropriations of \$450 million in FY 2002 and "such sums" in each of FYs 2003-2007 to ED for this program. The FY 2002 Budget proposed to house this program in the National Science Foundation (NSF) and fund it at \$200 million. For FY 2002, Congress has appropriated \$12.5 million to ED for the program and \$160 million to NSF for similar activities.

The bill would update and authorize appropriations totaling \$150 million in FY 2002 and "such sums" for each of FYs 2003-2007 for the: (1) Troops-to-Teachers program, which helps armed forces personnel obtain certification or licensure as teachers or vocational technical leaders; and (2) Transition to Teaching recruiting program, which helps high-need local school districts recruit and train highly qualified individuals to make a transition to teaching.

H.R. 1 also would provide teachers with new tools to improve classroom management and foster better quality education. It would provide civil immunity to teachers and other school personnel, as well as school board members, for certain actions taken to maintain discipline in the classroom or school. Through amendments to the Safe and Drug-Free Schools Act, the bill would authorize schools to develop new policies that allow teachers to maintain control of the classroom. For example, school districts would be required to have plans for effective disciplinary policies, security procedures, prevention activities, student codes of conduct, and crisis management for responding to violent or traumatic incidents on school grounds.

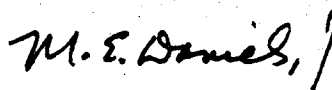
Teaching Students with Limited English Proficiency. H.R. 1 would authorize appropriations of \$750 million in FY 2002 and "such sums" for each of FYs 2003-2007 for education to benefit children with limited English proficiency (LEP). The FY 2002 Labor, HHS, Education Appropriations Act includes \$665 million for this function. The enrolled bill would consolidate several current bilingual education and immigrant education programs into a streamlined single formula grant program that would focus on helping LEP students learn English. It would eliminate the current requirement that 75 percent of bilingual education funding support programs that instruct children by using the student's native language. The bill would require that LEP children be tested for reading and language arts in English after they have attended school in the United States for three consecutive years. All teachers in language instruction classes for LEP students would be required to be fluent in English. States would be

required to monitor the progress of LEP students in attaining English proficiency and be held accountable for meeting those objectives. The bill would require parents to be notified that their child is in need of English language instruction and of the benefits of LEP instruction. Parental choice would be fostered by allowing parents to: (1) opt out of English instruction programs for their children; and (2) choose their child's instructional program if more than one is offered.

Conclusion and Recommendations

The Department of Education strongly recommends approval of H.R. 1 and notes that the enrolled bill incorporates many of the specific proposals from the "No Child Left Behind" comprehensive reform plan, including annual student testing, holding schools accountable for student achievement, empowering parents with options for choice, new reading programs, and greater flexibility for States and localities in using Federal education funds. ED states that this legislation "is of tremendous importance for America's children" and "a major accomplishment for the President."

We join ED and other interested agencies in recommending approval of H.R. 1, which passed the House by a vote of 381-41 and the Senate by 87-10.



Mitchell E. Daniels, Jr.
Director

Enclosures

Attachment

Other Provisions of H.R. 1

Technology Education. H.R. 1 would authorize appropriations of \$1 billion in FY 2002 and "such sums" for each of FYs 2003-2007 for consolidation of two educational technology programs into a single State formula grant program to support the integration of educational technology into classrooms to improve teaching and learning. It would require additional targeting of resources to school districts with poor children and those with schools identified as needing improvement. The FY 2002 Labor, HHS, Education Appropriations Act contains \$785 million for the current technology education programs.

21st Century Learning Centers. The enrolled bill would authorize appropriations of \$1.25 billion in FY 2002 and a total of \$10 billion for FYs 2003-2007 for grants to school districts or nonprofit organizations, including faith-based organizations, to provide after-school learning programs. For FY 2002, the Labor, HHS, Education Appropriations Act contains \$1 billion for this program.

Safe and Drug-Free Schools. H.R. 1 would authorize appropriations of \$650 million in FY 2002 and "such sums" for each of FYs 2003-2007 for grants to States for drug and violence prevention programs in schools.

Rural Education. H.R. 1 would authorize appropriations of \$300 million in FY 2002 and "such sums" in each of FYs 2003-2007 for new initiatives that address the unique needs of schools in rural areas. Eligible districts (generally areas of low population, low student attendance, or in non-urban locations) would be able to combine funds under various programs, and would be afforded special flexibility in using ESEA funds to support school improvement efforts. While each district would generally be held accountable to the performance requirements in the enrolled bill, rural schools would be eligible to receive additional assistance in helping to improve failing schools because actions required by the bill, such as restructuring or alternative placement of students, might not be feasible.

Education of Indian Children. H.R. 1 would authorize appropriations totaling \$120.4 million in FY 2002 and "such sums" in each of FYs 2003-2006 for grants and other assistance to meet the educational needs of Indian children and to train teachers in schools with substantial numbers of Indian children. The FY 2002 Labor, HHS, Education Appropriations Act includes \$120.4 million for these programs. The enrolled bill also would authorize appropriations of "such sums" in each of FYs 2002-2007 for Native Hawaiian and Alaska Native education programs.

Education of Homeless Children. The enrolled bill would amend the McKinney-Vento Homeless Assistance Act to authorize appropriations of \$70 million in FY 2002 and "such sums" in each of FYs 2003-2007 to provide grants to States to help ensure that homeless children and youth have access to the same public education as other children and youth. H.R. 1 would

modify the McKinney Act to improve services for homeless children, including: (1) prohibiting States from segregating homeless students, except in specified counties where separate schools have been approved; and (2) requiring local school districts to provide or arrange transportation to the homeless child's school.

Miscellaneous. H.R. 1 contains various new requirements and prohibitions relating to the Federal role in education. For example, it would require each local school district receiving ESEA funds to certify to its State educational agency that it has no policy that prevents constitutionally protected prayer in public schools. Currently, ESEA funds may only be withheld from districts or States in cases where Federal courts have determined that the State or district has violated a Federal court order to refrain from violating the constitutional right of any student with respect to public school prayer. The enrolled bill also would prohibit States, school districts, or schools that receive ESEA funds and permit outside youth or community groups to meet on school premises before or after school from denying equal access to those facilities to the Boy Scouts based on the scout group's membership criteria or oath of allegiance. H.R. 1 also would require each school district receiving ESEA funds to provide, on request by a military recruiter or an institution of higher education, access to the names, addresses, and telephone listings for secondary students, except in cases where parents have requested that such information not be released without their prior written consent.

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RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

MEMORANDUM FOR THE PRESIDENT

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Sponsors - Rep. Boehner (R) Ohio and 84 cosponsors

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January 16, 2002 - Wednesday

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Agency Recommendations

Office of Management and Budget

Approval

Department of Education (ED)

Approval

Department of Labor

Approval (Informally)

National Institute for Literacy

Approval (Informally)

Department of Justice

No objection

Department of the Treasury

No objection (Informally)

National Commission on Libraries

and Information Science

No objection (Informally)

Department of the Interior

Defers to ED

Department of Defense

Defers to ED (Informally)

Department of Health and Human Services

Defers to ED (Informally)

Department of Housing and Urban Development

Defers to ED (Informally)

National Science Foundation	Defers to ED (Informally)
Department of Commerce	No comment (Informally)
Department of State	No comment (Informally)
Department of Transportation	No comment (Informally)
Council on Environmental Quality	No comment (Informally)
Environmental Protection Agency	No comment (Informally)
National Endowment for the Arts	No comment (Informally)
Office of Government Ethics	No comment (Informally)
Office of National Drug Control Policy	No comment (Informally)
Office of Personnel Management	No comment (Informally)
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Discussion

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Reading First Literacy Initiatives. H.R. 1 adopts your Reading First and Early Reading First initiatives. The enrolled bill would authorize appropriations of \$900 million in FY 2002 (the same funding level included in the FY 2002 Labor, HHS, Education Appropriations Act) and "such sums" for each of FYs 2003-2007 for the Reading First program. The FY 2002 program level is three times the amount appropriated for FY 2001. Under this program, grants are provided to States and local school districts to implement scientifically-based reading programs from kindergarten through second grade, with the goal of ensuring that every student reads by the third grade.

H.R. 1 also would authorize appropriations of \$75 million in FY 2002 (the same funding level included in the FY 2002 Labor, HHS, Education Appropriations Act) and "such sums" in each of FYs 2003-2007 for the new Early Reading First initiative. This program is designed to provide the early identification and early reading interventions necessary to prevent reading failure and otherwise enhance reading readiness for children in high poverty areas. Support to States for this program would be directed to preschool programs, including Head Start centers.

Improving Teacher Quality. The enrolled bill would authorize appropriations totaling \$3.18 billion in FY 2002 and "such sums" in each of FYs 2003-2007, \$1 billion over the level in the FY 2002 Labor, HHS, Education Appropriations Act, for grants to States for professional development, recruitment, and retention activities to improve teacher quality. Each school receiving Title I funds would be required to ensure that all teachers hired and teaching in a program supported with those funds are "highly qualified" (e.g., State-certified, holding at least a bachelor's degree, and, for new teachers, passing a rigorous State test on subject knowledge and teaching skills). States must submit plans to ensure that all public school teachers of core academic subjects are "highly qualified" by the end of the 2005-2006 school year.

The enrolled bill would consolidate the Eisenhower Professional Development program (grants to States, local school districts, and institutions of higher education to improve teacher performance) and the Class-Size Reduction program (grants to States to reduce class sizes in the primary grades) into a single new Teacher Quality program. The new program would give local school districts flexibility to decide how to allocate resources to put more highly qualified teachers in every classroom. These resources could be used for professional development, recruitment, and hiring of teachers.

The bill also would authorize grants to partnerships among States, local institutions, and institutions of higher education to improve math and science teacher education, with the goal of improving student performance in those subjects. Grants could be used for activities such as summer workshops for teachers or teacher recruitment programs. H.R. 1 would authorize appropriations of \$450 million in FY 2002 and "such sums" in each of FYs 2003-2007 to ED for this program. The FY 2002 Budget proposed to house this program in the National Science Foundation (NSF) and fund it at \$200 million. For FY 2002, Congress has appropriated \$12.5 million to ED for the program and \$160 million to NSF for similar activities.

The bill would update and authorize appropriations totaling \$150 million in FY 2002 and "such sums" for each of FYs 2003-2007 for the: (1) Troops-to-Teachers program, which helps armed forces personnel obtain certification or licensure as teachers or vocational technical leaders; and (2) Transition to Teaching recruiting program, which helps high-need local school districts recruit and train highly qualified individuals to make a transition to teaching.

H.R. 1 also would provide teachers with new tools to improve classroom management and foster better quality education. It would provide civil immunity to teachers and other school personnel, as well as school board members, for certain actions taken to maintain discipline in the classroom or school. Through amendments to the Safe and Drug-Free Schools Act, the bill would authorize schools to develop new policies that allow teachers to maintain control of the classroom. For example, school districts would be required to have plans for effective disciplinary policies, security procedures, prevention activities, student codes of conduct, and crisis management for responding to violent or traumatic incidents on school grounds.

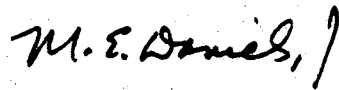
Teaching Students with Limited English Proficiency. H.R. 1 would authorize appropriations of \$750 million in FY 2002 and "such sums" for each of FYs 2003-2007 for education to benefit children with limited English proficiency (LEP). The FY 2002 Labor, HHS, Education Appropriations Act includes \$665 million for this function. The enrolled bill would consolidate several current bilingual education and immigrant education programs into a streamlined single formula grant program that would focus on helping LEP students learn English. It would eliminate the current requirement that 75 percent of bilingual education funding support programs that instruct children by using the student's native language. The bill would require that LEP children be tested for reading and language arts in English after they have attended school in the United States for three consecutive years. All teachers in language instruction classes for LEP students would be required to be fluent in English. States would be

required to monitor the progress of LEP students in attaining English proficiency and be held accountable for meeting those objectives. The bill would require parents to be notified that their child is in need of English language instruction and of the benefits of LEP instruction. Parental choice would be fostered by allowing parents to: (1) opt out of English instruction programs for their children; and (2) choose their child's instructional program if more than one is offered.

Conclusion and Recommendations

The Department of Education strongly recommends approval of H.R. 1 and notes that the enrolled bill incorporates many of the specific proposals from the "No Child Left Behind" comprehensive reform plan, including annual student testing, holding schools accountable for student achievement, empowering parents with options for choice, new reading programs, and greater flexibility for States and localities in using Federal education funds. ED states that this legislation "is of tremendous importance for America's children" and "a major accomplishment for the President."

We join ED and other interested agencies in recommending approval of H.R. 1, which passed the House by a vote of 381-41 and the Senate by 87-10.



Mitchell E. Daniels, Jr.
Director

Enclosures

Attachment

Other Provisions of H.R. 1

Technology Education. H.R. 1 would authorize appropriations of \$1 billion in FY 2002 and "such sums" for each of FYs 2003-2007 for consolidation of two educational technology programs into a single State formula grant program to support the integration of educational technology into classrooms to improve teaching and learning. It would require additional targeting of resources to school districts with poor children and those with schools identified as needing improvement. The FY 2002 Labor, HHS, Education Appropriations Act contains \$785 million for the current technology education programs.

21st Century Learning Centers. The enrolled bill would authorize appropriations of \$1.25 billion in FY 2002 and a total of \$10 billion for FYs 2003-2007 for grants to school districts or nonprofit organizations, including faith-based organizations, to provide after-school learning programs. For FY 2002, the Labor, HHS, Education Appropriations Act contains \$1 billion for this program.

Safe and Drug-Free Schools. H.R. 1 would authorize appropriations of \$650 million in FY 2002 and "such sums" for each of FYs 2003-2007 for grants to States for drug and violence prevention programs in schools.

Rural Education. H.R. 1 would authorize appropriations of \$300 million in FY 2002 and "such sums" in each of FYs 2003-2007 for new initiatives that address the unique needs of schools in rural areas. Eligible districts (generally areas of low population, low student attendance, or in non-urban locations) would be able to combine funds under various programs, and would be afforded special flexibility in using ESEA funds to support school improvement efforts. While each district would generally be held accountable to the performance requirements in the enrolled bill, rural schools would be eligible to receive additional assistance in helping to improve failing schools because actions required by the bill, such as restructuring or alternative placement of students, might not be feasible.

Education of Indian Children. H.R. 1 would authorize appropriations totaling \$120.4 million in FY 2002 and "such sums" in each of FYs 2003-2006 for grants and other assistance to meet the educational needs of Indian children and to train teachers in schools with substantial numbers of Indian children. The FY 2002 Labor, HHS, Education Appropriations Act includes \$120.4 million for these programs. The enrolled bill also would authorize appropriations of "such sums" in each of FYs 2002-2007 for Native Hawaiian and Alaska Native education programs.

Education of Homeless Children. The enrolled bill would amend the McKinney-Vento Homeless Assistance Act to authorize appropriations of \$70 million in FY 2002 and "such sums" in each of FYs 2003-2007 to provide grants to States to help ensure that homeless children and youth have access to the same public education as other children and youth. H.R. 1 would

modify the McKinney Act to improve services for homeless children, including: (1) prohibiting States from segregating homeless students, except in specified counties where separate schools have been approved; and (2) requiring local school districts to provide or arrange transportation to the homeless child's school.

