"The Leave No Child Behind Act," H.R. 1: Quality, Resources and Accountability for Our Schools

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A report by U.S. Congressman George Miller (D-CA)
Senior Democrat, House Education and the Workforce Committee

(www.house.gov/georgemiller/eseainfo.html)

Foreword

Now, more than ever, a good education is essential for each and every one of us -- to succeed in the workforce and to be active and productive members of our society.

While states and localities have the primary responsibility for the day-to-day operation of schools, ensuring each and every American the opportunity to receive a quality education must be a national priority.

This year, Congress enacted the “Leave No Child Left Behind Act” (H.R.1), a major rewrite of the Elementary and Secondary Education Act (ESEA). ESEA allocates and sets guidelines for over $22 billion in federal aid to elementary and secondary schools.

This report is intended to inform the people who will be responsible for implementing H.R. 1 -- the many teachers, administrators, officials and others in our local education community -- about the opportunities and requirements contained in this historic education law.

Over the years, I have spent many hours working with students, teachers, parents and administrators in Contra Costa County and Solano County, talking about the challenges in our local schools and working together to find solutions to them.

I have drawn on my experience in our local schools to guide my work on education policy in Congress. I was gratified that, after working for many years to make quality and resources more important priorities in federal education law, President Bush asked

me to work with him to reshape the Elementary and Secondary Education Act. Despite our many differences over other important national policies, we shared a common vision for federal education policy -- that it should be intensely focussed on the students and the schools that need the most help, and that we should demand more of our entire school community while at the same time be prepared to provide greater resources to meet those new demands.

H.R. 1 is the result of intense bi-partisan negotiations that began in December, 2000 at the Statehouse in Austin, Texas and continued all the way into December of last year, when H.R. 1 won overwhelming final approval by the House and Senate of the United States Congress. President Bush signed the bill into law on January 8 of this year at Hamilton High School, in Hamilton, Ohio. I was proud to have stood that day with my three main colleagues on this endeavor, Sen. Ted Kennedy, Rep. John Boehner, and Sen. Judd Gregg, as the President signed this bill into law. H.R. 1 represents the most important legislative effort of my congressional career.

H.R. 1 makes fundamental, unprecedented reforms in ESEA programs.

Its overarching goal is to ensure that all children have the opportunity to receive a high quality education through stronger accountability for results, a significant investment of new resources, greater local flexibility, and the targeting of funds to schools and students with the greatest needs.

ESEA was originally enacted in 1965 to address appalling deficiencies in the education provided our nation's neediest children -- poor children, minorities, children with limited English proficiency, children of migrant workers, homeless children, and others.

The law has helped make a difference.

However, 35 years after the passage of the original ESEA, far too many children still receive an inadequate education, leaving them without the knowledge and skills they need to succeed in college, in the workforce, and in society.

In passing H.R. 1, we have sought to return ESEA to its original purpose -- ensuring equal educational opportunity for **all** children. We know, more than ever, that all children, regardless of their backgrounds, can learn to high standards *if* they are held to high expectations and given the resources necessary to succeed.

H.R. 1 sets very ambitious goals and very clear markers for measuring progress toward those goals.

H.R. 1 establishes, for the first time, a national goal of closing the educational achievement gaps over the next 12 years between poor and disadvantaged students and

their more affluent peers and between minority and non-minority students. Progress will be measured annually according to results on state assessments and from other indicators.

For the first time, federal law now requires that federal funds be aimed at ensuring that every child has a fully qualified teacher within the next four years. And it requires the reporting of progress on this goal -- for each and every school -- to parents and the public.

H.R. 1 also provides new resources -- for intensive reading instruction, teacher training and salary supports, educational technology, bilingual education, and after-school programs – and targets these resources, to a degree never seen before, on the schools and the children who need them most.

No one is saying that these reforms will be easy. In fact we know that the task ahead is challenging. But it is vitally important that we succeed -- for the sake of our children and our society.

Working together, we can meet this critical challenge.

The Hon. George Miller
7th District of California
Senior Democrat , House Education
and the Workforce Committee

February 20, 2002

California to Receive Large Funding Increases

California is set to receive significant ESEA funding increases as a combined result of changes in funding formulas under H.R. 1 and increased appropriations.[1] Estimated increases for some major programs are presented in the table below.