Miscellaneous. H.R. 1 contains various new requirements and prohibitions relating to the Federal role in education. For example, it would require each local school district receiving ESEA funds to certify to its State educational agency that it has no policy that prevents constitutionally protected prayer in public schools. Currently, ESEA funds may only be withheld from districts or States in cases where Federal courts have determined that the State or district has violated a Federal court order to refrain from violating the constitutional right of any student with respect to public school prayer. The enrolled bill also would prohibit States, school districts, or schools that receive ESEA funds and permit outside youth or community groups to meet on school premises before or after school from denying equal access to those facilities to the Boy Scouts based on the scout group's membership criteria or oath of allegiance. H.R. 1 also would require each school district receiving ESEA funds to provide, on request by a military recruiter or an institution of higher education, access to the names, addresses, and telephone listings for secondary students, except in cases where parents have requested that such information not be released without their prior written consent.

 *** TX REPORT ***

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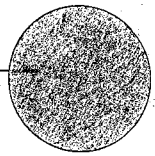
WHITE HOUSE STAFFING MEMORANDUM

Date: 1-7-02 ACTION / CONCURRENCE / COMMENT DUE BY: 1-7-02 3:00 PMSubject: ENROLLED BILL H.R. 1 - NO CHILD LEFT BEHIND ACT OF 2001

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☒	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☒	☐	JOHNSON	☒	☐
CALIO	☒	☐	LINDSEY	☒	☐
CONNAUGHTON	☒	☐	MIERS	☐	☒
DANIELS	☐	☒	RICE	☐	☒
FLEISCHER	☒	☐	RIDGE	☐	☒
GERSON	☐	☐	ROVE	☒	☐
GONZALES	☒	☐	SPELLINGS	☒	☐
HAGIN	☒	☐	CLERK	☐	☒
HAWKINS	☒	☐	_____	☐	☐

REMARKS:

PLEASE FORWARD YOUR COMMENTS TO THE STAFF SECRETARY, EXTENSION 62702, BY 3:00 PM , AND SEND A COPY TO JIM JUKES, OMB. THANK YOU.



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RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 1 - No Child Left Behind Act of 2001
Sponsors - Rep. Boehner (R) Ohio and 84 cosponsors

Last Day for Action

January 16, 2002 - Wednesday

Purpose

Reauthorizes for six years the Elementary and Secondary Education Act of 1965 (ESEA), and amends the ESEA and other Federal programs by: (1) requiring States, by the 2005-2006 school year, to administer annual reading and math tests for students in grades three through eight; (2) requiring States to take corrective action against and, if necessary, reorganize, schools that fail to demonstrate proficiency of all students; (3) expanding school choice options, including permitting parents to move children in low-performing schools to better public schools; (4) giving States and localities more flexibility to direct Federal resources to unique and pressing educational needs; (5) establishing programs to ensure that children can read by the end of third grade; (6) authorizing funding for teacher quality improvement programs; and (7) consolidating limited English proficiency programs.

Agency Recommendations

Office of Management and Budget

Approval

Department of Education (ED)

Approval

Department of Labor

Approval (Informally)

National Institute for Literacy

Approval (Informally)

Department of Justice

No objection

Department of the Treasury

No objection (Informally)

National Commission on Libraries

and Information Science

No objection (Informally)

Department of the Interior

Defers to ED

Department of Defense

Defers to ED (Informally)

Department of Health and Human Services

Defers to ED (Informally)

Department of Housing and Urban Development

Defers to ED (Informally)

National Science Foundation	Defers to ED (Informally)
Department of Commerce	No comment (Informally)
Department of State	No comment (Informally)
Department of Transportation	No comment (Informally)
Council on Environmental Quality	No comment (Informally)
Environmental Protection Agency	No comment (Informally)
National Endowment for the Arts	No comment (Informally)
Office of Government Ethics	No comment (Informally)
Office of National Drug Control Policy	No comment (Informally)
Office of Personnel Management	No comment (Informally)
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Reading First Literacy Initiatives. H.R. 1 adopts your Reading First and Early Reading First initiatives. The enrolled bill would authorize appropriations of \$900 million in FY 2002 (the same funding level included in the FY 2002 Labor, HHS, Education Appropriations Act) and "such sums" for each of FYs 2003-2007 for the Reading First program. The FY 2002 program level is three times the amount appropriated for FY 2001. Under this program, grants are provided to States and local school districts to implement scientifically-based reading programs from kindergarten through second grade, with the goal of ensuring that every student reads by the third grade.

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The enrolled bill would consolidate the Eisenhower Professional Development program (grants to States, local school districts, and institutions of higher education to improve teacher performance) and the Class-Size Reduction program (grants to States to reduce class sizes in the primary grades) into a single new Teacher Quality program. The new program would give local school districts flexibility to decide how to allocate resources to put more highly qualified teachers in every classroom. These resources could be used for professional development, recruitment, and hiring of teachers.

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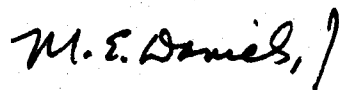
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required to monitor the progress of LEP students in attaining English proficiency and be held accountable for meeting those objectives. The bill would require parents to be notified that their child is in need of English language instruction and of the benefits of LEP instruction. Parental choice would be fostered by allowing parents to: (1) opt out of English instruction programs for their children; and (2) choose their child's instructional program if more than one is offered.

Conclusion and Recommendations

The Department of Education strongly recommends approval of H.R. 1 and notes that the enrolled bill incorporates many of the specific proposals from the "No Child Left Behind" comprehensive reform plan, including annual student testing, holding schools accountable for student achievement, empowering parents with options for choice, new reading programs, and greater flexibility for States and localities in using Federal education funds. ED states that this legislation "is of tremendous importance for America's children" and "a major accomplishment for the President."

We join ED and other interested agencies in recommending approval of H.R. 1, which passed the House by a vote of 381-41 and the Senate by 87-10.



Mitchell E. Daniels, Jr.
Director

Enclosures

Attachment

Other Provisions of H.R. 1

Technology Education. H.R. 1 would authorize appropriations of \$1 billion in FY 2002 and "such sums" for each of FYs 2003-2007 for consolidation of two educational technology programs into a single State formula grant program to support the integration of educational technology into classrooms to improve teaching and learning. It would require additional targeting of resources to school districts with poor children and those with schools identified as needing improvement. The FY 2002 Labor, HHS, Education Appropriations Act contains \$785 million for the current technology education programs.

21st Century Learning Centers. The enrolled bill would authorize appropriations of \$1.25 billion in FY 2002 and a total of \$10 billion for FYs 2003-2007 for grants to school districts or nonprofit organizations, including faith-based organizations, to provide after-school learning programs. For FY 2002, the Labor, HHS, Education Appropriations Act contains \$1 billion for this program.

Safe and Drug-Free Schools. H.R. 1 would authorize appropriations of \$650 million in FY 2002 and "such sums" for each of FYs 2003-2007 for grants to States for drug and violence prevention programs in schools.

Rural Education. H.R. 1 would authorize appropriations of \$300 million in FY 2002 and "such sums" in each of FYs 2003-2007 for new initiatives that address the unique needs of schools in rural areas. Eligible districts (generally areas of low population, low student attendance, or in non-urban locations) would be able to combine funds under various programs, and would be afforded special flexibility in using ESEA funds to support school improvement efforts. While each district would generally be held accountable to the performance requirements in the enrolled bill, rural schools would be eligible to receive additional assistance in helping to improve failing schools because actions required by the bill, such as restructuring or alternative placement of students, might not be feasible.

Education of Indian Children. H.R. 1 would authorize appropriations totaling \$120.4 million in FY 2002 and "such sums" in each of FYs 2003-2006 for grants and other assistance to meet the educational needs of Indian children and to train teachers in schools with substantial numbers of Indian children. The FY 2002 Labor, HHS, Education Appropriations Act includes \$120.4 million for these programs. The enrolled bill also would authorize appropriations of "such sums" in each of FYs 2002-2007 for Native Hawaiian and Alaska Native education programs.

Education of Homeless Children. The enrolled bill would amend the McKinney-Vento Homeless Assistance Act to authorize appropriations of \$70 million in FY 2002 and "such sums" in each of FYs 2003-2007 to provide grants to States to help ensure that homeless children and youth have access to the same public education as other children and youth. H.R. 1 would

modify the McKinney Act to improve services for homeless children, including: (1) prohibiting States from segregating homeless students, except in specified counties where separate schools have been approved; and (2) requiring local school districts to provide or arrange transportation to the homeless child's school.

Miscellaneous. H.R. 1 contains various new requirements and prohibitions relating to the Federal role in education. For example, it would require each local school district receiving ESEA funds to certify to its State educational agency that it has no policy that prevents constitutionally protected prayer in public schools. Currently, ESEA funds may only be withheld from districts or States in cases where Federal courts have determined that the State or district has violated a Federal court order to refrain from violating the constitutional right of any student with respect to public school prayer. The enrolled bill also would prohibit States, school districts, or schools that receive ESEA funds and permit outside youth or community groups to meet on school premises before or after school from denying equal access to those facilities to the Boy Scouts based on the scout group's membership criteria or oath of allegiance. H.R. 1 also would require each school district receiving ESEA funds to provide, on request by a military recruiter or an institution of higher education, access to the names, addresses, and telephone listings for secondary students, except in cases where parents have requested that such information not be released without their prior written consent.

 *** TX REPORT ***

TRANSMISSION OK

TX/RX NO	1486	
CONNECTION TEL		62710
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ST. TIME	01/07 12:17	
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PGS. SENT	10	
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SS/ RM NO. _____

WHITE HOUSE STAFFING MEMORANDUM

Date: 1-7-02 ACTION / CONCURRENCE / COMMENT DUE BY: 1-7-02 3:00 PMSubject: ENROLLED BILL H.R. 1 - NO CHILD LEFT BEHIND ACT OF 2001

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☒	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☒	☐	JOHNSON	☒	☐
CALIO	☒	☐	LINDSEY	☒	☐
CONNAUGHTON	☒	☐	MIERS	☐	☒
DANIELS	☐	☒	RICE	☐	☒
FLEISCHER	☒	☐	RIDGE	☐	☒
GERSON	☐	☐	ROVE	☒	☐
GONZALES	☒	☐	SPELLINGS	☒	☐
HAGIN	☐	☐	CLERK	☐	☒
HAWKINS	☒	☐		☐	☐

REMARKS:

PLEASE FORWARD YOUR COMMENTS TO THE STAFF SECRETARY, EXTENSION 62702, BY 3:00 PM, AND SEND A COPY TO JIM JUKES, OMB. THANK YOU.

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RESPONSE:

Council's Office has no comments. nff

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

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RESPONSE:

Handwritten signature/initials

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 1 - No Child Left Behind Act of 2001
Sponsors - Rep. Boehner (R) Ohio and 84 cosponsors

Last Day for Action

January 16, 2002 - Wednesday

Purpose

Reauthorizes for ~~six~~ years the Elementary and Secondary Education Act of 1965 (ESEA), and amends the ESEA and other Federal programs by: (1) requiring States, by the 2005-2006 school year, to administer annual reading and math tests for students in grades three through eight; (2) requiring States to take corrective action against and, if necessary, reorganize, schools that fail to demonstrate proficiency of all students; (3) expanding school choice options, including permitting parents to move children in low-performing schools to better public schools; (4) giving States and localities more flexibility to direct Federal resources to unique and pressing educational needs; (5) establishing programs to ensure that children can read by the end of third grade; (6) authorizing funding for teacher quality improvement programs; and (7) consolidating limited English proficiency programs.

Agency Recommendations

Office of Management and Budget

Approval

Department of Education (ED)

Approval

Department of Labor

Approval (Informally)

National Institute for Literacy

Approval (Informally)

Department of Justice

No objection

Department of the Treasury

No objection (Informally)

National Commission on Libraries

No objection (Informally)

and Information Science

Department of the Interior

Defers to ED

Department of Defense

Defers to ED (Informally)

Department of Health and Human Services

Defers to ED (Informally)

Department of Housing and Urban Development

Defers to ED (Informally)

National Science Foundation	Defers to ED (Informally)
Department of Commerce	No comment (Informally)
Department of State	No comment (Informally)
Department of Transportation	No comment (Informally)
Council on Environmental Quality	No comment (Informally)
Environmental Protection Agency	No comment (Informally)
National Endowment for the Arts	No comment (Informally)
Office of Government Ethics	No comment (Informally)
Office of National Drug Control Policy	No comment (Informally)
Office of Personnel Management	No comment (Informally)
Office of Science and Technology Policy	No comment (Informally)

Discussion

H.R. 1 would reauthorize and amend the Elementary and Secondary Education Act of 1965 (ESEA) and other education programs for six years, through FY 2007. The enrolled bill is the product of intensive negotiations, and it conforms substantially with the priorities articulated in the "No Child Left Behind" blueprint that you transmitted to Congress last January. However, there are some differences, such as the enrolled bill's provisions limiting school choice options to public schools and authorizing appropriations that exceed your FY 2002 Budget. Major provisions of H.R. 1 are described below. Other significant provisions are described in an Attachment.

Appropriation Authorizations. H.R. 1 would authorize appropriations totaling \$26.5 billion for ESEA programs in FY 2002. Your FY 2002 Budget requested \$19.1 billion for ESEA programs. The Departments of Labor, Health and Human Services (HHS), Education, and Related Agencies FY 2002 Appropriations Act contains \$22.1 billion for these programs. For FYs 2003-2007, the enrolled bill generally authorizes "such sums" as may be necessary, except that specific amounts are authorized for certain Title I grants.

Approximately half of ESEA funding supports programs in Title I of the Act, which authorizes grants to States and school districts to benefit disadvantaged children and help improve instruction in high-poverty schools. The ESEA also authorizes programs for professional development of educators, educational technology, reading and literacy services, bilingual education, drug and violence prevention, education of Indian children, rural and migratory education, neglected or delinquent children, and impact aid (compensation to school districts for costs associated with educating children from families living or working on Federal property, such as military bases and Indian lands).

Title I Grants. H.R. 1 would authorize appropriations of \$13.5 billion in FY 2002 and a total of \$102.8 billion for FYs 2003-2007 for ESEA Title I basic programs operated by local school districts. It also would authorize appropriations of \$500 million in FY 2003 and "such sums" in each of FYs 2003-2007 for formula grants to States for a new Assistance for Local

School Improvement grant program. States would make subgrants to help local school districts comply with the school improvement activities required by the enrolled bill to assist low-performing schools. The Labor, HHS, Education FY 2002 Appropriations Act contains \$10.35 billion for Title I basic programs and \$235 million for the new school improvement grants.

Student Testing. The ESEA currently requires reading and math assessments once within each of three grade spans (3-5, 6-9, and 10-12). H.R. 1 would maintain this requirement through the 2004-2005 school year, after which time States would be required to implement annual reading and math tests for students in grades 3 through 8. The enrolled bill also would require science assessments in the three grade spans beginning in the 2007-2008 school year. H.R. 1 would authorize appropriations of \$490 million in FY 2002 and "such sums" for each of FYs 2003-2007 to help States design these assessment tests. States could delay implementation of the new tests if Congress does not annually appropriate amounts specified in H.R. 1. (The FY 2002 appropriation exceeds the specified level.)

The enrolled bill would further require all States, as a condition of receiving Title I funds, to participate in the National Assessment of Educational Progress (NAEP), an independent test in reading and math that is currently administered biennially to a small sample of 4th and 8th graders in forty States that currently participate on a voluntary basis. This test would be used as a benchmark to measure State programs and standards. Federally sponsored national testing, Federally controlled curricula, and mandatory national teacher certification would be specifically prohibited by the enrolled bill.

School Improvement and Corrective Action for Low-Performing Schools. The enrolled bill would establish a system of rewards and sanctions to hold schools and local school districts accountable for increasing student achievement. States and schools would be required to make "adequate yearly progress" (AYP) towards achieving the goal of all students being proficient in reading and math within 12 years after the 2001-2002 school year. AYP must be made by the State, school district, school, and by disaggregated groups, including economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency. States would set AYP goals, intermediate goals for achieving 100 percent proficiency, and the standard for 100 percent proficiency. The intermediate goals must be increased in equal increments at least once every three years. The enrolled bill would require that specific amounts of administrative funds be withheld from States that fail to meet requisite deadlines for implementing standards and a system for measuring AYP.

Schools exceeding AYP goals for two consecutive years could receive additional funds from the State (including funds for individual teacher awards). However, if the school fails to meet these goals, parents would receive new options for their children's education. Specifically, if a school fails to make AYP for two consecutive years, a district would be required to offer students in the school the opportunity to transfer to another public school within the same district (unless public school choice is prohibited by State law). School districts would be required to pay the cost of transporting students to other public schools and to provide technical assistance to

help failing schools improve. Failure by schools to make AYP for three consecutive years would require districts to provide low-achieving disadvantaged students within the school supplemental instructional services (e.g., tutoring, after-school classes, and summer classes) from a provider chosen by the parents, including services provided by private or faith-based organizations. If a school fails to make AYP for four consecutive years, the district would be required to take corrective action to improve the school, including replacing staff or implementing new curricula. Finally, if a school fails to make AYP for five consecutive years, the local district would be required to restructure the school, including through a State takeover or converting the school to a charter school.

While a school is undergoing corrective action or being restructured, districts must continue to offer public school choice and provide supplemental services. Once a school makes AYP for two consecutive years, it would no longer be required to take remedial actions.

Other Parental Options. H.R. 1 would authorize competitive grant awards of up to five years for States, local school districts, or public or private sector partnerships to establish or expand programs that provide students and parents with greater voluntary public school choice. To enable parents to make informed choices, the enrolled bill would require that parents receive data, through annual report cards, about the quality of their children's schools, teacher qualifications, and their children's progress in key subjects.

The bill would permit transfer of students from low-performing schools to charter schools. Charter schools can be publicly or privately run enterprises operating within public school systems, which are generally exempt from regulatory requirements to help them develop innovative approaches to education. H.R. 1 also would authorize appropriations of \$300 million in FY 2002 and "such sums" in each of FYs 2003-2007 for charter schools. In FY 2002, the first \$200 million would be authorized for grants to charter schools and the remainder would be for a new program of competitive 5-year grants to States to assist charter schools with facility costs. The FY 2002 Labor, HHS, Education Appropriations Act provides \$200 million for charter schools and no funds for the facilities program. In addition, a student who is the victim of a crime, or who attends a public school designated by the State as unsafe, would be permitted to transfer to a safe public school or charter school.

Flexibility for States and Local School Districts. H.R. 1 would provide greater flexibility to States and local school districts in deciding how to use Federal funds to address their unique needs and priorities. States would be authorized, after notifying the Secretary, to transfer up to 50 percent of "State activity funds" (Federal funds reserved for use at the State level for purposes other than administration) they receive under certain programs (e.g., teacher training, technology education, etc.) among those programs, as well as into the State's Title I allotment. The requirements of the program to which the funds are transferred would apply to those funds. Local school districts would be afforded similar flexibility to decide how to distribute certain program funds without State approval. Districts could distribute up to 50 percent (30 percent for districts identified for improvement, with some limitations) of the Federal funds allocated for

local use under certain programs (e.g., teacher training, technology education, etc.) among those programs, as well as into the district's allocation under Title I.

H.R. 1 would provide additional flexibility by authorizing new State and local demonstration projects. Up to seven States could participate in a demonstration program that would give them the flexibility to combine State activity and administrative funds from certain Title I programs and other programs, including teacher training and technology education, and use the funds for any educational purpose authorized under the ESEA. As part of the demonstration program, States would be required to enter into 4-10 performance agreements with local school districts (at least half of which must be high-poverty districts) to align the local district's use of funds with the State's use of the funds it combined under the demonstration program. In addition, up to 80 local school districts in other States could participate in a demonstration programs directly with the Secretary where the districts could consolidate and use formula grant funds made available to the district under certain programs, for any educational purpose authorized under the ESEA. Certain Federal requirements would be waived for States and districts participating in the demonstration programs in exchange for their agreement to improve student achievement and meet AYP.

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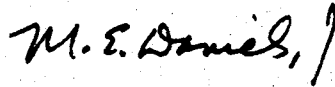
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Attachment

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Technology Education. H.R. 1 would authorize appropriations of \$1 billion in FY 2002 and "such sums" for each of FYs 2003-2007 for consolidation of two educational technology programs into a single State formula grant program to support the integration of educational technology into classrooms to improve teaching and learning. It would require additional targeting of resources to school districts with poor children and those with schools identified as needing improvement. The FY 2002 Labor, HHS, Education Appropriations Act contains \$785 million for the current technology education programs.

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modify the McKinney Act to improve services for homeless children, including: (1) prohibiting States from segregating homeless students, except in specified counties where separate schools have been approved; and (2) requiring local school districts to provide or arrange transportation to the homeless child's school.

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SS/ RM NO. _____

WHITE HOUSE STAFFING MEMORANDUM

Date: 1-7-02 ACTION / CONCURRENCE / COMMENT DUE BY: 1-7-02 3:00 PMSubject: ENROLLED BILL H.R. 1 - NO CHILD LEFT BEHIND ACT OF 2001

02 JAN 7 PM 1:21

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☒	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☒	☐	JOHNSON	☒	☐
CALIO	☒	☐	LINDSEY	☒	☐
CONNAUGHTON	☒	☐	MIERS	☐	☒
DANIELS	☐	☒	RICE	☐	☒
FLEISCHER	☒	☐	RIDGE	☐	☒
GERSON	☐	☐	ROVE	☒	☐
GONZALES	☒	☐	SPELLINGS	☒	☐
HAGIN	☒	☐	CLERK	☐	☒
HAWKINS	☒	☐		☐	☐

REMARKS:

PLEASE FORWARD YOUR COMMENTS TO THE STAFF SECRETARY, EXTENSION 62702, BY 3:00 PM, AND SEND A COPY TO JIM JUKES, OMB. THANK YOU.

RESPONSE:

*No comment*Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

SS/ RM NO.

WHITE HOUSE STAFFING MEMORANDUM

Date: 1-7-02 ACTION / CONCURRENCE / COMMENT DUE BY: 1-7-02 3:00 PM

02 JAN 7 PM 3:34

Subject: ENROLLED BILL H.R. 1 - NO CHILD LEFT BEHIND ACT OF 2001

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☒	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☒	☐	JOHNSON	☒	☐
CALIO	☒	☐	LINDSEY	☒	☐
CONNAUGHTON	☒	☐	MIERS	☐	☒
DANIELS	☐	☒	RICE	☐	☒
FLEISCHER	☒	☐	RIDGE	☐	☒
GERSON	☐	☐	ROVE	☒	☐
GONZALES	☒	☐	SPELLINGS	☒	☐
HAGIN	☒	☐	CLERK	☐	☒
HAWKINS	☒	☐		☐	☐

REMARKS:

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RESPONSE:

CEA concurs.
DFR

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

WHITE HOUSE STAFFING MEMORANDUM

Date: 1-7-02 ACTION / CONCURRENCE / COMMENT DUE BY: 1-7-02 3:00 PMSubject: ENROLLED BILL H.R. 1 - NO CHILD LEFT BEHIND ACT OF 2001

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☒	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
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CALIO	☒	☐	LINDSEY	☒	☐
CONNAUGHTON	☒	☐	MIERS	☐	☒
DANIELS	☐	☒	RICE	☐	☒
FLEISCHER	☒	☐	RIDGE	☐	☒
GERSON	☐	☐	ROVE	☒	☐
GONZALES	☒	☐	SPELLINGS	☒	☐
HAGIN	☐	☐	CLERK	☐	☒
HAWKINS	☒	☐		☐	☐

REMARKS:

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RESPONSE:

Regulation Affair (Howard) - sh

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D. C. 20503

THE DIRECTOR

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 1 - No Child Left Behind Act of 2001
Sponsors - Rep. Boehner (R) Ohio and 84 cosponsors

Last Day for Action

January 16, 2002 - Wednesday

Purpose

Reauthorizes for six years the Elementary and Secondary Education Act of 1965 (ESEA), and amends the ESEA and other Federal programs by: (1) requiring States, by the 2005-2006 school year, to administer annual reading and math tests for students in grades three through eight; (2) requiring States to take corrective action against and, if necessary, reorganize, schools that fail to demonstrate proficiency of all students; (3) expanding school choice options, including permitting parents to move children in low-performing schools to better public schools; (4) giving States and localities more flexibility to direct Federal resources to unique and pressing educational needs; (5) establishing programs to ensure that children can read by the end of third grade; (6) authorizing funding for teacher quality improvement programs; and (7) consolidating limited English proficiency programs.

Agency Recommendations

Office of Management and Budget

Approval

Department of Education (ED)

Approval

Department of Labor

Approval (Informally)

National Institute for Literacy

Approval (Informally)

Department of Justice

No objection

Department of the Treasury

No objection (Informally)

National Commission on Libraries

and Information Science

No objection (Informally)

Department of the Interior

Defers to ED

Department of Defense

Defers to ED (Informally)

Department of Health and Human Services

Defers to ED (Informally)

Department of Housing and Urban Development

Defers to ED (Informally)

National Science Foundation	Defers to ED (Informally)
Department of Commerce	No comment (Informally)
Department of State	No comment (Informally)
Department of Transportation	No comment (Informally)
Council on Environmental Quality	No comment (Informally)
Environmental Protection Agency	No comment (Informally)
National Endowment for the Arts	No comment (Informally)
Office of Government Ethics	No comment (Informally)
Office of National Drug Control Policy	No comment (Informally)
Office of Personnel Management	No comment (Informally)
Office of Science and Technology Policy	No comment (Informally)

Discussion

H.R. 1 would reauthorize and amend the Elementary and Secondary Education Act of 1965 (ESEA) and other education programs for six years, through FY 2007. The enrolled bill is the product of intensive negotiations, and it conforms substantially with the priorities articulated in the "No Child Left Behind" blueprint that you transmitted to Congress last January. However, there are some differences, such as the enrolled bill's provisions limiting school choice options to public schools and authorizing appropriations that exceed your FY 2002 Budget. Major provisions of H.R. 1 are described below. Other significant provisions are described in an Attachment.

Appropriation Authorizations. H.R. 1 would authorize appropriations totaling \$26.5 billion for ESEA programs in FY 2002. Your FY 2002 Budget requested \$19.1 billion for ESEA programs. The Departments of Labor, Health and Human Services (HHS), Education, and Related Agencies FY 2002 Appropriations Act contains \$22.1 billion for these programs. For FYs 2003-2007, the enrolled bill generally authorizes "such sums" as may be necessary, except that specific amounts are authorized for certain Title I grants.

Approximately half of ESEA funding supports programs in Title I of the Act, which authorizes grants to States and school districts to benefit disadvantaged children and help improve instruction in high-poverty schools. The ESEA also authorizes programs for professional development of educators, educational technology, reading and literacy services, bilingual education, drug and violence prevention, education of Indian children, rural and migratory education, neglected or delinquent children, and impact aid (compensation to school districts for costs associated with educating children from families living or working on Federal property, such as military bases and Indian lands).

Title I Grants. H.R. 1 would authorize appropriations of \$13.5 billion in FY 2002 and a total of \$102.8 billion for FYs 2003-2007 for ESEA Title I basic programs operated by local school districts. It also would authorize appropriations of \$500 million in FY 2003 and "such sums" in each of FYs 2003-2007 for formula grants to States for a new Assistance for Local

School Improvement grant program. States would make subgrants to help local school districts comply with the school improvement activities required by the enrolled bill to assist low-performing schools. The Labor, HHS, Education FY 2002 Appropriations Act contains \$10.35 billion for Title I basic programs and \$235 million for the new school improvement grants.

Student Testing. The ESEA currently requires reading and math assessments once within each of three grade spans (3-5, 6-9, and 10-12). H.R. 1 would maintain this requirement through the 2004-2005 school year, after which time States would be required to implement annual reading and math tests for students in grades 3 through 8. The enrolled bill also would require science assessments in the three grade spans beginning in the 2007-2008 school year. H.R. 1 would authorize appropriations of \$490 million in FY 2002 and "such sums" for each of FYs 2003-2007 to help States design these assessment tests. States could delay implementation of the new tests if Congress does not annually appropriate amounts specified in H.R. 1. (The FY 2002 appropriation exceeds the specified level.)

The enrolled bill would further require all States, as a condition of receiving Title I funds, to participate in the National Assessment of Educational Progress (NAEP), an independent test in reading and math that is currently administered biennially to a small sample of 4th and 8th graders in forty States that currently participate on a voluntary basis. This test would be used as a benchmark to measure State programs and standards. Federally sponsored national testing, Federally controlled curricula, and mandatory national teacher certification would be specifically prohibited by the enrolled bill.

School Improvement and Corrective Action for Low-Performing Schools. The enrolled bill would establish a system of rewards and sanctions to hold schools and local school districts accountable for increasing student achievement. States and schools would be required to make "adequate yearly progress" (AYP) towards achieving the goal of all students being proficient in reading and math within 12 years after the 2001-2002 school year. AYP must be made by the State, school district, school, and by disaggregated groups, including economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency. States would set AYP goals, intermediate goals for achieving 100 percent proficiency, and the standard for 100 percent proficiency. The intermediate goals must be increased in equal increments at least once every three years. The enrolled bill would require that specific amounts of administrative funds be withheld from States that fail to meet requisite deadlines for implementing standards and a system for measuring AYP.

Schools exceeding AYP goals for two consecutive years could receive additional funds from the State (including funds for individual teacher awards). However, if the school fails to meet these goals, parents would receive new options for their children's education. Specifically, if a school fails to make AYP for two consecutive years, a district would be required to offer students in the school the opportunity to transfer to another public school within the same district (unless public school choice is prohibited by State law). School districts would be required to pay the cost of transporting students to other public schools and to provide technical assistance to

help failing schools improve. Failure by schools to make AYP for three consecutive years would require districts to provide low-achieving disadvantaged students within the school supplemental instructional services (e.g., tutoring, after-school classes, and summer classes) from a provider chosen by the parents, including services provided by private or faith-based organizations. If a school fails to make AYP for four consecutive years, the district would be required to take corrective action to improve the school, including replacing staff or implementing new curricula. Finally, if a school fails to make AYP for five consecutive years, the local district would be required to restructure the school, including through a State takeover or converting the school to a charter school.