Estimated Funding Increases for California in Key Federal Education Programs (in millions of dollars)				
Program	**2001 Funding**	**2002 Funding**	**Increase (2001-02)**	**Percent Increase**
Title I	$1,186	$1,454.0	$268	**23%**
Teacher Quality	$228	$334	$106	**46%**
Bilingual Education	$112	$202	$86	**74%**
After-School	$103	$219	$116	**113%**
Technology	$56	$84	$28	**50%**
Special Education	$650	$782	$132	**20%**
Total, Key Programs	$2,335	$3,075	$736	**31%**

Although funding for ESEA nationally will increase by about 19%, California will see a higher increase in funding of key ESEA programs than the national average, approximately a 33% increase. One reason for California's higher increase is that H.R. 1 more closely targets federal funds on children from low-income families and children with limited English proficiency.

A second factor is that H.R. 1 directs a share of funds to be allocated directly to states via these new formulas, rather than through grant competitions. While competitive grants are appropriate in some instances, many states and school districts find the process cumbersome. Moreover, the time and resources required for preparation means that allocations for competitive grants will often be more reflective of grant-writing prowess than of actual educational need.

Most federal funds for technology, after-school, and bilingual education previously allocated through competitive grants will now be allocated through formula – this is reflected in the large increases for California under these programs.

Third, H.R. 1 requires that federal funds be reallocated more quickly to reflect population changes. In previous years, representatives of slow-growth states, using "hold-harmless" provisions, blocked the reallocation of funds to fast-growing states like California. H.R. 1 requires that federal funds now flow more quickly to high-growth states.

Program by Program Summary

- **Title I.** The Title I program is the foundation of federal efforts to equalize educational opportunity for children from disadvantaged communities. President Bush initially proposed a 3% increase for Title I, but Democrats negotiated an 18% -- or $1.6 billion -- increase.

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H.R. 1 also includes unprecedented targeting of federal funds to the most needy communities. As a result, California will receive a larger Title I increase than the national average -- an estimated 23% (or $268 million) increase. High poverty districts in California -- such as the **West Contra Costa County Unified School District --** will receive even larger increases (approximately 25-30%).

- **Teacher Quality.** H.R. 1 requires schools to ensure that all classrooms include a qualified teacher within four years, and that all new teachers will be competent in the subjects they will teach. To meet these goals, Congress approved more than a 30% (or $675 million) increase for high-quality professional development, mentoring, and recruitment programs, larger than President Bush's original proposal for a 20% increase. The news is even better for California: increased targeting to high-poverty schools within this program means that California will receive more than a 40% increase.

- **Bilingual Education.** H.R. 1 dramatically expands support for locally designed approaches to help LEP students learn English and achieve academically, and ensure that teachers are trained to teach them.

Congress approved a record 45% (or $205 million) increase in bilingual education. California can expect an even larger increase because H.R. 1 establishes a new formula-driven program for bilingual and immigrant children that will, for the first time in federal law, distribute 85% of funds by formula according to the population of LEP and immigrant children.

According to congressional staff estimates, *in addition to continuation funding from grants awarded in previous years*, **West Contra Costa** will receive over $500,000; Mt. Diablo will receive over $200,000, **Vallejo** (which received $0 last year) will receive over $150,000; **Pittsburg** (which also received $0 last year) will receive over $100,000; and **Vacaville** will receive over $50,000. Final allocations will be calculated by the California Department of Education.

- **Technology.** H.R. 1 consolidates existing education technology programs into a more focused, flexible program. This program provides professional development for teachers and principals in how to incorporate technology into classroom instruction, which is currently the greatest technology need in schools. For the first time, half of federal funds will be distributed by formula, increasing the targeting of federal funds to school districts with greater poverty and need for technology.

Every California school district will, for the first time, be guaranteed federal technology funding. **Mt. Diablo, Pittsburg, Vallejo, and Vacaville --** which received no federal technology funding last year -- will receive an estimated $50,000 to $150,000 each. Final allocations will be determined by the California Department of Education.

- **Special Education.** A sustained push by Congressional Democrats for more special education funding resulted in a 24% (or $1.2 billion) increase for special education, $375 million more than President Bush proposed. California's share of this increase is expected to be more than $130 million.

H.R. 1 holds our children and educators to high standards. The federal government must do its part by marrying reform with new resources. Simply requiring schools to do more will not meet the needs of our children, nor will simply providing more money without asking for greater results in return. Reform with real resources can make a real difference for our schools and those who learn and work in them.

Questions and Answers on H.R. 1

Q: Why is H.R. 1 important?

A: For the first time, Congress has set clear goals for quality and results in federal education programs.