While a school is undergoing corrective action or being restructured, districts must continue to offer public school choice and provide supplemental services. Once a school makes AYP for two consecutive years, it would no longer be required to take remedial actions.

Other Parental Options. H.R. 1 would authorize competitive grant awards of up to five years for States, local school districts, or public or private sector partnerships to establish or expand programs that provide students and parents with greater voluntary public school choice. To enable parents to make informed choices, the enrolled bill would require that parents receive data, through annual report cards, about the quality of their children's schools, teacher qualifications, and their children's progress in key subjects.

The bill would permit transfer of students from low-performing schools to charter schools. Charter schools can be publicly or privately run enterprises operating within public school systems, which are generally exempt from regulatory requirements to help them develop innovative approaches to education. H.R. 1 also would authorize appropriations of \$300 million in FY 2002 and "such sums" in each of FYs 2003-2007 for charter schools. In FY 2002, the first \$200 million would be authorized for grants to charter schools and the remainder would be for a new program of competitive 5-year grants to States to assist charter schools with facility costs. The FY 2002 Labor, HHS, Education Appropriations Act provides \$200 million for charter schools and no funds for the facilities program. In addition, a student who is the victim of a crime, or who attends a public school designated by the State as unsafe, would be permitted to transfer to a safe public school or charter school.

Flexibility for States and Local School Districts. H.R. 1 would provide greater flexibility to States and local school districts in deciding how to use Federal funds to address their unique needs and priorities. States would be authorized, after notifying the Secretary, to transfer up to 50 percent of "State activity funds" (Federal funds reserved for use at the State level for purposes other than administration) they receive under certain programs (e.g., teacher training, technology education, etc.) among those programs, as well as into the State's Title I allotment. The requirements of the program to which the funds are transferred would apply to those funds. Local school districts would be afforded similar flexibility to decide how to distribute certain program funds without State approval. Districts could distribute up to 50 percent (30 percent for districts identified for improvement, with some limitations) of the Federal funds allocated for

local use under certain programs (e.g., teacher training, technology education, etc.) among those programs, as well as into the district's allocation under Title I.

H.R. 1 would provide additional flexibility by authorizing new State and local demonstration projects. Up to seven States could participate in a demonstration program that would give them the flexibility to combine State activity and administrative funds from certain Title I programs and other programs, including teacher training and technology education, and use the funds for any educational purpose authorized under the ESEA. As part of the demonstration program, States would be required to enter into 4-10 performance agreements with local school districts (at least half of which must be high-poverty districts) to align the local district's use of funds with the State's use of the funds it combined under the demonstration program. In addition, up to 80 local school districts in other States could participate in a demonstration programs directly with the Secretary where the districts could consolidate and use formula grant funds made available to the district under certain programs, for any educational purpose authorized under the ESEA. Certain Federal requirements would be waived for States and districts participating in the demonstration programs in exchange for their agreement to improve student achievement and meet AYP.

Reading First Literacy Initiatives. H.R. 1 adopts your Reading First and Early Reading First initiatives. The enrolled bill would authorize appropriations of \$900 million in FY 2002 (the same funding level included in the FY 2002 Labor, HHS, Education Appropriations Act) and "such sums" for each of FYs 2003-2007 for the Reading First program. The FY 2002 program level is three times the amount appropriated for FY 2001. Under this program, grants are provided to States and local school districts to implement scientifically-based reading programs from kindergarten through second grade, with the goal of ensuring that every student reads by the third grade.

H.R. 1 also would authorize appropriations of \$75 million in FY 2002 (the same funding level included in the FY 2002 Labor, HHS, Education Appropriations Act) and "such sums" in each of FYs 2003-2007 for the new Early Reading First initiative. This program is designed to provide the early identification and early reading interventions necessary to prevent reading failure and otherwise enhance reading readiness for children in high poverty areas. Support to States for this program would be directed to preschool programs, including Head Start centers.

Improving Teacher Quality. The enrolled bill would authorize appropriations totaling \$3.18 billion in FY 2002 and "such sums" in each of FYs 2003-2007, \$1 billion over the level in the FY 2002 Labor, HHS, Education Appropriations Act, for grants to States for professional development, recruitment, and retention activities to improve teacher quality. Each school receiving Title I funds would be required to ensure that all teachers hired and teaching in a program supported with those funds are "highly qualified" (e.g., State-certified, holding at least a bachelor's degree, and, for new teachers, passing a rigorous State test on subject knowledge and teaching skills). States must submit plans to ensure that all public school teachers of core academic subjects are "highly qualified" by the end of the 2005-2006 school year.

The enrolled bill would consolidate the Eisenhower Professional Development program (grants to States, local school districts, and institutions of higher education to improve teacher performance) and the Class-Size Reduction program (grants to States to reduce class sizes in the primary grades) into a single new Teacher Quality program. The new program would give local school districts flexibility to decide how to allocate resources to put more highly qualified teachers in every classroom. These resources could be used for professional development, recruitment, and hiring of teachers.

The bill also would authorize grants to partnerships among States, local institutions, and institutions of higher education to improve math and science teacher education, with the goal of improving student performance in those subjects. Grants could be used for activities such as summer workshops for teachers or teacher recruitment programs. H.R. 1 would authorize appropriations of \$450 million in FY 2002 and "such sums" in each of FYs 2003-2007 to ED for this program. The FY 2002 Budget proposed to house this program in the National Science Foundation (NSF) and fund it at \$200 million. For FY 2002, Congress has appropriated \$12.5 million to ED for the program and \$160 million to NSF for similar activities.

The bill would update and authorize appropriations totaling \$150 million in FY 2002 and "such sums" for each of FYs 2003-2007 for the: (1) Troops-to-Teachers program, which helps armed forces personnel obtain certification or licensure as teachers or vocational technical leaders; and (2) Transition to Teaching recruiting program, which helps high-need local school districts recruit and train highly qualified individuals to make a transition to teaching.

H.R. 1 also would provide teachers with new tools to improve classroom management and foster better quality education. It would provide civil immunity to teachers and other school personnel, as well as school board members, for certain actions taken to maintain discipline in the classroom or school. Through amendments to the Safe and Drug-Free Schools Act, the bill would authorize schools to develop new policies that allow teachers to maintain control of the classroom. For example, school districts would be required to have plans for effective disciplinary policies, security procedures, prevention activities, student codes of conduct, and crisis management for responding to violent or traumatic incidents on school grounds.

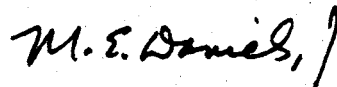
Teaching Students with Limited English Proficiency. H.R. 1 would authorize appropriations of \$750 million in FY 2002 and "such sums" for each of FYs 2003-2007 for education to benefit children with limited English proficiency (LEP). The FY 2002 Labor, HHS, Education Appropriations Act includes \$665 million for this function. The enrolled bill would consolidate several current bilingual education and immigrant education programs into a streamlined single formula grant program that would focus on helping LEP students learn English. It would eliminate the current requirement that 75 percent of bilingual education funding support programs that instruct children by using the student's native language. The bill would require that LEP children be tested for reading and language arts in English after they have attended school in the United States for three consecutive years. All teachers in language instruction classes for LEP students would be required to be fluent in English. States would be

required to monitor the progress of LEP students in attaining English proficiency and be held accountable for meeting those objectives. The bill would require parents to be notified that their child is in need of English language instruction and of the benefits of LEP instruction. Parental choice would be fostered by allowing parents to: (1) opt out of English instruction programs for their children; and (2) choose their child's instructional program if more than one is offered.

Conclusion and Recommendations

The Department of Education strongly recommends approval of H.R. 1 and notes that the enrolled bill incorporates many of the specific proposals from the "No Child Left Behind" comprehensive reform plan, including annual student testing, holding schools accountable for student achievement, empowering parents with options for choice, new reading programs, and greater flexibility for States and localities in using Federal education funds. ED states that this legislation "is of tremendous importance for America's children" and "a major accomplishment for the President."

We join ED and other interested agencies in recommending approval of H.R. 1, which passed the House by a vote of 381-41 and the Senate by 87-10.



Mitchell E. Daniels, Jr.
Director

Enclosures

Attachment

Other Provisions of H.R. 1

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OFFICE OF THE VICE PRESIDENT
WASHINGTON

02 JAN 7 PM 3:20

January 7, 2002

MEMORANDUM FOR HARRIET MIERS
STAFF SECRETARY

FROM: JONATHAN BURKS *JB*
DEPUTY STAFF SECRETARY TO THE VICE PRESIDENT

**SUBJECT: Enrolled Bill HR 1 – No Child Left Behind Act of
2001**

The Office of the Vice President has reviewed the above-referenced draft and concurs in the recommendation to sign the enrolled bill.

cc: Jim Jukes
Assistant Director, OMB

WHITE HOUSE STAFFING MEMORANDUM

Date: 1-7-02 ACTION / CONCURRENCE / COMMENT DUE BY: 1-7-02 3:00 PMSubject: ENROLLED BILL H.R. 1 - NO CHILD LEFT BEHIND ACT OF 2001

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☒	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☒	☐	JOHNSON	☒	☐
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GONZALES	☒	☐	SPELLINGS	☒	☐
HAGIN	☐	☐	CLERK	☐	☒
HAWKINS	☒	☐		☐	☐

REMARKS:

PLEASE FORWARD YOUR COMMENTS TO THE STAFF SECRETARY, EXTENSION 62702, BY 3:00 PM , AND SEND A COPY TO JIM JUKES, OMB. THANK YOU.

RESPONSE: OK-NEL

Harriet E. Miers
 Assistant to the President
 and Staff Secretary
 Ext. 62702



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D. C. 20503

THE DIRECTOR

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 1 - No Child Left Behind Act of 2001
Sponsors - Rep. Boehner (R) Ohio and 84 cosponsors

Last Day for Action

January 16, 2002 - Wednesday

Purpose

Reauthorizes for six years the Elementary and Secondary Education Act of 1965 (ESEA), and amends the ESEA and other Federal programs by: (1) requiring States, by the 2005-2006 school year, to administer annual reading and math tests for students in grades three through eight; (2) requiring States to take corrective action against and, if necessary, reorganize, schools that fail to demonstrate proficiency of all students; (3) expanding school choice options, including permitting parents to move children in low-performing schools to better public schools; (4) giving States and localities more flexibility to direct Federal resources to unique and pressing educational needs; (5) establishing programs to ensure that children can read by the end of third grade; (6) authorizing funding for teacher quality improvement programs; and (7) consolidating limited English proficiency programs.

Agency Recommendations

Office of Management and Budget

Approval

Department of Education (ED)

Approval

Department of Labor

Approval (Informally)

National Institute for Literacy

Approval (Informally)

Department of Justice

No objection

Department of the Treasury

No objection (Informally)

National Commission on Libraries

and Information Science

No objection (Informally)

Department of the Interior

Defers to ED

Department of Defense

Defers to ED (Informally)

Department of Health and Human Services

Defers to ED (Informally)

Department of Housing and Urban Development

Defers to ED (Informally)

National Science Foundation	Defers to ED (Informally)
Department of Commerce	No comment (Informally)
Department of State	No comment (Informally)
Department of Transportation	No comment (Informally)
Council on Environmental Quality	No comment (Informally)
Environmental Protection Agency	No comment (Informally)
National Endowment for the Arts	No comment (Informally)
Office of Government Ethics	No comment (Informally)
Office of National Drug Control Policy	No comment (Informally)
Office of Personnel Management	No comment (Informally)
Office of Science and Technology Policy	No comment (Informally)

Discussion

H.R. 1 would reauthorize and amend the Elementary and Secondary Education Act of 1965 (ESEA) and other education programs for six years, through FY 2007. The enrolled bill is the product of intensive negotiations, and it conforms substantially with the priorities articulated in the "No Child Left Behind" blueprint that you transmitted to Congress last January. However, there are some differences, such as the enrolled bill's provisions limiting school choice options to public schools and authorizing appropriations that exceed your FY 2002 Budget. Major provisions of H.R. 1 are described below. Other significant provisions are described in an Attachment.

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School Improvement grant program. States would make subgrants to help local school districts comply with the school improvement activities required by the enrolled bill to assist low-performing schools. The Labor, HHS, Education FY 2002 Appropriations Act contains \$10.35 billion for Title I basic programs and \$235 million for the new school improvement grants.

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local use under certain programs (e.g., teacher training, technology education, etc.) among those programs, as well as into the district's allocation under Title I.

H.R. 1 would provide additional flexibility by authorizing new State and local demonstration projects. Up to seven States could participate in a demonstration program that would give them the flexibility to combine State activity and administrative funds from certain Title I programs and other programs, including teacher training and technology education, and use the funds for any educational purpose authorized under the ESEA. As part of the demonstration program, States would be required to enter into 4-10 performance agreements with local school districts (at least half of which must be high-poverty districts) to align the local district's use of funds with the State's use of the funds it combined under the demonstration program. In addition, up to 80 local school districts in other States could participate in a demonstration programs directly with the Secretary where the districts could consolidate and use formula grant funds made available to the district under certain programs, for any educational purpose authorized under the ESEA. Certain Federal requirements would be waived for States and districts participating in the demonstration programs in exchange for their agreement to improve student achievement and meet AYP.

Reading First Literacy Initiatives. H.R. 1 adopts your Reading First and Early Reading First initiatives. The enrolled bill would authorize appropriations of \$900 million in FY 2002 (the same funding level included in the FY 2002 Labor, HHS, Education Appropriations Act) and "such sums" for each of FYs 2003-2007 for the Reading First program. The FY 2002 program level is three times the amount appropriated for FY 2001. Under this program, grants are provided to States and local school districts to implement scientifically-based reading programs from kindergarten through second grade, with the goal of ensuring that every student reads by the third grade.

H.R. 1 also would authorize appropriations of \$75 million in FY 2002 (the same funding level included in the FY 2002 Labor, HHS, Education Appropriations Act) and "such sums" in each of FYs 2003-2007 for the new Early Reading First initiative. This program is designed to provide the early identification and early reading interventions necessary to prevent reading failure and otherwise enhance reading readiness for children in high poverty areas. Support to States for this program would be directed to preschool programs, including Head Start centers.

Improving Teacher Quality. The enrolled bill would authorize appropriations totaling \$3.18 billion in FY 2002 and "such sums" in each of FYs 2003-2007, \$1 billion over the level in the FY 2002 Labor, HHS, Education Appropriations Act, for grants to States for professional development, recruitment, and retention activities to improve teacher quality. Each school receiving Title I funds would be required to ensure that all teachers hired and teaching in a program supported with those funds are "highly qualified" (e.g., State-certified, holding at least a bachelor's degree, and, for new teachers, passing a rigorous State test on subject knowledge and teaching skills). States must submit plans to ensure that all public school teachers of core academic subjects are "highly qualified" by the end of the 2005-2006 school year.

The enrolled bill would consolidate the Eisenhower Professional Development program (grants to States, local school districts, and institutions of higher education to improve teacher performance) and the Class-Size Reduction program (grants to States to reduce class sizes in the primary grades) into a single new Teacher Quality program. The new program would give local school districts flexibility to decide how to allocate resources to put more highly qualified teachers in every classroom. These resources could be used for professional development, recruitment, and hiring of teachers.

The bill also would authorize grants to partnerships among States, local institutions, and institutions of higher education to improve math and science teacher education, with the goal of improving student performance in those subjects. Grants could be used for activities such as summer workshops for teachers or teacher recruitment programs. H.R. 1 would authorize appropriations of \$450 million in FY 2002 and "such sums" in each of FYs 2003-2007 to ED for this program. The FY 2002 Budget proposed to house this program in the National Science Foundation (NSF) and fund it at \$200 million. For FY 2002, Congress has appropriated \$12.5 million to ED for the program and \$160 million to NSF for similar activities.

The bill would update and authorize appropriations totaling \$150 million in FY 2002 and "such sums" for each of FYs 2003-2007 for the: (1) Troops-to-Teachers program, which helps armed forces personnel obtain certification or licensure as teachers or vocational technical leaders; and (2) Transition to Teaching recruiting program, which helps high-need local school districts recruit and train highly qualified individuals to make a transition to teaching.

H.R. 1 also would provide teachers with new tools to improve classroom management and foster better quality education. It would provide civil immunity to teachers and other school personnel, as well as school board members, for certain actions taken to maintain discipline in the classroom or school. Through amendments to the Safe and Drug-Free Schools Act, the bill would authorize schools to develop new policies that allow teachers to maintain control of the classroom. For example, school districts would be required to have plans for effective disciplinary policies, security procedures, prevention activities, student codes of conduct, and crisis management for responding to violent or traumatic incidents on school grounds.

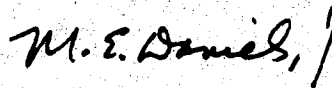
Teaching Students with Limited English Proficiency. H.R. 1 would authorize appropriations of \$750 million in FY 2002 and "such sums" for each of FYs 2003-2007 for education to benefit children with limited English proficiency (LEP). The FY 2002 Labor, HHS, Education Appropriations Act includes \$665 million for this function. The enrolled bill would consolidate several current bilingual education and immigrant education programs into a streamlined single formula grant program that would focus on helping LEP students learn English. It would eliminate the current requirement that 75 percent of bilingual education funding support programs that instruct children by using the student's native language. The bill would require that LEP children be tested for reading and language arts in English after they have attended school in the United States for three consecutive years. All teachers in language instruction classes for LEP students would be required to be fluent in English. States would be

required to monitor the progress of LEP students in attaining English proficiency and be held accountable for meeting those objectives. The bill would require parents to be notified that their child is in need of English language instruction and of the benefits of LEP instruction. Parental choice would be fostered by allowing parents to: (1) opt out of English instruction programs for their children; and (2) choose their child's instructional program if more than one is offered.

Conclusion and Recommendations

The Department of Education strongly recommends approval of H.R. 1 and notes that the enrolled bill incorporates many of the specific proposals from the "No Child Left Behind" comprehensive reform plan, including annual student testing, holding schools accountable for student achievement, empowering parents with options for choice, new reading programs, and greater flexibility for States and localities in using Federal education funds. ED states that this legislation "is of tremendous importance for America's children" and "a major accomplishment for the President."

We join ED and other interested agencies in recommending approval of H.R. 1, which passed the House by a vote of 381-41 and the Senate by 87-10.



Mitchell E. Daniels, Jr.
Director

Enclosures

Other Provisions of H.R. 1

Technology Education. H.R. 1 would authorize appropriations of \$1 billion in FY 2002 and "such sums" for each of FYs 2003-2007 for consolidation of two educational technology programs into a single State formula grant program to support the integration of educational technology into classrooms to improve teaching and learning. It would require additional targeting of resources to school districts with poor children and those with schools identified as needing improvement. The FY 2002 Labor, HHS, Education Appropriations Act contains \$785 million for the current technology education programs.

21st Century Learning Centers. The enrolled bill would authorize appropriations of \$1.25 billion in FY 2002 and a total of \$10 billion for FYs 2003-2007 for grants to school districts or nonprofit organizations, including faith-based organizations, to provide after-school learning programs. For FY 2002, the Labor, HHS, Education Appropriations Act contains \$1 billion for this program.

Safe and Drug-Free Schools. H.R. 1 would authorize appropriations of \$650 million in FY 2002 and "such sums" for each of FYs 2003-2007 for grants to States for drug and violence prevention programs in schools.

Rural Education. H.R. 1 would authorize appropriations of \$300 million in FY 2002 and "such sums" in each of FYs 2003-2007 for new initiatives that address the unique needs of schools in rural areas. Eligible districts (generally areas of low population, low student attendance, or in non-urban locations) would be able to combine funds under various programs, and would be afforded special flexibility in using ESEA funds to support school improvement efforts. While each district would generally be held accountable to the performance requirements in the enrolled bill, rural schools would be eligible to receive additional assistance in helping to improve failing schools because actions required by the bill, such as restructuring or alternative placement of students, might not be feasible.

Education of Indian Children. H.R. 1 would authorize appropriations totaling \$120.4 million in FY 2002 and "such sums" in each of FYs 2003-2006 for grants and other assistance to meet the educational needs of Indian children and to train teachers in schools with substantial numbers of Indian children. The FY 2002 Labor, HHS, Education Appropriations Act includes \$120.4 million for these programs. The enrolled bill also would authorize appropriations of "such sums" in each of FYs 2002-2007 for Native Hawaiian and Alaska Native education programs.

Education of Homeless Children. The enrolled bill would amend the McKinney-Vento Homeless Assistance Act to authorize appropriations of \$70 million in FY 2002 and "such sums" in each of FYs 2003-2007 to provide grants to States to help ensure that homeless children and youth have access to the same public education as other children and youth. H.R. 1 would

modify the McKinney Act to improve services for homeless children, including: (1) prohibiting States from segregating homeless students, except in specified counties where separate schools have been approved; and (2) requiring local school districts to provide or arrange transportation to the homeless child's school.

Miscellaneous. H.R. 1 contains various new requirements and prohibitions relating to the Federal role in education. For example, it would require each local school district receiving ESEA funds to certify to its State educational agency that it has no policy that prevents constitutionally protected prayer in public schools. Currently, ESEA funds may only be withheld from districts or States in cases where Federal courts have determined that the State or district has violated a Federal court order to refrain from violating the constitutional right of any student with respect to public school prayer. The enrolled bill also would prohibit States, school districts, or schools that receive ESEA funds and permit outside youth or community groups to meet on school premises before or after school from denying equal access to those facilities to the Boy Scouts based on the scout group's membership criteria or oath of allegiance. H.R. 1 also would require each school district receiving ESEA funds to provide, on request by a military recruiter or an institution of higher education, access to the names, addresses, and telephone listings for secondary students, except in cases where parents have requested that such information not be released without their prior written consent.

WHITE HOUSE STAFFING MEMORANDUM

Date: 1-7-02 ACTION / CONCURRENCE / COMMENT DUE BY: 1-7-02 3:00 PMSubject: ENROLLED BILL H.R. 1 - NO CHILD LEFT BEHIND ACT OF 2001

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☒	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☒	☐	JOHNSON	☒	☐
CALIO	☒	☐	LINDSEY	☒	☐
CONNAUGHTON	☒	☐	MIERS	☐	☒
DANIELS	☐	☒	RICE	☐	☒
FLEISCHER	☒	☐	RIDGE	☐	☒
GERSON	☐	☐	ROVE	☒	☐
GONZALES	☒	☐	SPELLINGS	☒	☐
HAGIN	☐	☐	CLERK	☐	☒
HAWKINS	☒	☐	_____	☐	☐

REMARKS:

PLEASE FORWARD YOUR COMMENTS TO THE STAFF SECRETARY, EXTENSION 62702, BY 3:00 PM , AND SEND A COPY TO JIM JUKES, OMB. THANK YOU.

OK - keep copy

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 1 - No Child Left Behind Act of 2001
Sponsors - Rep. Boehner (R) Ohio and 84 cosponsors

Last Day for Action

January 16, 2002 - Wednesday

Purpose

Reauthorizes for six years the Elementary and Secondary Education Act of 1965 (ESEA), and amends the ESEA and other Federal programs by: (1) requiring States, by the 2005-2006 school year, to administer annual reading and math tests for students in grades three through eight; (2) requiring States to take corrective action against and, if necessary, reorganize, schools that fail to demonstrate proficiency of all students; (3) expanding school choice options, including permitting parents to move children in low-performing schools to better public schools; (4) giving States and localities more flexibility to direct Federal resources to unique and pressing educational needs; (5) establishing programs to ensure that children can read by the end of third grade; (6) authorizing funding for teacher quality improvement programs; and (7) consolidating limited English proficiency programs.

Agency Recommendations

Office of Management and Budget

Approval

Department of Education (ED)

Approval

Department of Labor

Approval (Informally)

National Institute for Literacy

Approval (Informally)

Department of Justice

No objection

Department of the Treasury

No objection (Informally)

National Commission on Libraries

and Information Science

No objection (Informally)

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Defers to ED

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Improving Teacher Quality. The enrolled bill would authorize appropriations totaling \$3.18 billion in FY 2002 and "such sums" in each of FYs 2003-2007, \$1 billion over the level in the FY 2002 Labor, HHS, Education Appropriations Act, for grants to States for professional development, recruitment, and retention activities to improve teacher quality. Each school receiving Title I funds would be required to ensure that all teachers hired and teaching in a program supported with those funds are "highly qualified" (e.g., State-certified, holding at least a bachelor's degree, and, for new teachers, passing a rigorous State test on subject knowledge and teaching skills). States must submit plans to ensure that all public school teachers of core academic subjects are "highly qualified" by the end of the 2005-2006 school year.

The enrolled bill would consolidate the Eisenhower Professional Development program (grants to States, local school districts, and institutions of higher education to improve teacher performance) and the Class-Size Reduction program (grants to States to reduce class sizes in the primary grades) into a single new Teacher Quality program. The new program would give local school districts flexibility to decide how to allocate resources to put more highly qualified teachers in every classroom. These resources could be used for professional development, recruitment, and hiring of teachers.

The bill also would authorize grants to partnerships among States, local institutions, and institutions of higher education to improve math and science teacher education, with the goal of improving student performance in those subjects. Grants could be used for activities such as summer workshops for teachers or teacher recruitment programs. H.R. 1 would authorize appropriations of \$450 million in FY 2002 and "such sums" in each of FYs 2003-2007 to ED for this program. The FY 2002 Budget proposed to house this program in the National Science Foundation (NSF) and fund it at \$200 million. For FY 2002, Congress has appropriated \$12.5 million to ED for the program and \$160 million to NSF for similar activities.

The bill would update and authorize appropriations totaling \$150 million in FY 2002 and "such sums" for each of FYs 2003-2007 for the: (1) Troops-to-Teachers program, which helps armed forces personnel obtain certification or licensure as teachers or vocational technical leaders; and (2) Transition to Teaching recruiting program, which helps high-need local school districts recruit and train highly qualified individuals to make a transition to teaching.

H.R. 1 also would provide teachers with new tools to improve classroom management and foster better quality education. It would provide civil immunity to teachers and other school personnel, as well as school board members, for certain actions taken to maintain discipline in the classroom or school. Through amendments to the Safe and Drug-Free Schools Act, the bill would authorize schools to develop new policies that allow teachers to maintain control of the classroom. For example, school districts would be required to have plans for effective disciplinary policies, security procedures, prevention activities, student codes of conduct, and crisis management for responding to violent or traumatic incidents on school grounds.

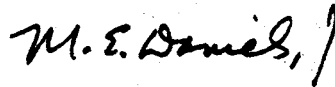
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required to monitor the progress of LEP students in attaining English proficiency and be held accountable for meeting those objectives. The bill would require parents to be notified that their child is in need of English language instruction and of the benefits of LEP instruction. Parental choice would be fostered by allowing parents to: (1) opt out of English instruction programs for their children; and (2) choose their child's instructional program if more than one is offered.

Conclusion and Recommendations

The Department of Education strongly recommends approval of H.R. 1 and notes that the enrolled bill incorporates many of the specific proposals from the "No Child Left Behind" comprehensive reform plan, including annual student testing, holding schools accountable for student achievement, empowering parents with options for choice, new reading programs, and greater flexibility for States and localities in using Federal education funds. ED states that this legislation "is of tremendous importance for America's children" and "a major accomplishment for the President."

We join ED and other interested agencies in recommending approval of H.R. 1, which passed the House by a vote of 381-41 and the Senate by 87-10.



Mitchell E. Daniels, Jr.
Director

Enclosures

Attachment

Other Provisions of H.R. 1

Technology Education. H.R. 1 would authorize appropriations of \$1 billion in FY 2002 and "such sums" for each of FYs 2003-2007 for consolidation of two educational technology programs into a single State formula grant program to support the integration of educational technology into classrooms to improve teaching and learning. It would require additional targeting of resources to school districts with poor children and those with schools identified as needing improvement. The FY 2002 Labor, HHS, Education Appropriations Act contains \$785 million for the current technology education programs.

21st Century Learning Centers. The enrolled bill would authorize appropriations of \$1.25 billion in FY 2002 and a total of \$10 billion for FYs 2003-2007 for grants to school districts or nonprofit organizations, including faith-based organizations, to provide after-school learning programs. For FY 2002, the Labor, HHS, Education Appropriations Act contains \$1 billion for this program.

Safe and Drug-Free Schools. H.R. 1 would authorize appropriations of \$650 million in FY 2002 and "such sums" for each of FYs 2003-2007 for grants to States for drug and violence prevention programs in schools.

Rural Education. H.R. 1 would authorize appropriations of \$300 million in FY 2002 and "such sums" in each of FYs 2003-2007 for new initiatives that address the unique needs of schools in rural areas. Eligible districts (generally areas of low population, low student attendance, or in non-urban locations) would be able to combine funds under various programs, and would be afforded special flexibility in using ESEA funds to support school improvement efforts. While each district would generally be held accountable to the performance requirements in the enrolled bill, rural schools would be eligible to receive additional assistance in helping to improve failing schools because actions required by the bill, such as restructuring or alternative placement of students, might not be feasible.

Education of Indian Children. H.R. 1 would authorize appropriations totaling \$120.4 million in FY 2002 and "such sums" in each of FYs 2003-2006 for grants and other assistance to meet the educational needs of Indian children and to train teachers in schools with substantial numbers of Indian children. The FY 2002 Labor, HHS, Education Appropriations Act includes \$120.4 million for these programs. The enrolled bill also would authorize appropriations of "such sums" in each of FYs 2002-2007 for Native Hawaiian and Alaska Native education programs.