States must set a 12-year goal for ensuring that all students meet state academic standards and for closing achievement gaps between rich and poor, and minority and non-minority students. All states must have a 4-year plan in place to ensure that every classroom teacher is qualified to teach in the subjects and grade levels to which they are assigned. Each school district must report on their annual progress toward meeting these goals and federal education funds must be focused on reaching these goals.

Q: Is this a new federal role?

A: H.R. 1 retains the basic structure and focus of the 1994 reauthorization of ESEA under which states are required to set standards and implement assessments in at least math and reading. The deadline for the implementation of those requirements is the 2001 school year. States and school districts have accepted billions of dollars under ESEA and other acts (e.g., Goals 2000) on the condition that they would implement standards and assessments. Most states have met or are on track to meet the 1994 guidelines.

Q: What are the new testing requirements?

A: H.R. 1 requires states to develop and implement annual assessments of students in grades 3 through 8, in math and reading, by the 2005-2006 school year. States will also have to develop and implement assessments at three grade levels in science by the 2007-2008 school year (although this requirement will probably be revisited in the next reauthorization since it effectively extends beyond the reauthorization of H.R. 1). Current law requires states to test in reading and math at least once in 3 different grade spans: 3-5 6-9, and 10-12. Fifteen states (including California) already test in math and reading in grades 3-8. Most other states test in at least 3 grades in that grade-span.

Q: Will California have to test more frequently than it does now?

A: No. California already tests in math and reading in grades 3-8.

Q: Does the federal government help with the costs of testing?

A: Under H.R. 1, all states will receive funds to develop new assessments or improve their existing assessments. As a result, California will receive $30 million next year to improve its assessment system. Since it already has assessments in grades 3-8 in math and reading, California may use these funds for other assessment-related purposes, such as ensuring the continued validity and reliability of its assessments; refining its assessments to ensure their continued alignment with the State's academic content standards; developing multiple measures to increase the reliability and validity of State assessment systems; or expanding the range of accommodations available to students with limited English proficiency and students with disabilities.

Q: Why let states devise their own standards and assessments? Doesn't that allow them to "game the system?"

A: Respecting the traditional, and appropriate, preeminent role of states and localities in the day-to-day operation of running schools and setting curriculum, both President G.H.W. Bush and President Clinton proposed systems under which states could devise their own standards and select their own tests, and be held accountable against those standards and assessments. Congress approved the plan in 1994, the law on which H.R. 1 is based.

To his credit, President George W. Bush proposed and members of both parties supported requiring all 50 states to administer the National Assessment of Educational Progress (NAEP) so that state performance on state tests could be compared against a uniform, national yardstick. H.R. 1 requires biennial NAEP participation by a representative sample of students in every state. State participation in NAEP will be supported with federal funds.

Q: Don't all these programs and mandates constitute federal micro-management of local education systems?

A: States and school districts will be given unprecedented flexibility in administering federally funded programs. All States and school districts will be given authority to transfer up to 50% of funds under key formula grant programs (Teacher Quality, Technology, Title V Block Grant, and Safe and Drug-free Schools). Funds may be transferred into, but not out of, Title I. Bilingual and Immigrant Education funds may not be transferred.

In addition, 7 states and up 150 school districts will be permitted to participate in a pilot project under which they may consolidate funds under those same programs in the service of meeting their annual achievement goals.

Q: Does H.R. 1 "penalize" schools?

A: H.R. 1 is designed to identify schools in which students are not meeting state academic standards and places its highest and first priority on providing resources and technical assistance to those schools. The bill does not allow the withholding of funds as an accountability measure.

After two years of not making progress -- in general and with minorities and low-income children -- a school would receive extra help. The disaggregation of data (i.e., accountability for minority and low-income subgroups) is critical in determining how best to target those additional resources. Students in the school would be free to transfer to another public school within the district.

After three years of not making adequate progress, a school would have to offer additional tutoring -- "supplemental services" -- to its lowest-achieving students using a portion of its Title I funds (up to 15%).

After four consecutive years of not making progress, a school must undertake "corrective action" (e.g., implement a new-curriculum, provide additional teacher training, replace some staff, or hire an "outside expert").

Only after six consecutive years of not making progress must a school undertake major restructuring -- changing governance and/or reconstituting school staff.

Q: Would a school be subject to actions based on faulty, unreliable, or random data?

A: No. A school may appeal its assessment findings to the school district if the school feels the data are "in error for statistical or other reasons." Small numbers in the school as a whole or in any specific subgroup would not be allowed to skew the data - scores do not count, in fact are not even required to be reported, in cases in which "the number of students is insufficient to yield statistically reliable information." States may also average yearly test data across a two- or three-year span (i.e., a "rolling average").

In addition, a school district may delay corrective action if a school's failure was due to "exceptional or uncontrollable circumstances" or an "unforeseen decline in financial resources."

Q: Will there be adequate funds this year to meet the new requirements under H.R. 1?

A: Congress coupled the new reforms in H.R.1 with historic increases in funding for FY 2002 (the 2001-2002 school year) and better targeting to schools with high percentages or low-income children.

The FY 2002 appropriations bill increases funding for Title I by 18% -- the largest dollar increase ($1.6 billion) since the inception of the program (As noted earlier, California's funding will increase by more than that). The bill sends the bulk of new Title I funding to states and school districts through 2 new, more targeted formulas.

Funding for the hiring and training of teachers is increased by 31% over FY 2001.

H.R. 1 also establishes a new formula-driven bilingual and immigrant education program -- the first in history. Congress has coupled this change with an increase in funding for bilingual and immigrant education of 45%.

Large increases have also been given to other key programs including school technology and after-school programs (see chart at end of report).

Q: Will there be adequate funds for H.R. 1 in future years?

A: Funding for future school years will be fought out on an annual basis. President Bush's FY 2002 budget proposes very disappointing increases in education – the lowest in seven years. Congress and the President must reach an agreement on funding each Fall.

Appendix

H.R. 1: Summary of Flexibility Provisions

Transferability

- All States may transfer up to 50% of state activity funds among the following formula programs: Teacher Quality, Technology, Title V Block Grant, Safe and Drug-free, or 21st Century. Funds may be transferred into, but not out of, Title I.
- Any school district not in school improvement or corrective action may transfer up to 50% of funds under the same programs and conditions, but may not include 21st Century.
- Any school district in school improvement may only transfer up to 30% of funds from these programs into school improvement activities.

Local Flexibility

- Up to 80 school districts would be allowed to consolidate funds from Teacher Quality, Technology, Title V Block Grants, and Safe and Drug-Free.
- Districts apply to the Secretary and enter into a performance agreement. If districts do not meet Adequate Yearly Progress goals for two consecutive years, the flexibility agreement would be terminated.

State Flexibility

- Seven states may consolidate only funds for state administration and state activities under the following formula programs: Teacher Quality, Technology, Safe and Drug-Free, 21st Century, Title V Block Grant, Reading, Reading First and Even Start. They may consolidate only their state administration funds under Title I.
- Within the seven states, four to 10 school districts must be given authority to consolidate similar funds. The states would align its flexibility programs with these districts. States would apply to enter into performance agreements with the Secretary. The flexibility agreement would be terminated if the state failed to make adequate yearly progress for two consecutive years.

H.R. 1: Teacher Quality Provisions

- **Strong Definition of Professional Development:** H.R. 1 ensures that professional development activities funded under the Act will improve teacher skills and content knowledge; are an integral part of broad school-wide and district-wide improvement plans; are tied to state standards, assessments, and curriculum; are high-quality, intensive, and classroom-focused; are designed with the participation of teachers, principals, parents and administrators; and are not one-day or short-term workshops or conferences.

- **Strong Definition of Teacher Mentoring:** H.R. 1 ensures that teacher mentoring activities under the Act are research-based; provide on-going support for beginning teachers; and are designed to help beginning teachers continue to improve their skills and increase their content knowledge.

- **Strong Definition of Highly Qualified Teacher**: For the first time, H.R. 1 establishes national policy that every child should have a qualified teacher. In order to be highly qualified, a teacher must be certified in their area of teaching. New teachers will have to either pass a test or obtain a college major, or its equivalent, in the their subject area. Current teachers will have a third option of completing a rigorous, state-approved certification program.

- **Requires Title I Schools to Set Aside 10% of Funds for Professional Development**: Current law requires under-performing schools to set aside 10% of their Title I funds for professional development. H.R. 1 requires all Title I schools to set aside 10% of their Title I funds for professional development, and it requires schools that are not meeting their achievement goals to set aside an additional 5% of their Title I funds for professional development.

- **Holds States Accountable to Ensure All Teachers Are Highly Qualified in 4 Years and for Increasing the Percentage of Teachers Receiving High-Quality Professional Development**: SEAs must submit a plan to the Secretary to ensure that they will have 100% highly qualified teachers within 4 years in every district and school in the state, and that they will increase the percentage of teachers with access to high-quality professional development.

· If a SEA does not meet its student achievement goals in these two areas for 2 consecutive years, the districts that are behind must develop improvement plans to get them back on track towards such goals, and the SEA must provide those districts with technical assistance.