Education of Homeless Children. The enrolled bill would amend the McKinney-Vento Homeless Assistance Act to authorize appropriations of \$70 million in FY 2002 and "such sums" in each of FYs 2003-2007 to provide grants to States to help ensure that homeless children and youth have access to the same public education as other children and youth. H.R. 1 would

modify the McKinney Act to improve services for homeless children, including: (1) prohibiting States from segregating homeless students, except in specified counties where separate schools have been approved; and (2) requiring local school districts to provide or arrange transportation to the homeless child's school.

Miscellaneous. H.R. 1 contains various new requirements and prohibitions relating to the Federal role in education. For example, it would require each local school district receiving ESEA funds to certify to its State educational agency that it has no policy that prevents constitutionally protected prayer in public schools. Currently, ESEA funds may only be withheld from districts or States in cases where Federal courts have determined that the State or district has violated a Federal court order to refrain from violating the constitutional right of any student with respect to public school prayer. The enrolled bill also would prohibit States, school districts, or schools that receive ESEA funds and permit outside youth or community groups to meet on school premises before or after school from denying equal access to those facilities to the Boy Scouts based on the scout group's membership criteria or oath of allegiance. H.R. 1 also would require each school district receiving ESEA funds to provide, on request by a military recruiter or an institution of higher education, access to the names, addresses, and telephone listings for secondary students, except in cases where parents have requested that such information not be released without their prior written consent.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

02 JAN 1 AM '55

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 1 - No Child Left Behind Act of 2001
Sponsors - Rep. Boehner (R) Ohio and 84 cosponsors

Last Day for Action

January 16, 2002 - Wednesday

Purpose

Reauthorizes for six years the Elementary and Secondary Education Act of 1965 (ESEA), and amends the ESEA and other Federal programs by: (1) requiring States, by the 2005-2006 school year, to administer annual reading and math tests for students in grades three through eight; (2) requiring States to take corrective action against and, if necessary, reorganize, schools that fail to demonstrate proficiency of all students; (3) expanding school choice options, including permitting parents to move children in low-performing schools to better public schools; (4) giving States and localities more flexibility to direct Federal resources to unique and pressing educational needs; (5) establishing programs to ensure that children can read by the end of third grade; (6) authorizing funding for teacher quality improvement programs; and (7) consolidating limited English proficiency programs.

Agency Recommendations

Office of Management and Budget

Approval

Department of Education (ED)

Approval

Department of Labor

Approval (Informally)

National Institute for Literacy

Approval (Informally)

Department of Justice

No objection

Department of the Treasury

No objection (Informally)

National Commission on Libraries

and Information Science

No objection (Informally)

Department of the Interior

Defers to ED

Department of Defense

Defers to ED (Informally)

Department of Health and Human Services

Defers to ED (Informally)

Department of Housing and Urban Development

Defers to ED (Informally)

National Science Foundation	Defers to ED (Informally)
Department of Commerce	No comment (Informally)
Department of State	No comment (Informally)
Department of Transportation	No comment (Informally)
Council on Environmental Quality	No comment (Informally)
Environmental Protection Agency	No comment (Informally)
National Endowment for the Arts	No comment (Informally)
Office of Government Ethics	No comment (Informally)
Office of National Drug Control Policy	No comment (Informally)
Office of Personnel Management	No comment (Informally)
Office of Science and Technology Policy	No comment (Informally)

Discussion

H.R. 1 would reauthorize and amend the Elementary and Secondary Education Act of 1965 (ESEA) and other education programs for six years, through FY 2007. The enrolled bill is the product of intensive negotiations, and it conforms substantially with the priorities articulated in the "No Child Left Behind" blueprint that you transmitted to Congress last January. However, there are some differences, such as the enrolled bill's provisions limiting school choice options to public schools and authorizing appropriations that exceed your FY 2002 Budget. Major provisions of H.R. 1 are described below. Other significant provisions are described in an Attachment.

Appropriation Authorizations. H.R. 1 would authorize appropriations totaling \$26.5 billion for ESEA programs in FY 2002. Your FY 2002 Budget requested \$19.1 billion for ESEA programs. The Departments of Labor, Health and Human Services (HHS), Education, and Related Agencies FY 2002 Appropriations Act contains \$22.1 billion for these programs. For FYs 2003-2007, the enrolled bill generally authorizes "such sums" as may be necessary, except that specific amounts are authorized for certain Title I grants.

Approximately half of ESEA funding supports programs in Title I of the Act, which authorizes grants to States and school districts to benefit disadvantaged children and help improve instruction in high-poverty schools. The ESEA also authorizes programs for professional development of educators, educational technology, reading and literacy services, bilingual education, drug and violence prevention, education of Indian children, rural and migratory education, neglected or delinquent children, and impact aid (compensation to school districts for costs associated with educating children from families living or working on Federal property, such as military bases and Indian lands).

Title I Grants. H.R. 1 would authorize appropriations of \$13.5 billion in FY 2002 and a total of \$102.8 billion for FYs 2003-2007 for ESEA Title I basic programs operated by local school districts. It also would authorize appropriations of \$500 million in FY 2003 and "such sums" in each of FYs 2003-2007 for formula grants to States for a new Assistance for Local

School Improvement grant program. States would make subgrants to help local school districts comply with the school improvement activities required by the enrolled bill to assist low-performing schools. The Labor, HHS, Education FY 2002 Appropriations Act contains \$10.35 billion for Title I basic programs and \$235 million for the new school improvement grants.

Student Testing. The ESEA currently requires reading and math assessments once within each of three grade spans (3-5, 6-9, and 10-12). H.R. 1 would maintain this requirement through the 2004-2005 school year, after which time States would be required to implement annual reading and math tests for students in grades 3 through 8. The enrolled bill also would require science assessments in the three grade spans beginning in the 2007-2008 school year. H.R. 1 would authorize appropriations of \$490 million in FY 2002 and "such sums" for each of FYs 2003-2007 to help States design these assessment tests. States could delay implementation of the new tests if Congress does not annually appropriate amounts specified in H.R. 1. (The FY 2002 appropriation exceeds the specified level.)

The enrolled bill would further require all States, as a condition of receiving Title I funds, to participate in the National Assessment of Educational Progress (NAEP), an independent test in reading and math that is currently administered biennially to a small sample of 4th and 8th graders in forty States that currently participate on a voluntary basis. This test would be used as a benchmark to measure State programs and standards. Federally sponsored national testing, Federally controlled curricula, and mandatory national teacher certification would be specifically prohibited by the enrolled bill.

School Improvement and Corrective Action for Low-Performing Schools. The enrolled bill would establish a system of rewards and sanctions to hold schools and local school districts accountable for increasing student achievement. States and schools would be required to make "adequate yearly progress" (AYP) towards achieving the goal of all students being proficient in reading and math within 12 years after the 2001-2002 school year. AYP must be made by the State, school district, school, and by disaggregated groups, including economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency. States would set AYP goals, intermediate goals for achieving 100 percent proficiency, and the standard for 100 percent proficiency. The intermediate goals must be increased in equal increments at least once every three years. The enrolled bill would require that specific amounts of administrative funds be withheld from States that fail to meet requisite deadlines for implementing standards and a system for measuring AYP.

Schools exceeding AYP goals for two consecutive years could receive additional funds from the State (including funds for individual teacher awards). However, if the school fails to meet these goals, parents would receive new options for their children's education. Specifically, if a school fails to make AYP for two consecutive years, a district would be required to offer students in the school the opportunity to transfer to another public school within the same district (unless public school choice is prohibited by State law). School districts would be required to pay the cost of transporting students to other public schools and to provide technical assistance to

help failing schools improve. Failure by schools to make AYP for three consecutive years would require districts to provide low-achieving disadvantaged students within the school supplemental instructional services (e.g., tutoring, after-school classes, and summer classes) from a provider chosen by the parents, including services provided by private or faith-based organizations. If a school fails to make AYP for four consecutive years, the district would be required to take corrective action to improve the school, including replacing staff or implementing new curricula. Finally, if a school fails to make AYP for five consecutive years, the local district would be required to restructure the school, including through a State takeover or converting the school to a charter school.

While a school is undergoing corrective action or being restructured, districts must continue to offer public school choice and provide supplemental services. Once a school makes AYP for two consecutive years, it would no longer be required to take remedial actions.

Other Parental Options. H.R. 1 would authorize competitive grant awards of up to five years for States, local school districts, or public or private sector partnerships to establish or expand programs that provide students and parents with greater voluntary public school choice. To enable parents to make informed choices, the enrolled bill would require that parents receive data, through annual report cards, about the quality of their children's schools, teacher qualifications, and their children's progress in key subjects.

The bill would permit transfer of students from low-performing schools to charter schools. Charter schools can be publicly or privately run enterprises operating within public school systems, which are generally exempt from regulatory requirements to help them develop innovative approaches to education. H.R. 1 also would authorize appropriations of \$300 million in FY 2002 and "such sums" in each of FYs 2003-2007 for charter schools. In FY 2002, the first \$200 million would be authorized for grants to charter schools and the remainder would be for a new program of competitive 5-year grants to States to assist charter schools with facility costs. The FY 2002 Labor, HHS, Education Appropriations Act provides \$200 million for charter schools and no funds for the facilities program. In addition, a student who is the victim of a crime, or who attends a public school designated by the State as unsafe, would be permitted to transfer to a safe public school or charter school.

Flexibility for States and Local School Districts. H.R. 1 would provide greater flexibility to States and local school districts in deciding how to use Federal funds to address their unique needs and priorities. States would be authorized, after notifying the Secretary, to transfer up to 50 percent of "State activity funds" (Federal funds reserved for use at the State level for purposes other than administration) they receive under certain programs (e.g., teacher training, technology education, etc.) among those programs, as well as into the State's Title I allotment. The requirements of the program to which the funds are transferred would apply to those funds. Local school districts would be afforded similar flexibility to decide how to distribute certain program funds without State approval. Districts could distribute up to 50 percent (30 percent for districts identified for improvement, with some limitations) of the Federal funds allocated for

local use under certain programs (e.g., teacher training, technology education, etc.) among those programs, as well as into the district's allocation under Title I.

H.R. 1 would provide additional flexibility by authorizing new State and local demonstration projects. Up to seven States could participate in a demonstration program that would give them the flexibility to combine State activity and administrative funds from certain Title I programs and other programs, including teacher training and technology education, and use the funds for any educational purpose authorized under the ESEA. As part of the demonstration program, States would be required to enter into 4-10 performance agreements with local school districts (at least half of which must be high-poverty districts) to align the local district's use of funds with the State's use of the funds it combined under the demonstration program. In addition, up to 80 local school districts in other States could participate in a demonstration programs directly with the Secretary where the districts could consolidate and use formula grant funds made available to the district under certain programs, for any educational purpose authorized under the ESEA. Certain Federal requirements would be waived for States and districts participating in the demonstration programs in exchange for their agreement to improve student achievement and meet AYP.

Reading First Literacy Initiatives. H.R. 1 adopts your Reading First and Early Reading First initiatives. The enrolled bill would authorize appropriations of \$900 million in FY 2002 (the same funding level included in the FY 2002 Labor, HHS, Education Appropriations Act) and "such sums" for each of FYs 2003-2007 for the Reading First program. The FY 2002 program level is three times the amount appropriated for FY 2001. Under this program, grants are provided to States and local school districts to implement scientifically-based reading programs from kindergarten through second grade, with the goal of ensuring that every student reads by the third grade.

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Improving Teacher Quality. The enrolled bill would authorize appropriations totaling \$3.18 billion in FY 2002 and "such sums" in each of FYs 2003-2007, \$1 billion over the level in the FY 2002 Labor, HHS, Education Appropriations Act, for grants to States for professional development, recruitment, and retention activities to improve teacher quality. Each school receiving Title I funds would be required to ensure that all teachers hired and teaching in a program supported with those funds are "highly qualified" (e.g., State-certified, holding at least a bachelor's degree, and, for new teachers, passing a rigorous State test on subject knowledge and teaching skills). States must submit plans to ensure that all public school teachers of core academic subjects are "highly qualified" by the end of the 2005-2006 school year.

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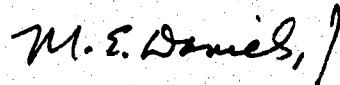
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Conclusion and Recommendations

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Mitchell E. Daniels, Jr.
Director

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modify the McKinney Act to improve services for homeless children, including: (1) prohibiting States from segregating homeless students, except in specified counties where separate schools have been approved; and (2) requiring local school districts to provide or arrange transportation to the homeless child's school.

Miscellaneous. H.R. 1 contains various new requirements and prohibitions relating to the Federal role in education. For example, it would require each local school district receiving ESEA funds to certify to its State educational agency that it has no policy that prevents constitutionally protected prayer in public schools. Currently, ESEA funds may only be withheld from districts or States in cases where Federal courts have determined that the State or district has violated a Federal court order to refrain from violating the constitutional right of any student with respect to public school prayer. The enrolled bill also would prohibit States, school districts, or schools that receive ESEA funds and permit outside youth or community groups to meet on school premises before or after school from denying equal access to those facilities to the Boy Scouts based on the scout group's membership criteria or oath of allegiance. H.R. 1 also would require each school district receiving ESEA funds to provide, on request by a military recruiter or an institution of higher education, access to the names, addresses, and telephone listings for secondary students, except in cases where parents have requested that such information not be released without their prior written consent.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

02 JAN 1 AM 7:58

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 1 - No Child Left Behind Act of 2001
Sponsors - Rep. Boehner (R) Ohio and 84 cosponsors

Last Day for Action

January 16, 2002 - Wednesday

Purpose

Reauthorizes for six years the Elementary and Secondary Education Act of 1965 (ESEA), and amends the ESEA and other Federal programs by: (1) requiring States, by the 2005-2006 school year, to administer annual reading and math tests for students in grades three through eight; (2) requiring States to take corrective action against and, if necessary, reorganize, schools that fail to demonstrate proficiency of all students; (3) expanding school choice options, including permitting parents to move children in low-performing schools to better public schools; (4) giving States and localities more flexibility to direct Federal resources to unique and pressing educational needs; (5) establishing programs to ensure that children can read by the end of third grade; (6) authorizing funding for teacher quality improvement programs; and (7) consolidating limited English proficiency programs.

Agency Recommendations

Office of Management and Budget

Approval

Department of Education (ED)

Approval

Department of Labor

Approval (Informally)

National Institute for Literacy

Approval (Informally)

Department of Justice

No objection

Department of the Treasury

No objection (Informally)

National Commission on Libraries

and Information Science

No objection (Informally)

Department of the Interior

Defers to ED

Department of Defense

Defers to ED (Informally)

Department of Health and Human Services

Defers to ED (Informally)

Department of Housing and Urban Development

Defers to ED (Informally)

National Science Foundation	Defers to ED (Informally)
Department of Commerce	No comment (Informally)
Department of State	No comment (Informally)
Department of Transportation	No comment (Informally)
Council on Environmental Quality	No comment (Informally)
Environmental Protection Agency	No comment (Informally)
National Endowment for the Arts	No comment (Informally)
Office of Government Ethics	No comment (Informally)
Office of National Drug Control Policy	No comment (Informally)
Office of Personnel Management	No comment (Informally)
Office of Science and Technology Policy	No comment (Informally)

Discussion

H.R. 1 would reauthorize and amend the Elementary and Secondary Education Act of 1965 (ESEA) and other education programs for six years, through FY 2007. The enrolled bill is the product of intensive negotiations, and it conforms substantially with the priorities articulated in the "No Child Left Behind" blueprint that you transmitted to Congress last January. However, there are some differences, such as the enrolled bill's provisions limiting school choice options to public schools and authorizing appropriations that exceed your FY 2002 Budget. Major provisions of H.R. 1 are described below. Other significant provisions are described in an Attachment.

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The bill would permit transfer of students from low-performing schools to charter schools. Charter schools can be publicly or privately run enterprises operating within public school systems, which are generally exempt from regulatory requirements to help them develop innovative approaches to education. H.R. 1 also would authorize appropriations of \$300 million in FY 2002 and "such sums" in each of FYs 2003-2007 for charter schools. In FY 2002, the first \$200 million would be authorized for grants to charter schools and the remainder would be for a new program of competitive 5-year grants to States to assist charter schools with facility costs. The FY 2002 Labor, HHS, Education Appropriations Act provides \$200 million for charter schools and no funds for the facilities program. In addition, a student who is the victim of a crime, or who attends a public school designated by the State as unsafe, would be permitted to transfer to a safe public school or charter school.

Flexibility for States and Local School Districts. H.R. 1 would provide greater flexibility to States and local school districts in deciding how to use Federal funds to address their unique needs and priorities. States would be authorized, after notifying the Secretary, to transfer up to 50 percent of "State activity funds" (Federal funds reserved for use at the State level for purposes other than administration) they receive under certain programs (e.g., teacher training, technology education, etc.) among those programs, as well as into the State's Title I allotment. The requirements of the program to which the funds are transferred would apply to those funds. Local school districts would be afforded similar flexibility to decide how to distribute certain program funds without State approval. Districts could distribute up to 50 percent (30 percent for districts identified for improvement, with some limitations) of the Federal funds allocated for

local use under certain programs (e.g., teacher training, technology education, etc.) among those programs, as well as into the district's allocation under Title I.

H.R. 1 would provide additional flexibility by authorizing new State and local demonstration projects. Up to seven States could participate in a demonstration program that would give them the flexibility to combine State activity and administrative funds from certain Title I programs and other programs, including teacher training and technology education, and use the funds for any educational purpose authorized under the ESEA. As part of the demonstration program, States would be required to enter into 4-10 performance agreements with local school districts (at least half of which must be high-poverty districts) to align the local district's use of funds with the State's use of the funds it combined under the demonstration program. In addition, up to 80 local school districts in other States could participate in a demonstration programs directly with the Secretary where the districts could consolidate and use formula grant funds made available to the district under certain programs, for any educational purpose authorized under the ESEA. Certain Federal requirements would be waived for States and districts participating in the demonstration programs in exchange for their agreement to improve student achievement and meet AYP.

Reading First Literacy Initiatives. H.R. 1 adopts your Reading First and Early Reading First initiatives. The enrolled bill would authorize appropriations of \$900 million in FY 2002 (the same funding level included in the FY 2002 Labor, HHS, Education Appropriations Act) and "such sums" for each of FYs 2003-2007 for the Reading First program. The FY 2002 program level is three times the amount appropriated for FY 2001. Under this program, grants are provided to States and local school districts to implement scientifically-based reading programs from kindergarten through second grade, with the goal of ensuring that every student reads by the third grade.

H.R. 1 also would authorize appropriations of \$75 million in FY 2002 (the same funding level included in the FY 2002 Labor, HHS, Education Appropriations Act) and "such sums" in each of FYs 2003-2007 for the new Early Reading First initiative. This program is designed to provide the early identification and early reading interventions necessary to prevent reading failure and otherwise enhance reading readiness for children in high poverty areas. Support to States for this program would be directed to preschool programs, including Head Start centers.

Improving Teacher Quality. The enrolled bill would authorize appropriations totaling \$3.18 billion in FY 2002 and "such sums" in each of FYs 2003-2007, \$1 billion over the level in the FY 2002 Labor, HHS, Education Appropriations Act, for grants to States for professional development, recruitment, and retention activities to improve teacher quality. Each school receiving Title I funds would be required to ensure that all teachers hired and teaching in a program supported with those funds are "highly qualified" (e.g., State-certified, holding at least a bachelor's degree, and, for new teachers, passing a rigorous State test on subject knowledge and teaching skills). States must submit plans to ensure that all public school teachers of core academic subjects are "highly qualified" by the end of the 2005-2006 school year.

The enrolled bill would consolidate the Eisenhower Professional Development program (grants to States, local school districts, and institutions of higher education to improve teacher performance) and the Class-Size Reduction program (grants to States to reduce class sizes in the primary grades) into a single new Teacher Quality program. The new program would give local school districts flexibility to decide how to allocate resources to put more highly qualified teachers in every classroom. These resources could be used for professional development, recruitment, and hiring of teachers.

The bill also would authorize grants to partnerships among States, local institutions, and institutions of higher education to improve math and science teacher education, with the goal of improving student performance in those subjects. Grants could be used for activities such as summer workshops for teachers or teacher recruitment programs. H.R. 1 would authorize appropriations of \$450 million in FY 2002 and "such sums" in each of FYs 2003-2007 to ED for this program. The FY 2002 Budget proposed to house this program in the National Science Foundation (NSF) and fund it at \$200 million. For FY 2002, Congress has appropriated \$12.5 million to ED for the program and \$160 million to NSF for similar activities.

The bill would update and authorize appropriations totaling \$150 million in FY 2002 and "such sums" for each of FYs 2003-2007 for the: (1) Troops-to-Teachers program, which helps armed forces personnel obtain certification or licensure as teachers or vocational technical leaders; and (2) Transition to Teaching recruiting program, which helps high-need local school districts recruit and train highly qualified individuals to make a transition to teaching.

H.R. 1 also would provide teachers with new tools to improve classroom management and foster better quality education. It would provide civil immunity to teachers and other school personnel, as well as school board members, for certain actions taken to maintain discipline in the classroom or school. Through amendments to the Safe and Drug-Free Schools Act, the bill would authorize schools to develop new policies that allow teachers to maintain control of the classroom. For example, school districts would be required to have plans for effective disciplinary policies, security procedures, prevention activities, student codes of conduct, and crisis management for responding to violent or traumatic incidents on school grounds.

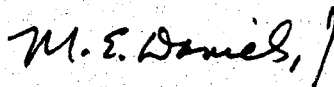
Teaching Students with Limited English Proficiency. H.R. 1 would authorize appropriations of \$750 million in FY 2002 and "such sums" for each of FYs 2003-2007 for education to benefit children with limited English proficiency (LEP). The FY 2002 Labor, HHS, Education Appropriations Act includes \$665 million for this function. The enrolled bill would consolidate several current bilingual education and immigrant education programs into a streamlined single formula grant program that would focus on helping LEP students learn English. It would eliminate the current requirement that 75 percent of bilingual education funding support programs that instruct children by using the student's native language. The bill would require that LEP children be tested for reading and language arts in English after they have attended school in the United States for three consecutive years. All teachers in language instruction classes for LEP students would be required to be fluent in English. States would be

required to monitor the progress of LEP students in attaining English proficiency and be held accountable for meeting those objectives. The bill would require parents to be notified that their child is in need of English language instruction and of the benefits of LEP instruction. Parental choice would be fostered by allowing parents to: (1) opt out of English instruction programs for their children; and (2) choose their child's instructional program if more than one is offered.

Conclusion and Recommendations

The Department of Education strongly recommends approval of H.R. 1 and notes that the enrolled bill incorporates many of the specific proposals from the "No Child Left Behind" comprehensive reform plan, including annual student testing, holding schools accountable for student achievement, empowering parents with options for choice, new reading programs, and greater flexibility for States and localities in using Federal education funds. ED states that this legislation "is of tremendous importance for America's children" and "a major accomplishment for the President."

We join ED and other interested agencies in recommending approval of H.R. 1, which passed the House by a vote of 381-41 and the Senate by 87-10.



Mitchell E. Daniels, Jr.
Director

Enclosures

Attachment

Other Provisions of H.R. 1

Technology Education. H.R. 1 would authorize appropriations of \$1 billion in FY 2002 and "such sums" for each of FYs 2003-2007 for consolidation of two educational technology programs into a single State formula grant program to support the integration of educational technology into classrooms to improve teaching and learning. It would require additional targeting of resources to school districts with poor children and those with schools identified as needing improvement. The FY 2002 Labor, HHS, Education Appropriations Act contains \$785 million for the current technology education programs.

21st Century Learning Centers. The enrolled bill would authorize appropriations of \$1.25 billion in FY 2002 and a total of \$10 billion for FYs 2003-2007 for grants to school districts or nonprofit organizations, including faith-based organizations, to provide after-school learning programs. For FY 2002, the Labor, HHS, Education Appropriations Act contains \$1 billion for this program.

Safe and Drug-Free Schools. H.R. 1 would authorize appropriations of \$650 million in FY 2002 and "such sums" for each of FYs 2003-2007 for grants to States for drug and violence prevention programs in schools.

Rural Education. H.R. 1 would authorize appropriations of \$300 million in FY 2002 and "such sums" in each of FYs 2003-2007 for new initiatives that address the unique needs of schools in rural areas. Eligible districts (generally areas of low population, low student attendance, or in non-urban locations) would be able to combine funds under various programs, and would be afforded special flexibility in using ESEA funds to support school improvement efforts. While each district would generally be held accountable to the performance requirements in the enrolled bill, rural schools would be eligible to receive additional assistance in helping to improve failing schools because actions required by the bill, such as restructuring or alternative placement of students, might not be feasible.

Education of Indian Children. H.R. 1 would authorize appropriations totaling \$120.4 million in FY 2002 and "such sums" in each of FYs 2003-2006 for grants and other assistance to meet the educational needs of Indian children and to train teachers in schools with substantial numbers of Indian children. The FY 2002 Labor, HHS, Education Appropriations Act includes \$120.4 million for these programs. The enrolled bill also would authorize appropriations of "such sums" in each of FYs 2002-2007 for Native Hawaiian and Alaska Native education programs.

Education of Homeless Children. The enrolled bill would amend the McKinney-Vento Homeless Assistance Act to authorize appropriations of \$70 million in FY 2002 and "such sums" in each of FYs 2003-2007 to provide grants to States to help ensure that homeless children and youth have access to the same public education as other children and youth. H.R. 1 would

modify the McKinney Act to improve services for homeless children, including: (1) prohibiting States from segregating homeless students, except in specified counties where separate schools have been approved; and (2) requiring local school districts to provide or arrange transportation to the homeless child's school.

Miscellaneous. H.R. 1 contains various new requirements and prohibitions relating to the Federal role in education. For example, it would require each local school district receiving ESEA funds to certify to its State educational agency that it has no policy that prevents constitutionally protected prayer in public schools. Currently, ESEA funds may only be withheld from districts or States in cases where Federal courts have determined that the State or district has violated a Federal court order to refrain from violating the constitutional right of any student with respect to public school prayer. The enrolled bill also would prohibit States, school districts, or schools that receive ESEA funds and permit outside youth or community groups to meet on school premises before or after school from denying equal access to those facilities to the Boy Scouts based on the scout group's membership criteria or oath of allegiance. H.R. 1 also would require each school district receiving ESEA funds to provide, on request by a military recruiter or an institution of higher education, access to the names, addresses, and telephone listings for secondary students, except in cases where parents have requested that such information not be released without their prior written consent.

Withdrawal Marker

The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Letter	[Views of the Secretary of Education] - To: Mitchell E. Daniels, Jr. - From: Rod Paige	4	12/21/2001	P5;

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COLLECTION:

Executive Clerk, Office Of the

SERIES:

Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:

01/08/2002 [H.R. 1] [2]

FRC ID:

781

OA Num.:

732

NARA Num.:

1458

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Letter	[Views of the U.S. Department of the Interior] - To: Mitchell E. Daniels, Jr. - From: [illegible]	1	12/26/2001	P5;

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U.S. Department of Justice

Office of Legislative Affairs

Washington, D.C. 20530

December 21, 2001

The Honorable Mitchell E. Daniels
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Daniels:

In compliance with your request, the Department of Justice has examined a copy of enrolled bill H.R. 1, the "No Child Left Behind Act of 2001." This bill would close the achievement gap with accountability, flexibility, and choice so that no child is left behind. It would, among other things, improve the academic achievement of the disadvantaged, provide funds for teacher and principal training, and promote informed parental choice and innovative programs. It would also provide for improvements in Indian, Native Hawaiian, and Alaska Native Education.

The Department of Justice has no objection to Executive approval of this enrolled bill, and recommends that the President sign it.

Sincerely,

A handwritten signature in cursive script that reads "Carl P. Thorsen / DAA6". Below the signature, the letters "for DJB" are written in a bold, blocky font.

Daniel J. Bryant
Assistant Attorney General



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

02 JAN 1 AM '02

THE DIRECTOR

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 1 - No Child Left Behind Act of 2001
Sponsors - Rep. Boehner (R) Ohio and 84 cosponsors

Last Day for Action

January 16, 2002 - Wednesday

Purpose

Reauthorizes for six years the Elementary and Secondary Education Act of 1965 (ESEA), and amends the ESEA and other Federal programs by: (1) requiring States, by the 2005-2006 school year, to administer annual reading and math tests for students in grades three through eight; (2) requiring States to take corrective action against and, if necessary, reorganize, schools that fail to demonstrate proficiency of all students; (3) expanding school choice options, including permitting parents to move children in low-performing schools to better public schools; (4) giving States and localities more flexibility to direct Federal resources to unique and pressing educational needs; (5) establishing programs to ensure that children can read by the end of third grade; (6) authorizing funding for teacher quality improvement programs; and (7) consolidating limited English proficiency programs.

Agency Recommendations

Office of Management and Budget

Approval

Department of Education (ED)

Approval

Department of Labor

Approval (Informally)

National Institute for Literacy

Approval (Informally)

Department of Justice

No objection

Department of the Treasury

No objection (Informally)

National Commission on Libraries

and Information Science

No objection (Informally)

Department of the Interior

Defers to ED

Department of Defense

Defers to ED (Informally)

Department of Health and Human Services

Defers to ED (Informally)

Department of Housing and Urban Development

Defers to ED (Informally)

National Science Foundation	Defers to ED (Informally)
Department of Commerce	No comment (Informally)
Department of State	No comment (Informally)
Department of Transportation	No comment (Informally)
Council on Environmental Quality	No comment (Informally)
Environmental Protection Agency	No comment (Informally)
National Endowment for the Arts	No comment (Informally)
Office of Government Ethics	No comment (Informally)
Office of National Drug Control Policy	No comment (Informally)
Office of Personnel Management	No comment (Informally)
Office of Science and Technology Policy	No comment (Informally)

Discussion

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While a school is undergoing corrective action or being restructured, districts must continue to offer public school choice and provide supplemental services. Once a school makes AYP for two consecutive years, it would no longer be required to take remedial actions.