· If a SEA does not meet its annual goals for 3 consecutive years, the SEA shall enter into an agreement with the districts that have fallen behind, to develop -- in conjunction with teachers and principals -- research-based professional development strategies and activities to meet their annual goals. The SEA will also prohibit those districts from using Title I funds to hire paraprofessionals until they have met their teacher quality goals, unless its is to fill a vacancy or if the district demonstrates that a significant influx of population has substantially increased student enrollment, or that there is an increased need for translators or assistance with parent involvement activities.

Ensures Paraprofessionals Are Qualified and Well-Used in the School: H.R. 1 ensures that newly hired paraprofessionals in Title I schools meet minimum qualifications. It specifies that paraprofessionals are not the primary teacher in any classroom but they do have important and necessary roles within the school and classroom that should be their focus such as translation, tutoring, and assisting with parent involvement.

H.R. 1: Summary of Title I Changes

- **Standards, Assessments, and Accountability**. H.R. 1 retains the structure and focus of the 1994 reauthorization of ESEA, while building on its major theme of standards, assessments, and accountability. H.R. 1 strengthens the accountability requirements in current law, specifically by modifying the definition of Adequate Yearly Progress and instituting new teacher quality provisions. It also includes President Bush's proposal for annual testing in grades 3-8 in reading and math.

- H.R. 1 requires States to develop and implement annual assessments of students in grades 3 through 8 in math and reading by the 2005-2006 school year. (Current law requires testing in reading and math at least once in 3 different grade spans: 3-5 6-9, and 10-12). These new annual assessments would have to meet the same requirements that existing Title I assessments have to meet, such as being aligned with state academic content standards.

- H.R. 1 authorizes funds to help states develop the new assessments or improve their existing assessments. States would not be required to proceed with the new testing requirements in any year in which certain minimum funding thresholds are not met.

- H.R. 1 sets a 12-year goal for closing the achievement gaps between rich and poor, minority and non-minority students. Schools will be credited for making progress even if they fall marginally short of their absolute goal. Struggling schools will be identified for extra help so that school improvement funds can be targeted where they are most needed. Schools that do not meet their achievement goals for multiple years will be subject to corrective interventions by school districts and states (see table that follows below). Parents will receive better information -- through state and local "report cards" -- about their children's achievement and the quality of their local schools.

- **Authorization Levels**. The Report sets significantly higher authorization levels for the Part A program: $13.5 billion in FY 2002 up to $25 billion in FY 2006. This would increase the proportion of eligible children served from the current one-third to two-thirds at the end of the authorization period. However, actual funding levels are subject to annual appropriations as negotiated between Congress and the President.

H.R. 1: Accountability Intervention Timetable

Year	Report
Year 1	Children take assessments.
Year 2	Children take assessments.
Year 3	If a school has not met its achievement goals for the previous two years, the school is placed in "school improvement" status. Only technical assistance is provided during this year. The school district is not authorized to take "corrective action" (see Year 5). Several funding streams, including the new authorization for "school improvement, are dedicated to providing extra financial assistance to identified schools. Public school choice also is provided for students in the identified school, consistent with State law.
Year 4	If a school has not met its annual achievement goals for the previous 3 consecutive years, the LEAs must provide "supplemental services" to low-income children in school. Supplemental services may be provided by the school district or a private provider that contracts with the school district. Such services must be provided outside of the regular school day (after-school, on weekends, or in the summer).
Year 5	If a school has not met its achievement goals for the previous four consecutive year, it is subject to "**Corrective Action,"** under which the school district is required do one of the following: ● utilize an outside expert to analyze the school plan; ● implement a new curriculum; ● decrease decision-making by the school; ● replace staff relevant to failure; **or** ● modify the school schedule. Public school choice and supplemental services continue and the LEA must continue to provide technical assistance. No more than a total of 20% of a school district's federal Title I allocation can be used for supplemental services and school choice.

Year 6	If a school has not met its achievement goals for the five previous school years, the school district must *begin planning* for restructuring actions for following year (See Year 7).
Year 7	If a school does not meet its annual achievement goals for the previous six years, the LEA must institute a "restructuring" action, which includes one of the following: • re-open as a charter; • replace principal and all or most staff and principal; • management of the public school by another entity, e.g., a private company; **or** • State takeover. H.R. 1 repeals current law provisions that allow the LEA to withhold funds from the school.

[1] These numbers are estimates. Actual allocations may vary according to changes in the count of school children, the phasing out of current grants and the phasing-in of new grants, and other factors. Comprehensive estimates of local allocations are not yet available.