Other Parental Options. H.R. 1 would authorize competitive grant awards of up to five years for States, local school districts, or public or private sector partnerships to establish or expand programs that provide students and parents with greater voluntary public school choice. To enable parents to make informed choices, the enrolled bill would require that parents receive data, through annual report cards, about the quality of their children's schools, teacher qualifications, and their children's progress in key subjects.

The bill would permit transfer of students from low-performing schools to charter schools. Charter schools can be publicly or privately run enterprises operating within public school systems, which are generally exempt from regulatory requirements to help them develop innovative approaches to education. H.R. 1 also would authorize appropriations of \$300 million in FY 2002 and "such sums" in each of FYs 2003-2007 for charter schools. In FY 2002, the first \$200 million would be authorized for grants to charter schools and the remainder would be for a new program of competitive 5-year grants to States to assist charter schools with facility costs. The FY 2002 Labor, HHS, Education Appropriations Act provides \$200 million for charter schools and no funds for the facilities program. In addition, a student who is the victim of a crime, or who attends a public school designated by the State as unsafe, would be permitted to transfer to a safe public school or charter school.

Flexibility for States and Local School Districts. H.R. 1 would provide greater flexibility to States and local school districts in deciding how to use Federal funds to address their unique needs and priorities. States would be authorized, after notifying the Secretary, to transfer up to 50 percent of "State activity funds" (Federal funds reserved for use at the State level for purposes other than administration) they receive under certain programs (e.g., teacher training, technology education, etc.) among those programs, as well as into the State's Title I allotment. The requirements of the program to which the funds are transferred would apply to those funds. Local school districts would be afforded similar flexibility to decide how to distribute certain program funds without State approval. Districts could distribute up to 50 percent (30 percent for districts identified for improvement, with some limitations) of the Federal funds allocated for

local use under certain programs (e.g., teacher training, technology education, etc.) among those programs, as well as into the district's allocation under Title I.

H.R. 1 would provide additional flexibility by authorizing new State and local demonstration projects. Up to seven States could participate in a demonstration program that would give them the flexibility to combine State activity and administrative funds from certain Title I programs and other programs, including teacher training and technology education, and use the funds for any educational purpose authorized under the ESEA. As part of the demonstration program, States would be required to enter into 4-10 performance agreements with local school districts (at least half of which must be high-poverty districts) to align the local district's use of funds with the State's use of the funds it combined under the demonstration program. In addition, up to 80 local school districts in other States could participate in a demonstration programs directly with the Secretary where the districts could consolidate and use formula grant funds made available to the district under certain programs, for any educational purpose authorized under the ESEA. Certain Federal requirements would be waived for States and districts participating in the demonstration programs in exchange for their agreement to improve student achievement and meet AYP.

Reading First Literacy Initiatives. H.R. 1 adopts your Reading First and Early Reading First initiatives. The enrolled bill would authorize appropriations of \$900 million in FY 2002 (the same funding level included in the FY 2002 Labor, HHS, Education Appropriations Act) and "such sums" for each of FYs 2003-2007 for the Reading First program. The FY 2002 program level is three times the amount appropriated for FY 2001. Under this program, grants are provided to States and local school districts to implement scientifically-based reading programs from kindergarten through second grade, with the goal of ensuring that every student reads by the third grade.

H.R. 1 also would authorize appropriations of \$75 million in FY 2002 (the same funding level included in the FY 2002 Labor, HHS, Education Appropriations Act) and "such sums" in each of FYs 2003-2007 for the new Early Reading First initiative. This program is designed to provide the early identification and early reading interventions necessary to prevent reading failure and otherwise enhance reading readiness for children in high poverty areas. Support to States for this program would be directed to preschool programs, including Head Start centers.

Improving Teacher Quality. The enrolled bill would authorize appropriations totaling \$3.18 billion in FY 2002 and "such sums" in each of FYs 2003-2007, \$1 billion over the level in the FY 2002 Labor, HHS, Education Appropriations Act, for grants to States for professional development, recruitment, and retention activities to improve teacher quality. Each school receiving Title I funds would be required to ensure that all teachers hired and teaching in a program supported with those funds are "highly qualified" (e.g., State-certified, holding at least a bachelor's degree, and, for new teachers, passing a rigorous State test on subject knowledge and teaching skills). States must submit plans to ensure that all public school teachers of core academic subjects are "highly qualified" by the end of the 2005-2006 school year.

The enrolled bill would consolidate the Eisenhower Professional Development program (grants to States, local school districts, and institutions of higher education to improve teacher performance) and the Class-Size Reduction program (grants to States to reduce class sizes in the primary grades) into a single new Teacher Quality program. The new program would give local school districts flexibility to decide how to allocate resources to put more highly qualified teachers in every classroom. These resources could be used for professional development, recruitment, and hiring of teachers.

The bill also would authorize grants to partnerships among States, local institutions, and institutions of higher education to improve math and science teacher education, with the goal of improving student performance in those subjects. Grants could be used for activities such as summer workshops for teachers or teacher recruitment programs. H.R. 1 would authorize appropriations of \$450 million in FY 2002 and "such sums" in each of FYs 2003-2007 to ED for this program. The FY 2002 Budget proposed to house this program in the National Science Foundation (NSF) and fund it at \$200 million. For FY 2002, Congress has appropriated \$12.5 million to ED for the program and \$160 million to NSF for similar activities.

The bill would update and authorize appropriations totaling \$150 million in FY 2002 and "such sums" for each of FYs 2003-2007 for the: (1) Troops-to-Teachers program, which helps armed forces personnel obtain certification or licensure as teachers or vocational technical leaders; and (2) Transition to Teaching recruiting program, which helps high-need local school districts recruit and train highly qualified individuals to make a transition to teaching.

H.R. 1 also would provide teachers with new tools to improve classroom management and foster better quality education. It would provide civil immunity to teachers and other school personnel, as well as school board members, for certain actions taken to maintain discipline in the classroom or school. Through amendments to the Safe and Drug-Free Schools Act, the bill would authorize schools to develop new policies that allow teachers to maintain control of the classroom. For example, school districts would be required to have plans for effective disciplinary policies, security procedures, prevention activities, student codes of conduct, and crisis management for responding to violent or traumatic incidents on school grounds.

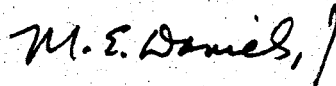
Teaching Students with Limited English Proficiency. H.R. 1 would authorize appropriations of \$750 million in FY 2002 and "such sums" for each of FYs 2003-2007 for education to benefit children with limited English proficiency (LEP). The FY 2002 Labor, HHS, Education Appropriations Act includes \$665 million for this function. The enrolled bill would consolidate several current bilingual education and immigrant education programs into a streamlined single formula grant program that would focus on helping LEP students learn English. It would eliminate the current requirement that 75 percent of bilingual education funding support programs that instruct children by using the student's native language. The bill would require that LEP children be tested for reading and language arts in English after they have attended school in the United States for three consecutive years. All teachers in language instruction classes for LEP students would be required to be fluent in English. States would be

required to monitor the progress of LEP students in attaining English proficiency and be held accountable for meeting those objectives. The bill would require parents to be notified that their child is in need of English language instruction and of the benefits of LEP instruction. Parental choice would be fostered by allowing parents to: (1) opt out of English instruction programs for their children; and (2) choose their child's instructional program if more than one is offered.

Conclusion and Recommendations

The Department of Education strongly recommends approval of H.R. 1 and notes that the enrolled bill incorporates many of the specific proposals from the "No Child Left Behind" comprehensive reform plan, including annual student testing, holding schools accountable for student achievement, empowering parents with options for choice, new reading programs, and greater flexibility for States and localities in using Federal education funds. ED states that this legislation "is of tremendous importance for America's children" and "a major accomplishment for the President."

We join ED and other interested agencies in recommending approval of H.R. 1, which passed the House by a vote of 381-41 and the Senate by 87-10.



Mitchell E. Daniels, Jr.
Director

Enclosures

Attachment

Other Provisions of H.R. 1

Technology Education. H.R. 1 would authorize appropriations of \$1 billion in FY 2002 and "such sums" for each of FYs 2003-2007 for consolidation of two educational technology programs into a single State formula grant program to support the integration of educational technology into classrooms to improve teaching and learning. It would require additional targeting of resources to school districts with poor children and those with schools identified as needing improvement. The FY 2002 Labor, HHS, Education Appropriations Act contains \$785 million for the current technology education programs.

21st Century Learning Centers. The enrolled bill would authorize appropriations of \$1.25 billion in FY 2002 and a total of \$10 billion for FYs 2003-2007 for grants to school districts or nonprofit organizations, including faith-based organizations, to provide after-school learning programs. For FY 2002, the Labor, HHS, Education Appropriations Act contains \$1 billion for this program.

Safe and Drug-Free Schools. H.R. 1 would authorize appropriations of \$650 million in FY 2002 and "such sums" for each of FYs 2003-2007 for grants to States for drug and violence prevention programs in schools.

Rural Education. H.R. 1 would authorize appropriations of \$300 million in FY 2002 and "such sums" in each of FYs 2003-2007 for new initiatives that address the unique needs of schools in rural areas. Eligible districts (generally areas of low population, low student attendance, or in non-urban locations) would be able to combine funds under various programs, and would be afforded special flexibility in using ESEA funds to support school improvement efforts. While each district would generally be held accountable to the performance requirements in the enrolled bill, rural schools would be eligible to receive additional assistance in helping to improve failing schools because actions required by the bill, such as restructuring or alternative placement of students, might not be feasible.

Education of Indian Children. H.R. 1 would authorize appropriations totaling \$120.4 million in FY 2002 and "such sums" in each of FYs 2003-2006 for grants and other assistance to meet the educational needs of Indian children and to train teachers in schools with substantial numbers of Indian children. The FY 2002 Labor, HHS, Education Appropriations Act includes \$120.4 million for these programs. The enrolled bill also would authorize appropriations of "such sums" in each of FYs 2002-2007 for Native Hawaiian and Alaska Native education programs.

Education of Homeless Children. The enrolled bill would amend the McKinney-Vento Homeless Assistance Act to authorize appropriations of \$70 million in FY 2002 and "such sums" in each of FYs 2003-2007 to provide grants to States to help ensure that homeless children and youth have access to the same public education as other children and youth. H.R. 1 would

modify the McKinney Act to improve services for homeless children, including: (1) prohibiting States from segregating homeless students, except in specified counties where separate schools have been approved; and (2) requiring local school districts to provide or arrange transportation to the homeless child's school.

Miscellaneous. H.R. 1 contains various new requirements and prohibitions relating to the Federal role in education. For example, it would require each local school district receiving ESEA funds to certify to its State educational agency that it has no policy that prevents constitutionally protected prayer in public schools. Currently, ESEA funds may only be withheld from districts or States in cases where Federal courts have determined that the State or district has violated a Federal court order to refrain from violating the constitutional right of any student with respect to public school prayer. The enrolled bill also would prohibit States, school districts, or schools that receive ESEA funds and permit outside youth or community groups to meet on school premises before or after school from denying equal access to those facilities to the Boy Scouts based on the scout group's membership criteria or oath of allegiance. H.R. 1 also would require each school district receiving ESEA funds to provide, on request by a military recruiter or an institution of higher education, access to the names, addresses, and telephone listings for secondary students, except in cases where parents have requested that such information not be released without their prior written consent.

One Hundred Seventh Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Wednesday,
the third day of January, two thousand and one*

An Act

To close the achievement gap with accountability, flexibility, and choice, so that
no child is left behind.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This title may be cited as the "No Child Left Behind Act
of 2001".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. References.
- Sec. 4. Transition.
- Sec. 5. Effective date.
- Sec. 6. Table of contents of Elementary and Secondary Education Act of 1965.

TITLE I—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED

- Sec. 101. Improving the academic achievement of the disadvantaged.

TITLE II—PREPARING, TRAINING, AND RECRUITING HIGH QUALITY TEACHERS AND PRINCIPALS

- Sec. 201. Teacher and principal training and recruiting fund.
- Sec. 202. Continuation of awards.

TITLE III—LANGUAGE INSTRUCTION FOR LIMITED ENGLISH PROFICIENT AND IMMIGRANT STUDENTS

- Sec. 301. Language instruction for limited English proficient children and immi-
grant children and youth.

TITLE IV—21ST CENTURY SCHOOLS

- Sec. 401. 21st Century schools.

TITLE V—PROMOTING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS

- Sec. 501. Innovative programs and parental choice provisions.
- Sec. 502. Continuation of awards.

TITLE VI—FLEXIBILITY AND ACCOUNTABILITY

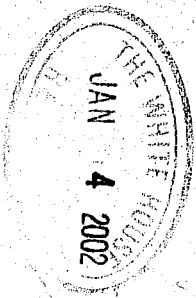
- Sec. 601. Flexibility and accountability.
- Sec. 602. Amendment to the National Education Statistics Act of 1994.

TITLE VII—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

- Sec. 701. Indians, Native Hawaiians, and Alaska Natives.
- Sec. 702. Conforming amendments.
- Sec. 703. Savings provisions.

TITLE VIII—IMPACT AID PROGRAM

- Sec. 801. Payments relating to Federal acquisition of real property.



H. R. 1—670

(1) by striking "paragraphs (14) and (25), respectively, of section 14101" and inserting "section 9101"; and

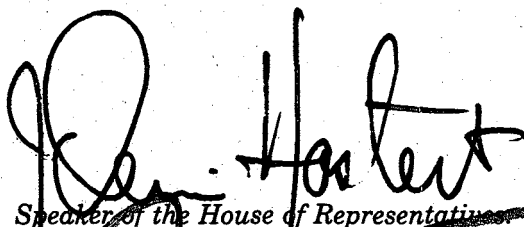
(2) by striking "(20 U.S.C. 8801)".

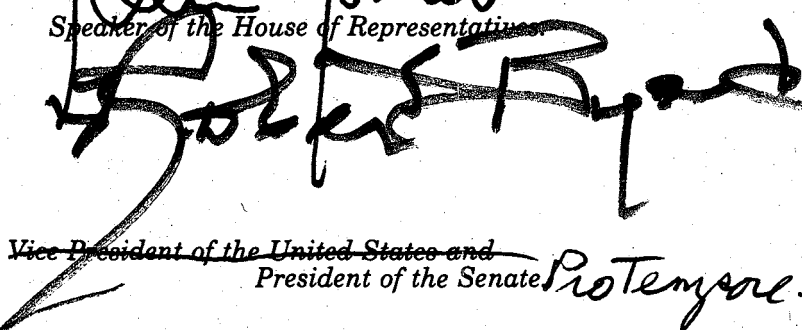
(hh) COMMUNICATIONS ACT OF 1934.—Section 254(h)(7)(A) of the Communications Act of 1934 (47 U.S.C. 254(h)(7)(A)) is amended—

(1) by striking "paragraphs (14) and (25), respectively, of section 14101" and inserting "section 9101"; and

(2) by striking "(20 U.S.C. 8801)".

(ii) TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—Section 4024 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31136 note) is amended by striking "14101" and inserting "9101".


Speaker of the House of Representatives


~~Vice President of the United States and~~
President of the Senate *Pro Tempore*

APPROVED

JAN 8 2002

